

PROVINCIAL NOTICE 529 OF 2018



SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2018

**DEPARTMENT ECONOMIC SERVICES:
SECTION DEVELOPMENT AND PLANNING
FURNCITY BUILDING
HUMAN STREET
KRUGERSDORP
(011) 951-2004**

MOGALE CITY LOCAL MUNICIPALITY**MOGALE CITY LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE
MANAGEMENT BY-LAW, 2018**

The Municipal Manager of the Mogale City Local Municipality hereby publishes in terms of section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), read with section 13 of the Local Government: Municipal Systems Act, 2000 (16 of 2000), the Mogale City Local Municipality Spatial Planning and Land Use Management By-law, 2018, as approved by Council on 27 February 2018, resulting from the review of the Mogale City Local Municipality Spatial Planning and Land Use Management By-law, 2016 published on 15 March 2017..

The By-law approved by Council on 27 February 2018 will come into operation on date of publication hereof in the Provincial Gazette and accordingly replaces the By-law dated 2016.

This notice shall, upon its publication, supersede the notice published on 15 March 2017.

MR MP RAEDANI
MUNICIPAL MANAGER

MOGALE CITY LOCAL MUNICIPALITY LAND USE MANAGEMENT BY-LAW, 2018

To give effect to “Municipal Planning” as contemplated in the Constitution of the Republic of South Africa, 1996, and in so doing to lay down and consolidate processes and procedures, to facilitate and make arrangements for the implementation of land development and land development applications, spatial planning and a land use scheme within the jurisdiction of the Mogale City Local Municipality, in line with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), to provide for the processes and procedures of a Municipal Planning and Appeals Tribunal and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 156(1)(a) and (b) of the Constitution, 1996 (Act 108 of 1996) confers on municipalities the executive authority and the right to administer the local government matters listed in Part B of Schedule 4 and Schedule 5 to the Constitution and any other matter assigned to municipalities by National or Provincial legislation;

AND WHEREAS Part B of Schedule 4 of the Constitution lists all the Local Government matters including Municipal planning;

AND WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer By-laws for the effective administration of the matters which it has the right to administer;

AND WHEREAS it is necessary in terms of sections 20, 21, 22, 23, 24 and related provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), to establish a uniform, recognisable and comprehensive system of spatial planning and land use management in its municipal area, to maintain economic unit, equal opportunity, equal access to government services and to promote social and economic inclusion;

AND WHEREAS it is necessary that procedures and institutions to facilitate and promote co-operative government and intergovernmental relations in respect of spatial planning and land use management be developed;

AND WHEREAS it is necessary to ensure the validity, surety and legitimacy of the Municipal Spatial Development Framework of Mogale City Local Municipality through the determination of wide public participation and integration with all spheres of government sector plans as well as municipal infrastructure and transport planning;

AND WHEREAS it is necessary that in terms of Chapter 3 of the Spatial Planning and Land Use Management Regulations, the Municipality determine the manner and format for land development and land use applications, categories and time frames and processes and procedures related thereto;

NOW THEREFORE Mogale City Local Municipality has adopted this By- law in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000).

BE IT THEREFORE PROMULGATED in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000), by Mogale City Local Municipality as follows:-

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- MCLM:F-1:** Application form to be submitted for any application and/or request with the applicant and owner details as required in terms of Mogale City Spatial Planning and Land Use Management By-law, 2018.
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- MCLM:F-3:** Application form for a division of a township application in terms of section 56 and as required in terms of Schedule 5 to Mogale City Spatial Planning and Land Use Management By-law, 2018.
- MCLM:F-4:** Application form for amendment of land use scheme also known as rezoning application in terms of section 45 and as required in terms of Schedule 3 to Mogale City Spatial Planning and Land Use Management By-law, 2018.
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- MCLM:F-6:** Application form for the amendment or cancellation in whole or in part of a General Plan of an approved township in terms of Section 63 of this By-law and as required in terms of Schedule 8 of Mogale City Spatial Planning and Land Use Management By-law, 2018.

- MCLM:F-7:** Application form for subdivision or consolidation application in terms of section 58 or 60 and as required in terms of Schedule 6 or 7 in terms of Mogale City Spatial Planning and Land Use Management By-law, 2018.
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- MCLM:F-12:** The *Provincial Gazette*, newspapers and placard notice for the establishment of a township/extension of boundaries of a township in terms of section 51 or 57 of Mogale City Spatial Planning and Land Use Management By-law, 2018.
- MCLM:F-13:** The *Provincial Gazette*, newspapers and placard notice for a rezoning application in terms of section 45 of Mogale City Spatial Planning and Land Use Management By-law, 2018.
- MCLM:F-14:** The *Provincial Gazette*, newspapers and placard notice for the removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the Title Deed in terms of section 66 of Mogale City Spatial Planning and Land Use Management By-law, 2018.
- MCLM:F-15:** The *Provincial Gazette*, newspapers and placard notice for the alteration/amendment of total or partial cancellation of a general plan of a township in terms of section 63 of Mogale City Spatial Planning and Land Use Management By-law, 2018.
- MCLM:F-16:** The *Provincial Gazette*, newspapers and placard notice for subdivision of property(ies) as contemplated in terms of section 58 or 60 of Mogale City Spatial Planning and Land Use Management By-law, 2018.
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CHAPTER 1

DEFINITIONS

1. Definitions

In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Spatial Planning and Land Use Management Act 2013, (Act 16 of 2013) has the meaning assigned to it in that Act. All references to sections in this By-law refers to this specific document unless otherwise stated;

“Act” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“additional information” means any information that may be requested by the Municipality which in its opinion is necessary to consider and decide on a land development application and to be read with Regulation 16(9) to the Act;

