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MADIBENG LOCAL MUNICIPALITY



DRAFT SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2016

ARRANGEMENT OF CLAUSES

CHAPTER 1

DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

Clauses

- 1 Definitions
- 2 Application of By-Law
- 3 Conflict of laws

CHAPTER 2

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

- 4 Municipal spatial development framework
- 5 Contents of municipal spatial development framework
- 6 Intention to prepare, amend or review municipal spatial development framework
- 7 Institutional framework for preparation, amendment or review of municipal spatial development framework
- 8 Preparation, amendment or review of municipal spatial development framework
- 9 Public participation
- 10 Local spatial development framework
- 11 Compilation, amendment or review of local spatial development framework
- 12 Effect of local spatial development framework
- 13 Record of and access to municipal spatial development framework
- 14 Variance from municipal spatial development framework

CHAPTER 3

LAND USE SCHEME

- 15 Applicability of Act
- 16 Purpose of land use scheme
- 17 General matters pertaining to land use scheme
- 18 Development of draft land use scheme
- 19 Council approval for publication of draft land use scheme
- 20 Public participation
- 21 Incorporation of relevant comments
- 22 Preparation of land use scheme
- 23 Submission of land use scheme to Council for approval and adoption
- 24 Publication of notice of adoption and approval of land use scheme
- 25 Submission to Member of Executive Council
- 26 Records
- 27 Contents of land use scheme
- 28 Land use scheme register
- 29 Replacement and consolidation of amendment scheme

CHAPTER 4

INSTITUTIONAL STRUCTURE FOR LAND DEVELOPEMENT AND LAND USE MANAGEMENT

DECISIONS

Part A: Division of Functions and Categorization of applications

- 30 Division of functions between the Municipal Planning Tribunal and Land Development officer

Part B: Assessment to establish Municipal Planning Tribunal

- 31 Municipal assessment prior to establishment of Municipal Planning Tribunal

Part C: Establishment of Municipal Planning Tribunal for Local Municipal Area

- 32 Establishment of Municipal Planning Tribunal for local municipal area
 33 Composition of Municipal Planning Tribunal for local municipal area
 34 Nomination procedure
 35 Submission of nomination
 36 Initial screening of nomination by Municipality
 37 Evaluation panel
 38 Appointment of member to Municipal Planning Tribunal by Council
 39 Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area
 40 Vacancy
 41 Proceedings of Municipal Planning Tribunal for municipal area
 42 Tribunal of record
 43 Commencement date of operations of Municipal Planning Tribunal

Part D: Decisions of Municipal Planning Tribunal

- 44 General criteria for consideration and determination of application by Municipal Planning Tribunal
 45 Conditions of approval

Part E: Administrative Arrangements

- 46 Administrator for Municipal Planning Tribunal for municipal area

CHAPTER 5**DEVELOPMENT MANAGEMENT****Part A: Categories of Applications**

- 47 Categories of land use and land development applications

Part B: Establishment of Township or Extension of Boundaries of Township

- 48 Application for establishment of township
 49 Division or phasing of township
 50 Lodging of layout plan for approval with the Surveyor-General.
 51 Compliance with pre-proclamation conditions
 52 Opening of Township Register
 53 Proclamation of an approved township.

Part C: Amendment or Cancellation of General Plan in whole or in part, of a general plan of a township

- 54 Notification of Surveyor-General
 55 Effect of amendment or cancellation of general plan

Part D: Rezoning of land

- 56 Application for amendment of a land use scheme by rezoning of land

Part E: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land

- 57 Requirements for amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land

58 Endorsements in connection with amendment, suspension or removal of restrictive conditions

Part F: Subdivision and Consolidation

- 59 Application for subdivision
- 60 Confirmation of subdivision
- 61 Lapsing of subdivision and extension of validity periods
- 62 Amendment or cancellation of subdivision plan
- 63 Exemption of subdivisions and consolidations
- 64 Services arising from subdivision
- 65 Consolidation of land units
- 66 Lapsing of consolidation and extension of validity periods

Part G: Permanent Closure of Public Place

- 67 Closure of public places

Part H: Consent Use

- 68 Application for consent use

Part I: Traditional Use

- 69 Application for traditional use

Part J: Temporary Use

- 70 Application for temporary use

Part K: General Matters

- 71 Ownership of public places and land required for municipal engineering services and social facilities
- 72 Restriction of transfer and registration
- 73 First transfer
- 74 Certification by Municipality
- 75 National and Provincial Interest

CHAPTER 6

APPLICATION PROCEDURES

- 76 Applicability of Chapter
- 77 Procedures for making application
- 78 Information required
- 79 Application fees
- 80 Grounds for refusing to accept application
- 81 Receipt of application and request for further documents
- 82 Additional information
- 83 Confirmation of complete application
- 84 Withdrawal of application
- 85 Notice of applications in terms of integrated procedures
- 86 Notification of application in media
- 87 Serving of notices
- 88 Content of notice
- 89 Additional methods of public notice
- 90 Requirements for petitions
- 91 Requirements for objections or comments
- 92 Amendments prior to approval
- 93 Further public notice

- 94 Cost of notice
- 95 Applicant's right to reply
- 96 Written assessment of application
- 97 Decision-making period
- 98 Failure to act within time period
- 99 Powers to conduct routine inspections
- 100 Determination of application
- 101 Notification of decision
- 102 Duties of agent of applicant
- 103 Errors and omissions
- 104 Withdrawal of approval
- 105 Procedure to withdraw an approval

CHAPTER 7

ENGINEERING SERVICES AND DEVELOPMENT CHARGES

Part A: Provision and Installation of Engineering Services

- 106 Responsibility for providing engineering services
- 107 Installation of engineering services
- 108 Engineering services agreement
- 109 Abandonment or lapsing of land development application
- 110 Internal and external engineering services

Part B: Development Charges

- 111 Payment of development charge
- 112 Offset of development charge
- 113 Payment of development charge in instalments
- 114 Refund of development charge
- 115 General matters relating to contribution charges

CHAPTER 8

ORAL HEARING OF OBJECTIONS AND APPEAL PROCEDURES

Part A: Oral Hearing of Objections

- 116 Oral hearing of objections and representations and notice thereof

APPEAL

Part B: Management of an Appeal Authority

- 117 Presiding officer of appeal authority
- 118 Bias and disclosure of interest
- 119 Registrar of appeal authority
- 120 Powers and duties of registrar

Part C: Appeal Process

- 121 Commencing of appeal
- 122 Notice of appeal
- 123 Notice to oppose an appeal
- 124 Screening of appeal

Part D: Parties to an Appeal

- 125 Parties to appeal

126 Intervention by interested person

Part E: Jurisdiction of Appeal Authority

- 127 Jurisdiction of appeal authority
- 128 Written or oral appeal hearing by appeal authority
- 129 Representation before appeal authority
- 130 Opportunity to make submissions concerning evidence

Part F: Hearings of Appeal Authority

- 131 Notification of date, time and place of hearing
- 132 Hearing date
- 133 Adjournment
- 134 Urgency and condonation
- 135 Withdrawal of appeal

Part G: Oral Hearing Procedure

- 136 Oral hearing of objections or representations and notice thereof
- 137 Location of oral hearing
- 138 Presentation of each party's case
- 139 Witnesses
- 140 Proceeding in absence of party
- 141 Recording
- 142 Oaths
- 143 Additional documentation

Part H: Written Hearing Procedure

- 144 Commencement of written hearing
- 145 Presentation of each party's case in written hearing
- 146 Extension of time
- 147 Adjudication of written submissions

Part I: Decision of Appeal Authority

- 148 Further information or advice
- 149 Decision of appeal authority
- 150 Notification of decision
- 151 Directives to Municipality

Part J: General

- 152 Expenditure

CHAPTER 9

COMPLIANCE AND ENFORCEMENT

- 153 Enforcement
- 154 Offences and penalties
- 155 Service of compliance notice
- 156 Content of compliance notices
- 157 Failure to comply with compliance notice
- 158 Urgent matters
- 159 Contravention penalty fees

- 160 Power of entry for enforcement purposes
- 161 Power and functions of authorised employee
- 162 Warrant of entry for enforcement purposes
- 163 Regard to decency and order
- 164 Court order

CHAPTER 10 TRANSITIONAL PROVISIONS

- 165 Transitional provisions
- 166 Determination of zoning

CHAPTER 11 GENERAL

- 167 Delegations
- 168 Fees payable
- 169 Short title and commencement

LIST OF SCHEDULES:

- Schedule 1: Invitation to Nominate a Person to be appointed as a Member to the Madibeng Municipal Planning Tribunal /Appeals Authority
- Schedule 2: Call for Nominations for Persons to be appointed as Members to the Madibeng Municipal Planning Tribunal
- Schedule 3: Disclosure of Interest
- Schedule 4: Code of Conduct of Members of the Madibeng Municipal Planning Tribunal
- Schedule 5: Owners' Associations
- Schedule 6: Code of conduct for Land Development office

LIST OF FORMS:

- MLM: F/1 Application form with applicant and owner details
- MLM: F/2 Application form for change of land use rights also known as rezoning in terms of Clause 56 of Madibeng Land Use Management By-law, 2016
- MLM: F/3 Application form for removal, amendment or suspension of title conditions in terms of Clause 57 of Madibeng Land Use Management By-law, 2016
- MLM: F/4 Application form for consent use in terms of the Land Use Scheme read with Clause 68 of Madibeng Land Use Management By-law, 2016
- MLM: F/5 Application form for township establishment in terms of Clause 48 of Madibeng Land Use Management By-law, 2016
- MLM: F/6 Checklist for layout plans for township establishment

MLM: F/7	Application form for a division or phasing of a township application in terms of Clause 49 of Madibeng Land Use Management By-law, 2016
MLM: F/8	Application form for the amendment of an approved township in terms of Clause 55 of Madibeng Land Use Management By-law, 2016
MLM: F/9	Application form for subdivision and consolidation in terms of Clause 60 & 65 of Madibeng Land Use Management By-law, 2016
MLM: F/10	Application form for application for extension of time to comply with pre-promulgation conditions in terms this By-law
MLM: F/11	List of attachments and supporting information required / submitted by the applicant can checklist for Municipal use
MLM: F/12	List of number of copies per document per land development application required
MLM: F/13	Format of proposed development controls for change of land use rights and consent use application in terms of Clause 56 & 68 of Madibeng Land Use Management By-law, 2016
MLM: F/14	Example of a Power of Attorney

LIST OF NOTICES

NOTICE: 1	The Provincial Gazette, newspapers and placard, notice in terms of Clause 86(1)(b) & (2) of Madibeng Land Use Management By-law, 2016 for a change of land use rights
NOTICE: 2	The Provincial Gazette, newspapers and placard notice in terms of section 57(1) of Madibeng Land Use Management By-law, 2016 for the removal, amendment or suspension of a restrictive condition in the title
NOTICE: 3	The Provincial Gazette, newspapers and placard notice for a consent use in terms of a Land Use Scheme and Clause 86(1)(i) & (2) of Madibeng Land Use Management By-law, 2016
NOTICE: 4	The Provincial Gazette, newspapers and placard notice in terms of clause 86(1)(a) & (2) of Madibeng Land Use Management By-law, 2016 for the establishment of a township
NOTICE: 5	The Provincial Gazette, newspapers and placard, notice in terms of Clause 86(1) of Madibeng Land Use Management By-law, 2016 for the alteration / amendment or partial cancellation of a general plan of a township
NOTICE: 6	The Provincial Gazette, newspapers and placard notice in terms of Clause 86(1)(c) & (2) of Madibeng Land Use Management By-law, 2016 for subdivision of land as contemplated in terms of Clause 86(1)(a)
NOTICE: 7	Notice in the Provincial Gazette and newspapers of the Draft Land Use Scheme in terms of Clause 9 of Madibeng Land Use Management By-law, 2016
NOTICE: 8	Notification of place, date and time of hearing of the Municipal Planning Tribunal in terms of Clause 41(4) of Madibeng Land Use Management By-law, 2016
NOTICE: 9	Notice of Appeals

NOTICE: 10	Notice of a draft Land Use Scheme in terms of Clause 20 of Madibeng Land Use Management By-law, 2016
NOTICE: 11	Notice of an approved Land Use Scheme in terms of Clause 24 of Madibeng Land Use Management By-law, 2016
NOTICE: 12	Notice of an approval of an Amendment Scheme in terms of Section 16(1)(u) of Madibeng land use management by-law, 2016
NOTICE: 13	Notice of an approved Removal, Amendment Or Suspension of a Restrictive Condition in Title In terms of Section 16(2)(g) of Madibeng Land Use Management By-Law, 2016
NOTICE: 14	Declaration of an approved township in terms of Clause 53 of Madibeng Land Use Management By-law, 2016
NOTICE: 15	Notice of application for the Alteration / Amendment / Total or Partial Cancellation of a General Plan of a township
NOTICE: 16	Example of affidavit / affirmation

LIST OF PLANS

PLAN: 1	Example of a Locality Plan
PLAN: 2	Example of a Land Use Plan
PLAN: 3	Example of a Zoning Plan
PLAN: 4	Example of a Site Plan

CHAPTER 1
DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

1 Definitions

In this By-Law, unless the context indicates otherwise, a word or expression defined in the Act, the Regulations or provincial legislation has the same meaning as in this By-law and -

“Act” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

“Appeal authority” means the executive authority of the municipality or any other body or institution outside of the municipality authorised by that municipality to assume the obligations of an appeal authority for purposes of appeals lodged in terms of the Act;

“Appellant” A person whose rights are affected within the provisions of Section 51(4)(a-c) and 51(5) of the Act(SPLUMA)

“Approved township” means a township declared an approved township in terms of this By-law;

“By-Law” means this By-Law and the schedules referred to herein.

“Communal land” means land under the jurisdiction of the municipality, under a traditional council determined in terms of section 6 of the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005) and which was at any time vested in -

- (a) the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or
- (b) the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

“Consent” means a land use right that may be obtained by way of consent from the municipality and is specified as such in the land use scheme;

“Consolidation” means the joining of two or more pieces of land into a single entity;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Council” means the municipal council of the Municipality;

“Days” means, in line with Section 4 of the Interpretations Act, 1957, “when any particular number of days is prescribed for doing of any act, or any other purpose, the same shall be reckoned exclusively for the first and inclusively of the last day, unless the last day happens to fall on a Sunday or Public Holiday, in which case , the time shall be reckoned exclusively of the first day and exclusively of also of every such Sunday or public holiday.

“Diagram” means a diagram as defined in the Land Survey Act, 1997 (Act No. 8 of 1997);

“Deeds registry” means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“Land” means -

- (a) any erf, agricultural holding or farm portion, and includes any improvements or building on the land and any real right in land, and
- (b) the area of communal land to which a household holds an informal right recognized in terms of the customary law applicable in the area where the land to which such right is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

“Land development area” means an erf or the land which is delineated in a land development application submitted in terms of this By-law or any other legislation governing the change in land use and “land area” has a similar meaning;

“Land Development Officer” means the authorised official defined in regulation 1 of the Regulations;

“Land use scheme” means the land use scheme adopted and approved in terms of this By-law and for the purpose of this By-law includes an existing scheme until such time as the existing scheme is replaced by the adopted and approved land use scheme.

“Member of the Executive Council” means the Member of the Executive Council responsible for local government in the North West Province;

“Municipal area” means the area of jurisdiction of the Madibeng local municipality in terms of the Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“Municipal Manager” means the person appointed as the Madibeng local municipality Municipal Manager in terms of section 54(a) of the Municipal Systems Act and includes any person acting in that position.;

“Municipal Planning Tribunal” means the Madibeng Municipal Planning Tribunal established in terms of Chapter 6 (Part B) of the Act and the provisions of this Bylaw.

“Municipality” means the Municipality of Madibeng or its successor in title as envisaged in section 155(1) of the Constitution and in terms Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes a municipal department, the Council, the Municipal Manager or an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

“Objector” means a person who has lodged an objection with the Municipality to a draft municipal spatial development framework, draft land use scheme or a land development and land use application;

“Open Spaces” means land set aside or to be set aside for the use by a community as recreation area irrespective of the ownership of such land.

“Overlay zone” means a mapped overlay superimposed on one or more established zoning areas which may be used to impose supplemental restrictions on uses in these areas or permit uses otherwise disallowed;

“Public Places” means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on the general plan or diagram which is for use by the general public and it is owned by or vests in the ownership of municipal council and includes a public space and a servitude for any similar purpose in favour of the general public.

“Premier” means the Premier of the Province of North West;

“Previous planning legislation” means any planning legislation that is repealed by the Act or the provincial legislation;

“Provincial legislation” means legislation contemplated in section 10 of the Act promulgated by the Province;

“Province” means the Province of North West referred to in section 103 of the Constitution;

“Regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2016;

“Service provider” means a person lawfully appointed by a municipality or other organ of state to carry out, manage or implement any service, work or function on behalf of or by the direction of such municipality or organ of state;

“Spatial development framework” means the Madibeng local municipality Spatial Development Framework;

“Subdivision” means the division of a piece of land into two or more portions;

“The Act” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2016 and any subsidiary legislation or other legal instruments issued in terms thereof;

“Township” means an area of land divided into erven and may include public places and roads indicated as such on the general plan.

“Township register” means an approved subdivision register of a township in terms of the Deeds Registries Act;

“Traditional communities” means communities recognised in terms of section 3 of the North West Traditional Leadership and Governance Act, 2005.**NOTE:**

For the purpose of this By-Law cross referencing will be done as follows:

“Section”- where reference is made to a specific part of the applicable legislation;

“Regulation”- where reference is made to a specific part of the applicable legislation

2 *“Clause”- where reference is made to a specific part of the applicable legislation.*

3 Application of By-law

- (1) This By-law applies to all land within the jurisdiction of the Madibeng Local Municipality.
- (2) This By-law binds every owner and their successor-in-title and every user of land, including the state.

4 Conflict of laws

- (1) This By-law is subject to the relevant provisions of the Act and the provincial legislation.
- (2) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (3) Where a provision of this By-law is in conflict with a provision of the Act or provincial legislation, the Municipality must institute the conflict resolution measures provided for in the Act or in provincial legislation, or in the absence of such measures, the measures provided for in the Intergovernmental Relations Framework Act, 2005 (Act No.13 of 2005); to resolve the conflict and until such time as the conflict is resolved, the provisions of this By-law prevails.
- (4) Where a provision of the land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law prevails.
- (5) Where there is a conflict between this By-law and another By-law of the Municipality, this By-Law prevails over the affected provision of the other By-law in respect of any municipal planning matter.

CHAPTER 2 MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

5 Municipal spatial development framework

- (1) The Municipality must draft a municipal spatial development framework in accordance with the provisions of sections 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems Act.
- (2) A municipal spatial development framework does not confer or take away land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.

6 Contents of municipal spatial development framework

- (1) A municipal spatial development framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Municipal Systems Act and provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for municipal planning.
- (2) Over and above the matters required in terms of sub clause(1) of this By-Law, the Municipality may determine any further plans, policies and instruments by virtue of which the municipal spatial development framework must be applied, interpreted and implemented.
- (3) A municipal spatial development framework must contain transitional arrangements with regard to the manner in which the municipal spatial development framework is to be implemented by the Municipality.

7 Intention to prepare, amend or review municipal spatial development framework

A Municipality which intends to prepare, amend or review its municipal spatial development framework -

- (a) may convene an intergovernmental steering committee and a project committee in accordance with Clause 7 of this By-law;
- (b) must publish a notice in two of the official languages of the Province most spoken in the municipal area of the Municipality of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act in two newspapers circulating in the area concerned;
- (c) must inform the Member of the Executive Council in writing of -
 - (i) its intention to prepare, amend or review the municipal spatial development framework;

- (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation; and
- (e) must register relevant stakeholders who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

8 Institutional framework for preparation, amendment or review of municipal spatial development framework

- (1) The purpose of the intergovernmental steering committee contemplated in Clause 6(a) of this By-law is to co-ordinate the applicable contributions into the municipal spatial development framework and to-
 - (a) provide technical knowledge and expertise;
 - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
 - (c) communicate any current or planned projects that have an impact on the municipal area;
 - (d) provide information on the locality of projects and budgetary allocations; and
 - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—
 - (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
 - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.
- (3) The purpose of the project committee contemplated in Clause 6(a) of this By-Law is to –
 - (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
 - (b) provide technical knowledge and expertise;
 - (c) monitor progress and ensure that the drafting municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;

- (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
 - (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;
 - (f) facilitate the integration of other sector plans into the municipal spatial development framework;
 - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;
 - (i) if the Municipality decides to establish an intergovernmental steering committee—
 - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee must consist of –
- (a) the Municipal Manager;
 - (b) municipal employees from at least the following municipal departments:
 - (i) the integrated development planning office;
 - (ii) the planning department;
 - (iii) the engineering department;
 - (iv) the local economic development department;
 - (v) the environmental services department; and
 - (vi) the human settlement department.

