

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 10 OF 2016

The Council of Govan Mbeki Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following by-laws:

GOVAN MBEKI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW

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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, the Municipal Appeal Tribunal established in terms of Part A of Chapter 8 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;
- “approved township” means a township declared an approved township in terms of section 61 of this By-law;
- “By-Law” means this By-Law and includes the schedules attached hereto or referred to herein.
- “communal land” means land under the jurisdiction of a traditional council determined in terms of section 6 of the Mpumalanga Traditional Leadership and Governance Act, 2005 (Act No. 3 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;
- “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);
- “file” means the lodgement of a document with the appeal authority of the municipality;
- “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 Chapter 3 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.
- “Local spatial development framework” means a local spatial development framework referred to in section 10;
- “Member of the Executive Council” means the Member of the Executive Council responsible for local government in the Province;
- “municipal area” means the area of jurisdiction of the (insert the name of the local municipality) in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);
- “Municipal Council” means the Council of the Municipality as referred to in section 157 of the Constitution No.108 of 1996;
- “Municipal Manager” means the person appointed by the municipal council as the Municipal Manager of the Municipality in terms of section 54A of the Local Government: Municipal Systems Act, 32 of 2000 and includes any person –
- a) acting in such a position;
 - b) to whom the municipal manager has delegated the power, function or duty in respect of such delegated power, function or duty;
- “Municipal Planning Tribunal” means the Govan Mbeki Municipal Planning Tribunal established in terms of section 32;
- “Municipality” means the Municipality of (insert the name of the local municipality) or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No (insert number and year) in terms of the Local Government: 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;
- “Premier” means the Premier of the Province of Mpumalanga;
- “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 Mpumalanga referred to in section 103 of the Constitution;
- “Regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015;
- “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 Govan Mbeki 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, 2015 and any subsidiary legislation or other legal instruments issued in terms thereof;

“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 Mpumalanga Traditional Leadership and Governance Act, 2005.

2 Application of By-law

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

3 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 shall prevail.
- (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 shall prevail.
- (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

4 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.

5 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 subsection (1), 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.

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

The 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 section 7;
- (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
- (d) 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.

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

- (1) The purpose of the intergovernmental steering committee contemplated in section 6(a) 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 section 6(a) 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.

8 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 subsection (5), to approve the publication of a notice referred to in section 9(4) 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 subsection (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 section 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 subsection (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 subsection (6), is materially different to what was published in terms of subsection (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 subsection 9.
- (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.

9 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 newspapers as required in terms of this Chapter, the Municipality may 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 section 8(4) must specifically state that any person or body wishing to provide comments shall-

- (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.

10 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.

11 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.

12 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 section 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.

13 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 prescribed fee, a copy to them of the approved municipal spatial development framework or any component thereof.

14 Departure from municipal spatial development framework

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
 - (a) a departure that does not materially change the desired outcomes and objectives of a municipal spatial development framework and local spatial development framework, if applicable;
 - (b) a unique circumstance pertaining to a discovery of national or provincial importance that results in an obligation in terms of any applicable legislation to protect or conserve such discovery.
- (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 deviation from the municipal spatial development framework.
- (3) For the purpose of this section, 'site' means a spatially defined area that is impacted by the decision, including neighboring land.

CHAPTER 3

LAND USE SCHEME

15 Land use scheme

- (1) Sections 24 to 30 of the Act apply to any land use scheme developed, prepared, adopted and amended by the Municipality.
- (2) The provision of the Chapter apply, with necessary change, to the review and amendment of the land use scheme contemplated in section 27 and 28 of the Act.

16 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.

17 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 section 18;
 - (b) obtain Council approval for publication of the draft land use scheme as contemplated in section 19;
 - (c) embark on the necessary public participation process as contemplated in section 20;
 - (d) incorporate relevant comments received during the public participation process as contemplated in section 21;
 - (e) prepare the land use scheme as contemplated in section 22;
 - (f) submit the land use scheme to the Council for approval and adoption as contemplated in section 23;
 - (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in section 24; and
 - (h) submit the land use scheme to the Members of the Executive Council as contemplated in section 25.

- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land situated within its area of jurisdiction.
- (3) Land use zones may be made applicable to a land unit or part thereof and land use zones need not follow cadastral boundaries.
- (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.
- (5) For the purposes of this section, an overlay zone for land superimposes additional regulations or specific development criteria within specific mapped districts.

18 Preparation of draft land use scheme

- (1) Upon the preparation, review or amendment of the land use scheme, the Municipality -
 - (a) may convene an intergovernmental steering committee and must convene a project committee in accordance with section 19;
 - (b) must publish a notice in two local newspapers that are circulated in the municipal area of jurisdiction in two official languages determined by Council, having regard to the language preferences and usage within the municipal area, as contemplated in section 21A of the Municipal Systems Act, of its intention to prepare, review or amend the land use scheme;
 - (c) must inform the Member of the Executive Council in writing of its intention to prepare, review or amend the land use scheme;
 - (d) must register the relevant stakeholders who must be invited to comment on the draft land use scheme or draft review or amendment of the municipal spatial development framework as part of the process to be followed;
 - (e) must determine the form and content of the land use scheme;
 - (f) must determine the scale of the land use scheme;
 - (g) must determine any other relevant issue that will impact on the preparation and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
 - (h) must confirm the manner in which the land use scheme shall inter alia set out the general provisions for land uses applicable to all land, categories of land use, zone maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or may not require a consent or permission from the Municipality for purposes of the use of land.

19 Institutional framework for preparation, review or amendment of land use scheme

- (1) The purpose of the intergovernmental steering committee contemplated in section 18(a) is to co-ordinate the applicable contributions into the land use scheme and to-
 - (a) provide technical knowledge and expertise;
 - (b) provide input on outstanding information that is required to draft the land use scheme or an review or amendment 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, review or amendment of the land use scheme, 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 land use scheme.
- (3) The purpose of the project committee contemplated in section 18(a) is to –
- (a) prepare, review or amend the land use scheme for adoption by the Council;
 - (b) provide technical knowledge and expertise;
 - (c) monitor progress and ensure that the development of the land use scheme or review or amendment thereof is progressing according to the approved project plan;
 - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
 - (e) ensure alignment of the land use scheme with the municipal spatial development framework, development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;
 - (f) oversee the incorporation of amendments to the draft land use scheme or draft review or amendment of the land use scheme 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.

20 Council approval for publication of draft land use scheme

- (1) Upon completion of the draft land use scheme, the project committee 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 project committee 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 section 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) An approval by Council of the draft land use scheme and public participation thereof must be given and undertaken in terms of this By-law and the Act.

(4) the Municipality must provide the Member of the Executive Council with a copy of the draft land use scheme after it has been approved by the Council as contemplated in this section.

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 subsection (1) above the Municipality must -

- (a) publish a notice in the Provincial Gazette once a week for two consecutive weeks; and
- (b) publish a notice in two local newspapers that are circulated in the municipality's area of jurisdiction in english, once a week for two consecutive weeks; and
- (c) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections shall:
 - (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 contemplated in Schedule X; 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.

22 Incorporation of relevant comments

(1) Within 60 days after completion of the public participation process outlined in section 20 the Project Committee 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 Project Committee 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 subsection (1) (b).

23 Preparation of land use scheme

The Project Committee 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 section 21(2), the Municipality must follow a further consultation and public participation process in terms of section 21(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 Project Committee must -

- (a) within 60 days from the closing date for objections contemplated in section 21(2)(c)(i), or
- (b) if a further consultation and public participation process is followed as contemplated in section 23, within 60 days from the closing date of such further objections permitted in terms of section 23 read with section 21(2)(c)(i),

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 section 24, give notice of its decision to all persons or bodies who made 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 subsection (1), 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 section 25 the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.