“adjoining owner(s)” means the owner of any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or open space, or similar properties;

“adopt” and “approved” shall have corresponding meanings;

“agent” means a person authorised in terms of a Power of Attorney and Resolution, where applicable, by the owner of land to submit a land development application, and includes any person acting on behalf of another person;

“agricultural holding” means an agricultural holding as defined in terms of Agricultural Holdings (Transvaal) Registration Act, 1919 (Act 22 of 1919);

“appeal authority” means an appeal authority as contemplated in section 74(2) of this By-law, as established by Council resolution, in terms of section 51 of the Act and Regulation 20 of the Act and Municipal Appeals Tribunal shall have a corresponding meaning;

“applicant” means:

- (a) an owner(s); or
- (b) duly authorised person on behalf of the owner;
of property(ies) or land within the jurisdiction of the Municipality read with section 45 of the Act who submits a land development application or combination of land development applications envisaged in Chapter 7 of this By-law. It also includes the municipality and an organ of state under whose control and management the property(ies) or land falls in terms of the Local Government Ordinance, 1939 (Ord. 17 of 1939), or relevant legislation;

“application” means an application submitted to the Municipality as envisaged in Chapter 7 of this By-law and a land development application shall have a corresponding meaning;

“amendment scheme” means an approved amendment scheme for purposes of section 46(4) of this By-law and it also includes an amendment to the Municipality’s land use scheme for purposes of Chapter 4 of this By-law;

“authorised official” means an official in the employ of the Municipality as envisaged in section 35(2) of the Act and section 38 of this By-law, authorised to take decisions on certain land use and land development applications and it includes those municipal officials to which such power has been sub-delegated as envisaged in section 38(2) of this By-law;

“building” means a building as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1997);

“bulk service” means the municipal capital infrastructure associated with that portion of an external engineering service which is intended to ensure the provision of municipal infrastructure services for the benefit of multiple users or the community as a whole;

“conditions of approval” means an approval of a land development application in terms of this By-law, granted by the Municipal Planning Tribunal, Authorised Official or Municipal Appeals Tribunal, in which conditions are imposed that, in the opinion of the Municipality, have to be complied with prior to the land use rights coming into operation in terms of this By-law, or registerability of any property(ies) as a result of the land development application approval, read with sections 43 and 53 of the Act;

“consolidation” means the joining of two or more adjacent erven into a single entity that is capable of being registered in the deeds registry as one property, in terms of a consolidation application, as contemplated in this By-law, provided that it shall:

- (a) exclude the consolidation of farm portions for purposes of this By-law as contemplated in the Land Survey Act, 1997 (Act 8 of 1997);
- (b) not mean or result in an amendment of the existing land use rights attached to one or both of the component erven so consolidated; and
- (c) not mean that the existing land use rights or such component erven shall be added together or spread, so as to apply generically to the consolidated erf area, except in the event that the component erven have uniform land use rights in which case the land use rights may not be so concentrated or located on the consolidated erf that it shall bring about a result which, in the opinion of the Municipality, shall require a change in land use rights through a land development application;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), as may be amended from time to time;

“Contact details” means sufficient details including but not limited to a name, surname, telephone number (business or private), e-mail address, postal and residential addresses that will enable a Municipality or organ of state to contact a person for purposes of executing their functions in terms of the Act or this By-law and insofar as it relates to an organ of state, the details of a contact person within the employ of the organ of state;

“Council” means the Council of the Municipality as contemplated in section 157 of the Constitution;

“Conveyancer” means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

“day” means a calendar day, and when any number of days is prescribed in terms of this By-law for the doing of any act, it must be calculated by excluding the first day and including the last day, provided that, if the last day falls on a Sunday, Saturday or public holiday, the number of days must be calculated by excluding the first day and also the Sunday, Saturday or public holiday and if the date on which any notice must appear in any media or Provincial Gazette, such notice may not appear on a Sunday, Saturday or public holiday and shall for purposes of calculation be excluded.

“date of notice or date of notification” means the date on which a notice is served or delivered on a person or body as contemplated in the provisions of this By-law or published in the media or *Provincial Gazette*, as the case may be, and which date of notice and appearance shall not be between 15 December to 15 January of any year or as may be determined by the Municipality;

“Deeds Registry” means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

“Deeds Registries Act” means the Deeds Registries Act, 1937 (Act 47 of 1937);

“development principles” means the principles as set out in Chapter 2 and more specifically section 7 of the Act;

“development contribution” means a financial charge or contribution that is levied by the Municipality, as contemplated in this By-law, for the provision, installation, upgrading of engineering services, including payment of which will contribute towards the Municipality’s expenditure on capital investment in municipal infrastructure services and provision of public transport read with sections 40(7)(b) and 49 of the Act;

“diagram” means a diagram as defined in the Land Survey Act, 1997 (Act 8 of 1997);

“engineering service or services” means a system for the provision of water, electricity, renewable energy equipment, gas, roads, storm water drainage and collection and removal of solid waste or sewerage, solid waste sites required for the purpose of land development;

“engineering services agreement” means a written agreement envisaged in section 71(2) of this By-law;

“erf” means land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township;

“executive authority” in relation to the Municipality, means the executive committee or executive mayor of the City or, if the City does not have an executive committee or an executive mayor, a committee of councillors appointed by the Council;

“external engineering service” means an engineering service situated outside the boundaries of a land development area required to serve the use and development of the land area and is either a link engineering service or a bulk engineering service or an engineering service which has been classified by agreement as such in terms of section 72 of this By-law;

“Housing Development Schemes for Retired Persons Act” means the Housing Development Schemes for Retired Persons Act, 1988 (Act 65 of 1988);