9 Preparation, amendment or review of municipal spatial development framework

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo document and submit it to the Council for adoption.
- (3) The project committee must prepare a first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework

- and must submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and submit it to the Council, together with the report referred to in sub clause (5), to approve the publication of a notice referred to in Clause 9(4) of this By-Law that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.
- (5) The project committee must submit a written report as contemplated in subclause (4) which must at least —
- (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
 - (b) summarise the process of drafting the municipal spatial development framework;
 - (c) summarise the consultation process to be followed with reference to Clause 9 of this By-law;
 - (d) indicate the involvement of the intergovernmental steering committee, if convened by the Municipality;
 - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
 - (f) indicate the alignment with the national and provincial spatial development frameworks;
 - (g) indicate all sector plans that may have an impact on the municipal spatial development framework;
 - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
 - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in subclause(4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
- (7) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the final municipal spatial development framework or final amendment or review of the municipal spatial development framework and submit it to the Council for

adoption.

- (8) If the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, as contemplated in subclause(6), is materially different to what was published in terms of subclause (4), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.
- (9) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision –
 - (a) give notice of its adoption in the media and the *Provincial Gazette*; and
 - (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.
- (10) The municipal spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subclause (9) clause.
- (11) If no intergovernmental steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.

10 Public participation

- (1) Public participation undertaken by the Municipality must contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act.
- (2) In addition to the publication of notices in the *Provincial Gazette* and a newspaper that is circulated in the municipal area, the Municipality may, subject to section 21A of the Municipal Systems Act, use any other method of communication it may deem appropriate.
- (3) The Municipality may for purposes of public engagement on the content of the draft municipal spatial development framework arrange -
 - (a) specific consultations with professional bodies, ward communities or other groups; and
 - (b) public meetings.
- (4) The notice contemplated in Clause 8(4) of this By-Law must specifically state that any person or body wishing to provide comments must-
 - (a) do so within a period of 60 days from the first day of publication of the notice;
 - (b) provide written comments; and
 - (c) provide their contact details as specified in the definition of contact details.

11 Local spatial development framework

- (1) The Municipality may adopt a local spatial development framework for a specific geographical area of a portion of the municipal area.
- (2) The purpose of a local spatial development framework is to:
 - (a) provide detailed spatial planning guidelines or further plans for a specific geographic area or parts of specific geographical areas and may include precinct plans;
 - (b) provide more detail in respect of a proposal provided for in the municipal spatial development framework or necessary to give effect to the municipal spatial development framework and or its integrated development plan and other relevant sector plans;
 - (c) address specific land use planning needs of a specified geographic area;
 - (d) provide detailed policy and development parameters for land use planning;
 - (e) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, biodiversity and environmental issues; or
 - (f) guide decision making on land development applications;
 - (g) or any other relevant provision that will give effect to its duty to manage municipal planning in the context of its constitutional obligations.

12 Compilation, amendment or review of local spatial development framework

- (1) If the Municipality prepares, amends or reviews a local spatial development framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.
- (2) The municipality must, within 21 days of adopting a local spatial development framework or an amendment of local spatial development framework, publish a notice of the decision in the media and the Provincial Gazette and submit a copy of the local spatial development framework to the Member of the Executive Council.

13 Effect of local spatial development framework

- (1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in Clause 8(9).
- (2) A local spatial development framework guides and informs decisions made by the Municipality relating to land development, but it does not confer or take away rights.

14 Record of and access to municipal spatial development framework

- (1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved municipal or local spatial development framework and or any component thereof applicable within the jurisdiction of the Municipality.

- (2) Should anybody or person request a copy of the municipal or local spatial development framework the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved municipal spatial development framework or any component thereof.

15 Variance from municipal spatial development framework

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
- (a) a variance that does not materially change the municipal spatial development framework;
and
 - (b) a unique circumstance pertaining to a discovery of national importance.
- (2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, prior to the Municipal Planning Tribunal taking a decision which would constitute a variance from the municipal spatial development framework.

CHAPTER 3 LAND USE SCHEME

16 Applicability of Act

Sections 24 to 30 of the Act apply to any land use scheme developed, prepared, adopted and amended by the Municipality.

17 Purpose of land use scheme

In addition to the purposes of a land use scheme stipulated in section 25(1) of the Act, the Municipality must determine the use and development of land within the municipal area to which it relates in order to promote -

- (a) harmonious and compatible land use patterns;
- (b) aesthetic considerations;
- (c) sustainable development and densification; and
- (d) the accommodation of cultural customs and practices of traditional communities in land use management; and
- (e) a healthy environment that is not harmful to a person's health.

18 General matters pertaining to land use scheme

- (1) In order to comply with section 24(1) of the Act, the Municipality must -
 - (a) develop a draft land use scheme as contemplated in Clause 18 of this By-Law;
 - (b) obtain Council approval for publication of the draft land use scheme as contemplated in Clause 19 of this By-Law
 - (c) embark on the necessary public participation process as contemplated in Clause 20 of this By-Law;
 - (d) incorporate relevant comments received during the public participation process as contemplated in Clause 21 of this by-Law;
 - (e) prepare the land use scheme as contemplated in Clause 22 of this By-Law;
 - (f) submit the land use scheme to the Council for approval and adoption as contemplated in Clause 23 of this By-Law;
 - (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in Clause 24 of this By-Law; and
 - (h) submit the land use scheme to the Member of the Executive Council as contemplated in Clause 25 of this By-Law.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land.

- (3) Zoning may be made applicable to a land unit or part thereof and must follow cadastral boundaries except for a land unit or part thereof which has not been surveyed, in which case a reference or description as generally approved by Council may be used.
- (4) The land use scheme of the Municipality must take into consideration:
 - (a) the Integrated Development Plan in terms of the Municipal Systems Act;
 - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law, and
 - (c) provincial legislation.

19 Development of draft land use scheme

- (1) Before the Municipality commences with the development of a draft land use scheme, the Council must take resolve to develop and prepare a land use scheme, provided that in its resolution the Council must:
 - (a) adopt a process for drafting the land use scheme which complies with the Act, provincial legislation, this Chapter and any other applicable legislation;
 - (b) confirm over and above that which is contained in the applicable legislation the public participation to be followed;
 - (c) determine the form and content of the land use scheme;
 - (d) determine the scale and whether it should be available in an electronic media;
 - (e) determine any other relevant issue that will impact on the drafting and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
 - (f) confirm the manner in which the land use scheme must inter alia set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or must not require a consent or permission from the Municipality for purposes of the use of land.
- (2) After the resolution is taken by the Council, the department responsible for spatial planning and land use management or development planning in the Municipality must develop the draft land use scheme in accordance with the provisions of the Act, provincial legislation and this Chapter.

20 Council approval for publication of draft land use scheme

- (1) Upon completion of the draft land use scheme, the department responsible for spatial planning and land use management or development planning in the Municipality must submit it to the Council for approval as the draft land use scheme.

- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the department responsible for spatial planning and land use management or development planning in the Municipality and the report must at least –
 - (a) indicate the rationale in the approach to the drafting of the land use scheme;
 - (b) summarise the process of drafting the draft land use scheme;
 - (c) summarise the consultation process to be followed with reference to Clause 20 of this By-law;
 - (d) indicate the departments that were engaged in the drafting of the draft land use scheme;
 - (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Council;
 - (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.
- (3) If the Council is satisfied with the report and the draft land use scheme, it must approve the draft land use scheme and authorise the public participation thereof in terms of this By-law and the relevant legislation referred to in Clause 15 of this By-Law.

21 Public participation

- (1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-law and in the event of an amendment of the land use scheme, the matters contemplated in section 28 of the Act.
- (2) Without detracting from the provisions of Clause 20(1) of this By-Law the Municipality must -
 - (a) publish a notice in the *Provincial Gazette*; and
 - (b) publish a notice in two local newspapers that is circulated in the municipal area of the municipality in two languages commonly spoken in the area, once a week for two consecutive weeks; and
 - (c) use any other method of communication it may deem appropriate and the notice contemplated in Clause 20(2)(b) must specifically state that any person or body wishing to provide comments and or objections must:
 - (i) do so within a period of 60 days from the first day of publication of the notice;
 - (ii) provide written comments in the form approved by Council; and
 - (iii) provide their contact details as specified in the definition of contact details.
- (3) The Municipality may for purposes of public engagement arrange -

- (a) specific consultations with professional bodies, ward communities or other groups; and
 - (b) public meetings.
- (4) The Municipality must inform the Member of the Executive Council in writing of the intention to draft a land use scheme and provide him or her with a copy of the draft land use scheme after it has been approved by the Council as contemplated in Clause 18 of this By-Law.

22 Incorporation of relevant comments

- (1) Within 60 days after completion of the public participation process outlined in Clause 20 of this By-Law the department responsible for spatial development and land use management or development planning in the Municipality must –
- (a) review and consider all submissions made in writing or during any engagements; and
 - (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
 - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
 - (ii) all persons and or bodies that made submissions must be notified of the time, date and place of the hearing as may be determined by the Municipality not less than 30 days prior to the date determined for the hearing, by electronic means or registered post;
 - (iii) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.
- (2) The department responsible for spatial development and land use management or development planning in the Municipality must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in sub-clause (1).

23 Preparation of land use scheme

The department responsible for spatial development and land use management or development planning in the Municipality must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of Clause 20(2) of this By-Law, the Municipality must follow a further consultation and public participation process in terms of Clause 20(2) of this By-law, before the land use scheme is adopted by the Council.

24 Submission of land use scheme to Council for approval and adoption

- (1) The department responsible for spatial development and land use management or development planning in the Municipality must -
 - (a) within 60 days from the closing date for objections contemplated in Clause 20(2)(c)(i), or
 - (b) if a further consultation and public participation process is followed as contemplated in Clause 22 of this By-Law, within 60 days from the closing date of such further objections permitted in terms of Clause 22 read with Clause 20(2)(c)(i) of this By-Law, submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.
- (2) The Council must consider and adopt the land use scheme with or without amendments.

25 Publication of notice of adoption and approval of land use scheme

- (1) The Council must, within 60 days of its decision referred to in Clause 23 of this By-Law, give notice of its decision to all persons or bodies who gave submissions on the land use scheme, and publish such notice in the media and the *Provincial Gazette*.
- (2) The date of publication of the notice referred to in Clause 24(1) of this By-Law subclause, in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

26 Submission to Member of Executive Council

After the land use scheme is published in terms of Clause 24 of this By-Law, the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.

27 Records

- (1) The Municipality may in hard copy or electronic media and or data base keep record in the land use scheme register referred to in Clause 28 of this By-Law of the land use rights in relation to each erf or portion of land and which information is regarded as part of its land use scheme.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal area of the Municipality.
- (3) Should anybody or person request a copy of the approved land use scheme, the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved land use scheme or any component thereof: Provided that if the Municipality is of the opinion that in order to provide the said copy it will take officials unreasonably away from their substantive duties such request for a copy can be dealt with in terms of the Promotion of Access to Information Act, 2000.

28 Contents of land use scheme

- (1) The contents of a land use scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –
- (a) a zoning for all properties within the geographic area of the Municipality in accordance with a category of zoning as approved by Council;
 - (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
 - (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
 - (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
 - (e) servitudes for municipal services and access arrangements for all properties;
 - (f) provisions applicable to all properties relating to storm water;
 - (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
 - (h) zoning maps as approved by Council that depicts the zoning of every property in Municipality's geographical area as updated from time to time in line with the land use rights approved or granted; and
 - (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (2) The land use scheme may –
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
 - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

29 Land use rights register

The Municipality must keep and maintain a land use scheme register in a hard copy or electronic format as approved by the Council and may contain the following but is not limited to:

- (a) Date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) township/farm name;
- (e) erf or farm number;
- (f) portion/remainder;
- (g) property description;
- (h) existing zoning;
- (i) square metres granted;
- (j) density;
- (k) floor area ratio;
- (l) height (storeys/meters);
- (m) coverage;
- (n) building line;
- (o) parking requirements;
- (p) amendment scheme number;
- (q) annexure number;
- (r) item number;
- (s) item date;
- (t) decision (approved/not approved);
- (u) decision date.

30 Replacement and consolidation of amendment scheme

- (1) The Municipality may of its own accord in order to replace or consolidate an amendment scheme or several amendment schemes, map(s), annexure(s) or schedule(s) of the approved land use scheme, of more than one property, prepare a certified copy of documentation as the Municipality may require, for purposes of replacing or consolidating the said amendment scheme(s), which consolidated or replacement amendment scheme must from the date of the signing thereof, be in operation; provided that:
 - (a) such replacement and consolidation must not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights and may include a provision for consolidation of property for purposes of

consolidating land use schemes; provided that if a consolidation is required, the Municipality only do so after consultation with the owner(s).

- (b) after the Municipality has signed and certified a consolidation or replacement amendment scheme, it must publish it in the *Provincial Gazette*.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
 - (3) The provisions of Clauses 15 to 28 of this By-Law apply, with the necessary changes, to the review or amendment of an existing land use scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

CHAPTER 4
INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS

PART A: Division of functions and categorizations of applications

30. Divisions of functions between Municipal Planning Tribunal and Land Development Officer

(1) For purposes of section (35)3 of the Act, the following categorisation of applications defined in Clause 47 of this By-Law must be considered and determined by the Municipal Planning Tribunal:

(a) Category 1: Land development applications are applications for –

- (i) the establishment of a township or the extension of the boundaries of a township;
- (ii) the amendment of an existing scheme or land use scheme by the rezoning of land, where there is a deviation of policies;
- (iii) subject to Clause 30(1)(c) of this by law, the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
- (iv) the amendment or cancellation in whole or in part of a layout plan and conditions of establishment of a township;
- (v) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
- (vi) permanent closure of any public place;
- (vii) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
- (viii) instances where the Municipality acting on its own accord wishes to remove, amend a restrictive or obsolete condition, servitude or reservation registered against the title deed of a property or properties which may also arise out of a condition of establishment of a township or any other legislation;
- (ix) any consent or approval provided for in a provincial law;
- (x) any development on communal land that will have a high impact on the community;
and
- (xi) all land development applications on which objections have been received.
- (xii) which in the opinion of the Municipality may deviate from the Municipality Spatial Development Framework contemplated in Chapter 2 of this By-law;
all land development applications on Council owned land except for subdivisions of erven, applications in terms of a Land Use Scheme and consolidation of erven;

- (xv) all land development applications that are recommended by the department responsible for Development Planning or as the case may be in the Municipality, for refusal;
- (xvi) all land development applications on which negative comments or objections have been received from internal departments of the Municipality, Ward Councillors, external departments of National Government or Provincial Government;
- (xvii) all applications where negative comments or objections have been received after public participation;
- (xviii) all the applications for the establishment of a township or extension of the boundaries of a township, in terms of this By-law or other relevant legislation excluding division of townships;
- (xix) any application in terms of any other law or By-law which the Municipality may require the Municipal Planning Tribunal to decide on from time to time
- (xx) all applications which are affected by any other By-Law which is published for the purposes of dealing with specific circumstances and or in a geographical area directing a land development application to be considered by the Municipal Planning Tribunal;
- (xxi) all applications which in the opinion of the Municipality, National or Provincial Departments are of Provincial interest; and
- (xxii) any other amendment of the use of land determined by the Council by resolution.
- (xxiii) Traditional use applications relate to communal land and are applications for:

(2) For purposes of section (35)3 of the Act , the following categorisation of applications defined in Clause 47 of this By-Law must be considered and determined by the Land Development Officer/Authorised Official:

(a) Category 2: Land use applications are applications for other compatible rights that the land unit does not yet possess but which are permitted in terms of the land use scheme and which may be obtained by application in terms of this By-law and includes:

- (i) The subdivision of an erf, where such subdivision is expressly provided for in a land use scheme;
- (ii) the consolidation of erven;
- (iii) the simultaneous subdivision, under circumstances contemplated in paragraph (a) and consolidation of land;
- (iv) the consent of the municipality for any land use purpose or departure or variance in terms of a land use scheme or existing scheme which does not constitute a land development application;

- (v) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation;
- (vi) a temporary use application; and
- (vii) the amendment of an existing scheme or land use scheme by the rezoning of land, where there is no deviation from policies.
- (viii) The amendment of the use of land instances where such amendment will have a low impact on the community.
- (ix) building line relaxation applications
- (x) home enterprise applications
- (xi) Application for Second dwelling

(c) Application for land development required

- (i) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality in terms of subclause (3) of this by law.
- (ii) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.

Part B: Assessment to establish Municipal Planning

31. Municipal assessment prior to establishment of Municipal Planning Tribunal

- (1) The decision of a municipality to –
 - (a) establish a Municipal Planning Tribunal for its municipal area, must be preceded by an assessment of the factors referred to in Regulation (2)(2) of the Regulations
- (2) The assessment referred to in Regulation (2)(1) of the Regulations includes, amongst others, the following factors -
 - (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
 - (b) the ability of the municipality to effectively implement the provisions of the Act;
 - (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
 - (d) the development pressures in the municipal area.

Part C: Establishment of Municipal Planning Tribunal for Local Municipal Area**32. Establishment of Municipal Planning Tribunal for local municipal area**

- (1) Subject to the provisions of Part D and E of this Chapter, the Madibeng Municipal Planning Tribunal is hereby established for the municipal area of Madibeng Local municipality, in compliance with section 35 of the Act.
- (2) The provisions of Clause 32(1) of this By-Law subclause do not apply if, after the assessment contemplated in Clause 31 of this By-law the municipality decides to establish a joint Municipal Planning Tribunal or a District Municipal Planning Tribunal.

33. Composition of Municipal Planning Tribunal for local municipal area

- (1) The Municipal Planning Tribunal consists of at least 13 members made up as follows
 - (a) three officials in the full-time service of the Municipality;
 - (b) two persons registered as a professional planner with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
 - (c) two persons qualified as Engineers;
 - (d) two persons with financial experience relevant to land development and land use applications
 - (e) two persons with legal qualifications with relevant experience to land development and land use applications
 - (f) an environmental assessment practitioner; and
 - (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (2) The officials referred to in subclause (1)(a) to (g)- of this by law must have at least five years' experience in the field in which they are performing their services.
- (3) The persons referred to in subclause (1) (b) to (g) must –
 - (a) demonstrate knowledge of spatial planning, land use management and land development of the law related thereto;
 - (b) have at least five years' practical experience in the discipline within which they are registered or in the case of a person referred to in subclause (1)(g) in the discipline in which he or she is practising;
 - (c) demonstrate leadership in his or her profession or vocation or in community organisations.

34. Nomination procedure

- (1) The Municipality must -

- (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and
 - (b) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations.
- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule 1 together with any other information deemed necessary by the Municipality.
- (3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations must be in the form contemplated in Schedule 2 and–
- (a) must be published in one local newspaper that is circulated in the municipal area of the Municipality in two languages commonly spoken in the area;
 - (b) may be submitted to the various professional bodies which registers persons referred to in Clause 33(1) of this by law with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
 - (c) may advertise the call for nominations on the municipal website; and
 - (d) utilise any other method and media it deems necessary to advertise the call for nominations.

35. Submission of nomination

- (1) The nomination must be in writing and be addressed to the Municipal Manager.
- (2) The nomination must consist of –
 - (a) the completed declaration contained in the form contemplated in Schedule 2 and all pertinent information must be provided within the space provided on the form;
 - (b) the completed declaration of interest form contemplated in Schedule 3;
 - (c) the motivation by the nominator contemplated in subclause (3)(a) of this by law; and
 - (d) the summarised curriculum vitae of the nominee contemplated in subclause (3)(b).
- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –

- (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
- (b) a summarised curriculum vitae of the nominee not exceeding two A4 pages.