27 Records

- (1) The Municipality must in hard copy or electronic format keep record in the register of amendments to the land use scheme contemplated in section 29 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 Municipality's area of jurisdiction.
- (3) Should anybody or person request a copy of the approved land use scheme or any component thereof, the Municipality must provide on payment by such body or person of a fee approved by Council, a copy to them of the approved land use scheme or any component thereof, in accordance with the provisions of its Promotion of Access to Information Manual, if applicable.

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) land use right for all properties within the Municipality's area of jurisdiction in accordance with a category of zoning as contemplated in Annexure 1 of this By-law;
 - (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) Land use zone maps as approved by Council that depicts the land use zone of every property in the Municipality's area of jurisdiction as updated from time to time in line with the Land Use Rights approved or granted as per the LSDF; 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 Register of amendments to land use scheme

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

- (1) Land use application register
 - (a) Date of application
 - (b) Name and contact details of applicant
 - (c) Type of Application
 - (d) Property Description
 - (e) Existing Zoning
 - (f) Amendment scheme no
 - (g) Annexure Number
 - (h) Item No
 - (i) Item Date

- (j) Decision (Approved/on Appeal/Not Approved)
 - (k) Decision Date
- 30 Consolidation of amendment of land use scheme
- (1) The Municipality may on its own accord in order to replace or consolidate an amendment of a land use scheme or map(s), annexure(s) or schedule(s) of the approved land use scheme, of more than one portion of land, prepare a certified copy of documentation as the Municipality may require, for purposes of consolidating the said amendment scheme(s), which consolidated amendment scheme is in operation from the date of the signing thereof; provided that:
 - (a) such consolidation shall 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.
 - (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 sections 15 to 28 apply, with the necessary changes, to the review or amendment of an existing land use scheme.

CHAPTER 4

INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS

Part A: Division of Functions

- 31 Categorisation of land development and land use applications for purposes of section 35(3) of Act
- (1) Applications are divided into –
 - (a) Category 1 applications; and
 - (b) Category 2 applications.
 - (2) Category 1 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 subsection (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 general plan 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;
 - (i) any development on communal land that will have a high impact on the traditional community concerned; and
 - (j) any combination of the applications referred to in this subsection submitted simultaneously as one application.
 - (3) Category 2 applications are applications for -
 - (a) the subdivision of land;
 - (b) the consolidation of any land;
 - (c) the simultaneous subdivision, under circumstances contemplated in subparagraph (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 building lines or the density of residential development on a specific erf where the building lines or residential density is regulated by a land use scheme in operation;
- (f) temporary use; and
- (g) any combination of the applications referred to in this subsection submitted simultaneously as one application.

32 Division of functions between Municipal Planning Tribunal and Land Development Officer

- (1) For purposes of section 35(3) of the Act, the following categories of applications defined in section 30 of this By-law must be considered and determined -
 - (a) by the Municipal Planning Tribunal:
 - (i) All category 1 applications that are contrary to the Municipal or Local spatial development framework; if applicable
 - (ii) all opposed category 2 applications;
 - (b) by the Land Development Officer:
 - (i) All category 1 applications that are not contrary to the Municipal or Local spatial development framework, if applicable and that are not opposed;
 - (ii) All category 2 applications that are not oppose.
- (2) For the purposes of subsection (1), an opposed application means an application on which objections or representations were received after circulation of the application to sector departments and the public participation process referred to in Chapter 6.

Part B: Land Development Officer

33 Designation and functions of Land Development Officer

- (1) The Municipality must, in writing, determine that the incumbent of a particular post on the Municipality's post establishment is the Land Development Officer of the Municipality.
- (2) The Land Development Officer must:
 - (a) assist the Municipality in the management of applications submitted to the Municipality;
 - (b) consider and determine categories of applications contemplated in section 31(1)(b).

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

34 Establishment of Municipal Planning Tribunal for local municipal area

- (1) Subject to the provisions of Part D and E of this Chapter, the Govan Mbeki Municipal Planning Tribunal is hereby established for the municipal area of Govan Mbeki Municipality, in compliance with section 35 of the Act.

35 Composition of Municipal Planning Tribunal for local municipal area

- (1) The Municipal Planning Tribunal consists of between 5 and 16 of which 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 registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
 - (d) two persons with financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
 - (e) two persons either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted

as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);

- (f) an environmental assessment practitioner registered with a voluntary association; and
 - (g) any other person/s 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 subsection (1)(a) must have at least five years' experience in the field in which they are performing their services.
- (3) The persons referred to in subsection (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 subsection (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.

36 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 A 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 B and –
- (a) must be published in one local newspaper that is circulated in the Municipality's area of jurisdiction in English;
 - (b) may be submitted to the various professional bodies which registers persons referred to in section 35(1) 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.

37 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 C and all pertinent information must be provided within the space provided on the form;
 - (b) the completed declaration of interest form contemplated in Schedule C;
 - (c) the motivation by the nominator contemplated in subsection (3)(a); and
 - (d) the summarised curriculum vitae of the nominee contemplated in subsection (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.

38 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 section 35.
- (2) The nominations that are incomplete or do not comply with the provisions of section 35 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 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 section 33(3); or
 - (d) is not registered with the professional councils or voluntary bodies contemplated in section 33(1), if applicable,

the nomination must be rejected and may not be considered by the evaluation panel contemplated in section 37.

- (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 section 37.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

39 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.

40 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 section 43, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

41 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 subsection (3); 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 D;
 - (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 section 35(1)(a) 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 shall immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of section 35(1)(b) to (g) 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 D 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).

42 Vacancy

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 35(2).
- (2) A member who is appointed by virtue of subsection (1) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

43 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.
- (6) If an employee of the Municipality makes a recommendation to the Municipal Planning Tribunal regarding an application, that employee may not sit as a member of the Municipal planning Tribunal while that application is being considered and determined by the Municipal Planning Tribunal but such employee may serve as a technical adviser to the Municipal Planning Tribunal.

44 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 request and payment of any fees approved by Council in accordance with the provisions of its Promotion to Access to information Manual.

45 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 section 38(4).
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

Part D: Decisions of the Planning Tribunal

46 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 submitted in terms of this By-law it must have regard to the following:
 - (a) the procedure followed in processing the application;
 - (b) the desirability of the proposed utilisation of land and any guidelines issued by the Member of the Executive Council regarding proposed land uses;
 - (c) the comments in response to the notice of the application and the comments received from organs of state and internal departments;

- (d) the response by the applicant to the comments referred to in paragraph (d);
 - (e) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (f) a written assessment by a professional planner as defined in section 1 of the Planning Profession Act, 2002, in respect of:
 - (i) a Amendment of Scheme;
 - (ii) a subdivision of more than 20 cadastral units;
 - (iii) a removal, suspension or amendment of a restrictive condition, if it relates to a change of land use;
 - (iv) an amendment, deletion or additional conditions in respect of an existing approval listed in this paragraph;
 - (v) an approval of an overlay zone as provided in the land use scheme;
 - (vi) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;
 - (vii) a determination of a amendment of scheme as contemplated in section 170;
 - (viii) a closure of a public place or part thereof to be considered and determined by the Municipal Planning Tribunal.
 - (g) the integrated development plan and municipal spatial development framework;
 - (h) the applicable local spatial development frameworks adopted by the Municipality;
 - (i) the applicable precinct and urban design plans;
 - (j) the applicable policies of the Municipality that guide decision-making;
 - (k) the provincial spatial development framework;
 - (l) where applicable, the regional spatial development framework;
 - (m) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (n) the matters referred to in section 42 of the Act;
 - (o) 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 bulk regulations;
 - (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 may not approve a building plan if the site development plan has not been approved; and
 - (b) the Municipality may not approve a building plan that is inconsistent with the approved site development plan.
- (4) For the purpose of subsection (1)(b), desirability is the degree of acceptability of the proposed utilisation of land and matters which impact on the desirability which may be considered by the Municipal Planning Tribunal or Land Development Officer are, amongst others:
- (a) the land's suitability for proposed utilisation of land in terms of location, accessibility and physical characteristics;