“general plan” means a general plan approved by the Surveyor-General in terms of the Land Survey Act, 1997 (Act 8 of 1997);

“illegal township” means land held under farm title or as an agricultural holding in terms of the Agricultural Holdings (Transvaal Registration) Act, 1919 (Act 22 of 1919), or other forms of ownership, used for purposes contemplated in the definition of a “township” where such use is not being exercised as a result of the establishment of a township contemplated in section 51(1)

of this By-law or a township established in terms of any other law, but excludes informal areas as may be determined by the Municipality;

“informal settlement” means the informal occupation of land by persons none of whom are the registered owner of such land, which persons are using the land for primarily residential purposes, with or without the consent of the registered owner, and established outside of the provisions of this By-law or any other applicable planning legislation;

“incomplete land development application” means a land development application submitted without the prescribed accompanying documents as may be required by the Municipality or required in terms of the provisions of this By-law read with Regulation 16(3) to the Act;

“inspector and development compliance officer” have a corresponding meaning and means a person designated or appointed as an inspector in terms of section 32 of the Act and/or a development compliance officer appointed in terms of this By-law or any other relevant law pertaining to the inspection of land and/or buildings in order to enforce compliance with this By-law, land use conditions or land use schemes or any other law under the jurisdiction of the Municipality;

“interested person” means any person or group of persons, legal entity or body that can demonstrate their interest in a land development application in terms of section 45(3) of the Act;

“internal engineering service” means an engineering service situated within the boundaries of a land development area required for the use and development of the land area and which is to be owned and operated by the Municipality or a service provider;

“land” means any erf, agricultural holding, sectional title scheme – land or farm portion and includes any improvement or building on land and any real right in land;

“land development application” means an application or a combination of applications envisaged in Chapter 7 of this By-law;

“land development area” means land consisting of a property(ies) which land forms the subject of a land development application in terms of this By-law or any other law governing the change in land use;

“land use” means the purpose for which land and/or buildings are/or may be used lawfully in terms of a land use scheme, existing scheme, amendment scheme or in terms of any other authorisation, permit or consent issued by an erstwhile authority or the Municipality as its successor in title and includes any conditions related to such land use purposes;

“layout plan” means a plan indicating information relevant to a land development application and the land intended for development and includes the relative locations of erven, public places, roads, subdivision or consolidation, and the purposes for which the erven are intended to be used read with any notation or conditions contained thereon

“Land Survey Act” means the Land Survey Act, 1997 (Act 8 of 1997);

“land use scheme” means the Municipality’s land use scheme approved and adopted in terms of section 24(1) of the Act and section 16 of this By-law and it includes any other town planning scheme that might still be in operation within the Municipality’s jurisdiction until replaced by a single land use scheme.

“link engineering service” means an external engineering service required to connect an internal engineering service to a bulk engineering service and includes the land required for the link engineering service;

“Member of the Executive Council” means the member of the Executive Council responsible for local government in the province established in terms of section 132 of the Constitution;

“Municipal Appeals Tribunal” means the Executive Authority, a committee established in terms of provincial legislation, or a body or institution of the Municipality authorised in the case of a committee, body or institution, to deal with appeals in terms of section 51(6) of the Act;

“Municipal Finance Management Act” means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“Municipal Manager” means the person appointed as the Municipal Manager for Mogale City Local Municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person acting in that position or to whom authority has been delegated;

“Municipal Planning Tribunal” means a Municipal Planning Tribunal established in terms of section 35 of the Act and, unless the context otherwise provide, includes the authorised official as contemplated in section 35(4) of the Act;

“Municipal Spatial Development Framework” means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act, 2000 (Act 32 of 2000), sections 20 and 21 of the Act, read with Chapter 3 of this By-law, and includes any component thereof forming part of the municipal spatial development framework;

“Municipality” means Mogale City Local Municipality or its successor in title as envisaged in section 155(1) of the Constitution established by Notice under section 11 and 12 in 2000 and amended by Notice no 1866 of 2010 in terms of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and for the purposes of this By-law shall include a committee or official or group of officials duly delegated in terms of section 59 of the Municipal Systems Act, 2000 (Act 32 of 2000), to perform any duties assigned to them in terms of this By-law, the Municipal Planning Tribunal or the authorised official, where the context so requires;

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“National Building Regulations and Building Standards Act” means the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

“notice” means a written notice and **“notify”** means to give notice in writing which notice may include it being sent by electronic means or where the context requires, a notice served or published in terms of this By-law in the Provincial Gazette or other media;

“objector” means a body or person who has lodged an objection, with the Municipality, during any period allowed or specified in a notice in the media or *Provincial Gazette*, placed for purposes of public participation in terms of this By-law, land use scheme or any other planning and development legislation; and includes:

- (a) interested and affected persons who negatively commented on a land development application as contemplated in section 45(3) of the Act; or
- (b) interested and affected persons who conditionally supported a land development application; or
- (c) persons who the Municipal Planning Tribunal or Appeal Authority has determined as qualifying as an interested person in terms of section 45(4) of the Act; or
- (d) a person who successfully petitioned the Municipal Planning Tribunal or Appeal Authority to obtain intervener status in terms of section 45(2) of the Act;

but excludes:

- (a) Ward Councillors who negatively commented on a land development application; provided he/she shall be invited to a hearing, without objector status;
- (b) interested and affected persons who submitted negative comments on the land development application after the closing date of the period allowed;

- (c) interested and affected persons who submitted comments on the land development application indicating conditional support of the land development application after the closing date of the period allowed as indicated above;

“organ of state” means an organ of state as defined in section 239 of the Constitution;

“open(s)” in relation to a land area, means land set aside or to be set aside for the use by a community as a recreation area, irrespective of the ownership of such land and it includes private and public open space;