36. Initial screening of nomination by Municipality

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of Clause 35 of this by law.
- (2) The nominations that are incomplete or do not comply with the provisions of Clause 35 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of Clause 35 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
 - (a) was not duly nominated;
 - (b) is disqualified from appointment as contemplated in section 38 of the Act;
 - (c) does not possess the knowledge or experience as required in terms of Clause 33(1) of this by law; or
 - (d) is not registered with the professional councils or voluntary bodies contemplated in Clause 33(1), if applicable, the nomination must be rejected and must not be considered by the evaluation panel contemplated in Clause 37 of this By-Law.
- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in Clause 37 of this By-Law.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

37. Evaluation panel

- (1) The evaluation panel contemplated in regulation 3(1)(g) read with regulation 3(11) of the Regulations, consists of five officials in the employ of the Municipality appointed by the Municipal Manager.
- (2) The evaluation panel must evaluate all nominations within 30 days of receipt of the verified nominations and must submit a report with their recommendations to the Council for consideration.

38. Appointment of members to Municipal Planning Tribunal by Council

- (1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.
- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson and a deputy chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in Clause 43 of this by law, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

39. Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area

- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of five years, which is renewable once for a further period of five years.
- (2) The office of a member becomes vacant if that member -
 - (a) is absent from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
 - (c) is removed from the Municipal Planning Tribunal under subclause (3) of this by law; or
 - (d) dies.
- (3) The Council may remove a member of the Municipal Planning Tribunal if -
 - (a) sufficient reasons exist for his or her removal;
 - (b) a member contravenes the code of conduct contemplated in Schedule 4;
 - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act after giving the member an opportunity to be heard.
- (4) An official of a municipality contemplated in Clause 33(1)(a) of this By-Law who serves on the Municipal Planning Tribunal –
 - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;

- (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality must immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of Clause 33(1)(b) to (g) of this by law to the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
 - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
 - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Municipal Planning Tribunal must sign the Code of Conduct contained in Schedule 4 before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and must conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Municipal Planning Tribunal, in the execution of their duties, must comply with the provisions of the Act, provincial legislation, this By-law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

40. Vacancy

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of Clause 33(2) of this by law.
- (2) A member who is appointed by virtue of subclause (1) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

41. Proceedings of Municipal Planning Tribunal for municipal area

- (1) The Municipal Planning Tribunal must operate in accordance with the operational procedures determined by the Municipality.
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of the members appointed for that decision meeting and present at that decision meeting.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Municipal Planning Tribunal.
- (4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the operational procedures of the Municipal Planning Tribunal but meetings must be held at least once per month, if there are applications to consider.
- (5) The chairperson may arrange multiple Municipal Planning Tribunal meetings on the same day constituted from different members of the Municipal Planning Tribunal and must designate a presiding officer for each of the meetings.

42. Tribunal of record

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.
- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon payment of the fee approved by the Council.

43. Commencement date of operations of Municipal Planning Tribunal for local municipal area

- (1) The Municipal Manager must within 30 days of the first appointment of members to the Municipal Planning Tribunal -
 - (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and

- (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in Clause 38(4) of this by law.
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subclause (1).

Part D: Decisions of Municipal Planning Tribunal and/or Land Development Officer

44. General criteria for consideration and determination of application by Municipal Planning Tribunal or Land Development Officer

- (1) When the Municipal Planning Tribunal or Land Development Officer considers an application it must have regard to the following:
 - (a) the application submitted in terms of this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by the Member of the Executive Council regarding proposed land uses;
 - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (e) the response by the applicant to the comments referred to in Clause 44(1)(d) of this By-Law;
 - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (g) a written assessment by a professional planner as defined in section 1 of the Planning Profession Act, 2002, in respect of land development applications to be considered and determined by the Municipal Planning Tribunal.
 - (h) the integrated development plan and municipal spatial development framework;
 - (i) the applicable local spatial development frameworks adopted by the Municipality;
 - (j) the applicable structure plans;
 - (k) the applicable policies of the Municipality that guide decision-making;
 - (l) the provincial spatial development framework;
 - (m) where applicable, the regional spatial development framework;
 - (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (o) the matters referred to in section 42 of the Act;

- (p) the relevant provisions of the land use scheme.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan -
 - (a) is consistent with the development rules of the zoning;
 - (b) is consistent with the development rules of the overlay zone;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
 - (a) the Municipality must not approve a building plan if the site development plan has not been approved; and
 - (b) the Municipality must not approve a building plan that is inconsistent with the approved site development plan.
- (4) The written assessment of a professional planner contemplated in subclause (1)(g), must include such registered planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

45. Conditions of approval

- (1) When the Municipal Planning Tribunal or Land Development Officer approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subclause (1) may include conditions relating to—
 - (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;

- (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;
 - (j) requirements aimed at addressing climate change;
 - (k) the establishment of an owners' association in respect of the approval of a subdivision;
 - (l) the provision of land needed by other organs of state;
 - (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality or the registration of public places in the name of the municipality, and the transfer of ownership to the municipality of land needed for other public purposes;
 - (n) the implementation of a subdivision in phases;
 - (o) requirements of other organs of state.
 - (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
 - (q) agreements to be entered into in respect of certain conditions;
 - (r) the phasing of a development, including lapsing clauses relating to such phasing;
 - (s) the delimitation of development parameters or land uses that are set for a particular zoning;
 - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
 - (u) the setting of dates by which particular conditions must be met;
 - (v) the circumstances under which certain land uses will lapse;
 - (w) requirements relating to engineering services as contemplated in Chapter 7;
 - (x) requirements for an occasional use that must specifically include –
 - (i) parking and the number of ablution facilities required;
 - (ii) maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the land use scheme;
- (3) If a Municipal Planning Tribunal or Land Development Officer imposes a condition contemplated in subclause (2)(a) , an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.

- (4) A condition contemplated in subclause (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
- (5) Municipal public expenditure contemplated in subclause (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
 - (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
 - (b) conservation purposes;
 - (c) energy conservation;
 - (d) climate change; or
 - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal or Land Development Officer must not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.
- (8) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (10) If the Municipal Planning Tribunal or Land Development Officer approves a land development or use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) The Municipal Planning Tribunal or Land Development Officer may, on its, his or her own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.

Part E: Administrative Arrangements

46. Administrator for Municipal Planning Tribunal

- (1) The Municipal Manager must designate an employee as the administrator for the Municipal Planning Tribunal.
- (2) The person referred to in subclause (1) must—

- (a) liaise with the relevant Municipal Planning Tribunal members and the parties in relation to any application or other proceedings filed with the Municipality;
- (b) maintain a diary of hearings of the Municipal Planning Tribunal;
- (c) allocate meeting dates and application numbers to applications;
- (d) arrange the attendance of meetings by members of the Municipal Planning Tribunal;
- (e) arrange venues for Municipal Planning Tribunal meetings;
- (f) administer the proceedings of the Municipal Planning Tribunal;
- (g) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;
- (h) ensure the efficient administration of the proceedings of the Municipal Planning Tribunal, in accordance with the directions of the chairperson of the Municipal Planning Tribunal;
- (i) arrange the affairs of the Municipal Planning Tribunal so as to ensure that time is available to liaise with other authorities regarding the alignment of integrated applications and authorisations;
- (j) notify parties of orders and directives given by the Municipal Planning Tribunal;
- (k) keep a record of all applications submitted to the Municipal Planning Tribunal and the outcome of each, including—
 - (i) decisions of the Municipal Planning Tribunal;
 - (ii) on-site inspections and any matter recorded as a result thereof;
 - (iii) reasons for decisions; and
 - (iv) proceedings of the Municipal Planning Tribunal; and
- (l) keep records by any means as the Municipal Planning Tribunal may deem expedient.

CHAPTER 5 DEVELOPMENT MANAGEMENT

Part A: Categories of applications

47. Categories of land use and land development applications

- (1) The categories of land development and land use management for the Municipality, as contemplated in section 35(3) of the Act, are as follows -
 - (a) Category 1: Land Development Applications;
 - (b) Category 2: Land Use Applications;
- (2) Land development applications are applications for -
 - (a) the establishment of a township or the extension of the boundaries of a township;
 - (b) the amendment of an existing scheme or land use scheme by the rezoning of land;
 - (c) subject to subclause (3), the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
 - (d) the amendment or cancellation in whole or in part of a layout plan and conditions of establishment of a township;
 - (e) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
 - (f) permanent closure of any public place;
 - (g) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
 - (h) instances where the Municipality acting on its own accord wishes to remove, amend a restrictive or obsolete condition, servitude or reservation registered against the title deed of a property or properties which may also arise out of a condition of establishment of a township or any other legislation;
 - (i) any consent or approval provided for in a provincial law; and
 - (j) any development on communal land that will have a high impact on the community.
 - (k) The amendment of an existing scheme or land use scheme by the rezoning of land, where there is a deviation of policies.
- (3) Land use applications are applications for other compatible rights that the land unit does not yet possess but which are permitted in terms of the land use scheme and which may be obtained by application in terms of this By-law and includes:
 - (a) The subdivision of any erf in a proclaimed township where such subdivision is expressly provided for in a land use scheme;

- (b) the consolidation of any erf in a proclaimed township;
- (c) the simultaneous subdivision, under circumstances contemplated in paragraph (a) and consolidation of land;
- (d) the consent of the municipality for any land use purpose or departure or variance in terms of a land use scheme or existing scheme which does not constitute a land development application;
- (e) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation;
- (f) a temporary use application; and
- (g) the amendment of an existing scheme or land use scheme by the rezoning of land, where there is a deviation of policies.
- (h) Temporary use applications are applications that do not results in an amendment of the land use scheme and are

Part B: Establishment of Township or Extension of Boundaries of Township

48. Application for establishment of township

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
 - (a) the conditions of approval in a statement of conditions in the form approved by the Council;
 - (b) the statement of conditions which conditions shall be known as conditions of establishment for the township; and
 - (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-law.
- (3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, contain the following:
 - (a) Specify those conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;
 - (b) the conditions of establishment relating to the township that must remain applicable to the township;

- (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
 - (d) third party conditions as required by the Registrar of Deeds;
 - (e) the conditions to be incorporated into the land use scheme by means of an amendment scheme.
 - (f) if a non-profit company is to be established for purposes of maintaining or transfer of erven within the township to them the conditions that must apply;
 - (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.
- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of sub-clause (4) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application in accordance with Clause 86(1) of this By-Law..
- (5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality in accordance with Clause 86(1) of this By-Law .
- (6) Without detracting from the provisions of subclause (5) and (6) the municipality may require the applicant or the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

49. Division or phasing of township

- (1) An applicant who has been notified in terms of Clause 101(1) & (2) of this By-Law that his or her application has been approved may, within a period of twelve months from the date of the notice or such further period as the Municipality may allow, apply to the Municipality for the division of the township into two or more separate townships.
- (2) On receipt of an application in terms of subclause (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to

the indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor General.

- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the applicant in writing thereof and of any conditions imposed.
- (4) The applicant must, within a period of 3 months from the date of the notice contemplated in subclause (3), submit to the Municipality such layout plans, conditions of establishment or other documents and furnish such information as may be required in respect of each separate township.
- (5) On receipt of the documents or information contemplated in subclause (4) the Municipality must notify the Surveyor-General, and the registrar in writing of the approval of the application and such notice must be accompanied by a copy of the plan of each separate township.

50. Lodging of layout plan for approval with the Surveyor-General.

- (1) An applicant who has been notified in terms of Clause 101(1) & (2) of this By-Law that his or her application has been approved, must, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application lapses.
- (2) For purposes of subclause (1), the Municipality must provide to the applicant a final schedule as contemplated in Clause 48(2) of this By-Law of the approved conditions of establishment and layout plan.
- (3) The Municipality may for purposes of lodging the documents contemplated in subclause (1) determine street names and numbers on the layout plan. In case of private development, the developer must determine street names and numbers on the layout plan.
- (4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subclause (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General must notify the Municipality that he or she is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the application lapses.
- (5) After an applicant has been notified that his or her application has been approved, the municipality may:
 - (a) where the documents contemplated in subclause (1) have not yet been lodged with the Surveyor General;

- (b) where the documents contemplated in subclause (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;

consent to the amendment of such documents, unless the amendment is, in its opinion, so material as to constitute a new application for the establishment of a township.

51. Compliance with pre-proclamation conditions

- (1) The applicant must provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the schedule to the approval of a township establishment application have been complied with.
- (2) The Municipality must certify that all the conditions that have to be complied with by the applicant or owner as contemplated in Clause 48(2) of this By-Law have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subclause (2).
- (4) The municipality may agree to an extension of time as contemplated in subclause(1), after receiving a written application from the applicant for an extension of time: Provided that such application provides motivation for the extension of time.

52. Opening of Township Register

- (1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 58 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) For purposes of subclause (1) the Registrar must not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of Clause 48(3) of this By-Law .
- (3) The plans, diagrams and title deeds contemplated in subclause (1) must be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.
- (4) If the applicant fails to comply with the provisions of subclauses (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subclause (1), the Registrar must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar must not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of Clause 53 of this By-Law .

53. Proclamation of approved township.

After the provisions of Clauses 49, 50, 51 and 52 of this By-Law have been complied with and the Municipality is satisfied that the township is in its area of jurisdiction, the Municipality or the applicant, if authorised in writing by the Municipality, must, by notice in the *Provincial Gazette*, declare the township an approved township and it must, in an annexure to such notice, set out the conditions on which the township is declared an approved township.

Part C: Amendment or Cancellation in Whole or in Part of a General Plan of a Township**54. Notification of Surveyor General**

- (1) After the Municipal Planning Tribunal has approved or refused an application for the alteration, amendment or cancellation of a general plan, the municipality must forthwith notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.
- (2) An applicant who has been notified that his or her application has been approved must, within a period of 12 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he or she fails to do so the application lapses.
- (3) Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subclause (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General must notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the municipality must notify the applicant, and thereupon the application lapses.
- (4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1927, altered or amended the general plan or has totally or partially cancelled it, he or she must notify the municipality.
- (5) On receipt of the notice contemplated in subclause (4) the applicant must publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality must, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.
- (6) The applicant must provide the Registrar of Deeds with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subclause (5).

55. Effect of amendment or cancellation of general plan

Upon the total or partial cancellation of the general plan of a township -

- (a) the township or part thereof ceases to exist as a township; and

- (b) the ownership of any public place or street re-vests in the township owner.

Part D: Rezoning of land

56. Application for amendment of a land use scheme by rezoning of land

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) A rezoning approval lapses after a period of two years, from the date of approval or the date that the approval comes into operation if, within that two year period—
 - (a) the conditions of approval have not been met;
 - (b) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments;
 - (c) the zoning is not utilised in accordance with the approval thereof; or
 - (d) the following requirements are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (3) The Municipality may grant one extension to the period contemplated in subclause(2) and the granting of an extension may not be unreasonable withheld, which period together with any extension that the Municipality grants, may not exceed three years.
- (4) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies, or where no zoning existed prior to the approval of the rezoning, the Municipality must determine a zoning as contemplated in Clause 166 of this By-Law.

Part E: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land

57. Requirements for amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land

- (1) The Municipality may, of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) The Municipality must cause a notice of its intention to consider an application under subclause (1) to be served on—

- (a) all organs of state that may have an interest in the title deed restriction;
 - (b) every holder of a bond encumbering the land;
 - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
 - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
 - (d) the social benefit of the restrictive condition remaining in place in its existing form;
 - (e) the social benefit of the removal or amendment of the restrictive condition; and
 - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

58. Endorsements in connection with amendment, suspension or removal of restrictive conditions

- (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in Clause 57(1) of this By-Law , submit the following to the Registrar of Deeds:
- (a) a copy of the original title deed;
 - (b) a copy of the original letter of approval; and
 - (c) a copy of the notification of the approval.
- (2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in Clause 57(1) of this By-Law, make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

Part F: Subdivision and Consolidation

59. Application for subdivision

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under Clause 63 of this By-Law.
- (2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.
- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, if the erf concerned is smaller than the minimum permitted erf size or exceeds permissible density.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the Municipality's decision to approve the subdivision;
 - (b) the conditions of approval contemplated in subclause (3) and Clause 45 of this By-Law ;
and
 - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of twelve months, from the date of approval of the subdivision or the date that the approval comes into operation, comply with the following requirements:
 - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subclause (4);
 - (b) completion of the installation of engineering services in accordance with the conditions contemplated in subclause (3) or other applicable legislation;
 - (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in Clause 45 of this By-Law for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
 - (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (7) A confirmation from the Municipality in terms of subclause (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the

obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

60. Confirmation of subdivision

- (1) Upon compliance with Clause 59(6) of this By-Law, the subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof under Clause 59(6) of this By-Law , the zonings indicated on the approved subdivision plan as confirmed cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of Clause 59(6) of this By-Law for the subdivision or part thereof.
- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in Clause 59(6) of this By-Law or the Municipality approved the construction prior to the subdivision being confirmed.

61. Lapsing of subdivision and extension of validity periods

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with subclause Clause 59(6) of this By-Law).
- (2) An applicant may apply for an extension of the period to comply with Clause 59(6) of this By-Law or must comply with subclause (4).
- (3) An extension contemplated in subclause (2) may not be unreasonably withheld by the Municipality and may be granted for a period not exceeding three years and if after the expiry of the extended period the requirements of Clause 59(6) of this By-Law has not been complied with, the subdivision may lapse and subclause (6) applies.
- (4) The Municipality may grant extensions to the period contemplated in subclause (2), which period together with any extensions that the Municipality grants, may not exceed 5years.
- (5) If only a portion of the general plan, contemplated in Clause 59(6) of this By-Law complies with Clause 59(6)(b) and (c) of this By-Law , the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses under subclause (1) —
 - (a) the Municipality must—
 - (i) amend the zoning map and, where applicable, the register accordingly; and
 - (ii) notify the Surveyor-General accordingly; and

- (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

62. Amendment or cancellation of subdivision plan

- (1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
- (2) When the Municipality approves an application in terms of subclause (1), any public place that is no longer required by virtue of the approval must be closed.
- (3) The Municipality must notify the Surveyor-General of an approval in terms of subclause (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
- (4) An approval of a subdivision in respect of which an amendment or cancellation is approved in terms of subclause (1), remains valid for the remainder of the period contemplated in Clause 59(6) of this By-Law) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subclause (1).

63. Exemption of subdivisions and consolidations

- (1) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:
 - (a) if the subdivision or consolidation arises from the implementation of a court ruling;
 - (b) if the subdivision or consolidation arises from an expropriation;
 - (c) a minor amendment of the common boundary between two or more land units if the resulting change in area of any of the land units is not more than 10 per cent;
 - (d) the registration of a servitude or lease agreement for the provision or installation of—
 - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
 - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
 - (iii) the imposition of height restrictions;
 - (e) the exclusive utilisation of land for agricultural purposes, if the utilisation—
 - (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
 - (ii) does not lead to urban expansion.

- (f) the subdivision and consolidation of a closed public place with an abutting erf; and
 - (g) the granting of a right of habitation or usufruct.
- (2) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter.
- (3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of Clause 59 and 60 of this By-Law ..

64. Services arising from subdivision

Subsequent to the granting of an application for subdivision in terms of this By-law the owner of any land unit originating from the subdivision must—

- (a) allow that the following be conveyed across his or her land unit in respect of other land units:
 - (i) gas mains;
 - (ii) electricity cables;
 - (iii) telephone cables;
 - (iv) television cables;
 - (v) other electronic infrastructure;
 - (vi) main and other water pipes;
 - (vii) foul sewers;
 - (viii) storm water pipes; and
 - (ix) ditches and channels;
- (b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:
 - (i) surface installations such as mini-substations;
 - (ii) meter kiosks; and
 - (iii) service pillars;
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs (a) and (b); and
- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the

level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.

65. Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under Clause 63 of this By-Law.
- (2) A copy of the approval must accompany the diagram which is submitted to the Surveyor-General's office.
- (3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the decision to approve the subdivision;
 - (b) the conditions of approval contemplated in Clause 45 of this By-Law ; and
 - (c) the approved consolidation plan.
- (4) If the Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.