- (b) conformity with the municipal spatial development framework or the local spatial development framework, if applicable;
 - (c) the compatibility of the proposed utilisation of land with the character and the existing spatial structure of the surrounding area;
 - (d) the accessibility of the land regarding existing development and infrastructure;
 - (e) the cost and availability of required services and infrastructure;
 - (f) the external visual impact of the proposed utilisation of the land;
 - (g) any potential disruption of or damage to the environment or public nuisance as a result of the proposed utilisation of land and proposed mitigation measures;
 - (h) the potential impact on immediate neighbours and existing rights as well as the surrounding community;
 - (i) the proposed layout, including street pattern, density and open space and community facility provision; and
 - (j) traffic impact and access arrangements.
- (5) The professional planner referred to in subsection (1)(f), must be in the full-time service of the Municipality and if there is no professional planner in the full-time service of the Municipality, it may be a professional planner contracted by the Municipality to provide the assessment contemplated in that subsection.

47 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 subsection (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;
 - (s) the delimitation of development parameters or land uses that are set for a particular zone;
 - (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 land use in terms of the land use scheme;
- (3) If a Municipal Planning Tribunal or Land Development Officer imposes a condition contemplated in subsection (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 subsection (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 by the Minister.
- (5) Except for land needed for public places, social infrastructure or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved application must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (6) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (7) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (8) If the Municipal Planning Tribunal or Land Development Officer approves a land development or use application subject to conditions, it, he or she must specify which conditions must be complied with before the sale, development or transfer of the land.
- (9) After the applicant has been notified that his or her application has been approved, the Municipal Planning Tribunal or Land Development Officer or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of this section or add any further condition, provided that if

the amendment is in the opinion of the Municipal Planning Tribunal or Land Development Officer so material as to constitute a new application, the Municipal Planning Tribunal or Land Development Officer may not exercise its, his or her powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipal Planning Tribunal or Land Development Officer to re-advertise the application in accordance with section 94.

Part E: Administrative Arrangements

48 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 subsection (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: Applications Required

49 Application for land development required

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development which is not permitted in the land use scheme.
- (2) 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.
- (3) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.

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

50 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;
 - (b) the statement of 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 subsection (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 may 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 section 90.

- (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 may 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 section 90.
- (6) Without detracting from the provisions of subsection (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.

51 Division or phasing of township

- (1) An applicant who has been notified in terms of section 104 that his or her application has been approved may, within a period of eight 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 subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to 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 application 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 subsection (3), submit to the Municipality such plans, diagrams 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 subsection (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.

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

- (1) An applicant who has been notified in terms of section 104 that his or her application has been approved, shall, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow which period may not be longer than five (5) years, 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 shall lapse.
- (2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 56(2) and (3) of the conditions of establishment together with a stamped and approved layout plan.
- (3) The Municipality must for purposes of lodging the documents contemplated in subsection (1) 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 subsection (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 approval 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 subsection (1) have not yet been lodged with the Surveyor General;

- (b) where the documents contemplated in subsection (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.

53 Compliance with pre-proclamation conditions of approval

- (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 section 47(2) and (3) 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 subsection (2).
- (4) The Municipality may agree to an extension of time as contemplated in subsection (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.

54 Opening of Township Register

- (1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 50 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 subsection (1) the Registrar shall 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 section 47(3).
- (3) The plans, diagrams and title deeds contemplated in subsection (1) and certification contemplated in subsection (2) 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 subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar shall 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 section 59.

55 Proclamation of approved township.

After the provisions of sections 47, 49, 59 and 60 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, shall, by notice in the Provincial Gazette, declare the township an approved township and it shall, in an Annexure to such notice, set out the conditions on which the township is declared an approved township.

56 Prohibition of certain contracts and options

- (1) After an owner of land has taken steps to establish a township on his or her land, no person shall, subject to the provisions of section 70 -
 - (a) enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in that township;
 - (b) grant an option to purchase or otherwise acquire an erf in that township,

until such time as the township is declared an approved township, provided that the provisions of this subsection shall not be

construed as prohibiting any person from purchasing land on which he or she wishes to establish a township subject to a condition that upon the declaration of the township as an approved township, one or more of the erven therein will be transferred to the purchaser.

- (2) Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.
- (3) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence
- (4) For the purposes of subsection (1) -
 - (a) "steps" includes steps preceding an application in terms of section 69(1) or 96(1);
 - (b) "any contract" includes a contract which is subject to any condition, including a suspensive condition.

Part C: Amendment of the land use scheme

57 Application for amendment of a land use scheme

- (1) An applicant, who wishes to amend the land use scheme, must apply to the Municipality for the Amendment in the manner provided for in Chapter 6.
- (2) Applications for the amendment of the Land Use Scheme can consist of the following:
 - (a) An application for the amendment of the Land Use Zone Map,
 - (b) An application for the addition or amendment of a Land Use Zone,
 - (c) A proposal for the amendment of a Management Zone,
 - (d) A proposal for the amendment of the Management Zone Map,
 - (e) A proposal for the addition or amendment of one or more definitions contained in the Scheme,
 - (f) A proposal for the addition or amendment of a Locational and general Development Criteria,
 - (g) A proposal for the addition or amendment of a Development Regulation,
 - (h) A proposal for the amendment of the Administration part of the Scheme.
- (3) The applications contemplated in sections (2) (a) and (b) above may be brought by the Municipality or person as contemplated in section 45 of this Act
- (4) The application contemplated in sections (2) (a) (b) and Section 3 may only be submitted by a Professional Planner registered with the South African Council of Planners in terms of the Planning Profession Act, 2002 (Act 36 of 2002).
- (5) The applications (proposals) contemplated in Section 2 (c) to (h) may be brought only by the Municipality.
- (6) A rezoning approval lapses after a period of five years, or a shorter period as the Municipality may determine, from the date of approval or the date that the approval comes into operation if, within that five year period or shorter period—
 - (a) the conditions of approval have not been met; and
 - (b) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments.
- (7) The Municipality may grant one extension to the period contemplated in subsection (6) and the granting of an extension may not be unreasonable withheld.
- (8) 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 section 69.

Part D: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation

Registered Against the Title of the Land

58 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) In addition to the procedures set out in Chapter 6, the owner must—
 - (a) submit the original title deed to the Municipality or a certified copy thereof; and
 - (b) submit the bondholder's consent to the application, where applicable.
- (4) The Municipality must cause a notice of its intention to consider an application under subsection (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.

59 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 section 58(1), 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 section 58(1), 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 E: Amendment or Cancellation in Whole or in Part of a General Plan of a Township

60 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 subsection (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 subsection (4) the municipality 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 municipality must provide the Registrar of Deeds with a copy of the notice in the Provincial Gazette and schedule thereto contemplated in subsection (5).