“owner” means anybody or person registered in a deeds registry as contemplated in sections 1, 2 and 102 of the Deeds Registries Act, 1937 (Act 47 of 1937), as the owner of land or beneficial owner in law and includes a Municipality or any other organ of state as an owner or where properties have been vested and is under the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

“panhandle” for purposes of section 59(4) of this By-law shall mean a portion of land which is either part of the subdivided portion or is notarially tied thereto, is at least 4 metres and at most 8 metres wide and is used as access to a public street;

“person” means any natural or juristic person, including an organ of state;

“prescribe” means requirements or provisions in terms of this By-law, and/or requirements in terms of any of the schedules to this By-law or other relevant legislation;

“property(ies)” means any erf, erven, lot(s), plot(s) or stand(s), portion(s) or part(s) of farm portions or agricultural holdings, registered in the deeds registry as such;

“public place” means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use and benefit of the general public and is owned by or vests with the Municipality, and includes a public open space

and a servitude for any similar purposes in favour of the general public, as contemplated in the Act and section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

“Registrar of Deeds” means the Registrar as defined in the Deeds Registries Act, 1937 (Act 47 of 1937);

“Regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015;

“this By-law” means any section, schedule and/or form to this By-law;

“township” means an area of land divided into erven which may be combined with public places and roads as indicated on a general plan, which is used and developed mainly for residential, business, commercial, industrial, institutional, educational or other similar purposes as contained in a land use scheme or is intended to be so used and developed;

CHAPTER 2

APPLICATION OF BY-LAW, ALIGNMENT OF AUTHORISATIONS AND GENERAL PROVISIONS APPLICABLE TO APPLICATIONS

2. Application of By-Law

- (1) Subject to subsection (5) below, the provisions of this By-law are consistent with the provisions of the Act.
- (2) This By-law applies to all land and land development applications within the jurisdiction of Mogale City Local Municipality and all such applications shall be submitted under the provisions of this By-law.
- (3) No person may use or develop land unless the use or land development is permitted in terms of the Municipality’s land use scheme or an approval in terms of this By-law.

- (4) This By-law binds every owner of land and any successor-in-title of such land and every user of land, including the state and any organ of state.
- (5) In the event of a conflict between the Act and its Regulations, any Provincial Act dealing with spatial planning and land use management and any Regulations issued in terms thereof and the provisions of this By-law, the provisions of this By-law shall prevail to the extent that the provisions of this By-law give effect to “municipal planning” as a Local Government matter as per Part B of Schedule 4 of the Constitution.

3. Alignment of authorisations

- (1) Where a land development application requiring authorisation in terms of this By-Law is also regulated in terms of another law, whether National or Provincial in terms of its functional area as per the Constitution, the Municipality may exercise its powers under this By-law jointly with such other organ of state by issuing-
 - (a) separate authorisations; or
 - (b) an integrated authorisation.
- (2) An integrated authorisation envisaged in subsection (1) above may only be issued if-
 - (a) the relevant provisions of all applicable legislation have been complied with; and
 - (b) the integrated authorisation specifies the –
 - (i) provisions in terms of which it has been issued; and
 - (ii) relevant authorities that have issued it.

4. Types of applications

- (1) Land development applications that may be submitted in terms of this By-law include the following:-

- (a) consent-use, inclusive of temporary consent, as provided for in the Municipality's land use scheme or town planning scheme, as the case may be, in operation;
- (b) building line relaxation, height or coverage as provided for the in the Municipality's land use scheme or town planning scheme, as the case may be, in operation;
- (c) rezoning or amendment of the Municipality's land use scheme or town planning scheme, as the case may be, in operation;
- (d) township establishment;
- (e) subdivision and/or consolidation of an erf/erven in an approved township or the subdivision of any other land;
- (f) division/phasing of an approved township;
- (g) extension of boundaries of an approved township;
- (h) amendment or cancellation either wholly or in part of a general plan of an approved township;
- (i) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of land, including a consent application if required by a condition of title registered against the title deed of land;
- (j) excision of agricultural land as defined in terms of the Agricultural Holdings (Transvaal) Registration Act, 1919 (Act 22 of 1919);
- (k) permanent closure of a public place or diversion of a public place or diversion of a street; and
- (l) any other application as provided for in this By-law.

5. Provisions and principles which shall guide and inform all land development applications

- (1) Any land development application in terms of this By-law must give effect to the development principles as set out in section 7 of Chapter 2 of the Act.

- (2) Any land development application in terms of this By-law shall be guided and informed by the municipal integrated development plan and municipal spatial development framework as adopted and approved in terms of section 20 of the Act.
- (3) Any land development application in terms of this By-law must address need, reasonableness, desirability and public interest.
- (4) Any land development application in terms of this By-law shall have as its main purpose the co-ordinated and harmonious development of the area to which the application relates in such a way as will most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of such specific area as well as efficiency and economy in the process of such development.

CHAPTER 3

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

6. Municipal spatial development framework

- (1) The Municipality must prepare a municipal spatial development framework and amend and review it in accordance with the provisions of section 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems.
- (2) The 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.