66. Lapsing of consolidation and extension of validity periods

- (1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within five years of the approval, the consolidation approval lapses, unless the consolidation of land units form part of a land use application which has been approved for a longer period.
- (2) An applicant may apply for an extension of the period to comply with subclause (1) and the granting of an extension may not be unreasonably withheld.
- (3) An extension contemplated in subclause (2) may be granted for a further period not exceeding three years and if after the expiry of the extended period the requirements of subclause (1) have not been complied with, the consolidation lapses and subclause (5) applies.
- (4) If the Municipality may grant extensions to the period contemplated in subclause (2), which period together with any extensions that the Municipality grants, may not exceed 5 years.
- (5) If an approval of a consolidation lapses under subclause (1) the Municipality must—
 - (a) amend the zoning map and, where applicable, the register accordingly; and
 - (b) notify the Surveyor-General accordingly; and
 - (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

Part G: Permanent Closure of Public Place**67. Closure of public place**

- (1) The Municipality may on own initiative or on application close a public place or any portion thereof in accordance with the procedures in Chapter 6.
- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered as a result of the wrong doing on the part of the Municipality as a result of the closure of a public place, an employee duly authorised by the Municipality must—
 - (a) require proof of negligence on the part of the Municipality which resulted in the loss or damage; and
 - (b) before any claim is paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
- (4) The Municipality may pay a claim if—
 - (a) the circumstances of loss or damage reveal that the Municipality acted negligently;
 - (b) the circumstances of the loss are not inconsistent with this By-law;
 - (c) the claimant has proved his or her loss or damage;
 - (d) the claimant has provided the proof of a fair and reasonable quantum;
 - (e) no claim has been made and paid by personal insurance covering the same loss; and
 - (f) any other relevant additional information as requested by the authorised employee has been received.
- (5) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (6) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—
 - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;

- (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
 - (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
 - (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subclause (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

Part H: Consent Use

68. Application for consent use

- (1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in Clause 45 of this By-Law ..
- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in Clause 45 of this By-Law ..
- (4) A consent use granted for a specified period of time contemplated in subclause (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subclause (1) lapses after a period of two years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that five year period or shorter period -
 - (a) the consent use is not utilised in accordance with the approval thereof; or
 - (b) the following requirements are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).

- (6) The Municipality may grant annual extensions to the period contemplated in subclause (5) and the granting of an extension may not be unreasonably withheld by the Municipality, which period together with any extensions that the Municipality grants, may not exceed 5 years

Part I: Traditional Use

69. Application for development on or change of land use on communal land/ land under traditional authority.

- (1) An applicant who wishes to develop or change the land use purpose of communal land, whether or not such development or change will result in a high intensity development or a low intensity development, must apply to the Municipality for approval thereof.
- (2) If the application is for a high intensity development, the application must, in addition to the documentation referred to in section 90, be accompanied by -
- (a) a power of attorney signed by the applicable traditional council; and
 - (b) proof of a decision taken by the majority of the community members who will be affected by such development who are present at a meeting, of which they have been given sufficient notice and in which they have had a reasonable opportunity to participate, that was convened for the purpose of considering whether their informal right to land may be disposed of as a result of such high intensity development, and the provisions of Chapter 5 and 6 apply to that application.
- (3) An applicant who submits an application for a low intensity development is exempt from the payment of application fees and such application must be completed on a form approved by the Council, signed by the applicant and submitted to the Municipality and it must be accompanied by -
- (a) a power of attorney signed by the applicable traditional council;
 - (b) proof of consent from such owners of abutting properties that are determined by the Municipality;
 - (c) a written motivation for the application based on the criteria for consideration of the application; and
 - (d) a layout plan or sketch sufficient for the land development officer to make a decision.
- (4) An application for a low intensity development is exempt from the provisions of Chapter 5 and 6 as contemplated in section 121 and the Municipality must develop shortened procedures for such applications.
- (5) An applicant who is desirous to change the land use purpose of communal land prior to the adoption of a land use scheme in terms of the Act and this By-Law, whether or not such change

will result in a high intensity development or a low intensity development, must apply to the Municipality for approval thereof and the provisions of this section applies to such application.

- (6) The Municipality may conclude a service level agreement with a traditional council located in its municipal area as contemplated in regulation 19(1) of the Regulations and that service level agreement must provide for at least -
 - (a) the administrative functions to be performed by the traditional council on behalf of the Municipality, with the exception of making land development or land use decisions;
 - (b) the funding arrangements pertaining to the performance of the administrative functions by the traditional council; and
 - (c) the support arrangements to be provided by the Municipality pertaining to the performance of the administrative functions by the traditional council.
- (7) might have social, economic or environmental negative impact and
- (8) For the purpose of this section, "high impact" means a land use that could negatively impact on the health and welfare of the community.

Part J: Temporary Use

70. Application for temporary use

- (1) Temporary use applications are applications that do not result in an amendment of the land use scheme and are:
 - (a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
 - (b) any other application for temporary use submitted in accordance with the By-laws of the Municipality.

Part K: General Matters

71. Ownership of public places and land required for municipal engineering services and social facilities

- (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vest in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed in terms of Clause 45 of this By-Law determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved subdivision plan, be transferred to the Municipality upon confirmation of the subdivision or a part thereof.

72. Restriction of transfer and registration

- (1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any land development application, the owner must, at his or her cost and to the

satisfaction of the Municipality, survey and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.

- (2) No Erf/Erven and/or units in a land development area, may be alienated or transferred into the name of a purchaser nor must a Certificate of Registered Title be registered in the name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:
- (a) All engineering services have been designed and constructed to the satisfaction of the Municipality, including guarantees for services having been provided to the satisfaction of the Municipality as may be required; and
 - (b) all engineering services and development charges have been paid or an agreement has been entered into to pay the development charges in monthly instalments; and
 - (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
 - (d) all conditions of the approval of the land development application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance there of within 3 months of having certified to the Registrar in terms of this section that registration may take place; and
 - (e) that the Municipality is in a position to consider a final building plan; and
 - (f) that all the properties have either been transferred or must be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

73. First transfer

(1) Where an owner of land to which a land development application relates is required to transfer land to:

- (a) the Municipality; or
- (b) an owners' association,

by virtue of a condition set out in the conditions to the approval of a land development application contemplated in Clause 45 of this By-Law, the land must be so transferred at the expense of the applicant, within a period of 6 months from the date of the land use rights coming into operation in terms of Clause 45 of this By-Law, or within such further period as the Municipality may allow, but in any event prior to any registration or transfer of any erf, portion, opening of a sectional title scheme or unit within the development.

74. Certification by Municipality

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.

- (2) The Municipality must not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
 - (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
 - (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
 - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
 - (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred to the owners' association as contemplated in Schedule 5; and
 - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

75. National and provincial interest

- (1) In terms of section 52 of the Act an applicant must refer any application which affects national or provincial interest respectively to the Minister and the Member of the Executive Council for comments, which comments are to be provided within 21 days as prescribed in section 52(5) of the Act.
- (2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national or provincial interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister or the Member of the Executive Council respectively and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.
- (3) The Municipal Planning Tribunal or Land Development Officer as the case may be, as contemplated in this By-law and the Act, may direct that an application before it, be referred to the Minister and the Member of the Executive Council, if such an application in their opinion affects national or provincial interest and the provisions of sections 52(5) to (7) of the Act apply with the necessary changes.
- (4) Subclauses (1) to (3) must be read with section 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance.

CHAPTER 6
GENERAL APPLICATION PROCEDURES

76. Applicability of Chapter

This Chapter applies to all applications submitted to the Municipality in terms of Chapter 5.

77. Procedures for making application

An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter 5 of this By-law.

78. Information required

- (1) An application must be accompanied by the following documents:
- (a) an approved application form, completed and signed by the applicant;
 - (b) if the applicant is not the owner of the land, a power of attorney signed by the owner authorising the applicant to make the application on behalf of the owner and if the owner is married in community of property a power of attorney signed by both spouses;
 - (c) if the owner of the land is a company, closed corporation, trust, body corporate or owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or owners' association;
 - (d) the relevant bondholder's consent, if required by the Municipality;
 - (e) a written motivation for the application based on the criteria for consideration of the application;
 - (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;
 - (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
 - (h) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following:
 - (i) the location of the proposed land units;
 - (ii) all existing structures on the property and abutting properties;
 - (iii) the public places and the land needed for public purposes;
 - (iv) the existing access points;
 - (v) all servitudes;
 - (vi) contours with at least a one meter interval or such other interval as may be approved by the Municipality;

- (vii) the sewerage lines and connection points;
 - (viii) any significant natural features; and
 - (ix) the scale and all distances and areas;
 - (i) any other plans, diagrams, documents or information that the Municipality may require;
 - (j) proof of payment of application fees;
 - (k) proof that there is an existing connection to the municipal sewerage system;
 - (l) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds; and
 - (m) if required by the Municipality, a certificate of a conveyancer indicating that no restrictive condition in respect of the application is contained in such title deeds.; and
 - (n) in the case of a traditional use application referred to in Clause 69 of this By-Law , community approval granted as a result of a community participation process conducted in terms of Customary Law.
- (2) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

79. Application fees

- (1) An applicant must pay the application fees approved by the Council prior to submitting an application in terms of this By-law.
- (2) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

80. Grounds for refusing to accept application

The Municipality may refuse to accept an application if—

- (a) the municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 86.

81. Receipt of application and request for further documents

The Municipality must—

- (a) record the receipt of an application in writing or by affixing a stamp on the application on the day of receipt and issue proof of receipt to the applicant;

- (b) notify the applicant in writing of any outstanding or additional plans, documents, other information or additional fees that it may require within 30 days of receipt of the application or the further period as may be agreed upon.
- (c) if the application is complete, notify the applicant in writing that the application is complete within 30 days of receipt of the application.

82. Additional information

- (1) The applicant must provide the Municipality with the information or documentation required for the completion of the application within 30 days of the request thereof or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in subclause (1).
- (3) The Municipality must notify the applicant in writing of the refusal to consider the application and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subclause (3) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider under subclause (3), the applicant must make a new application and pay the applicable application fees.

83. Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete within 21 days of receipt of the additional plans, documents or information required by it or if further information is required as a result of the furnishing of the additional information.
- (2) If further information is required, Clause 81 & 82 of this By-Law section 90 applies to the further submission of information that may be required.

84. Withdrawal of application

- (1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the Municipality.
- (2) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney that authorised another person to make an application on his or her behalf.

85. Notice of applications in terms of integrated procedures

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
 - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or

- (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms other legislation;
- (2) If a Municipality determines that an application may be published as contemplated in subclause (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The applicant must, within 30 days of having notified by the municipality that the application is complete, simultaneously—
 - (a) cause public notice of the application to be given in terms of Clause 86(1) of this By-Law; and
 - (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application, unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subclause (1), is considered to be public notice in terms of this By-law.
- (4) The Municipality may require the applicant to give the required notice of an application in the media.
- (5) Where an applicant has published a notice in the media at the request of a Municipality, the applicant must provide proof that the notice has been published as required.

86. Notification of application in media

- (1) The applicant must give notice in the media, in accordance with this By-law, of the following applications:
 - (a) Township Establishment and extension of township boundary
 - (b) an application for a rezoning or a rezoning on the initiative of the Municipality;
 - (c) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (d) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (e) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (f) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;

- (g) the closure of a public place;
- (h) an application in respect of a restrictive condition;
- (i) an application in respect of a consent use
- (j) other applications that will materially affect the public interest or the interests of the community if approved.

(2) Notice of the application in the media must be given :—

(a) If the application is complete as may be determined by the Municipality in terms of subclause (b) and the applicant has been notified within 30 days of submission of the application of any defects or incompleteness he shall give notice of the application on the same date-

- (i) by publishing once a week for 2 consecutive weeks a notice in such form and such manner, in two official languages, in the Provincial Gazette and one local newspaper as prescribed in the schedule 12 as the case may be, to this By-law;
- (ii) by posting a notice in such form as may be prescribed in a conspicuous place to the satisfaction of the Municipality, on his land as prescribed in schedule 12 as the case may be, and he shall maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subclause (i) above: Provided that the Municipality may, in its discretion, grant exemption from compliance with the provisions of this subclause;
- (iii) by delivering a notice of the application as prescribed in schedule 12 to all the adjoining property owners of the property on which the application is brought; provided that adjoining owners in relation to their property shall mean any property that shares a common boundary, touches the concerns of the land and includes properties that are separated by a road, or roadway or right of way servitude;
- (iv) If in terms of subclause (iii) copies of the notice are delivered to adjoining owners and such owners form part of a body corporate, it shall be deemed sufficient that copies be delivered in the post boxes of the units and where the trustees, can be identified to the satisfaction of the Municipality, to the trustees of the body corporate;
- (v) In terms of subclause (iii) copies shall be delivered to any juristic person or organ of state, the applicant shall provide proof to the satisfaction of the Municipality that has obtained the contact details of the juristic person or a senior employee of an Organ o state together with proof of delivery of the copies.

87. Serving of notices

- (1) Notice of an application contemplated in Clause 86(1) of this By-Law) and subclause (2) must be served—
 - (a) in accordance with section 115 of the Municipal Systems Act;

- (b) in at least two of the official languages of the Province most spoken in the area concerned;
 - (c) on each owner of an abutting property, including a property separated from the property concerned by a road;
 - (d) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) When the Municipality intends to consider any of the following, it must at least cause a notice to be served as contemplated in Clause 86 of this By-Law of its intention:
- (a) a determination of a zoning;
 - (b) a land development application for subdivision or the amendment or cancellation of a subdivision contemplated in Clause 59 and 62 of this By-Law, respectively;
 - (c) a land development application for consolidation contemplated in Clause 65 of this By-Law; or
 - (d) the imposition, amendment or waiver of a condition.
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law.
- (4) The Municipality may require notice of its intention to consider all other applications not listed in subclause (2) to be given in terms of Clause 89 of this By-Law.
- (5) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subclause (1).
- (6) Where an applicant has served a notice at the request of a Municipality, the applicant must provide proof that the notice has been served as required.
- (7) The date of notification in respect of a notice served in terms of this section—
- (a) when it has been served by certified or registered post is the date of registration of the notice; and
 - (b) when it has been delivered to that person personally is the date of delivery to that person;
 - (c) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years is the date on which it has been left with that person; or
 - (d) when it has been posted in a conspicuous place on the property or premises to which it relates is the date that it is posted in that place.

88. Content of notice

When notice of an application must be given in terms of Clause 86 of this By-Law or served in terms of Clause 87 of this By-Law, the notice must contain the following information:

- (a) the name, identity number, physical address and contact details of the applicant;
- (b) identify the land or land unit to which the application relates by giving the property description (erf number) and the physical address (street name and number);
- (c) state the intent and purpose of the application;
- (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- (e) state the contact details of the relevant municipal employee;
- (f) invite members of the public to submit written comments or objections together with the reasons thereof in respect of the application;
- (g) state in which manner comments or objections may be submitted;
- (h) state the date by when the comments or objections must be submitted which must not be less than 30 days from the date on which the notice was given;
- (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections or comments.

89. Additional methods of public notice

- (1) If the Municipality considers notice in accordance with of Clause 86 and 87 of this By-Law to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application:
 - (a) to display a notice contemplated in of Clause 86 of this By-Law of a size of at least (A3 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
 - (i) the notice must be displayed for a minimum of 21 days during the period that the public may comment on the application;
 - (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
 - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (bb) at least two photos of the notice, one from nearby and one from across the street.

- (b) to convene a meeting for the purpose of informing the affected members of the public of the application;
 - (c) to broadcast information regarding the application on a local radio station in a specified language;
 - (d) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
 - (e) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
 - (f) to obtain letters of consent or objection to the application.
- (2) Where an applicant has given additional public notice of an application on behalf of a Municipality, the applicant must provide proof that the additional public notice has been given as required.
- (3) Where the Municipality requires an applicant to display a public notice as contemplated in paragraph (a), the Municipality must conduct an on-site inspection to verify whether the applicant has complied with the requirement to display that public notice.

90. Requirements for petitions

- (1) All petitions must, in addition to the provisions of of Clause 91(4) of this By-Law, clearly state—
- (a) the contact details of the authorised representative of the signatories of the petition;
 - (b) the full name and physical address of each signatory; and
 - (c) the objection and reasons for the objection.
- (2) Notice to the person contemplated in subclause (1)(a), constitutes notice to all the signatories to the petition.

91. Requirements for objections or comments

- (1) A person may, in response to a notice received in terms of Clause 86, 87 or 89 of this By-Law, object or comment in accordance with this section.
- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the municipal employee mentioned in the notice within the time period stated in the notice and in the manner set out in this section.
- (3) The objection must state the following:
- (a) the name of the person or body concerned;
 - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;

- (c) the interest of the body or person in the application;
 - (d) the reason for the objection, comment or representation.
- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—
- (a) indicate the facts and circumstances which explains the objection, comment or representation;
 - (b) demonstrate the undesirable effect which the application will have on the area;
 - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must not accept any objection, comment or representation received after the closing date.

92. Amendments prior to approval

- (1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof—
- (a) at the applicant's own initiative;
 - (b) as a result of objections and comments made during the public notification process; or
 - (c) at the request of the Municipality.
- (2) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resent to municipal departments, organs of state and service providers.

93. Further public notice

- (1) The Municipality may require that fresh notice of an application be given if more than 18 months has lapsed since the first public notice of the application and if the application has not been considered by the Municipality.
- (2) The Municipality may, at any stage during the processing of the application—
- (a) require notice of an application to be republished or to be served again; and
 - (b) an application to be resent to municipal departments for comment, if new information comes to its attention which is material to the consideration of the application.

94. Cost of notice

- (1) The applicant is liable for the costs of giving notice of an application.

95. Applicant's rights to reply

- (1) Copies of all objections or comments lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 30 days from the date of the provision of the objections or comments, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections or comments.
- (3) The applicant may before the expiry of the 30 day period referred to in subclause (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections or comments lodged with a Municipality, additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the information within the timeframes contemplated in (5), of Clause 82(2) to (5) of this By-Law with the necessary changes, applies.

96. Written assessment of application

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with of Clause 96 of this By-Law and recommend to the decision-maker whether the application must be approved or refused.
- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

97. Decision-making period

- (1) When the power to take a decision is delegated to an authorised employee and no integrated process in terms of another law is being followed, the authorised employee must decide on the application within 60 days of the closing date for the submission of comments or objections.
- (2) When the power to take a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the application within 120 days of the closing date for the submission of comments or objections.

98. Failure to act within time period

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of these By-Laws and the applicant or interested

person may report the non-performance of the Municipal Planning Tribunal or Land Development Officer to the municipal manager, who must report it to the municipal council and mayor.

99. Powers to conduct routine inspections

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in section 104.
- (2) When conducting an inspection, the authorised employee may—
 - (a) request that any record, document or item be produced to assist in the inspection;
 - (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
 - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
 - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subclause (1).
- (4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (5) An inspection under subclause (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

100. Determination of application

The Municipality may in respect of any application submitted in terms of this Chapter -

- (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
- (b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of a Municipality or municipal entity;
- (f) decide any question concerning its own jurisdiction;

- (g) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law;

101. Notification of decision

- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision and their right to appeal if applicable.
- (2) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.

102. Duties of agent of applicant

- (1) The agent must ensure that all information furnished to the Municipality is accurate.
- (2) The agent must ensure that no misrepresentations are made.
- (3) The provision of inaccurate, false or misleading information is an offence.

103. Errors and omissions

- (1) The Municipality may at any time, with the written consent of the applicant or, if applicable, any party to the application, correct an error in the wording of its decision provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition of its approval.
- (2) The Municipality may, of its own accord or on application by an applicant or interested party, upon good cause being shown, condone an error in the procedure provided that such condonation does not have material adverse impact on or unreasonably prejudice any party.

104. Withdrawal of approval

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of approval.
- (2) Prior to doing so, the Municipality must serve a notice on the owner—
 - (a) informing the owner of the alleged breach of the condition;
 - (b) instructing the owner to rectify the breach within a specified time period;
 - (c) allowing the owner to make representations on the notice within a specified time period.

105. Procedure to withdraw an approval

- (1) The Municipality may withdraw an approval granted—
 - (a) after consideration of the representations made in terms of of Clause 104(2)(c) of this By-Law; and
 - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of Clause 104(2)(c) of this By-

Law) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the activity immediately.

- (3) The approval is withdrawn from date of notification of the owner.

CHAPTER 7
ENGINEERING SERVICES AND DEVELOPMENT CHARGES

Part A: Provision and Installation of Engineering Services

106. Responsibility for providing engineering services

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.
- (3) The Municipality is responsible for the installation and provision of external engineering services, subject to the payment of development charges first being received, unless the engineering services agreement referred to in Clause 108 of this By-Law provides otherwise.

107. Installation of engineering services

- (1) The applicant must provide and install the internal engineering services, including private internal engineering services, in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant must lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.
- (2) The Municipality must have regard to such standards as the Minister or the Member of the Executive Council may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.
- (3) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.
- (4) The Municipality must, where any private roads, private open spaces or any other private facilities or engineering services are created or to be constructed with the approval of any land development application set the standards for the width and or any other matter required to provide sufficient access and engineering services; including but not limited to:
 - (a) roadways for purposes of sectional title schemes to be created;
 - (b) the purpose and time limit in which private roads, private engineering services and private facilities are to be completed;

108. Engineering services agreement

- (1) An applicant of a land development application and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.