61 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 F: Subdivision and Consolidation

62 Application for subdivision

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 66.
- (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 subsection (3) and section 47; and
 - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of six months as determined by the Municipality comply with the following requirements:
 - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (4);
 - (b) sign an engineering services agreement;

- (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 47 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.
- (7) A confirmation from the Municipality in terms of subsection (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.
- 63 Confirmation of subdivision
- (1) Upon compliance with section 62(6), the subdivision or part thereof is confirmed and cannot lapse.
 - (2) Upon confirmation of a subdivision or part thereof under section 62(6), the zones 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 section 62(6) 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 section 62(6) or the Municipality approved the construction prior to the subdivision being confirmed.
- 64 Lapsing of subdivision and extension of validity periods
- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with subsection 62(6).
 - (2) An applicant may, prior to the lapsing of an approval, apply for an extension of the period to comply with subsection 62(6) or must comply with subsection (4).
 - (3) An extension contemplated in subsection (2) may not be unreasonably withheld by the Municipality and may be granted for a further period determined by the Municipality and if after the expiry of the extended period the requirements of subsection 62(6) has not been complied with, the subdivision may lapse if so determined by the Municipality and subsection (5) applies.
 - (4) If only a portion of the general plan, contemplated in subsection 62(6)(a) complies with subsection 62(6)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
 - (5) If an approval of a subdivision or part thereof lapses under subsection (1) —
 - (a) the Municipality must—
 - (i) amend the zone 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.
- 65 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 subsection (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 subsection (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 subsection (1), remains valid for the remainder of the period contemplated in section 62(6) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

66 Exemption of subdivisions and consolidations

- (1) The applications for exemption of subdivision or consolidation of land may be considered on the following circumstances:
- (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) tele-communication 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 and impose in any condition it may deem necessary.
- (3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 62.

67 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 without compensation 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) sewer lines;
 - (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.
- 68 Consolidation of land units
- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 66.
 - (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 section 47; and
 - (c) the approved consolidation plan.
 - (4) If the Municipality approves a consolidation, the Municipality must amend the zone map and, where applicable, the register accordingly.
- 69 Lapsing of consolidation and extension of validity periods
- (1) The Municipality may, if a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within the period of six months as determined by the Municipality, determine that the consolidation approval lapses.
 - (2) An applicant may apply for an extension of the period to comply with subsection (1) and the granting of an extension may not be unreasonably withheld.
 - (3) An extension contemplated in subsection (2) may be granted for a further period determined by the Municipality and if after the expiry of the extended period the requirements of subsection (1) have not been complied with, the consolidation may lapse as determined by the Municipality and subsection (4) applies.
 - (4) If an approval of a consolidation lapses under subsection (1) the Municipality must—
 - (a) amend the zone 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

- 70 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) 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.

- (4) 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.
- (5) The Municipality must notify the Surveyor-General of an approval in terms of subsection (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: Applications in terms of the Land Use Scheme

71 Land Use Applications

- (1) An applicant may apply for land use applications to the Municipality in terms of the Land Use Scheme and in the manner provided for in Chapter 6.
- (2) Where the development parameters for the land use applications 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 land use rights as conditions of approval contemplated in section 47.
- (3) A land use right may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 47.
- (4) A land use rights granted for a specified period of time contemplated in subsection (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 land use rights.
- (5) A land use application contemplated in subsection (1) may lapse after a period determined by the Municipality if -
- (a) the land use right 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 land use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (6) The Municipality may grant extensions to the period contemplated in subsection (5) and the granting of an extension may not be unreasonably withheld by the Municipality, which period together with any extension that the Municipality grants may not exceed ten (10) years.

Part I: Temporary Use

72 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.

- (2) An applicant may apply to the Municipality-
 - (a) to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone for a period not exceeding 5 years or such shorter period as may be determined by the Municipality, in the manner provided for in Chapter 6.
- (3) A departure contemplated in subsection (1)(a) may lapse after the period determined by the Municipality if, the departure is not utilised in accordance with the approval thereof.
- (4) The Municipality may grant extensions to the period contemplated in subsection (2), and the granting of the extension may not be unreasonably withheld.
- (5) A temporary use contemplated in subsection (1)(b) may not be granted more than once in respect of a particular use on a specific land unit.
- (6) A temporary use contemplated in subsection (1)(b) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert to its previous lawful use upon the expiry of the period contemplated in subsection (1)(b).

Part K: General Matters

73 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 section 47 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.

74 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 shall, 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 shall 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 thereof 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 shall be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

75 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) a non-profit company,

by virtue of a condition set out in the conditions to the approval of a land development application contemplated in section 47, the land shall 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 section 52, 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.

76 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 may 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; and
 - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.
 - (f) Proof that all engineering services have been installed or arrangements have been made to the satisfaction on the Municipality.

77 National and provincial interest

- (1) In terms of section 52 of the Act an applicant shall 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) apply with the necessary changes.
- (4) Subsections (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

78 Applicability of Chapter

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

79 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 and the land use scheme as amended.

80 Information required

- (1) Any application required in terms of this By-law must be completed on a form approved by Council, signed by the applicant and submitted to the Municipality in triplicate.
- (2) Any application referred to in subsection (1) must be accompanied by -
 - (a) 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;
 - (b) if the owner of the land is a company, closed corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or a home owners' association;
 - (c) if the owner of the land is a trust, the application must be signed by all trustees;
 - (d) a written motivation for the application based on the criteria for consideration of the application;
 - (e) proof of payment of application fees; and
 - (f) in the case of an application for development on communal land referred to in section 54(2)(j), community approval granted as a result of a community participation process conducted in terms of Customary Law.
- (3) In addition to the documents referred to in subsection (2), an application referred to in subsection (1) must be accompanied by the following documents:
 - (a) in the case of an application for the establishment of a township or the extension of the boundaries of a township, the documents contemplated in Schedule 6;
 - (b) in the case of an application for the amendment of an existing scheme or land use scheme by the rezoning of land, the documents contemplated in Schedule 7;
 - (c) in the case of an application for the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land, the documents contemplated in Schedule 8;
 - (d) in the case of an application of the amendment or cancellation in whole or in part of a general plan of a township, such plans, diagrams and other documents determined necessary by the Municipality Schedule 9;
 - (e) in the case of an application for the subdivision of any land, the documents contemplated in Schedule 10;
 - (f) in the case of an application for the consolidation of any land, the documents contemplated in Schedule 11;
 - (g) in the case of the permanent closure of any public place, the documents contemplated in Schedule 12;
 - (h) in the case of a land use application 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, the documents contemplated in Schedule 13;
 - (i) in the case of an application for the permanent or temporary departure from the land use scheme, the documents contemplated in Schedule 14.
- (4) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

81 Application fees

- (1) An applicant must pay the application fees determined by the Municipality 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.
- 82 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 80.
- 83 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.
- 84 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 therefor 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 subsection (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 subsection (3) to refuse to consider the application.
 - (5) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must make a new application and pay the applicable application fees.
- 85 Confirmation of complete application
- (1) The Municipality must notify the applicant in writing that the application is complete within 30 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, section 82 applies to the further submission of information that may be required.
 - (3) The applicant must be notified that notices may be placed as contemplated in section 88
- 86 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.

87 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 subsection (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 Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
 - (a) cause public notice of the application to be given in terms of section 87(1); 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 subsection (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.

88 Notification of application

- (1) The Applicant must cause notice to be given in accordance with the minimum notification procedures as stipulated in annexure A (that might be amended by Municipality from time to time) and sections 88 - 92 of this By-law, for the following applications:
 - (a) an application for land development as contemplated in chapter 5;
 - (b) an application for land use as contemplated in chapter 5;
 - (c) the subdivision of land larger than five hectares inside the outer limit of urban edge as reflected in the municipal spatial development framework;
 - (d) the subdivision of land larger than one hectare outside the outer limit of urban edge as reflected in the municipal spatial development framework;
 - (e) other applications that will materially affect the public interest or the interests of the community if approved.
 - (f) Applications for township establishment.
- (2) Notice of the application in the media must be given by—
 - (a) publishing a notice of the application, in a local newspaper with a general circulation in the area concerned in English only for a period prescribed by the Municipality.
- (3) Notice of an application to surrounding properties should be served as follows—
 - (a) in accordance with section 115 of the Municipal Systems Act;
 - (b) in English only;
 - (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.
- (4) 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.