7. Content of municipal spatial development framework

(1) The Municipality's spatial development framework must-

- (a) give effect to the development principles and applicable norms and standards as set out in Chapter 2 of the Act;
- (b) include a written and spatial representation of a five year spatial development plan for the spatial form of the Municipality;
- (c) include a longer term spatial development vision statement aligned to the Regional Spatial vision for the Municipality's area of jurisdiction which indicates a desired spatial growth and development pattern for the next 10 to 20 years;
- (d) identify current and future significant structuring and restructuring elements of the spatial form of the Municipality, including urbanisation boundary, development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated;
- (e) include population growth estimates for the next 5 years;
- (f) include estimates of the demand for housing units across different socio-economic categories and the planned location and density of future housing developments;
- (g) include estimates of economic activity and employment trends and locations in the Municipality's area of jurisdiction for the next 5 years;
- (h) identify, quantify and provide location requirements of engineering infrastructure and services provision for existing and future development needs for the next 5 years;
- (i) identify the designated areas where a national, provincial or local inclusionary housing policy may be applicable;
- (j) include a strategic assessment of the environmental pressures and opportunities within the Municipality's area of jurisdiction, including the spatial location of environmental sensitivities and high potential agricultural land;

- (k) identify the designation of areas in the Municipality where incremental upgrading approaches to development and regulation will be applicable;
- (l) identify the designation of areas in which –
 - (i) more detailed local plans must be developed; and
 - (ii) shortened land use development procedures may be applicable and land use schemes may be so amended;
- (m) provide the spatial expression of the coordinated alignment and integration of sectoral policies of all Municipality's Departments;
- (n) determine a capital expenditure framework for the municipality's development programmes, depicted spatially;
- (o) determine the purpose, desired impact and structure of the land use management scheme to apply in that Municipality area; and
- (p) include an implementation plan comprising of-
 - (i) sectoral requirements, including budgets and resources for implementation;
 - (ii) necessary amendments to a land use scheme;
 - (iii) specification of institutional arrangements necessary for implementation;
 - (iv) specification of implementation targets, including dates and monitoring indicators; and
 - (v) specification, where necessary, of any arrangements for partnerships in the implementation process.

8. Intention to prepare, amend or review municipal spatial development framework

- (1) The Municipality which intends to prepare, amend or review its municipal spatial development framework –
 - (a) may convene an intergovernmental steering committee and must convene a project committee in accordance with section 9 of this By-law;

- (b) must publish a notice in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act, 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 newspaper(s) that is circulated in the municipal area;
- (c) must inform the Member of the Executive Council in writing of its intention to prepare, amend or review the municipal spatial development framework;
- (d) must register interested and affected persons 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.

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

- (1) The purpose of the intergovernmental steering committee contemplated in section 8(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 which have an impact in 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.

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- (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; 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 8(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 of the 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.
- (4) The project committee must consist of –
- (a) the Municipal Manager; and

- (b) employees in the full-time service of the Municipality designated by Mogale City Local Municipality.

10. 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 report 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 submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments and inputs 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) below, to approve the publication of a notice referred to in section 11(4) of this By-law that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.
- (5) The project committee must submit a written report as contemplated in subsection (4) which must at the 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 11 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 representation, as a result of the publication contemplated in subsection (4) above, 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) above, is materially different to what was published in terms of subsection (4) above, 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* in the manner as contemplated in section 8 of this By-law and that section applies with the necessary changes; and
 - (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.
- (10) The municipal development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subsection 9 above.
- (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.

11. 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 newspaper(s) that is circulated in the municipal area, the Municipality may, subject to section 21A of the Municipal Systems Act, use any other method of communication it may deem appropriate.
3. The Municipality, may for purposes of public engagement of the content of the draft municipal spatial development framework, arrange -

- (a) a consultative session with professional bodies, ward committees or other groups; and
 - (b) a public meeting with ordinary members of the public.
4. The notice contemplated in section 10(4) above must specifically state that any person or body wishing to provide comments must –
- (a) do so within a period of 60 days from the first day of publication of the notice;
 - (b) provide written comments; and
 - (c) provide their contact details as specified in the definition of contact details.

12. Local framework plan

- (1) The Municipality may adopt a local spatial/framework plan for a specific geographic area of a portion of the municipal area.
- (2) The purpose of a local spatial/framework plan is to:
 - (a) provide detailed spatial planning guidelines or further plans for a specific geographic area or part 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, insofar as they are linked to land use planning, biodiversity and environmental issues;
 - (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.

13. Preparation, amendment or review of local spatial/framework plan

- (1) If the Municipality prepares, amends or reviews a local spatial/framework plan, it must comply with the requirements and procedures for the preparation, amendment or review of the municipal spatial development framework, including notification and public participation, prescribed in terms of this Chapter and sections 7 to 11 apply with the necessary changes as the context may require.
- (2) The Municipality must, within 21 days of adopting a local spatial/framework plan or an amendment of local spatial/framework plan –
 - (a) publish a notice of the decision in the media and the *Provincial Gazette* in the manner as contemplated in section 8 of this By-law and that section applies with the necessary changes to the publication of the decision; and
 - (b) submit a copy of the local spatial/framework plan to the Member of the Executive Council.

14. Legal effect of municipal spatial development framework and local spatial/framework plan

- (1) Subject to subsection (2) below, the Municipality or any other authority required or mandated to make a land development decision in terms of this By-law or any other applicable legislation relating to land development, may not make a decision which is inconsistent with its municipal spatial development framework or local spatial/framework plan.
- (2) The Municipality or any other authority required or mandated to make a land development decision in terms of this By-law or any other applicable legislation relating to land development, may only depart from the provisions of its municipal spatial development

framework or local spatial/framework plan where merit and site specific circumstances warrant or justify such departure.

- (3) Where a conflict exists between the municipality's spatial development framework and the national spatial development framework and/or a regional spatial development framework and/or a provincial spatial development framework, the provisions of the Municipality's spatial development framework or local spatial/framework plan shall prevail as a result of its executive authority to do "municipal planning" in terms of section 156 read with Schedule 4 of Part B of the Constitution.