- (2) The engineering services agreement must –
- (a) classify the services as internal engineering services, external engineering services or private engineering services;
 - (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services, whether private engineering services or not, and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
 - (c) provide for the inspection and handing over of internal engineering services to the Municipality or the inspection of private internal engineering services;
 - (d) determine that the risk and ownership in respect of such services must pass to the Municipality or the owners' association as the case may be, when the Municipality is satisfied that the services are installed to its standards;
 - (e) require the applicant to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
 - (f) provide for the following responsibilities after the internal services have been handed over to the Municipality or the owners' association:
 - (i) when normal maintenance by the relevant authority or owners' association must commence;
 - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
 - (iii) the rights of the relevant authority or owners' association if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
 - (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
 - (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
 - (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
 - (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –

- (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water-pipe terminating at a water meter; and
 - (iii) an electricity house connection cable terminating on the relevant erf; and
- (k) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others –
- (i) water reticulation;
 - (ii) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
 - (iii) roads and storm-water drainage;
 - (iv) electricity reticulation (high and low tension);
 - (v) street lighting.
- (3) The engineering services agreement may –
- (a) require that performance guarantees be provided, or otherwise, with the provision that -
 - (i) the obligations of the parties with regard to such guarantees are clearly stated;
 - (ii) such guarantee is irrevocable during its period of validity; and
 - (iii) such guarantee is transferable by the person to whom such guarantee is expressed to be payable; and
 - (b) provide for the manner in which the parties are to finance their relative responsibilities in terms of the engineering services agreement and where appropriate, either party may undertake to provide bridging finance to the other party.
- (4) Where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading (if any) of services must be recorded in the engineering services agreement.

109. Abandonment or lapsing of land development application

Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in Clause 108 of this By-Law lapses and if the applicant had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she must have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

110. Internal and external engineering services

For the purpose of this Chapter:

- (a) **"external engineering services"** has the same meaning as defined in section 1 of the

Act and consist of both "bulk services" and "link services";

- (b) **"bulk services"** means all the primary water, sewerage, waste disposal, sewage treatment facilities and means of disposal of effluent and other products of treatment, electricity and storm-water services, as well as the road network in the system to which the internal services are to be linked by means of link services;
- (c) **"link services"** means all new services necessary to connect the internal services to the bulk services; and
- (d) **"internal engineering services"** has the same meaning as defined in section 1 of the Act and includes any link services linking such internal services to the external engineering services.

Part B: Development Charges

111. Payment of development charges

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -
 - (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme; and
 - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If a land development application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must, subject to Clause 111 of this By-Law, pay the development charges to the Municipality.
- (3) An applicant or owner who is required to pay a development charge in terms of this By-law must pay such development charge to the Municipality before:
 - (a) any land use right is exercised;
 - (b) any connection is made to the municipal bulk infrastructure;
 - (c) a written statement contemplated in section 118 of the Municipal System Act is furnished in respect of the land;
 - (d) a building plan is approved in respect of:
 - (i) the proposed alteration of or addition to an existing building on the land;

- (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
- (e) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

112. Offset of development charges

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services and, if applicable, the cost of internal infrastructure where additional capacity is required by the Municipality, against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.
- (2) The applicant or the owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) If the cost of the installation of the external engineering services exceeds the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.
- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in Clause 108 of this By-Law .

113. Payment of development charge in instalments

The Municipality may -

- (a) in the circumstances contemplated in subparagraph (b) or (c), allow payment of the development charge contemplated in Clause 111 of this By-Law in instalments over a period not exceeding three years;
- (b) in any case, allow payment of the development charge contemplated in Clause 111 of this By-Law to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest.

114. Refund of development charge

No development charge paid to the Municipality in terms of Clause 111 of this By-Law or any portion thereof must be refunded to an applicant or owner: Provided that where the owner paid the applicable Clause 109 of this By-Law charge prior to the land use rights coming into operation and the application is abandoned in terms of section 118 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

115. General matters relating to contribution charges

- (1) Notwithstanding any provision to the contrary, where a development charge or contribution for open space is paid to the Municipality, such funds must, in terms of the provisions of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), be kept separate and only applied by the Municipality towards the improvement and expansion of the services infrastructure or the provision of open space or parking, as the case may be, to the benefit and in the best interests of the general area where the land area is situated or in the interest of a community that occupies or uses such land area.
- (2) The Municipality must annually prepare a report on the development charges paid to the Municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and must submit such report and statement to the Premier.

CHAPTER 8**ORAL HEARING OF OBJECTIONS AND APPEAL PROCEDURES****PART A: ORAL HEARING OF OBJECTIONS****116. Oral hearing of objections or representations and notice thereof.**

- (1) Where in terms of any provision of the act a municipal planning tribunal read which chapter 6 of the act shall hear oral representation of objections lodged or representations made, it shall determine a day, time and place for the hearing;
- (2) Not less than 14 days prior to the days determined in terms of subclause (1), the municipality, shall notify every objector as prescribed, every person who has made representations and every other person who or body which, in the opinion of the municipality, has any interest in the matter, of the day, time and place so determined;
- (3) At a hearing contemplated in subclause (1):
 - (a) The municipal planning tribunal shall in terms of the notice contemplated in subclause 18 (2) deal with any point in limine which may be raised by any party to the hearing first, in manner which they deem appropriate, before continuing with the hearing of the merits of the application;
 - (b) The municipal planning tribunal having dealt with all points in limine, which may have been raised in terms of subclause (a), may determine that no further points in limine may be raised, having concluded the procedural issues prior to the consideration of the merits of the application;
 - (c) Every objector and every person who has made representations may set out the ground s of his objection or representations;
 - (d) The applicant and every other interested person or body including the municipality or any of its departments, may state his or its case and adduce evidence in support thereof or authorize any other person to do so on his behalf.
 - (e) Every objector and every person who has made representation may reply to any matter raised by any person in terms of (d) above;
 - (f) Any person referred to in subclause (c) – (e) who acts on behalf of an owner or anybody or person shall present a power of attorney, instructions or minutes or any other documentation which in the opinion of the municipal tribunal is necessary to ensure that such representation is authorized;
 - (g) Notwithstanding the provisions of subclause (3) (c) to (e) the municipal planning tribunal may determine the order in which any party to the hearing shall address the municipal planning tribunal;
 - (h) The municipal planning tribunal members may ask questions for clarity and allow any person as contemplated in subclause (3) (c) to (e) to ask question of clarity and no cross examination shall be allowed;

- (i) Should experts by any party be called for purposes of the hearing, within any particular field to adduce evidence or provide any documents, the other parties including the municipal planning tribunals, shall at least 7 days prior to the date of the hearing, be provided with a list of experts to be called and copied of the documents to be submitted, with an indication of the expertise to be used;
 - (j) The municipal planning tribunal shall conduct the hearing substantially in accordance with the code of conduct and operational procedures document as prescribed in scheduled 16 and for that purpose the chairperson contemplated in section 36 (4) of the act, may issues directives to the municipal planning tribunal members in that regards;
 - (k) The municipal planning tribunals may take any decision on a land development application and impose any condition they deem expedient read with section 40 of the act, and shall not be bound by agreements that were reached between any applicants, objectors or interested parties, including conditions imposed for purposes of the withdrawal of objections or negatives comments by interested and affected parties
4. A hearing contemplated in subclause (1) shall be open to the public
 5. Where the objections or representations contemplated in subclause (1) of more than one person are contained in one document, it shall be deemed sufficient compliance with the provisions of subclause (2) if the person who has lodged the document or is a signatory thereto is notified as contemplated in subclause (2).
 6. Where objections or representations are done by more than one person through a petition or a letter that is substantially the same, it shall be deemed sufficient compliance with the provisions of subclause (2) if the person who has lodged the documentation or is the signatory to one of the letters or petition is notified as contemplated in subclause (2).
 7. The municipal planning tribunal must consider all objections and representations and after hearing the objections and the applicant, resolve to approve with amendments or refuse or refer the application before it back for further investigation and a report.
 8. The municipal planning tribunal may conduct an investigation into any matter related to the application before it, including a site inspection in loco and request for further information read with section 17 (13).
 9. The municipal shall, after the minutes of the municipal planning tribunal have been approved, without delay and in writing, notify the applicant, and or an objector or any person who made representations, of its decision taken by virtue of the provisions of subclause (7).
 10. Any person who has been notified in terms of this by-law of a decision by the municipality, authorized official or municipal planning tribunal, may, within a period of 30 days from the date of the notice, requested in writing to be furnished with reasons for the decision, and municipality shall furnish such reasons in writing on payment of such fees as may be prescribed.

PART B MANAGEMENT OF AN APPEAL AUTHORITY

117 Presiding officer of appeal authority

The presiding officer of the appeal authority is responsible for managing the judicial functions of that appeal authority.

118 Bias and disclosure of interest

- (1) No presiding officer or member of an appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the Land Development Officer and he or she made the decision that is the subject of the appeal.
- (2) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in subregulations (5) and (6) must recuse himself or herself from the appeal hearing.
- (3) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.
- (4) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.
- (5) For the purpose of this Chapter "conflict of interest" means any factor that may impair or reasonable give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.
- (6) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following:
 - (a) A person with whom the presiding officer or member has a personal, familiar or professional relationship;
 - (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
 - (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer's or member's participation in the adjudication of the matter would be inappropriate.

11. 119 Registrar of appeal authority

- (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of subregulation (1), a municipal council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority and if it so appoints or designates a person or an official, that person or official has delegated authority as contemplated in section 56 of the Act.

- (3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the municipal council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.
- (4) Any person appointed under subclause (2) or authorised under subclause (3) may hold more than one office simultaneously.

120 Powers and duties of registrar

- (1) The registrar is responsible for managing the administrative affairs of the appeal authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the appeal authority and to ensure accessibility and maintenance of the dignity of the appeal authority.
- (2) The duties of the registrar include –
 - (a) the determination of the sitting schedules of the appeal authority;
 - (b) assignment of appeals to the appeal authority;
 - (c) management of procedures to be adhered to in respect of case flow management and the finalisation of any matter before the appeal authority;
 - (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
 - (e) the establishment of a master registry file for each case which must record –
 - (i) the reference number of each appeal;
 - (ii) the names of the parties;
 - (iii) all actions taken in connection with the preparation of the appeal for hearing;
 - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
 - (v) the date of the hearing of the appeal;
 - (vi) the decision of the appeal authority;
 - (vii) whether the decision was unanimous or by majority vote; and
 - (viii) any other relevant information.
- (3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.
- (4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

PART C: APPEAL PROCESS

121 Commencing of appeal

An appellant must commence an appeal by delivering a Notice of Appeal approved by the Municipality to the registrar of the relevant appeal authority within 21 days as contemplated in section 51 of the Act.

122 Notice of appeal

- a. A Notice of Appeal must clearly indicate:
- (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
 - (b) where applicable, whether the appeal is against any conditions of approval of an application and which conditions;
 - (c) the grounds of appeal including any findings of fact or conclusions of law;
 - (d) a clear statement of the relief sought on appeal;
 - (e) any issues that the appellant wants the appeal authority to consider in making its decision; and
 - (f) a motivation of an award for costs.
- (2) An appellant may, within seven days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

123 Notice to oppose an appeal

A notice to oppose an appeal must clearly indicate:

- (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
- (b) whether any conditions of approval of an application are opposed and which conditions;
- (c) whether the relief sought by the appellant is opposed;
- (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute;
- (e) a clear statement of relief sought on appeal.

124 Screening of appeal

- (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:
- (a) It complies with the form approved by the Municipality;
 - (b) it is submitted within the required time limit; and
 - (c) the appeal authority has jurisdiction over the appeal.
- (2) If a Notice of Appeal does not comply with the form approved by the Municipality, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.

- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.
- (5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.
- (6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.
- (7) The provisions of this section apply, with the necessary changes, to a notice to oppose an appeal contemplated in Clause 123 of this By-Law.

PART D: PARTIES TO AN APPEAL

125 Parties to appeal

- (1) The parties to an appeal before an appeal authority are:
 - (a) the appellant who has lodged the appeal with the appeal authority in accordance with section 51(1) of the Act;
 - (b) the applicant, if the applicant is not the appellant as contemplated in paragraph (a);
 - (c) the Municipal Planning Tribunal that or the Land Development Officer who made the decision;
 - (d) any person who has been made a party to the proceeding by the appeal authority after a petition to the appeal authority under section 45(2) of the Act to be granted intervener status.

126 Intervention by interested person

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or Land Development Officer and might therefore be affected by the judgement of the appeal authority.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –
 - (a) does not collude with any of the appellants; and
 - (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.

- (3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.

PART E: JURISDICTION OF APPEAL AUTHORITY

127 Jurisdiction of appeal authority

An appeal authority may consider an appeal on one or more of the following:

- i. the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
- ii. the merits of the land development or land use application.

128 Written or oral appeal hearing by appeal authority

- (1) An appeal may be heard by an appeal authority by means of a written hearing and if it appears to the appeal authority that the issues for determination of the appeal cannot adequately be determined in the absence of the parties by considering the documents or other material lodged with or provided to it, by means of an oral hearing.

129 Representation before appeal authority

At an oral hearing of an appeal before an appeal authority, a party to the proceeding may appear in person or may be represented by another person.

130 Opportunity to make submissions concerning evidence

The appeal authority must ensure that every party to a proceeding before the appeal authority is given a reasonable opportunity to present his or her case and, in particular, to inspect any documents to which the appeal authority proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

PART F: HEARINGS OF APPEAL AUTHORITY

131 Notification of date, time and place of hearing

- (1) The appeal authority must notify the parties of the date, time and place of a hearing at least 14 days before the hearing commences.
- (2) The appeal authority will provide notification of the hearing to the appellant at the appellant's address for delivery.

132 Hearing date

A hearing will commence within 15 days after the completed Notice of Appeal has been delivered to the appeal authority, unless the parties and the presiding officer of the appeal authority consent to a later date.

133 Adjournment

- (1) If a party requests an adjournment more than one day prior to the hearing, the party must obtain the written consent of the other party and the presiding officer of the appeal authority.
- (2) The party requesting an adjournment must deliver to the appeal authority a completed form including reasons for the request.
- (3) The appeal authority will notify the parties in writing of the decision of the presiding officer of the appeal authority.
- (4) If the presiding officer of the appeal authority or the other party does not consent to the request for an adjournment, the hearing will not be adjourned.
- (5) If a party requests an adjournment within one day prior to the hearing, the request must be made to the appeal authority at the hearing and may be made notwithstanding that a prior request was not consented to.

134 Urgency and condonation

- a. The registrar may –
 - i. on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
 - ii. on good cause shown, condone any failure by any party to an appeal to comply with these Regulations or any directions given in terms hereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person;
- b. Every application for condonation made in terms of this regulation must be –
 - i. served on the registrar;
 - ii. accompanied by a memorandum setting forth the reasons for the failure concerned; and
 - iii. determined by the presiding officer in such manner as he or she considers proper.
- c. Where a failure is condoned in terms of subregulation(1)(b), the applicant for condonation must comply with the directions given by the registrar when granting the condonation concerned.

135 Withdrawal of appeal

An appellant or any respondent may, at any time before the appeal hearing, withdraw an appeal or opposition to an appeal and must give notice of such withdrawal to the registrar and all other parties to the appeal.

PART G: ORAL HEARING PROCEDURE**136 Location of oral hearing**

An oral hearing must be held in a location within the area of jurisdiction of the Municipality but must not be held where the Municipal Planning Tribunal its or the office of the Land Development Officer whose decision is under appeal and all cost to be borne by the appellant.

137 Presentation of each party's case

- (1) Each party has the right to present evidence and make arguments in support of that party's case.
- (2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Land Development Officer.

138 Witnesses

- a. Each party may call witnesses to give evidence before the panel.
- b. A witness may not be present at the hearing before giving evidence unless the witness is:
 - (a) an expert witness in the proceedings;
 - (b) a party to the appeal; or
 - (c) a representative of a party to the appeal.

139 Proceeding in absence of party

- a. If a party does not appear at an oral hearing, the appeal authority may proceed in the absence of the party if the party was notified of the hearing.
- b. Prior to proceeding, the appeal authority must first determine whether the absent party received notification of the date, time and place of the hearing.
- c. If the notice requirement was not met, the hearing cannot proceed and the presiding officer of the appeal authority must reschedule the hearing.

140 Recording

Hearings of the appeal authority must be recorded.

141 Oaths

Witnesses (including parties) are required to give evidence under oath or confirmation.

142 Additional documentation

- a. Any party wishing to provide the appeal authority with additional documentation not included in the appeal record should provide it to the appeal authority at least three days before the hearing date.
- b. The registrar must distribute the documentation to the other party and the members of the appeal authority.

- c. If the party is unable to provide the additional documentation to the appeal authority at least 3 days prior to the hearing, the party may provide it to the appeal authority at the hearing.
- d. The party must bring copies of the additional documentation for the members of the appeal authority and the other party.
- e. If the additional documentation brought to the hearing is substantive or voluminous, the other party may request an adjournment from the appeal authority.

PART H: WRITTEN HEARING PROCEDURE

143 Commencement of written hearing

The written hearing process commences with the issuance of a letter from the appeal authority to the parties establishing a submissions schedule.

144 Presentation of each party's case in written hearing

- a. Each party must be provided an opportunity to provide written submissions to support their case.
- b. The appellant will be given seven days to provide a written submission.
- c. Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Land Development Officer.
- d. The Municipal Planning Tribunal or the Land Development Officer has seven days in which to provide a submission in response.
- e. If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

145 Extension of time

- a. If a party wishes to request an extension of the time established to provide a written submission, this request must be in writing to the appeal authority in advance of the date on which the submission is due.
- b. Any request for an extension must be accompanied by the reasons for the request.
- c. Following receipt of a request for an extension of time, the appeal authority will issue a decision in writing to the parties.

146 Adjudication of written submissions

- a. Following receipt of any written submissions from the parties, the registrar must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.
- b. If no written submissions are received from the parties, the registrar will forward the existing appeal record to the appeal authority for adjudication.

- c. Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.
- d. The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given seven days to provide a written submission in response.

PART I: DECISION OF APPEAL AUTHORITY

147 Further information or advice

After hearing all parties on the day of the hearing, the appeal authority –

- (a) may in considering its decision request any further information from any party to the appeal hearing or conduct any investigation which it considers necessary;
- (b) may postpone the matter for a reasonable period to obtain further information or advice, in which case it must without delay make a decision as contemplated by paragraph (c);
- (c) must within 21 days after the last day of the hearing, issue its decision on the appeal together with the reasons therefor.

148 Decision of appeal authority

- (1) The appeal authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or Land Development Officer and may include an award of costs to the Municipality or appellant
- (2) The presiding officer must sign the decision of the appeal authority and any order made by it.

149 Notification of decision

The registrar must notify the parties of the decision of the appeal authority in terms of section 156, together with the reasons therefor within seven days after the appeal authority handed down its decision.

150 Directives to municipality

- (1) The appeal authority must, in its decision, give directives to the municipality concerned as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the municipality as far as implementation of the decision is concerned.
- (2) Where an appeal authority upholds a decision on a development application, the Municipal Manager must, within 21 days of the decision, take the necessary steps to have the decision published in the *Provincial Gazette*.

PART I: GENERAL**151 Expenditure**

Expenditure in connection with the administration and functioning of the appeal authority must be defrayed from moneys appropriated by the applicable municipality.

CHAPTER 9 COMPLIANCE AND ENFORCEMENT

152 Enforcement

The Municipality must comply and enforce compliance with—

- (a) the provisions of this By-law;
- (b) the provisions of a land use scheme;
- (c) conditions imposed in terms of this By-law or previous planning legislation; and
- (d) title deed conditions.

153 Offences and penalties

(1) Any person who—

- (a) contravenes or fails to comply with Clause 48 of this By-Law and subclause (2);
- (b) fails to comply with a compliance notice issued in terms of Clause 154 of this By-Law;
- (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
- (d) supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
- (e) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
- (f) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee;
- (g) upon registration of the first land unit arising from a township establishment or a subdivision, fails to transfer all common property, including private roads and private places origination from the subdivision, to the owners' association,
- (h) is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.

(2) An owner who permits land to be used in a manner set out in subclause (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of the land use scheme of the Municipality, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 20 years or to both a fine and such imprisonment.