- (5) 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.
- (6) 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.

89 Notification of application in media

- (1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:
 - (a) an application for township establishment;
 - (b) an application for a Amendment of Scheme 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 urban 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 urban 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) 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 by—
 - (a) publishing a notice of the application, in a newspaper with a general circulation in the area concerned in at least two of the official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act; or
 - (b) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.

90 Content of notice

When notice of an application must be given or served in terms of section 85, the notice must contain the following information:

- (a) the name, identity number, company registration, 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 and office number of the relevant municipal employee;
- (f) invite members of the public to submit written comments or objections together with the reasons therefor 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 may 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.

91 On site notice

- (1) The Municipality must cause additional notice to be given in accordance with this section if it considers notice in accordance with sections 90 or 91 to be ineffective or in the event of the following applications:
 - (a) an application for township development;
 - (b) an application for the extension of the boundaries of an approved township;
 - (c) an amendment of scheme
 - (d) an application for subdivision;
 - (e) an application for consolidation.
- (2) An on-site notice must be displayed and the notice must be of a size of at least 60 cm by 42 cm (A2 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
 - (a) the notice must be displayed for a minimum of 21 days during the period that the public may comment on the application;
 - (b) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
 - (i) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (ii) at least two photos of the notice, one from nearby and one from across the street.

92 Additional methods of public notice

- (1) If the Municipality considers notices 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 convene a meeting for the purpose of informing the affected members of the public of the application;
 - (b) to broadcast information regarding the application on a local radio station in a specified language;
 - (c) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
 - (d) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
 - (e) 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 may conduct an on-site inspection to verify whether the applicant has complied with the requirement to display that public notice.
- 93 Requirements for petitions
- (1) All petitions must, in addition to the provisions of section 87(4), 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 subsection (1)(a), constitutes notice to all the signatories to the petition.
- 94 Requirements for objections or comments
- (1) A person may, in response to a notice received in terms of sections 85, or 87, 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 stipulated 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 may not accept any objection, comment or representation received after the closing date.
- 95 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.

96 Further public notice

- (1) The Municipality may require that fresh notice of an application be given if more than 18 months has elapsed 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.

97 Cost of notice

The applicant is liable for the costs of giving notice of an application.

98 Applicant's right 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 must, 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 subsection (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 are 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 subsection (5), section 84 (2) to (5) with the necessary changes, applies.

99 Written assessment of application

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with section 56 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.

100 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.

101 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 this By-Law 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.

102 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 94.

- (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 subsection (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 subsection (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.

103 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;

104 Notification of decision

- (1) The Municipality must, within 30 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision of 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.

105 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 constitute an offence.

106 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.

107 Withdrawal of approval

- (1) The Municipality may withdraw any approval granted 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.

108 Procedure to withdraw an approval

- (1) The Municipality may withdraw an approval granted—
 - (a) after consideration of the representations made in terms of section 107(2)(c); 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 section 107(2)(b).
- (2) 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.

109 Exemptions to facilitate expedited procedures

The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
 - (i) integrated application processes as contemplated in section 87;
 - (ii) the provision of housing with the assistance of a state subsidy; or
 - (iii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law

CHAPTER 7

ENGINEERING SERVICES AND DEVELOPMENT CHARGES

Part A: Provision and Installation of Engineering Services

110 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 section 112 provides otherwise.

111 Installation of engineering services

- (1) The applicant shall provide and install the 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 Applicant must have regard to such standards as the Municipality may determine for streets and storm water drainage, water, electricity and sewage disposal services.
- (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.

112 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 or external engineering services;
 - (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services 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;
 - (d) determine that the risk and ownership in respect of such services shall pass to the Municipality 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:
 - (i) when normal maintenance by the relevant authority 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 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.
- (3) 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.

113 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 section 112 lapses and if the owner had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she shall have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

114 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;
- (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

115 Payment of development charge

- (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 or other uses, such as social facilities and services, 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 be informed of the amount of the development charge and must, subject to section 102, pay the development charge to the Municipality.
- (3) An 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 109 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.

116 Offset of development charge

- (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 section 107.

117 Payment of development charge in instalments

The Municipality may -

- (a) in the circumstances contemplated in section 114 (b) or (c), allow payment of the development charge contemplated in section 115 in instalments agreed to in the engineering services agreement which must comply with the time frames provided for in the Municipality's Credit Control and Debt Collection By-law or, if last mentioned does not provide for such instalments, over a period not exceeding five years;
- (b) in any case, allow payment of the development charge contemplated in section 115 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.

118 Refund of development charge

No development charge paid to the Municipality in terms of section 115 or any portion thereof shall be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 113 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

119 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

APPEAL PROCEDURES

PART A: ESTABLISHMENT OF A MUNICIPAL APPEAL TRIBUNAL

120 Establishment of Municipal Appeal Tribunal

- (1) The Municipality must, if it decides to implement section 51(6) of the Act, establish a Municipal Appeal Tribunal in accordance with the provisions of this Part and the Municipal Appeal Tribunal is hereby authorised to assume the obligations of the appeal authority.

121 Institutional requirements for establishment of Municipal Appeal Tribunal

- (1) A municipality, in establishing a Municipal Appeal Tribunal in terms of section 120, must, amongst others –
- (a) determine the terms and conditions of service of the members of the Municipal Appeal Tribunal;
 - (b) identify any additional criteria that a person who is appointed as a member of the Municipal Appeal Tribunal must comply with;
 - (c) consider the qualifications and experience of the persons it is considering for appointment to the Municipal Appeal Tribunal, make the appropriate appointments and designate the chief presiding officer;
 - (d) inform the members in writing of their appointment;
 - (e) publish the names of the members of the Municipal Appeal Tribunal and their term of office;
 - (f) determine the location of the office where the Municipal Appeal Tribunal must be situated; and
 - (g) develop and approve operational procedures for the Municipal Appeal Tribunal.
- (2) The Municipality may not appoint any person to the Municipal Appeal Tribunal if that person –
- (a) is disqualified from appointment as contemplated in section 131; or
 - (b) if he or she does not possess the knowledge or experience required in terms of section 129 or the additional criteria determined by the Municipality in terms of subsection (1)(b).
- (3) The Council must –
- (a) remunerate members of the Municipal Appeal Tribunal for each hearing of the Municipal Appeal Tribunal in

accordance with the rates determined by Treasury; and

- (b) designate an employee of the Municipality or appoint a person as secretary to the Municipal Appeal Tribunal.

122 Composition, term of office and code of conduct of Municipal Appeal Tribunal

- (1) The Municipal Appeal Tribunal must consist of between 4 and 6 members which must include at least:
- (a) one member who is a professional planner and who has appropriate experience;
 - (b) one member who is qualified in law and who has appropriate experience; and
 - (c) one member who is registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000.
- (2) The chief presiding officer must designate at least three members of the Municipal Appeal Tribunal to hear, consider and decide a matter which comes before it and must designate one member as the presiding officer.
- (3) No Member of Parliament, the Provincial Legislator or a House of Traditional Leaders, a councillor or employee of the Municipality may be appointed as a member of the Municipal Appeal Tribunal.
- (4) No member of the Municipal Planning Tribunal or joint Municipal Planning Tribunal may serve on the Municipal Appeal Tribunal.
- (5) If a person referred to in subregulation (5) or (6) is a member of the Municipal Appeal Tribunal hearing the appeal, his or her membership renders the decision of the Municipal Appeal Tribunal on that matter void.
- (6) The term of office of the members of the Municipal Appeal Tribunal is five years.
- (7) After the first terms of office of five years referred to in subsection (6) has expired the appointment of members of the Municipal Appeal Tribunal for the second and subsequent terms of office must be in accordance with the provisions of this Part.
- (8) A member whose term of office has expired may be re-appointed as a member of the Municipal Appeal Tribunal.
- (9) Members of the Municipal Appeal Tribunal must sign and uphold the code of conduct contemplated in Schedule 16.