15. Record of and access to Municipal Spatial Development Framework and local spatial/framework plan

- (1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved municipal spatial development framework or local spatial/framework plan and/or any component thereof applicable within the area of the Municipality.
- (2) Should anybody or person request a copy of the municipal spatial development framework or local spatial/framework plan the Municipality must provide, on payment by such body or person of the fees prescribed by the Municipality, a copy to them of the approved municipal spatial development framework or local spatial/framework plan or any component thereof in accordance with the provisions of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

CHAPTER 4

LAND USE SCHEME

16. Land use scheme

- (1) The Municipality shall adopt and approve, after public consultation, a single land use scheme for its entire area of jurisdiction.

- (2) A land use scheme adopted in terms of subsection (1) above must-
- (a) include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme;
 - (b) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;
 - (c) include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme;
 - (d) include provisions to promote the inclusion of affordable housing in residential land development;
 - (e) include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies;
 - (f) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
 - (g) give effect to municipal spatial development frameworks and integrated development plans;
 - (h) take cognisance of any culturally or historically significant land uses and comply with any heritage resources legislation.
- (3) The land use scheme may include provisions relating to-
- (a) the use and development of land only with the written consent of the Municipality;
 - (b) specific requirements regarding any special zones identified to address the development priorities of the Municipality; and

- (c) the variation of conditions of a land use scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

17. Purpose of land use scheme

- (1) The land use scheme adopted and approved in terms of section 16 above must give effect to and be consistent with the Municipality's spatial development framework and determine the use and development of land within the Municipality's area of jurisdiction in order to promote –
 - (a) economic growth;
 - (b) social inclusion;
 - (c) efficient land development; and
 - (d) minimal impact on public health, the environment and natural resources.
- (2) The land use scheme must include-
 - (a) scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;
 - (b) a map indicating the zoning of the municipal area into land use zones; and
 - (c) a register of all amendments to such land use scheme.

18. General matters pertaining to land use scheme

- (1) In order to comply with section 24(1) of the Act, the Municipality must comply with sections 19 to 27 of this By-law.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land situated within the municipal area.

- (3) Zoning may be made applicable to a land or part thereof and must follow cadastral boundaries except for a land or part thereof which has not been surveyed in which case a reference or description as generally approved by Council may be used.
- (4) The land use scheme of the Municipality must take into consideration:
 - (a) the integrated development plan in terms of the Municipal Systems Act;
 - (b) the spatial development framework as contemplated in Chapter 4 of the Act and Chapter 3 of this By-law;
 - (c) provincial legislation; and
 - (d) an existing town planning scheme.

19. Preparation of draft land use scheme

- (1) The Municipality which intends to prepare, review or amend its land use scheme –
 - (a) may convene an intergovernmental steering committee and must convene a project committee in accordance with section 20 below;
 - (b) must publish a notice in a newspaper(s) that is circulated in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21 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 interested and affected persons who must be invited to comment on the draft land use scheme or draft review or amendment of the land use scheme as part of the process to be followed;
 - (e) must determine the format 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 must *inter alia* set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and/or any other provision that may be relevant to the management of land use, which may or must not require a consent or permission from the Municipality, for purposes of the use of land.

20. Institutional framework for preparation, review and amendment of land use scheme

- (1) The purpose of the intergovernmental steering committee contemplated in section 19(a) is to co-ordinate the applicable contributions read together with section 9(1)(a) to (e).
- (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 service providers; 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 19(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;
 - (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.
- (4) The project committee must consist of –
- (a) the Municipal Manager; and
 - (b) employees in the full-time service of the Municipality and designated by the Municipality.

21. Council approval for publication of draft land use scheme

- (1) Upon completion of the draft land use scheme, the project committee must submit 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 22 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 the Council of the draft land use scheme and the 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.

22. 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, with 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*;
 - (b) publish a notice in a newspaper(s) that circulate(s) in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21(A) of the Municipal Systems Act, once a week for two consecutive weeks; and
 - (c) enable communities to participate through the appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Municipal Systems Act;
 - (d) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) above must specifically state that any person or body wishing to provide comments or objections must:

- (i) do so within a period of 60 days from the first day of publication of the notice;
 - (ii) provide written comments in the form approved by the Council; and
 - (iii) provide their contact details as specified in the notice
- (3) The Municipality may for purposes of public engagement arrange –
 - (a) a specific consultation session with professional bodies, ward committees or other group; and
 - (b) public meeting with ordinary members of the public.

23. Incorporation of relevant comments

- (1) Within 60 days after completion of the public participation process outlined in section 22 above, the project committee must –
 - (a) review and consider all submissions made in writing or during any engagement; 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 submissions 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 no 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 of 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) above.

24. 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 22(2) above, the Municipality must follow a further consultation and public participation process in terms of section 22(2) of this By-law, before the land use scheme is adopted by the Council.

25. Submission of land use scheme to council for adoption

- (1) The project committee must –
- (a) within 60 days from the closing date for objections contemplated in section 22(2)(d)(i); or
 - (b) if a further consultation and public participation process is followed as contemplated in section 23 above, within 60 days from the closing date of such further objections permitted in terms of section 24 read with section 22(2)(d)(i) above;
 - (c) 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.

26. Publication of notice of adoption of land use scheme

- (1) The Council must, within 60 days of its adoption of the land use scheme referred to in section 25(2) above, publish a notice of the adoption of a land use scheme in the media and the *Provincial Gazette*.

- (2) The date of publication of the notice referred to in subsection (1) above, 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.

27. Submission of land use scheme to Member of Executive Council

After the land use scheme is published in terms of section 26 of the Act, read with section 26 of this By-law, the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.