(3) A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable

upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.

- (4) A Municipality must adopt fines and contravention penalties to be imposed in the enforcement of this By-law.

154 Service of contravention notice

- (1) The Municipality must serve a contravention notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of Clause 153 of this By-Law.
- (2) A contravention notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within 21 days and may include an instruction to—
- (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or /and
 - (b) Pay a contravention fine
 - (c) Any person/owner who revives a notice of contravention in terms of this section and has information to the contrary, must provide such information to the municipality within 21 days of receipt of the notice.

155 Content of contravention notices

- (1) A contravention notice must—
- (a) identify the person to whom it is addressed;
 - (b) describe the activity concerned and the land on which it is being carried out;
 - (c) state that the activity is illegal and inform the person of the particular offence contemplated in Clause 153 of this By-Law which that person allegedly has committed or is committing through the carrying on of that activity;
 - (d) the steps that the person must take and the period within which those steps must be taken;
 - (e) anything which the person may not do, and the period during which the person may not do it;
 - (f) provide for an opportunity for a person to lodge representations contemplated in terms of Clause 154(3) of this By-Law with the contact person stated in the notice;
 - (g) issue a warning to the effect that—

- (i) the person could be prosecuted for and convicted of an offence contemplated in Clause 153 of this By-Law
 - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
 - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
 - (iv) in the case of a contravention relating to a consent use or temporary use, the approval could be withdrawn;
 - (v) in the case of an application for authorisation of the activity , that a contravention penalty including any costs incurred by the Municipality, will be imposed;
- (2) Any person who receives a contravention notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the contravention notice in terms of Clause 154(3) of this By-Law..

156 Failure to comply with contravention notice

If a person fails to comply with a contravention notice the Municipality may—

- (a) lay a criminal charge against the person;
- (b) apply to an applicable court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
- (c) in the case of a temporary use or consent use, the Municipality may withdraw the approval granted and then act in terms of Clause 155 of this By-Law.

157 Urgent matters

- (1) In cases where an activity must be stopped urgently, the Municipality may dispense with the procedures set out above and issue a contravention notice calling upon the person or owner to cease immediately.
- (2) If the person or owner fails to cease the activity immediately, the Municipality may apply to any applicable court for an urgent interdict or any other relief necessary.

158 Contravention penalty Fee(s)

(1) The municipality

must adopt a schedule of contravention penalty fee(s) that shall be applicable for illegal land uses or construction activity or both.

- (a) penalty fees shall be charged per day;

- (b) penalty fees shall be paid at the end of the month ;

159 Power of entry for enforcement purposes

- (1) An authorised employee may, with the permission of the occupier or owner of land, at any reasonable time, and without a warrant, and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.
- (2) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of this By-law.
- (3) An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

160 Power and functions of authorised employee

- (1) In ascertaining compliance with this By-law as contemplated in Clause 152 of this By-Law, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.
- (2) An authorised employee must not have a direct or indirect personal or private interest in the matter to be investigated.

161 Warrant of entry for enforcement purposes

- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
 - (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
 - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in subclause (1) may be issued by a judge of any applicable court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
 - (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
 - (c) there are reasonable grounds for suspecting that a contravention contemplated in Clause 153 of this By-Laws has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
 - (d) the inspection is reasonably necessary for the purposes of this By-law.

(3) A warrant must specify which of the acts mentioned in Clause 163 of this By-Law may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in Clause 163 of this By-Law as specified in the warrant on one occasion only, and that entry must occur—

- (a) within one month of the date on which the warrant was issued; and
- (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

162 Regard to decency and order

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—

- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right to freedom and security of the person; and
- (c) the right to a person's personal privacy.

163 Court order

Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 153, the Municipality may apply to an applicable court for an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned;
- (c) compelling that person to cease with the unlawful activity; or
- (d) any other appropriate order.

CHAPTER 10 TRANSITIONAL PROVISIONS

164 Transitional provisions

(1) Any land development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, must be dealt with in terms of that legislation or if repealed in terms of its transitional arrangements or in the absence of any other provision, in terms of this By-law, read with section 2(2) and section 60 of the Act;

(2) Where on the date of the coming into operation of an approved land use scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a land use scheme in terms of this By-law read with section 26 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of this subclause (3), be continued after that date read with the provisions of a Town Planning Scheme or land use scheme.

(3) The right to continue using any land or building by virtue of the provisions of subclause (2) must;

- (a) where the right is not exercised in the opinion of the Municipality for a continuous period of 12 months, lapse at the expiry of that period;
- (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subclause (2);
- (c) where on the date of the coming into operation of an approved land use scheme -
 - (i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;
 - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved land use scheme, the building must for a period of 15 years from that date be deemed to comply with that provision.
- (d) where a period of 15 years, in terms of subclause (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard must, for the purposes of those subclauses, be had to an approved scheme which comes into operation after that date.
- (e) within one year from the date of the coming into operation of an approved land use scheme-

- (i) the holder of a right contemplated in subclause (2) may notify the Municipality in writing that he is prepared to forfeit that right;
 - (ii) the owner of a building contemplated in subclause (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subclause;
- (4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subclause (2)(a), such allegation is deemed to be correct until the contrary is proved.
- (5) Where any land use provisions are contained in any title deed, deed of grant or leasehold, which did not form part of a town planning scheme, such land use provisions apply as contemplated in subclause (2).
- (6) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the land use scheme or town planning scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

165 Determination of zoning

- (1) Notwithstanding the provisions of Clause 165(2) and (3) of this By-Law, the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act
- (2) When the Municipality considers an application in terms of subclause (1) it must have regard to the following:
- (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
 - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
 - (c) any temporary or consent use that may be required in conjunction with that zoning;
 - (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
 - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any temporary or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subclause (1) cannot be determined, the Municipality must determine a zoning and give notice of its intention to do so in terms of Clause 87 of this By-Law.

- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, shall not be deemed to be the lawful land use.

CHAPTER 11 GENERAL PROVISIONS

166 Delegations

Any power conferred in this By-law on the Municipality may be delegated by the municipality subject to section 56 of the Act and section 59 of the Local Government: Municipal Systems Act.

– we are taking it out as we have none.

167 Fees payable

Any fee payable to the Municipality in terms of this By-Law is determined annually in terms of section 24(2) of the Municipal Finance Management Act, 2003 read with sections 74 and 75A of the Municipal Systems Act and forms part of the By-Law to constitute the Tariff Structure of the Municipality.

168 Short title and commencement

- (1) This By-law is called the Madibeng Local Municipality Spatial Planning and Land Use Management By-law or SPLUMA By-Laws
- (2) This By-law comes into operation on the date of publication in the *Provincial Gazette*.

APPENDIX:

**SPATIAL PLANNING & LAND
USE BY-LAW 2016**

SCHEDULES:

SCHEDULE 1**INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE -
_____ MUNICIPAL PLANNING TRIBUNAL/APEALS AUTHORITY**

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Madibeng Local Municipality hereby invites nominations for officials or employees of the *(insert name of organ of state or non-governmental organisation contemplated in regulation (3)(2)(a) of the Regulations)* to be appointed to the Madibeng Municipal Planning Tribunal for its first term of office.

The period of office of members will be five years calculated from the date of appointment of such members by the Madibeng Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2016, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

Each nomination must be in writing and must contain the following information:

- (a) The name, address and identity number of the nominee;
- (b) The designation or rank of the nominee in the organ of state or non-governmental organisation;
- (c) A short curriculum vitae of the nominee (not exceeding two pages);
- (d) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Nominations must be sent to:

The Municipal Manager

Madibeng Local Municipality

P.O. Box _____

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),

ID No (of nominee),

hereby declare that –

- (a) I am available to serve on Madibeng Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me OR I am not willing to serve a chairperson or deputy chairperson *(delete the option not applicable)*;

- (b) there is no conflict of interest OR I have the following interests which may conflict with the Madibeng Municipal Planning Tribunal which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Madibeng Municipal Planning Tribunal and I authorise the Madibeng Local Municipality to verify any record in relation to such disqualification or requirement.
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Madibeng Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

CLOSING DATE: (INSERT DATE)

Signature of Nominee

Full Names of Nominee

Signature of Person signing on behalf of the Organ of State or Non-Governmental Organisation

Full Names of Person signing on behalf of the Organ of State or Non-Governmental Organisation

SCHEDULE 2

**CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE -
_____ MUNICIPAL PLANNING TRIBUNAL**

CLOSING DATE: (INSERT DATE)

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the _____ Municipality hereby call for nominations for members of the public to be appointed to the _____ Municipal Planning Tribunal for its first term of office.

The period of office of members will be five years calculated from the date of appointment of such members by the _____ Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2016, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

Each nomination must be in writing and must contain the following information:

- (a) The name and address of the nominator, who must be a natural person and a person may nominate himself or herself;
- (b) The name, address and identity number of the nominee;
- (d) Motivation by the nominator for the appointment of the nominee to the _____ Municipal Planning Tribunal (no less than 50 words and no more than 250 words);
- (e) A short curriculum vitae of the nominee (not exceeding two pages);
- (f) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Please note that failure to comply with the above requirements will result in the disqualification of the nomination.

Nominations must be sent to:

The Municipal Manager

_____ Municipality

P.O. Box _____

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),

ID No (of nominee),

hereby declare that –

- (a) I am available to serve on _____ Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me / I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) there is no conflict of interest OR I have the following interests which may conflict with the _____ Municipal Planning Tribunal and which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the _____ Municipal Planning Tribunal and I authorise the _____ Municipality to verify any record in relation to such disqualification or requirement;
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the _____ Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

Signature of Nominee

Full Names of Nominee

**SCHEDULE 3
DISCLOSURE OF INTERESTS FORM**

I, the undersigned,

Full names: _____
 Identity Number: _____
 Residing at: _____

do hereby declare that -

- (a) the information contained herein fall within my personal knowledge and are to the best of my knowledge complete, true and correct, and
- (b) that there is no conflict of interest between myself and the _____ Municipal Planning Tribunal; or
- (c) I have the following interests which may conflict or potentially conflict with the interests of the _____ Municipal Planning Tribunal;

CONFLICTING INTERESTS	

- (d) thenon-executive directorships previously or currently held and remunerative work, consultancy and retainership positions held as follows:

1. NON-EXECUTIVE DIRECTORSHIP	
Name of Company	Period
1.	
2.	
3.	
4.	
5.	

2. REMUNERATIVE WORK, CONSULTANCY & RETAINERSHIPS			
Name of Company & Occupation	Type of Business	Rand amount per month	Period

1.			
2.			
3.			

3. CRIMINAL RECORD	
Type of Offence	Dates/Term of Sentence
1.	

- (e) I am South African citizen or a permanent resident in the Republic
- (f) I am not a member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a court of law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a tribunal for a breach of any provision of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Land Use Planning By-Laws, 2016 enacted by the Madibeng Local Municipality.;
- (l) I have not been found guilty of misconduct, incapacity or incompetence; or
- (m) I have not failed to comply with the provisions of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Land Use Planning By-Laws, 2016 enacted by the Madibeng Local Municipality.

Signature of Nominee: _____

Full Names: _____

SWORN to and **SIGNED** before me at _____ on this _____ day of _____.

The deponent having acknowledged that he knows and understands the contents of this affidavit, that the contents are true, and that he or she has no objection to taking this oath and that he or she considers the oath to be binding on his other conscience. _____

COMMISSIONER OF OATHS

FULL NAMES: _____

DESIGNATION: _____

ADDRESS: _____

SCHEDULE 4
CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

I, the undersigned,

Full names: _____
Identity Number: _____
Residing at: _____

do hereby declare that I will uphold the Code of Conduct of the _____ Municipal Planning Tribunal contained hereunder:

General conduct

1. A member of the Municipal Planning Tribunal must at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has given written approval and has expressly authorised his or her participation.

2. A member of the Municipal Planning Tribunal must not—
 - (a) use the position or privileges of a member of the Municipal Planning Tribunal or confidential information obtained as a member of the Municipal Planning Tribunal for personal gain or to improperly benefit another person; and
 - (b) participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

Gifts

3. A member of the Municipal Planning Tribunal must not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence a person's objectivity as an advisor or decision-maker in the planning process.

Undue influence

4. A member of the Municipal Planning Tribunal must not—
- (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
 - (b) use confidential information acquired in the course of his or her duties to further a personal interest;
 - (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
 - (d) commit a deliberately wrongful act that reflects adversely on the Municipal Planning Tribunal, the Municipality, the government or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions of the Municipal Planning Tribunal by improper means.

Signature of Nominee: _____

Full Names: _____

Date: _____

CONTINUES ON PAGE 130 - PART 2



NORTH WEST NOORDWES

PROVINCIAL GAZETTE PROVINSIALE KOERANT

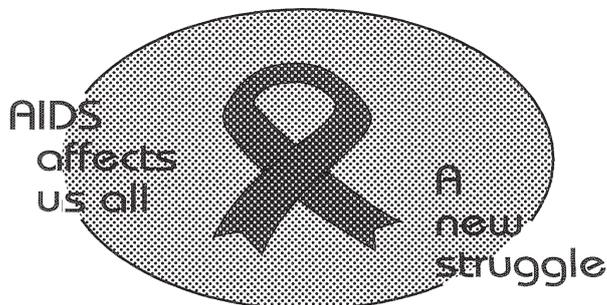
Vol. 260

MAHIKENG
21 MARCH 2017
21 MAART 2017

No. 7745

PART 2 OF 3

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Prevention is the cure

**AIDS
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SCHEDULE 5 OWNERS' ASSOCIATIONS

General

1. The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
2. An owners' association that comes into being by virtue of subitem 1 is a juristic person and must have a constitution.
3. The constitution of an owners' association must be approved by the Municipality before the transfer of the first land unit and must provide for—
 - (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (c) the regulation of at least one yearly meeting with its members;
 - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
 - (f) enforcement of conditions of approval or management plans;
 - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
 - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
4. The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
5. The constitution of an owners' association may be amended when necessary provided that an amendment that affects the Municipality or a provision referred to in subitem 3 is approved by the Municipality.
6. An owners' association which comes into being by virtue of subitem 1 -
 - (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
 - (b) is upon registration of the first land unit, automatically constituted.
7. The design guidelines contemplated in subitem 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
8. If an owners' association fails to meet any of its obligations contemplated in subitem 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may

take appropriate action to rectify the failure and recover from the members referred to in subitem6(a), the amount of any expenditure incurred by it in respect of those actions.

9. The amount of any expenditure so recovered is, for the purposes of subitem8, considered to be expenditure incurred by the owners' association.

Owners' association ceases to function

1. If an owners' association ceases to function or carry out its obligations, the Municipality may—
 - (a) take steps to instruct the association to hold a meeting and to reconstitute itself;
 - (b) subject to the amendment of the conditions of approval remove the obligation to establish an owners' association; or
 - (c) subject to amendment of title conditions pertaining to the owners' association remove any obligations in respect of an owners' association.
2. In determining which option to follow, the Municipality must have regard to—
 - (a) the purpose of the owners' association;
 - (b) who will take over the maintenance of infrastructure which the owners' association is responsible for, if at all; and
 - (c) the impact of the dissolution or the owners' association on the members and the community concerned.

SCHEDULE 6**TERMS OF REFERENCE AND CODE OF CONDUCT FOR AUTHORISED OFFICIAL/LAND DEVELOPMENT OFFICER (LDO): MADIBENG LOCAL MUNICIPALITY OFFICIAL**

1. An Authorised Official also referred to as a Land Development Officer (LDO) means an official who may consider & determine applications as contemplated in Section 35(2) of SPLUMA read with Regulation 1 of the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2016 and Clause 1 of Madibeng SPLUMA By laws.
2. An official of a municipality authorised by the Municipality in terms of section 35(2) of the Act as an Authorised Official/ Land Development Officer(LDO)-
 - (a) May only serve as an LDO for as long as he or she is in the employ of the municipality;
 - (b) Is bound by the conditions of services determined in his or her contract of employment and is not entitled to additional remuneration, allowance leave or sick leave or any other employee benefit as a result of being authorised as LDO.
3. A person authorised by the municipality in terms of section 35(2) of the Act as an LDO is charged with the responsibility to consider applications as categorised by the municipality in terms of Section 35(3) of the Act, and in line with Municipal Bylaws and Municipal Delegations and in the manner as prescribed in the Act.
4. In line with section 35(4) read with Section 40 an LDO must inter alia
 - 4.1 Consider and determine all applications lawfully referred or submitted to him/her;
 - 4.2 Keep a record of all the work relating to applications considered;
 - 4.3 Provide reasons for any decisions made by her/him;
 - 4.4 Decide an application without undue delay and within a prescribed period;
 - 4.5 May use his /her discretion in line with Section 40(7)(a)-(g) of the Act.
5. The LDO will furthermore conduct their work in a manner as outlined in Section 35(4) of the Act, The SPLUMA Regulations, Municipal Delegations as well as Municipal Bylaws.
6. The LDO must decide an application without fear, favour or prejudice and must adhere to the provisions of the SPLUMA, NWSPLUMA and the Municipal Planning By-laws as well as Municipal Delegations.
7. The LDO must at all times-
 - (a) Act in accordance with the principles of accountability and transparency;
 - (b) Disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
 - (c) Abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has such written approval and has expressly his or her participation.

8. An LDO may not-
 - (a) Use the position or privileges as an authorised official or confidential information obtained as an official of the municipality for personal gain or to improperly benefit another person; and
 - (b) Participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.
9. An LDO may not receive or seek gifts, favours or any other offers under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence a person's objectivity as an advisor or decision maker in the planning process.
10. An LDO/ Authorised official may not-
 - (a) Use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
 - (b) Use confidential information acquired in the course of his or her duties to further a personal interest;
 - (c) Disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
 - (d) Commit a deliberately wrongful act that reflects adversely on the Municipality, the government or the planning profession by stating or implying that he or she is prepared, willing or able to influence decisions by improper means.
11. An LDO must adhere to these Terms of Reference and Code of conduct approved by the municipality and non-compliance thereof constitute grounds for a disciplinary hearing.