123 Disqualification from membership of Municipal Appeal Tribunal

- (1) A person may not be appointed or continue to serve as a member of the Municipal Appeal Tribunal, if that person –
- (a) is not a citizen of the Republic;
 - (b) is a member of Parliament, a provincial legislature, House of Traditional Leaders or the Council or is an employee of the Municipality;
 - (c) is an un-rehabilitated insolvent;
 - (d) is of unsound mind, as declared by a court;
 - (e) has at any time been convicted of an offence involving dishonesty;
 - (f) has at any time been removed from an office of trust on account of misconduct; or
 - (g) has previously been removed from a Municipal Planning Tribunal or Municipal Appeal Tribunal for a breach of any provision of this Act.
- (2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).

124 Conflicts of interest

- (1) A member of the Municipal Appeal Tribunal –
- (a) must make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider;
 - (b) may not attend, participate or vote in any proceedings of the Municipal Appeal Tribunal in relation to any matter in respect of which the member has a conflict of interest.
- (2) For the purposes of this section, a member has a conflict of interest if –
- (a) the member, or a family member, partner or business associate of the member is the applicant in terms of this

- Act, or if the member has a pecuniary or material interest in the matter before the tribunal; or
- (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner.
 - (c) the member is in the full-time employment of an organ of state or service provider which is a party to the appeal.
- 125 Termination of membership of Municipal Appeal Tribunal
- (1) A person's membership of the Municipal Appeal Tribunal may be terminated by a decision of the Municipalities if there are good reasons for doing so after giving such member an opportunity to be heard.
 - (2) The reasons for removal referred to in subsection (1) may include, but are not limited to –
 - (a) misconduct, incapacity or incompetence; and
 - (b) failure to comply with any provisions of the Act or this By-Law.
 - (3) If a member's appointment is terminated or a member resigns, the Municipality must publish the name of a person selected by the Municipality to fill the vacancy for the unexpired portion of the vacating member's term of office.
 - (4) The functions of the Municipal Appeal Tribunal must not be affected if any member resigns or his or her appointment is terminated.

PART B: MANAGEMENT OF AN APPEAL AUTHORITY

126 Presiding officer of appeal authority

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

127 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 section 126 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.

128 Registrar of appeal authority

- (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of sub-regulation (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 subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

129 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

130 Commencing of appeal

An appellant must commence an appeal by delivering a Notice of Appeal specified in Annexure 3 to the registrar of the relevant appeal authority and the parties to the original application within 21 days as contemplated in section 51 of the Act.

131 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.

132 Notice to oppose an appeal

A notice to oppose an appeal must be delivered to the registrar of the appeal authority within 21 days from the delivery of the notice of appeal referred to in section 130 and it 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; and
- (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.

133 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 specified in Annexure 3;
 - (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 specified in Annexure 3, 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.

PART D: PARTIES TO AN APPEAL

134 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) if the Minister or MEC intervenes in the proceeding under regulation 9, the Minister or the MEC, as the case may be; and
 - (e) any other 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.

135 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 referred to in Annexure 4 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

136 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.

137 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.

138 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.

139 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

140 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.

141 Hearing date

- (1) A hearing will commence on a date determined by the appeal authority, which hearing may not take place later than 60 days from the date on which completed Notice of Appeal was delivered to the appeal authority, provided that the interested parties were informed of the hearing date at least 30 days prior the hearing date.
- (2) The parties and the presiding officer may agree to an extension of the date referred to in subsection (1).

142 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.

143 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.

144 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

145 Location of oral hearing

An oral hearing must be held in a location within the area of jurisdiction of the Municipality but may not be held where the Municipal Planning Tribunal sits or the office of the Land Development Officer whose decision is under appeal.

146 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.

147 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.

148 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.

- 149 Recording
Hearings of the appeal authority may be recorded.
- 150 Oaths
Witnesses (including parties) are required to give evidence under oath or confirmation.
- 151 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

- 152 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.
- 153 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 21 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.
- 154 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.
- 155 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

156 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.

157 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.
- (2) The presiding officer must sign the decision of the appeal authority and any order made by it.

158 Notification of decision

The registrar must notify the parties of the decision of the appeal authority in terms of section 157, together with the reasons therefor within seven days after the appeal authority handed down its decision.

159 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 J: GENERAL

160 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

161 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.

162 Offences and penalties

(1) Any person who—

- (a) contravenes or fails to comply with section 159;
- (b) fails to comply with a compliance notice issued in terms of section 160;
- (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 and land use 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,

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 subsection (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.

163 Service of compliance notice

- (1) The Municipality must serve a compliance 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 section 151.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality 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
 - (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).
- (4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.
- (5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised work.
- (6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the compliance notice.

164 Content of compliance notices

- (1) A compliance 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 section 151 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 section 154 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 section 151;
 - (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 land use or temporary use, the approval could be withdrawn;
 - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;
- (2) Any person who receives a compliance 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 compliance notice in terms of section 154.

165 Objections to compliance notice

- (1) Any person or owner who receives a compliance notice in terms of section 152 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) Subject to the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
 - (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
 - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

166 Failure to comply with compliance notice

If a person fails to comply with a compliance 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 land use, the Municipality may withdraw the approval granted and then act in terms of section 152.

167 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 compliance 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.

168 Subsequent application for authorisation of activity

- (1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 152 to demolish the building work.
- (2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

169 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.

170 Power and functions of authorised employee

- (1) In ascertaining compliance with this By-law as contemplated in section 150, 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 may not have a direct or indirect personal or private interest in the matter to be investigated.

171 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 subsection (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 section 161 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 section 159 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 section 159 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.

172 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.

173 Court order

Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 151, 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

174 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, shall 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 subsection (3), be continued after that date read with the provisions of a land use scheme.
- (3) The right to continue using any land or building by virtue of the provisions of subsection (2) shall;
 - (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 subsection (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 shall for a period of 15 years from that date be deemed to comply with that provision.
 - (d) where a period of 15 years has, in terms of subsection (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard shall, for the purposes of those subsections, 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 subsection (2) may notify the Municipality in writing that he is prepared to forfeit that right;
 - (ii) the owner of a building contemplated in subsection (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection;.
- (4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (3)(a), such allegation shall be 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 99 year leasehold, which did not form

part of a town planning scheme, such land use provisions apply as contemplated in subsection (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.

CHAPTER 11
GENERAL PROVISIONS

175 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.

176 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.

177 Short title and commencement

- (1) This By-law is called the Govan Mbeki Spatial Planning and Land Use Management By-law,2015.
(2) This By-law comes into operation on promulgation thereof.

SCHEDULE 1

INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE -
 _____ MUNICIPAL PLANNING TRIBUNAL

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the _____

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 _____ 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, 2015, 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

_____ 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 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 _____ 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 _____ 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.

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

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) the non-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.			
4.			
5.			