28. Legal effect of land use scheme

- (1) An adopted land use scheme –
- (a) has the force of law and all land owners and users of land, including the Municipality, a state-owned enterprise and organs of state within the Municipality's area of jurisdiction are bound by the provisions of such a land use scheme;
 - (b) replaces all existing schemes within the Municipality's area of jurisdiction to which the land use scheme applies as well as "Annexure F" to the Regulations relating to township establishment and land use made in terms of the Black Communities Development Act, 1984 (Act 4 of 1984); and
 - (c) provides for land use and development rights.
- (2) Land may be used only for the purposes permitted –
- (a) by a land use scheme; or
 - (b) by a town planning scheme or any other applicable town planning legislation, until such scheme or any other applicable town planning legislation is replaced by a land use scheme as contemplated in section 16(1) above.

- (3) The Municipality has a duty to enforce the provisions of its land use scheme and any use of land which is deemed contrary to such land use scheme shall constitute a criminal offence.

29. Records

- (1) The Municipality must, in hard copy and electronic format, keep record in the register of amendments to the land use scheme 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 as contemplated in section 31 of this By-law.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and/or any component thereof applicable within the municipal area.
- (3) Should any body 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 the prescribed fee by the Municipality, a copy to them of the approved land use scheme or any component thereof in accordance with the provisions of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) as guided by the By-law or policy, if applicable.

30. Content of land use scheme

- (1) The content of a land use scheme prepared and adopted by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation, if applicable, and must contain –
 - (a) scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;
 - (b) a map indicating the zoning of the municipal area into land use zones;
 - (c) a register of all amendments to such land use scheme; and

- (d) annexure register.
- (2) In addition to the content of a land use scheme stipulated in subsection (1) above, the following may be included –
- (a) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
 - (b) servitudes for municipal services and access arrangements for all properties;
 - (c) provisions applicable to all properties relation to stormwater;
 - (d) 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;
 - (e) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (3) The land use scheme may –
- (a) determine the components of the land use scheme for the purposes of it being applied, interpreted and implemented;
 - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a Municipality.

31. Register of amendments to land use scheme

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

- (a) date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) property description and registration division;
- (e) previous and approved zoning and existing land use;
- (f) a copy of the approved site development plan;
- (g) amendment scheme number;
- (h) annexure number;
- (i) item number;
- (j) item date;
- (k) decision (approved/on appeal/not approved);
- (l) decision date.

CHAPTER 5

MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIAL

32. Establishment of Municipal Planning Tribunal

- (1) The Municipality shall, in order to determine land development applications within its area of jurisdiction, establish a Municipal Planning Tribunal.
- (2) The Municipal Planning Tribunal shall decide applications referred to it as per the Municipal Planning Tribunal's approved terms of reference, the provisions of the Act and this By-law.

33. Composition of Municipal Planning Tribunal

- (1) A Municipal Planning Tribunal must consist of –
 - (a) officials in the full-time employment of the Municipality and;
 - (b) persons appointment by the Municipality who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law relating thereto.
- (2) Municipal Councillors shall not be members of a Municipal Planning Tribunal.
- (3) A Municipal Planning Tribunal must consist of at least 5 members or more as the Municipality deems necessary.
- (4) A Municipal Planning Tribunal may designate at least 3 members of the Tribunal which will form a quorum to hear, consider and decide a matter which comes before it.
- (5) The Municipality must designate a member of the Municipal Planning Tribunal as Chairperson(s).
- (6) The terms and conditions of service of members of the Municipal Planning Tribunal as envisaged in subsection (1)(a) and (b) above shall be as per Schedule 1 of the Regulations to the Act.
- (7) The members of the Municipal Planning Tribunal must also adhere to and shall be required to sign a code of conduct as approved by the Municipality which shall be substantially in accordance with Schedule 3 of the Regulations to the Act.
- (8) The members of the Municipal Planning Tribunal shall also be subject to disqualification from membership as set out in section 38 of the Act.
- (9) Should the Municipality, in its sole discretion, decide to appoint members to the Municipal Planning Tribunal as envisaged in subsection (1)(b) above, it shall comply with the call for nomination procedures as set out in the Regulations to the Act.

34. Meetings of Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal envisaged in Section 32(1) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—
 - (a) the convening of meetings;
 - (b) preparation and distribution of agendas
 - (c) the procedure at meetings including:-
 - (i) formal meeting procedures;
 - (ii) apologies;
 - (iii) attendance, and
 - (iv) the frequency of meetings.
- (2) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of the 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 deliberative vote as a member of the Municipal Planning Tribunal.
- (3) 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 rules of the Municipal Planning Tribunal.

35. Designation of official(s) as administrators to support the Municipal Planning Tribunal

- (1) The Municipal Manager must designate officials in the full-time employment of the Municipality as the administrators to give support to the Municipal Planning Tribunal.
- (2) The persons 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 Municipal Planning Tribunal;
- (b) maintain a diary of hearings of the Municipal Planning Tribunal;
- (c) allocate meeting dates for 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) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;
- (g) 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;
- (h) 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;
- (i) notify parties of decisions and procedural directives given by the Municipal Planning Tribunal;
- (j) 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;
 - (iv) proceedings of the Municipal Planning Tribunal; and
 - (v) keep records by any means as the Municipal Planning Tribunal may deem expedient.

36. Powers and functions of a Municipal Planning Tribunal

- (1) A Municipal Planning Tribunal may-
 - (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
 - (b) in approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions;
 - (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law, the Act and/or any Provincial legislation;
 - (d) conduct any necessary investigation;
 - (e) give directions relevant to its functions to any person, including persons in the service of the Municipality or municipal entity; or
 - (f) decide any question concerning its own jurisdiction.
- (2) A Municipal Planning Tribunal must keep a record of all its proceedings and decisions.
- (3) A municipal Planning Tribunal must provide reasons for any of its decisions made within 30 days after the conclusion of the hearing or after the submission of the information by any persons, as directed by the Municipal Planning Tribunal and the decision and such reasons shall be provided by the Chairperson or designated Chairperson for a particular hearing of the Municipal Planning Tribunal.