APPLICATION FORMS:

MLM: F/1

APPLICATION FORM WITH APPLICANT AND OWNER DETAILS

APPLICANT DETAILS			
Please indicate the type of applicant :			
Individual		Legal Entity / Other	
Applicant Details: Individual			
Title			
Initial			
First Name(s)			
Surname			
Preferred Name			
ID Number			
Gender	Male		Female
Applicant Details: Legal Entity / Other			
Name			
Registration number			
Representative name			
Postal Details of Applicant			
Physical Address (Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township		Postal code	
Specify City			
Physical Address (Home)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township		Postal code	
Specify City			
Applicant Postal Address Details			
Postal Type	PO Box	Physical Address (Home)	
	Private Bag	Physical Address (Work)	
Postal Number			
Township		Postal Code	
Specify City			
Applicant Communication Details			
E-Mail Address			
Cell Phone			
Home Phone			
Work Phone			
Home fax			
Work fax			
Preferred Communication Type:	E-Mail		SMS
OWNER DETAILS			
Please indicate the type of applicant :			
Individual		Legal Entity /other	
Owner Details : Individual			
Title			
Initials			

First name			
Surname			
Preferred name			
ID Number			
Gender	Male		Female
Owner Details: Legal Entity / Other			
Name			
Registration number			
Representative name			
Owners Postal Details of Applicant			
Physical Address (Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township		Postal code	
Specify City			
Physical Address (Home)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township		Postal code	
Specify City			
Owner Postal Address Details			
Postal Type	PO Box	Physical Address (Home)	
	Private Bag	Physical Address (Work)	
Postal Number			
Township		Postal Code	
Specify Town			
Applicant Communication Details			
E-Mail Address			
Cell Phone			
Home Phone			
Work Phone			
Home fax			
Work fax			
Preferred Communication Type:	E-Mail		SMS
Details of owner's/ Marital Status	Not Applicable	Married in Community of Property	Married out of Community of Property
For Official Use			
Receipt Amount			
Receipt Number			
Payment Date			
Application Form Date			

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATUREDATE:

MLM: F/2

APPLICATION FORM FOR CHANGE OF LAND USE RIGHTS ALSO KNOWN AS REZONING IN TERMS OF CLAUSE 56 OF MADIBENG LAND USE MANAGEMENT BY- LAW, 2016

PROPERTY INFORMATION

Complete this section for each property (make a separate copy for each property)

Township / Agricultural Holding /Farm		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Town/Farm	

Rezoning Details

Land Use Scheme			
Present Zoning			
Property Size (m ²)			
Present Height(Scheme)			
Present Density (Scheme)			
Present Coverage(Scheme)			
Present Annexure No		Present Amendment Scheme No	
Present Land Value		Present FAR	
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			
Restrictive Title Deed Condition paragraph No			
Proposed Use Zone			
Proposed Primary Right			
Proposed number of units			
Proposed density			
Density Units (m ² /units per ha)			
Proposed Height (m/storey)			
Proposed coverage (%)			
Proposed FAR			
Estimate project value			
Applicant responsible to request outside comments	Yes	No	n/a

REQUIERED DOCUMENTS

Covering Letter	Power of Attorney	Bondholders Consent	
Company/Close Corporation/Trust resolution	Proof of Members of Company/Close/Trust Corporation	Proof of Marital Status of the Owner	
Motivating Memorandum	Locality Plan	Zoning Plan	
Zoning Certificate	Site Plan	Registered Title Deed	
List of names of adjacent properties	Proposed Development Controls	Other	

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents

are attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATUREDATE:

MLM:F/3

APPLICATION FORM FOR REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS IN TERMS OF SECTION 16(2) OR SUSPENSION OF TITLE CONDITIONS IN TERMS OF SECTION 16(2) PROPERTY INFORMATION

Complete this section for each property (make a separate copy for each property)

Township / Agricultural Holding / Farm		Portion (eg /R1)	
Erf / Plot / Farm No			
Ward			
Street Name			
Street Number		Town/Farm	
Land Use Scheme			
Present Zoning			
Property Size (m ²)		Title Deed Number	
Bond (Yes/No)			
Bondholder's Name			
Existing Development			
Restrictive Title Deed Condition paragraph No			
Details of owner's/ Marital Status	Not Applicable	Married in Community of Property	Married out of Community of Property

REMOVAL OF RESTRICTIONS IN TITLE DEED

Removal or suspension of conditions(According to the Title Deed)			
Amendment of condition/s			
Reason for Amendment or Removal of Condition/s			
Indicate whether the property/ties is/are situated in a conservation area or has/have been included in a register of properties worthy of conservation	Yes		No
Does the property have any endangered plant or animal species, if yes Specify	Yes		No

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATUREDATE:

MLM:F/4

APPLICATION FORM FOR CONSENT USE IN TERMS OF THE LAND USE SCHEME READ WITH SECTION 16(3)

PROPERTY INFORMATION

Complete this section for each property (make a separate copy for each property)

Township / Agricultural Holding /Farm		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Town/Farm	

CONSENT USE DETAILS

Land Use Scheme			
Present Zoning			
Property Size (m ²)		Title Deed Number	
Present Height(Scheme)			
Present Density (Scheme)			
Present Coverage(Scheme)			
Present Annexure No		Present Amendment Scheme No	
Present Land Value		Present FAR	
Existing Development			
Restrictive Title Deed Condition paragraph No			

Please complete this section for each property (make a separate copy for each property)

Area of Proposed Use	Main Building	Existing		m ²
		New		m ²
	Outbuilding	Existing		m ²
		New		m ²
	Total			
Proposed Height (m/storey)				
Proposed coverage (%)				
Proposed density				
Proposed FAR				

ADDITIONAL INFORMATION

Numbering of Parking Spaces on Property			
---	--	--	--

Does the approval of this application require obtaining a trade licence?	Yes	No	
If yes, has the application for a trade licence been handed in already?	Yes	No	

Licence Number	
Number of loading zones required?	
Staff Composition : Management	
Staff Composition : Employees	
TOTAL OF STAFF COMPOSITION	

Describe activities indoors	
------------------------------------	--

Describe activities outdoors	
-------------------------------------	--

REQUIRED DOCUMENTS			
Covering Letter		Power of Attorney	Bondholders Consent
Company/Close Corporation/Trust resolution		Proof of Members of Company/Close/Trust Corporation	Proof of Marital Status of the Owner
Motivating Memorandum		Locality Plan	Zoning Plan
Zoning Certificate		Site Plan	Registered Title Deed
List of names of adjacent properties		Proposed Development Controls	Other

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATUREDATE:

MLM: F/5

**APPLICATION FORM FOR TOWNSHIP ESTABLISHMENT IN TERMS OF SECTION 16(4)
PROPERTY INFORMATION**

Complete this section for each property (make a separate copy for each property)

Agricultural Holding /Farm			
Holding no/Farm no		Portion (e.g./R/1)	
Title Deed no/ certificate of Registered Title no			
Size of property			
Name of Bond Holder			
Mortgage Bond Account No		Date of Bond	
Ward		Town/Farm	

EXISTING LAND USE INFORMATION

Land Use Scheme			
Present Zoning			
Property Size (m ²)		Title Deed Number	
Present Height(Scheme)			
Present Density (Scheme)			
Present Coverage(Scheme)			
Present Annexure No		Present Amendment Scheme No	
Present Land Value		Present FAR	
Existing Development			
Restrictive Title Deed Condition paragraph No			

PROPOSED TOWNSHIP

Name and Extension of the proposed township

Use zone	Proposed Use zone	Erf no	Average size m ²	Height	FAR	coverage	Other development control measures (density)

GENERAL INFORMATION

Has the consent of the Department of Minerals and Energy as custodian of mineral rights been obtained?	Yes	No
Is the property situated within 3 km of a sewerage disposal works?	Yes	No
Is the property located within the NECSA zone	Yes	No
Name the local authorities or authorised bodies that provide the following services:		
Water		
Electricity		
Sewerage		
Roads and stormwater		

Is the existing development (structures and land use) on the property described in the memorandum?		Yes	No
ENDOWMENTS/DWELLING UNITS			
Does the layout plan provide for open spaces or parks according to section 20 of this By-law?		Yes	No
Motivate if answer is no above			
Provide the total number of dwelling units on all erven in the township			
ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES			
Is the development a "listed activity" in terms of the National Environmental Management Amended Act, 2004 (Act 8 of 2004), with specific reference to the regulations promulgated under section 24(5)?		Yes	No
If "Yes" above, Has an environmental impact assessment (EIA) process been initiated?		Yes	No
Indicate which process has been initiated	Basic	Yes	No
	Scoping	Yes	No
	None	Yes	No
Appointed environmental consultant	Name contact details		
Are two copies of the application regarding the above application?		Yes	No
If the development is not a "listed activity" or if the above EIA process has not been initiated, have the on-site ecological issues been discussed in the memorandum?		Yes	No
Request permission to forward a copy of the application to external bodies in terms of section 16(1)(e)(i)		Yes	No

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATUREDATE:

MLM: F/6

CHECKLIST FOR LAY-OUT PLANS FOR TOWNSHIP ESTABLISHMENT

No	Requirements of information to be provided	Yes	No
1	Prints of the plan of the proposed township		
2	Plan number; CPD (Township name, extension / number of plan e.g. CPD MVO x 55/1)		
3	Contour lines and values		
4	A bar scale		
5	The true north		
6	The name of the Municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated		
7	The boundaries of the proposed township		
8	The Property description as indicated in the 'name reservation letter'		
9	Grid co-ordinates and a reference to the geodetic system used		
10	Existing buildings in the proposed township		
11	Adjoining existing and adjoining proposed streets and roads with their names;		
12	Adjoining proposed public streets/roads with their names and widths		
13	adjoining erven in existing townships or proposed townships in respect of which applications have been submitted or notice has been given in terms of section 16(4) or 16(5)		
14	Streets, squares and Open spaces (Private and Public) in the proposed township		
15	Adjoining erven in existing townships or proposed townships in respect of which applications have been submitted		
16	Water courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township		
17	Public roads in or abutting the proposed township		
18	All servitude in or abutting the proposed township		
19	Private 'access' erven (name and widths) in or abutting the proposed township		
20	A table indicating the total number of erven in the proposed township, the number of erven for specific purposes (proposed zoning) and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets, the total length of the streets within the township, the area of streets as a percentage of the total area of the township and the area of parks and open spaces, if any, as a percentage of the total area of the township		
21	A locality plan, as an inset on the plan of the township, accurately drawn to a scale of not less than 1:50 000 or such other scale which the Municipality, as the case may be, may approve indicating:		
21.1	The situation of the proposed township on the farm or agricultural holding		
21.2	The routes giving access to the nearest main road and the road network in the vicinity of the township		
21.3	The boundaries of the farm portion or agricultural holding on which the township is to be established		
21.4	the situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 km of the boundaries of the township		
21.5	The boundaries of a demarcated noise zone		
21.6	A bar scale, in respect of the locality plan		
21.7	The true north		
22	The erven in the proposed township accurately drawn to a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000; 1:2 500 or 1: 5000 and numbered consecutively in each block		
23	In an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plan on which the contour values are based		

No	Requirements of information to be provided	Yes	No
24	If the township is to be established on two or more farm portions or agricultural holdings,		

	the boundaries and description of such farm portions or holdings		
25	Each registered servitude over the land in the proposed township with a reference to the purpose of the servitude, the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed route		
26	The boundaries of the geological zones on dolomite as well as the certification thereof of the geologist (if applicable);		
27	The 1:50 year and 1:100 year flood line shall be certified on the layout plan		

It is hereby certified that in terms of the provisions of section 144 of the National Water Act, (Act 36 of 1998), the 1:50 and 1:100 year flood lines, are correctly indicated on the plan.

SIGNATURE DATE:

MLM: F/7

APPLICATION FORM FOR A DIVISION OR PHASING OF A TOWNSHIP APPLICATION IN TERMS OF SECTION 16(5)

NOTE: MLM: F/1 and F/5, PART A TO PART E MUST BE SUBMITTED TOGETHER WITH MLM: F/6

1. Name and extension:
2. Date of approval of township to be divided:
3. Has extension of time in terms of section 16(7)(d)) been granted?
 Yes No Not applicable
4. Has the general plan of the township to be divided been approved by the Surveyor-General?
 Yes No
5. Division of township in separate townships, namely:

6. APPROVED LAND USES

Details of approved land uses of the township to be divided

Use zone no	Proposed use zone	Erf no	Size m ²	Height	FAR	Coverage	Other development control measures (density)

7. PROPOSED LAND USES FOR SEPARATE TOWNSHIPS

Details of proposed land uses for township:

.....

Use Zone no	Proposed Use zone	Erf no	size m ²	Height	FAR	Coverage	Other development Control measures (density)

(Complete a separate table for each new township.)

8. ENDOWMENT AND DWELLING-UNITS

Details of endowment and total number of dwelling units for separate townships

Township name	Is endowment payable?			Total number of dwelling units
	Yes	No	If "No", why not?	

I, being the Registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATURE DATE:

MLM: F/8

APPLICATION FORM FOR THE AMENDMENT OF AN APPROVED TOWNSHIP IN TERMS OF SECTION 16(4)(j)

NOTE: MLM: F/1 and MLM F/5, PART A TO PART E MUST BE SUBMITTED TOGETHER WITH MLM: F/6

1. Name and extension:.....
2. Date of approval of township:.....
3. Have the documents contemplated in the above township been lodged at the Surveyor-General?
 Yes No
4. If "Yes", have the Surveyor-General's comments on the proposed amendment in terms of section 16(4)(i) been submitted?
 Yes No

5. APPROVED LAND USES

Details of approved land uses

Use Zone no	Proposed Use zone	Erf no	size m ²	Height	FAR	Coverage	Other development Control measures (density)

6. PROPOSED LAND USES

Details of proposed land uses

Use Zone no	Proposed Use zone	Erf no	size m ²	Height	FAR	Coverage	Other development Control measures (density)

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that of Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATURE DATE:

MLM: F/9**APPLICATION FORM FOR SUBDIVISION AND CONSOLIDATION IN TERMS OF SECTION 16(12)****PROPERTY INFORMATION**

Complete this section for each property (make a separate copy for each property)

Township / Agricultural Holding /Farm		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Town/Farm	

SIMULTANEOUS CONSOLIDATION / SUBDIVISION

SUBDIVISION DETAILS				
Proposed Portion Description	Buildable Area (m ²)	Panhandle Area (m ²)	Panhandle Width (m)	Portion Area

CONSOLIDATION DETAILS				
Proposed Portion Description			Size(m ²)	
Land Use Scheme				
Present Zoning				
Property Size (m ²)		Title Deed Number		
Present Height(Scheme)				
Present Density (Scheme)				
Present Coverage(Scheme)				
Present Annexure No		Present Amendment Scheme No		
Present Land Value		Present FAR		
Existing Development				
Restrictive Title Deed Condition paragraph No				

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company/Close/Trust Corporation		Proof of Marital Status of the Owner	
Motivating Memorandum		Locality Plan		Zoning Plan	
Zoning Certificate		Site Plan		Registered Title Deed	
List of names of adjacent properties		Subdivision and /or consolidation plans		Other	

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are

attached.

I hereby acknowledge that Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATUREDATE:

MLM: F/10

**APPLICATION FORM FOR APPLICATION FOR EXTENSION OF TIME TO COMPLY WITH
PRE-PROMULGATION CONDITIONS IN TERMS OF THIS BY-LAW
APPROVED APPLICATION INFORMATION**

Complete this section for each property (make a separate copy for each property)

Type of application in terms of the by-law			
Reference number			
Date of approval			
Date approval will lapse			
Township / Agricultural Holding /Farm		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Town/Farm	

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company/Close/Trust Corporation		Proof of Marital Status of the Owner	
Motivating Memorandum		Locality Plan		Zoning Plan	
Zoning Certificate		Site Plan		Registered Title Deed	
List of names of adjacent properties		Subdivision and consolidation plans	/or	Other	

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that of Madibeng has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

SIGNATURE DATE:.....

MLM: F/11

LIST OF ATTACHMENTS AND SUPPORTING INFORMATION REQUIRED / SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE

Checklist: to be completed by the Applicant Only				Checklist: to be completed by the Applicant Only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Official Receipt of payment of the application fees			
			Covering letter			
			Completed Application form			
			Power of Attorney			
			In the instant of the owner being a company: CM 29 form			
			In the instant of a close corporation a CK 1 or 2 forms			
			In the instant of a Trust a Letter of appointment of the Trustees			
			Proof of marriage out / in community of property			
			Bondholder's consent			
			Motivational Memorandum			
			Proposed development controls			
			Locality Plan			
			Land-Use Plan			
			Zoning Plan			
			Site Plan			
			Township Lay-out Plan			
			Zoning Certificate			
			Registered Title Deed			
			Township Name Reservation Letter			
			Conveyancer's Certificate			
			Proposed design / lay-out Plan			
			Proposed Subdivision Plan			
			Proposed Consolidation Plan			
			Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract			
			Geo-technical Report (including geology)			
			Transport Impact Report			
			Retail study			
			Architectural drawings / draft Site Development Plans			
			Noise Impact assessment			
			List of conditions to be removed, amended or suspended in the Title Deed			

MLM: F/12

LIST OF NUMBER OF COPIES PER DOCUMENT PER LAND DEVELOPMENT APPLICATION REQUIRED

Documents	Rezoning 16(1)	Removal of Restrictions 16(2)	Consent use 16(3)	Township Establishment 16(4)	Division or Phasing of Township 16(5)	Subdivision & Consolidation 16(12)
Covering Letter	5	5	5	3	5	5
Application Form	5	5	5	5	5	5
Power of Attorney	3	3	3	3	3	3
Company/close corporation/trust resolution	3	3	3	3	3	3
Proof of Members of company/close Corporation/trust	3	3	3	3	3	3
Proof of Marital Status of the Owner	3	3	3	NIL	3	3
Bondholder's consent	3	3	3	3	3	3
Motivating Memorandum	5	5	5	5	5	5
Locality plan	5	5	5	NIL	5	5
Zoning Plan	5	NIL		NIL	NIL	NIL
Zoning Certificate	5	5	5	3	5	5
Site plan	5		5			
Land Use Plan	5	NIL	5	NIL	NIL	NIL
Registered Title Deed	5	5	5	5	5	5
list of names and addresses of surrounding owners	5	5	5	5	5	5
The Municipality's report on the sale/lease of the application property as approved by Council (if application is on Council owned land)	3	3	3	3	3	3
Subdivision and/or consolidation sketch plans	NIL	NIL	NIL	NIL	5	5
Proof of Advertisement	5	5	5	5	5	5
Name Reservation letter	NIL	NIL	NIL	3	NIL	NIL
Deeds/Conveyances Report	NIL	NIL	NIL	5	NIL	NIL
Land Surveyors Report	NIL	NIL	NIL	5	NIL	NIL
Geological Report	NIL	NIL	NIL	3	NIL	NIL
Township Layout Plan	NIL	NIL	NIL	10	NIL	NIL
Land Use Map	5	NIL	3	5	NIL	NIL
Transport Impact Report	NIL	NIL		5	NIL	NIL
Proposed Conditions of Establishment	NIL	NIL	NIL	5	NIL	NIL
Retail Study (If Required)	NIL	NIL	NIL	4	NIL	NIL

Divisional Plan	NIL	NIL	NIL	NIL	5	NIL
Other documents which might be required by the municipality	3	3	3	3	3	3

The number of copies and the documents required for submission per land development application can be amended from time to time by the Municipality

MLM: F/13

**FORMAT OF PROPOSED DEVELOPMENT CONTROLS FOR CHANGE OF LAND USE RIGHTS AND
CONSENT USE APPLICATIONS IN TERMS OF SECTIONS 16(1) AND 16(3)**

1	Use Zone	
2	Uses permitted	
3	Uses with consent	
4	Uses not permitted	
5	Definitions	
6	Density	
7	Coverage	
8	Height	
9	Floor area ratio	
10	Site development plan and landscape development plan	
11	Building lines	
12	Parking requirements	
13	Paving of traffic areas	
14	Access to the erf	
15	Loading and off-loading facilities	
16	Turning facilities	
17	Physical barriers	
18	Health measures	
19	Outdoor advertising	
20	General: 1) In addition to the above conditions the erf and buildings thereon are further subject to the general provisions of the Land Use Scheme	

MLM: F/14

EXAMPLE OF A POWER OF ATTORNEY

I/We,

ID No: the undersigned, hereby nominate, constitute and appoint –

.....ID No:

with the power of substitution to be my/our legal attorney(s) and agent(s) in my/our name, place and stead to apply for -

..... (type of application and property description)

at of Madibeng Local Municipality and in general to do everything to effect the application and to do whatever I/we would do if I/we were present in person and acting in the matter; and I/we hereby ratify, allow and confirm, and promise and agree to ratify, allow and confirm everything and anything my/our attorney(s) and agent(s) may do or may permit to be done legally in terms of this power of attorney.

Signed at on this day of20..... in the presence of the undersigned witnesses.

AS WITNESSES:

1.....

2.....

.....
Registered Owner

NOTICES

NOTICE:1

**THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD
NOTICE IN TERMS OF SECTION 16(1)(e) OF MADIBENG
LAND USE MANGEMENT BY-LAW, 2016 FOR A CHANGE OF LAND USE RIGHTS**

I, (full name), being
the *owner/ Applicant of *erf/erven/portion(s)

.....
(complete description of property as set out in title deed) hereby give notice in terms of Section 16(1)(e) of
of Madibeng Land Use Management By-law, 2016 that I have applied to of Madibeng Local Municipality
for a change of land use rights also known as rezoningng of the property(ies) described above, situated at
.....

from
to

Any objection or comments, with the grounds therefore and contact details, shall be lodged within a period
of 30 days from the first date on which the notice appeared, with or made in writing to: Municipality at:

.....
.....
.....

Full particulars and plans (if any) may be inspected during normal office hours at the above-mentioned
offices, for a period of 30 days from the date of first publication of the advertisement in the Provincial
Gazette / newspaper ;

Closing date for any objections :

Address of *owner/ applicant :(Physical as well as postal address)
.....
.....
.....

Telephone No:

Dates on which notice will be published:

NOTICE:2

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE TERMS OF SECTION 16(1)(e) OF OF MADIBENG LAND USE MANAGEMENT BY-LAW, 2016 FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED

I/We , being the owner/Applicant hereby give notice in terms of section 16(1)(e) of of Madibeng Land Use Management By-law, 2016 that I/we have applied to Madibeng Local Municipality for the removal / amendment or suspension of certain conditions contained in the Title Deed/Leasehold Title of (property description), which property is situated at
.....
.....

Any objection, with the grounds therefore and contact details, shall be lodged with or made in writing to: the Municipality at:
.....
.....
.....
.....

From (the first date of the publication of the notice set out in section 16(i)(e) of the By-law referred to above) until (not less than 30 days after the date of first publication of the notice set out in section 16(1)(e).