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, 2015 enacted by the _____ 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, 2015 enacted by the _____ 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 or her 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: _____

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 subitem 6(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 subitem 8, 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

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE ESTABLISHMENT OF A TOWNSHIP OR THE EXTENSION OF THE BOUNDARIES OF A TOWNSHIP

1. An application for the amendment of an existing scheme or land use scheme by the rezoning of land must, in addition to the documentation referred to in section 88(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (c) a locality plan on an appropriate scale;
 - (d) a layout plan in the scale approved by the Council and containing the information as considered necessary by the Municipality;
 - (g) draft conditions of establishment for the proposed township in the format approved by the Council;
 - (h) a copy of the appropriate zoning of the applicable land;
 - (i) an engineering geological investigation and report compiled by a suitably qualified professional;
 - (j) an undermining stability report, where applicable, compiled by a suitably qualified professional
 - (k) the consent of the bondholder'
 - (l) confirmation whether or not a mining or prospecting right or permit over the land is held or is being applied for in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002);
 - (m) other limited real rights on the property;
 - (n) confirmation and details of any land claims on the property;
 - (o) a conveyancer's certificate;
 - (p) in the case of the extension of the boundaries of a township, the consent from the Surveyor-General to the proposed extension of boundaries.
2. An application contemplated in Part H of Chapter 5 does not have to be accompanied by a certified copy of the title deed of the relevant land or the consent of the bondholder.
3. The motivation contemplated in section 80(2)(d) must contain at least the following information:
 - (a) The development intentions of the municipality on the application property; as contained in the spatial development framework and other municipal policies;
 - (b) compliance with applicable norms and standards and development principles in the municipality;
 - (c) the existing land use rights on the property;
 - (d) the need and desirability of the proposed land development;
 - (e) the effect of the development on the use or development of other land which has a common means of drainage;
 - (f) any environmental implications of the proposed land development;
 - (g) an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act (Act 107 of 1998);
 - (h) the density of the proposed development
 - (i) the area and dimensions of each erf in the proposed township;

- (j) the layout of roads having regard to their function and relationship to existing roads;
- (k) the provision and location of public open space and other community facilities;
- (l) any phased developments;
- (m) if the land is not serviced and no provision has been made for a waterborne sewer system, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each erf or subdivided land parcel;
and
- (n) the applicable regulations as contained in the land use scheme.

SCHEDULE 7

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE AMENDMENT OF AN EXISTING SCHEME OR LAND USE SCHEME BY THE REZONING OF LAND

1. An application for the amendment of an existing scheme or land use scheme by the rezoning of land must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a certified copy of the title deed of relevant land;
 - (b) a copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
 - (c) a locality plan on an appropriate scale;
 - (d) a Land Use Zone Map or land use rights plan, in colour and on an appropriate scale, of the application surrounding properties;
 - (e) the amendment scheme map and schedule to be approved by the Council;
 - (f) the consent of the bondholder,
2. The motivation contemplated in section 80(2)(d) must contain at least the following information:
 - (a) An indication of the persons, communities and institutions likely to be affected by the amendment and the likely impact on them;
 - (b) the interest of the applicant in bringing the application;
 - (c) a discussion on the content of the scheme prior to the proposed amendment and the need for the amendment;
 - (d) a discussion on the proposed amendment;
 - (e) a) the need and desirability of the proposed amendment;
 - (f) if the land is not serviced and no provision has been made for a waterborne sewer system, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each erf or subdivided land parcel; and
 - (g) the provision and location of public open space and other community facilities;
 - (g) the effect of the development on the use or development of other land which has a common means of drainage;
 - (h) the density of the proposed development if applicable;
 - (i) the provision and location of public open space and other community facilities;
 - (j) traffic impact assessment of the proposed development;
 - (k) the layout of roads having regard to their function and relationship to existing roads;
 - (l) the availability and provision of municipal services;
 - (m) the applicable regulations as contained in the land use scheme.
 - (n) the expected impact on the current, adopted municipal spatial development framework and integrated development plan;
 - (o) the possible impact of the amendment on the environment and probable mitigating elements;
 - (p) an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act, 1998;
 - (q) an indication of the persons, communities and institutions likely to be affected by the amendment and the likely impact on them.

SCHEDULE 8

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE OR OBSOLETE CONDITION, SERVITUDE OR RESERVATION REGISTERED AGAINST THE TITLE OF THE LAND

1. An application for the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a certified copy of the notarial deed of servitude;
 - (c) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (d) a copy of the servitude diagram approved by the Surveyor-General;
 - (e) a locality plan on an appropriate scale;
 - (f) a description of all existing and proposed servitudes and services on the land; and
 - (g) the consent of the bondholder.

2. The motivation contemplated in section 80(2)(d) must make specific reference to at least the following :
 - (a) the applicable condition or servitude, as well as a motivation on the necessity and desirability of the application.
 - (b) the integrated development plan and municipal spatial development framework;
 - (c) the applicable local spatial development frameworks adopted by the Municipality;
 - (d) the provincial spatial development framework;
 - (e) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (f) the relevant provisions of the land use scheme.

SCHEDULE 9

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION OF THE AMENDMENT OR CANCELLATION IN WHOLE OR IN PART OF A GENERAL PLAN OF A TOWNSHIP

1. An application for the amendment or cancellation in whole or in part of a general plan must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) copies of the relevant sheet of the general plan which may be reduced copies of the original;
 - (b) copies of a plan of the township showing the posed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
 - (c) copy of the title deed which is registered in the Deeds Office at the time when the application is submitted of the land affected by the alteration, amendment or total or partial cancellation;
 - (d) if the property is encumbered by a bond, the bondholder's consent;

2. The motivation contemplated in section 80(2)(d) must state the reasons for the posed alteration or amendment.

SCHEDULE 10
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE SUBDIVISION OF ANY
LAND

1. An application for the subdivision of land must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (c) the appropriate consent where required in terms of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970);
 - (d) a locality plan on an appropriate scale;
 - (f) a layout plan in the scale approved by the Council and containing the information as considered necessary by the Municipality;
 - (g) Subdivision sketch plan indicating the proposed subdivision
 - (h) draft conditions of establishment for the proposed subdivision;
 - (i) Contour plan indicating storm water drainage
 - (j) a copy of the appropriate Land Use Zone Map of the applicable land;
 - (k) the consent of the bondholder.

2. The motivation contemplated in section 80(2)(d) must contain at least the following information:
 - (a) The development intentions of the municipality on the application property, as contained in the spatial development framework and other municipal policies;
 - (b) the need and desirability of the proposed subdivision;
 - (c) a justification on the suitability of the land for subdivision;
 - (d) a traffic impact assessment of the proposed development;
 - (e) an assessment of the social impact of the proposed land development;
 - (f) the impact of the proposed land development on the future use of land in the locality;
 - (g) the impact of the proposed subdivision on the future use of land in the locality;
 - (h) the availability of subdivided land in the area and the need for the creation of further erven or subdivisions;
 - (i) the effect of the development on the use or development of other land which has a common means of drainage;
 - (j) the subdivision pattern having regard to the physical characteristics of the land including existing vegetation;
 - (k) the density of the proposed development;
 - (l) the area and dimensions of each erf;
 - (m) the layout of roads having regard to their function and relationship to existing roads;
 - (n) the existing land use rights on the property;
 - (o) the movement of pedestrians and vehicles throughout the development and the ease of access to all erven;
 - (p) the provision and location of public open space and other community facilities;

- (q) the phasing of the subdivision;
- (r) the provision and location of common property;
- (s) the functions of any body corporate;
- (t) the availability and provision of municipal services;
- (u) if the land is not serviced and no provision has been made for a waterborne sewer system, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each erf or subdivided land parcel;
- (v) whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas;
- (w) an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act, 1998;
- (x) the existing land use rights on the property; and
- (y) the applicable regulations as contained in the land use scheme.

SCHEDULE 11

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE CONSOLIDATION OF ANY LAND

1. An application for the subdivision of land must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (c) the appropriate consent where required in terms of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970);
 - (d) a locality plan on an appropriate scale;
 - (e) a layout plan in the scale approved by the Council and containing the information as considered necessary by the Municipality;
 - (f) Subdivision sketch plan indicating the proposed subdivision
 - (g) draft conditions of establishment for the proposed subdivision;
 - (h) Contour plan indicating storm water drainage
 - (i) a copy of the appropriate Land Use Zone Map of the applicable land;
 - (j) the consent of the bondholder.

2. The motivation contemplated in section 80(2)(d) must explain and motivate the application.
 - (a) The development intentions of the municipality on the application property, as contained in the spatial development framework and other municipal policies;
 - (b) a justification on the suitability of the land for consolidation;
 - (c) a traffic impact assessment of the proposed consolidation;
 - (d) the impact of the proposed consolidation on the future use of land in the locality;
 - (e) the effect of the consolidation on the use or development of other land which has a common means of drainage;
 - (f) the consolidation pattern having regard to the physical characteristics of the land including existing vegetation;
 - (g) the density of the proposed consolidation;
 - (h) the area and dimensions of the new erf;
 - (i) the layout of roads having regard to their function and relationship to existing roads;
 - (j) the existing land use rights on the property;
 - (k) the movement of pedestrians and vehicles throughout the development and the ease of access to the new erf;
 - (l) the provision and location of public open space and other community facilities;
 - (m) the provision and location of common property;
 - (n) the availability and provision of municipal services;
 - (o) if the land is not serviced and no provision has been made for a waterborne sewer system, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each erf or subdivided land parcel;

- (p) whether, in relation to consolidation plans, native vegetation can be protected through subdivision and siting of open space areas;
- (q) an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act, 1998;
- (r) the existing land use rights on the property; and
- (s) the applicable regulations as contained in the land use scheme.

SCHEDULE 12
ADDITIONAL DOCUMENTS REQUIRED FOR THE PERMANENT CLOSURE OF A PUBLIC PLACE IF
AN APPLICATION IS SUBMITTED

1. An application for the permanent closure of a public place must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a copy of the relevant general plan;
 - (b) a copy of the approved conditions of establishment of the existing township;
 - (c) a locality plan on an appropriate scale;
 - (d) a layout plan in the scale approved by the Council;

2. The motivation contemplated in section 80(2)(d) must explain and motivate the application.
 - (a) The development intentions of the application property, as contained in the spatial development framework and other municipal policies;
 - (b) the need and desirability of the proposed closure of the Open Space
 - (c) a justification on the suitability of the closure of the Open Space;
 - (d) a traffic and pedestrian movement of the closure of the Open Space;
 - (e) an assessment of the social impact of the closure of the Open Space;
 - (f) the impact of the proposed closure of the Open Space on the future use of land in the locality;
 - (g) the future land use rights for the property;
 - (h) the movement of pedestrians and vehicles throughout the area and the ease of access to all erven in the surrounding;
 - (i) the provision and location of public open space and other community facilities;
 - (j) the applicable regulations as contained in the land use scheme.
 - (k) the availability and provision of municipal services;

SCHEDULE 13

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR 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

1. An application for the 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 must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a certified copy of the title deed of relevant land;
 - (b) a copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
 - (c) a locality plan on an appropriate scale;
 - (d) a description of all existing and proposed servitudes and/or services on the applicable land;
 - (e) the copy of the land use rights certificate on the applicable land;
 - (f) the consent of the bondholder;
 - (g) a plan indicating surrounding land use rights or land use rights plan; and
 - (h) a land use Map.
2. The motivation contemplated in section 80(2)(d) must make specific reference to the following:
 - (a) a justification and/or reasons for the consent required;
 - (b) the effect if any on existing Land Use Rights
 - (c) the applicable regulations as contained in the land use scheme.

SCHEDULE 14
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR TEMPORARY USE

3. An application for temporary use must, in addition to the documentation referred to in section 80(2), be accompanied by –
 - (a) a power of attorney from the registered owner of the land if the applicant is not the registered owner;
 - (b) if the land is encumbered by a bond, the bondholder's consent;
 - (c) a locality plan;
 - (d) a copy of the title deed which is registered in the Deeds Office at the time when the application is submitted;
 - (e) a copy of the land use rights certificate, including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable.

4. The motivation contemplated in section 80(2)(d) must contain at least the following information:
 - (a) reference to the objective and principles contained in this By-law;
 - (b) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or deviated from it;
 - (c) The need and desirability of the application;
 - (d) Discuss the application in terms of the Development Principles, norms and standards as referred to in Chapter 2 of the Act.

SCHEDULE 15
CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL APPEAL TRIBUNAL

I, the undersigned,

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

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

General conduct

1. A member of the Municipal Appeal 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 appeal 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 Appeal Tribunal must not—
 - (a) use the position or privileges of a member of the Municipal Appeal Tribunal or confidential information obtained as a member of the Municipal Appeal 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 Appeal 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 a member of the Municipal Appeal Tribunal.

Undue influence

4. A member of the Municipal Appeal Tribunal must not—
 - (e) 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;
 - (f) use confidential information acquired in the course of his or her duties to further a personal interest;
 - (g) 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
 - (h) commit a deliberately wrongful act that reflects adversely on the Municipal Appeal 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 Appeal Tribunal by improper means.

Signature of Nominee: _____

Full Names: _____

Date: _____

ANNEXURE A

MINIMUM NOTIFICATION PROCEDURES (Refer to Section 88(1) of the by Law)			
Application	Notice procedure		
	Media Notice	Notice on-site	Notice to surrounding properties
Township establishment or Extension of boundaries of an approved township	Two subsequent notices in newspaper and Provincial Gazette	Yes	Yes
Amendment of the Land Use Scheme	Two subsequent notices in newspaper and Provincial Gazette	Yes	No
Removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land.	Two subsequent notices in newspaper and Provincial Gazette	Yes	No
Subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application	One notice in newspaper and Provincial Gazette	Yes	No
Permanent closure of any public place	One notice in newspaper and Provincial Gazette	Yes	No
Consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing land use scheme	One notice in newspaper and Provincial Gazette	Yes	No
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	One notice in newspaper and Provincial Gazette	Yes	No
Consent or approval provided for in a provincial law	One notice in newspaper and Provincial Gazette	Yes	No
Development on communal land that will have a high impact on the community	One notice in newspaper and Provincial Gazette	Yes	No
Subdivision and or Consolidation in a proclaimed Township	No	Yes	Yes
Amendment or cancellation in			

whole or in part of a general plan of a township	No	No	No
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MINIMUM NOTIFICATION PROCEDURES (Continue)			
Application	Notice procedure		
	Media Notice	Notice on-site	Notice to surrounding properties
Permitted Land Use Right	No**	Yes	Yes
Discretionary Land Use Right	No**	Yes	Yes*
Establishment of a Tavern	One notice in Local newspaper	Yes	Yes*
Non-conforming Land Use Right	One notice in local newspaper	Yes	No
Variance	No	Yes	No
Relinquishing of Land Use Rights	No	No	No
Site Development, Landscape or Urban Design Plan	No	No	No
Relaxation of a Building line	No	No	Yes
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	No	Yes	Yes
Temporary use application	No	Yes	Yes
Subsequent application	As determined by the Municipality		
* The notice shall also include any community facility such as educational facilities or churches in the locality as well as any other affected party in the opinion of the Municipality.			
** If application is made for the land uses of "Petro-Port", "Public Garage", "Service Station" and "Filling Station", the minimum notification procedures shall include two subsequent newspaper notices, both in a local newspaper and the Provincial Gazette.			
Please take note that in terms of section 87 of this By-Law, the Municipality may instruct the applicant to take any further measures in addition to the above to ensure that sufficient notice is given of the application.			
An on-site notice must be displayed and the notice must be of a size of at least 60 cm by 42 cm (A2 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf.			
Notice must be posted in a conspicuous place on the property or premises to which it relates.			