Full particulars and plans (if any) may be inspected during normal office hours at the above-mentioned office, for a period of 30 days after the publication of the advertisement in the Provincial Gazette/ newspapers

Closing date for any objections :

Address of *owner/ applicant :(Physical as well as postal address)
.....
.....
.....

Telephone No:

Dates on which notice will be published:

NOTICE: 3

**THE PROVINCIAL GAZETTE, NEWSPAPERS AND
PLACARD NOTICE FOR A CONSENT USE IN TERMS OF A LAND USE SCHEME**

Notice is hereby given to all whom it may concern, that in terms of the Land Use Scheme, I, (full name)

.....
Intend applying to Madibeng Local Municipality for consent for:

.....

on (erf and suburb)

also known as (street name and number)

located in azone.

Any objection, with the grounds therefore and contact details, shall be lodged with or made in writing to:
Municipality at:

.....
.....
.....

within 30 days of the publication of the advertisement in the Provincial Gazette, viz 20.....

Full particulars and plans (if any) may be inspected during normal office hours at the above-mentioned office, for a period of 30 days after the publication of the advertisement in the Provincial Gazette.

Closing date for any objections :

Address of *owner/ applicant :(Physical as well as postal address)
.....
.....
.....

Telephone No:

Dates on which notice will be published:

NOTICE:4
THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS
OF SECTION 16(4) OF MADIBENG LAND USE MANAGEMENT BY-LAW, 2016
FOR THE ESTABLISHMENT OF A TOWNSHIP

MADIBENG LOCAL MUNICIPALITY
NOTICE OF APPLICATION FOR ESTABLISHMENT OF TOWNSHIP
..... EXTENSION

I,hereby give notice in terms of section 16(1)(e) of Madibeng Land Use Management By-law, 2016, that an application to establish the township referred to in the Annexure hereto, has been received by it.

Particulars of the application are open to inspection during normal office hours at the office of the Municipality at:

.....
.....
.....

for a period of 30 days from (the date of first publication of this notice).

Objections to or representations together with contact details in respect of the application must be lodged in writing and in duplicate with the Municipality at the above office or posted to him/her at PO Box 106, Brits, 0258, within a period of 30 days from

..... (the date of first publication of this notice).

Closing date for any objections :

Address of *owner/ applicant :(Physical as well as postal address)

.....
.....

Telephone No:

Dates on which notice will be published:

ANNEXURE

Name of township : Extension

Full name of applicant :.....

Number of erven, proposed zoning and development control measures:

.....

Description of land on which township is to be established:

.....

Locality of proposed township:

The proposed township is situated

Reference:

NOTICE: 5

THE PROVINCIAL GAZETTE, NEWSPAPERS IN TERMS OF SECTION 16(15) OF MADIBENG LAND USE MANAGEMENT BY-LAW, 2016 FOR THE ALTERATION / AMENDMENT OR PARTIAL CANCELLATION OF A GENERAL PLAN OF A TOWNSHIP

Notice of application for *alteration/amendment/total or partial cancellation of general plan of the township

The Municipality hereby gives notice in terms of section 16(15) of Madibeng Land Use Management By-law, 2016, that application has been made by for the *alteration/amendment/total or partial cancellation of the general plan of the township known as

The application together with the relevant plans, documents and information will lie for inspection during normal office hours at the Municipality, at , for a period of 30 days from (the date of first publication of this notice).

Objections to or representations together with contact details in respect of the application must be lodged with or made in writing to the Municipality at the above address or at (postal address) within a period of 30 days from

*Delete whichever does not apply.

Closing date for any objections :

Address of *owner/ applicant :(Physical as well as postal address)
.....
.....

Telephone No:

Dates on which notice will be published:

**NOTICE: 6
THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 16(1)(e) OF MADIBENG LAND USE MANGEMENT BY-LAW, 2016 FOR SUBDIVISION OF LAND AS CONTEMPLATED IN TERMS OF SECTION 16(12)(a)(iii)**

NOTICE OF DIVISION OF LAND

I, (full name),
being the *owner/ Applicant of

hereby give gives notice, in terms of section 16(1)(e) of Madibeng Land Use Management By-law, 2016 ,
that I have applied to of Madibeng Local Municipality for the subdivision of the land described below .

From
To.....

Any objection or comments, with the grounds therefore and contact details, shall be lodged within a period
of 30 days from the first date on which the notice appeared, with or made in writing to: Municipality at:

.....
.....
.....
.....

Full particulars and plans (if any) may be inspected during normal office hours at the above-mentioned
offices, for a period of 30 days from the date of first publication of the advertisement in the Provincial
Gazette / newspaper ;

Closing date for any objections :

Address of *owner/ applicant :(Physical as well as postal address)
.....
.....
.....

Telephone No:

Dates on which notice will be published:

Description of land:

Number and area of proposed portions:
Proposed Portion in extent approximatelym²
Proposed Remainder.... , in extent approximately m²
TOTALm²

NOTICE: 7

NOTICE IN THE PROVINCIAL GAZETTE AND NEWSPAPERS OF THE DRAFT LAND USE SCHEME IN TERMS OF SECTION 11(2) OF MADIBENG LAND USE MENENTMENT BY-LAW, 2016

Madibeng Local Municipality hereby gives notice in terms of section 11(2) of Madibeng Land Use Management By-law, 2016, that a draft Land Use Scheme to be known as the has been prepared by it.

This scheme is a new / amendment scheme and contains the following proposals:

Give

- (a) a clear indication of all the proposals in the proposed original or amendment scheme;
- (b) a clear description of the property(ies) affected thereby;
- (c) a summary of the existing or proposed zoning and the effect of the latter).

The draft scheme will lie for inspection during normal office hours at the office of the.....(address and room number) for a period of 60 days from (the date of first publication of the notice).

Objections to or representations together with contact details in respect of the scheme must be lodged with or made in writing to the at the above address or at *P.O. Box/Private Bag within a period of 60 days from (the date of first publication).

NOTICE: 8

NOTIFICATION OF PLACE, DATE AND TIME OF HEARING OF THE MUNICIPAL PLANNING TRIBUNAL IN TERMS OF SECTION 18(2)

Sir/Madam

.....
.....
.....

APPLICATION IN TERMS OF

.....

The abovementioned application will be considered by Madibeng Municipal Planning Tribunal.

You are requested to be available at the from as the application will be heard by the Tribunal any time after the abovementioned time.

Kindly limit your deputation to a maximum of three persons. Please note that you will be limited in terms of time to verbally elucidate on your submissions/objection, which is already in the possession of the Tribunal and does not require full repetition.

If any documentation is going to be used in support of the submission, 15 copies must be provided to the Municipal Planning Tribunal at the Tribunal Hearing.

Any point *in limine* (technical points) which will be raised at the hearing, must be provided at least 7 (seven) working days prior to the hearing, addressed to the Head of Legal services at any time of the Municipality.

In the event that you will be represented in this matter, written proof of a mandate authorising such representation must be submitted accordingly.

Should experts by any party be called for purposes of the hearing, within any particular field to adduce evidence or provide any documents, the other parties including the Municipal Planning Tribunal, shall at least 7 days prior to the date of the hearing, be provided with a list of experts to be called and copies of the documents to be submitted, with an indication of the expertise to be used;

Please direct any queries to the Municipality.

Name :

Telephone nr :

Fax nr : e-mail

address:.....

NOTICE: 9

NOTICE OF APPEAL

1. General Information

Surname :.....
First Name :.....
Date of birth :.....
Identity/Passport number :.....
Residential Address :.....
Code :.....
Cellular Telephone No :.....
Work Telephone :.....
Fax No :.....
e-mail address :.....

1. Concise and succinct grounds of Appeal:

.....
.....
.....
.....
.....
.....

2. Relief Sought by the Appellant from the Appeal Authority:

.....
.....
.....
.....

4. Declaration:

NOTICE: 10

NOTICE OF A DRAFT LAND USE SCHEME IN TERMS OF SECTION 11(2)(a) OF MADIBENG LAND USE MANAGEMENT BY-LAW, 2016

LOCAL AUTHORITY NOTICE

MADIBENG LOCAL MUNICIPALITY

NOTICE OF THE DRAFT LAND USE SCHEME,

Madibeng Local Municipality hereby gives notice in terms of section 11(2)(a) of Madibeng Land Use Management By-law, 2016 , that a draft Land Use Scheme to be known as Land Use Scheme, has been prepared by it.

This Scheme is a replacement of the Land Use Scheme or revision or amendment of the Land Use Scheme

The DraftLand Use Scheme, is open to inspection during normal office hours at the office of the Municipality from until Enquiries may be made at

Objections to or representation in respect of the scheme must be lodged in writing with the Municipality

or posted to from, provided that, should claims and/or objections be sent by mail, such claims and/or objections must reach of Madibeng Local Municipality before or on

MUNICIPAL MANAGER

(date of publication)

(Notice No)

NOTICE: 11

NOTICE OF AN APPROVED LAND USE SCHEME IN TERMS OS SECTION 11(9)(b) OF MADIBENG LAND USE MANAGEMENT BY-LAW, 2016

**LOCAL AUTHORITY NOTICE
MADIBENG LOCAL MUNICIPALITY
NOTICE OF THE LAND USE SCHEME**

It is hereby notified in terms of the provisions of section 11(9)(b) of of Madibeng Land Use Management By-law, 2016 that Madibeng has adopted the Land Use Scheme,

This amendment scheme is a substitution of theLand Use Scheme..... / Land Use Scheme,....., within the jurisdiction of the of Madibeng Area.

Land Use Scheme the Scheme Clauses and annexures of this amendment scheme are filed with the Municipality and are open to inspection during normal office hours.

This scheme shall be known as the Land Use Scheme, and shall come into operation on

(.....Reference number)

MUNICIPAL MANAGER

(date of publication)

(Notice No)

NOTICE: 12

NOTICE OF AN APPROVAL OF AN AMENDMENT SCHEME IN TERMS OF SECTION 16(1)(U) OF MADIBENG LAND USE MANAGEMENT BY-LAW, 2016

LOCAL AUTHORITY NOTICE
MADIBENG LOCAL MUNICIPALITY
..... AMENDMENT SCHEME (no)

It is hereby notified in terms of the provisions of Section 16(1)(u) of Madibeng Land Use Management By-laws, 2016, that Madibeng has approved the application for the amendment of the Land Use Scheme, being the rezoning of (property description),

from..... (current zoning) to (approved zoning), subject to certain further conditions.

Land Use Scheme and the scheme clauses and Annexures of this amendment scheme are filed with the the Municipality, and are open to inspection during normal office hours.

This amendment is known as Amendment Schemeand shall come into operation on the date of publication of this notice.

(Reference number.....)

MUNICIPAL MANAGER

(date of publication)

....

(Notice No)

NOTICE: 13

**NOTICE OF AN APPROVED REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE
CONDITION IN TITLE IN TERMS OF SECTION 16(2)(g) OF MADIBENG LAND USE
MANAGEMENT BY-LAW, 2016**

**NOTICE OF 20.....
MADIBENG LOCAL MUNICIPALITY**

**NOTICE IN TERMS OF SECTION 16(2)(g) OF MADIBENG LAND USE MANAGEMENT BY-LAWS, 2016
FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIVE CONDITIONS IN TITLE IN
TERMS OF SECTION 16(2)(g)**

It is hereby notified in terms of the provisions of section 16(2)(g) of Madibeng Land Use Management By-laws, 2016, that of Madibeng has approved the application for the removal, amendment or suspension of certain conditions contained in Title Deed, with reference to the following property:
.....

The following condition and/or phrases are hereby cancelled:

This removal will come into effect on the date of publication of this notice.

(.....)

MUNICIPAL MANAGER

..... 20.....
(Notice /20.....)

NOTICE: 14

**DECLARATION OF AN APPROVED TOWNSHIP IN TERMS OF SECTION 16(9) OF MADIBENG
LAND USE MANAGEMENT BY-LAW, 2016**

LOCAL AUTHORITY NOTICE
MADIBENG LOCAL MUNICIPALITY DECLARATION
OF AN APPROVED TOWNSHIP

.....

It is hereby declared that in terms of the provisions of section 16(9) of Madibeng Land Use Management By- law, 2016, that is an approved township, subject to the conditions as set out in the schedules hereto.

(.....)

NOTICE: 15

NOTICE OF APPLICATION FOR THE ALTERATION / AMENDMENT / TOTAL OR PARTIAL CANCELLATION OF A GENERAL PLAN OF A TOWNSHIP

MADIBENG LOCAL MUNICIPALITY

It is hereby notified in terms of the provisions of Section 16(16) of Madibeng Land Use Management By-law, 2016 that an application has been made by for the

..... *alteration / amendment / total or partial cancellation of the general plan of the township known as

The application together with the relevant plans, documents and information will lie for inspection during normal office hours at the office of the Municipality, at, for a period of 30 days from - (the date of first publication of this notice).

Objections to or representations in respect of the application with contact details must be lodged with or made in writing to the Municipality at (postal address) within a period of 30 days from

*Delete whichever does not apply.

NOTICE: 16

EXAMPLE OF AFFIDAVIT / AFFIRMATION

TO WHOM IT MAY CONCERN:

I, the undersigned, (full name and surname), hereby *make oath/affirm that the placard notice(s) as prescribed in terms of Section 16(1)(e)(ii) on Erf No, Township, was displayed and maintained in a conspicuous and to the public accessible place, for a period of 14 days from the first day the advertisements were advertised in local newspapers, viz from to, both dates inclusive.

SIGNED (SIGNATURE OF APPLICANT)
 on at

I hereby certify that the deponent acknowledges that *he/she was conversant with the contents of this statement and understood it, and that the deponent uttered the following words: "I swear that the contents of this statement are the truth and nothing but the truth, so help me God".

COMMISSIONER OF OATHS:.....

DATE :

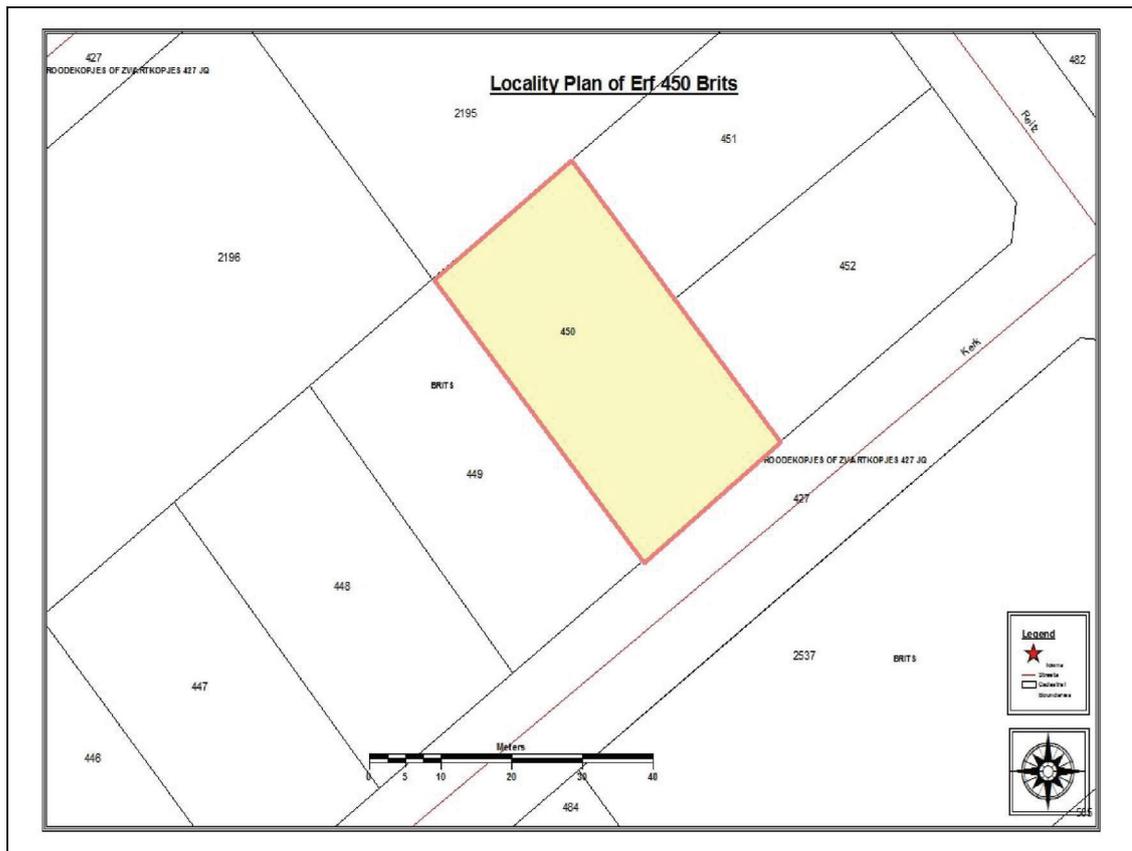
*Delete whichever is not applicable.

PLANS

Plan 1

EXAMPLE OF LOCALITY PLAN

Locality Plan Erf 450 Brits



Plan: 2

EXAMPLE OF LAND USE PLAN

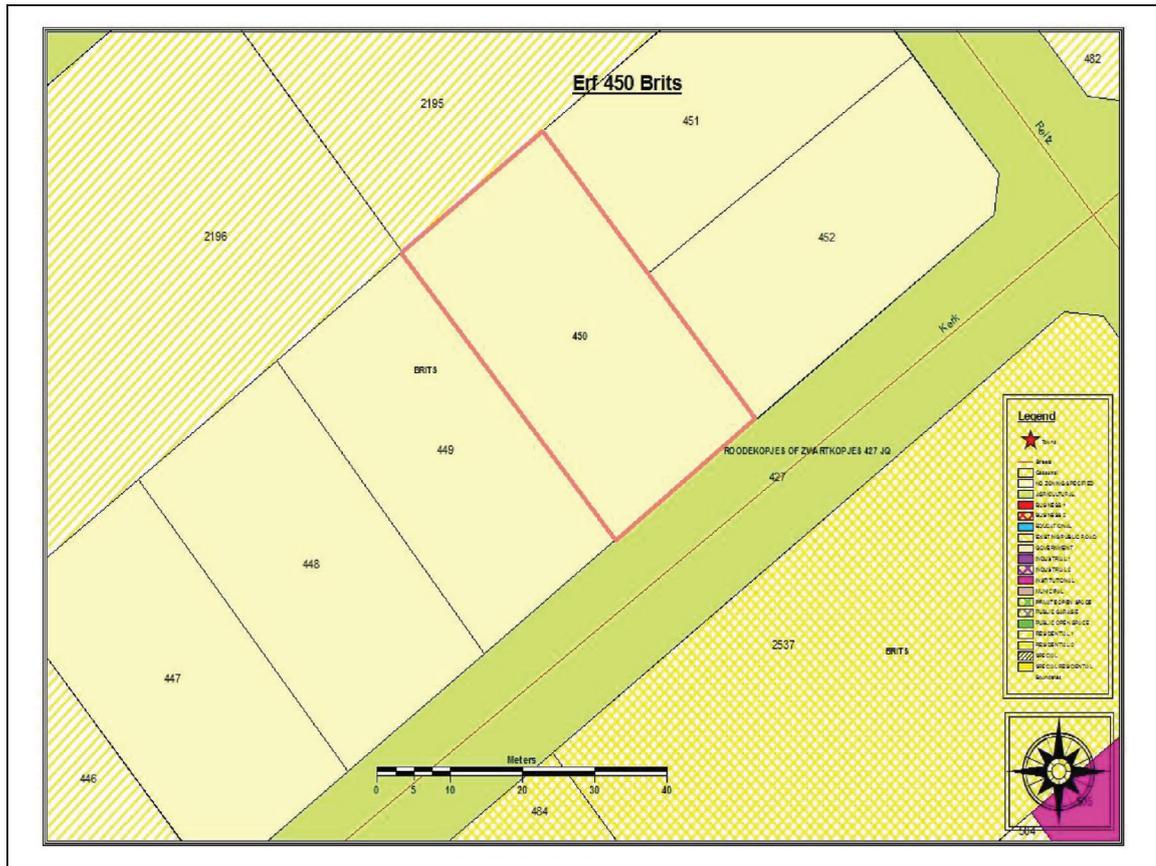
**Land Use Plan
Erf 450 Brits**



Plan: 3

EXAMPLE OF ZONING PLAN

**Zoning Plan
Erf 450 Brits**



Plan: 4

EXAMPLE OF SITE PLAN

**Site Plan
Erf 450 Brits**