37. Classification of applications to be determined by the Municipal Planning Tribunal

Subject to section 39(3) of this By-law, the Municipal Planning Tribunal shall decide any opposed land development application referred to it in terms of the provisions of this By-law, or the Municipality's land use scheme or any other applicable law relating to land development.

38. Authorised official

- (1) As envisaged in terms of section 35(2) of the Act, the Municipality may delegate the power to an official in its full-time employment, in terms of a written Council resolution, in which such person as the authorised official may decide on certain land development applications.
- (2) The authorisation in terms of subsection (1) above may include the power to sub-delegate such authorisation to any suitably qualified official(s) in the full-time employment of the Municipality and under the control of the authorised official.
- (3) The provisions of section 36 above shall apply *mutatis mutandis* to such authorised official or duly authorised sub-delegate(s).

39. Classification of applications to be decided by the authorised official

- (1) The authorised official may only decide unopposed land development applications submitted in terms of this By-law, or the Municipality's land use scheme or any other applicable law relating to land development which application complies with the provisions of section 5 above.
- (2) The authorised official may decide any unopposed application which does not comply with any one or more of the criteria as set out in section 5 of this By-law without forwarding it to the Municipal Planning Tribunal for a decision.
- (3) Notwithstanding subsection (1) and (2) above, such authorised official will have the discretion to forward any application referred to him/her to the Municipal Planning Tribunal for a decision.
- (4) Such authorised official shall also decide applications as envisaged in section 90(2) of this By-law.

CHAPTER 6

GENERAL REQUIREMENTS AND DEVELOPMENT MANAGEMENT

40. Pre-application processing consultation

- (1) The Municipality has the discretion to request any person contemplated in section 45(1) of the Act who has submitted any application for a pre-application processing consultation to discuss and clarify any issues resulting from the application.
- (2) The Municipality may develop guidelines for determining whether an application requires a pre-application processing consultation, the nature of the information that is required, the officials from the Municipality or from other organs of state who must attend the consultation and the procedure to be followed in convening and conducting such consultation.
- (3) The Municipality must keep the minutes of the pre-application processing consultation.

41. Time frames for land development applications

- (1) An application is regarded as complete only if the Municipality has received the application fee, all the information necessary for the Municipality to assess the application as envisaged in the relevant Schedules and the provisions of this By-law and the information submitted is compliant with all information specifications.
- (2) For the purposes of this section, a land development application under the provisions of this By-law shall be subject to an administrative phase, a consideration phase and a decision phase.
- (3) The administrative phase commences only after a land development application is regarded as complete as envisaged in subsection (1) above and such phase may not be longer than 12 months.

- (4) The consideration phase may not be longer than 3 months.
- (5) The decision phase shall be subject to the time frames as set out in the relevant sections of this By-law provided that any decision by the Municipal Planning Tribunal shall be made within 30 days from the date of the last meeting of the Municipal Planning Tribunal.
- (6) The administrative phase is the phase during which all public participation notices must be published and responded to, parties must be informed, public participation processes finalised, intergovernmental participation processes finalised and the application referred to the Municipal Planning Tribunal or authorised official for consideration and decision-making.
- (7) The consideration phase is the phase during which the Municipal Planning Tribunal or authorised official must consider the application, whether it be a written or oral proceeding, and undertake investigations, if required.
- (8) If there is non-compliance with the time frames as contemplated in subsections (4) and (5) above, it shall be regarded as an undue delay for purposes of this By-law and the applicant or interested person may lodge an appeal in terms of the provisions of section 74(1) of this By-law to the appeal authority for a decision.
- (9) Such non-performance may also be reported to the Municipality Manager who must, in turn, report it to the Municipality's executive authority and adequate steps shall be taken to ensure compliance with the prescribed time frames.

42. Continuation of application after change of ownership

- (1) If any land that is the subject of an application is transferred to a new owner, the new owner may continue with the application as the successor-in-title to the previous owner and the new owner is regarded as the applicant for the purposes of this By-law, provided that the following is submitted to the municipality:
 - (a) proof of change of ownership; and

- (b) an amended power of attorney and resolution, if applicable, provided that the new owner continues with the application through the appointment of an agent.
- (2) The documents referred to at subsection (1) above shall be filed with the Municipality before the issuing of a decision by the Municipal Planning Tribunal or authorised official or his/her authorised sub-delegate.

CHAPTER 7

APPLICATION PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS

Part 1

Consent use and building line relaxation

43. Consent use application

- (1) An owner of land may submit a consent use application in terms of this By-law and as provided for in the Municipality's land use scheme or existing town planning scheme, as the case may be, in operation, to use the land or any building on the land for a particular purpose.
- (2) A consent use application as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) a notice shall be in English and displayed on the land under consideration;
 - (b) such notice shall be displayed on the land within 7 days from the date of the Municipality's letter of acknowledgement of a complete application;
 - (c) such notice shall be in the format as may be determined by the municipality;
 - (d) such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;

- (e) such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of first display of such notice;
 - (f) such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf, farm portion or agricultural holding concerned and the nature and general purpose of the application;
 - (g) such notice shall reflect the date of 1st display of such notice and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
 - (h) such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (g) above, in writing, by registered post, by hand, by facsimile or by e-mail within a period of 28 days from date of first displaying the notice on the land under consideration; and
 - (i) in addition to the requirements in subsections (a) to (h) above, a letter shall also be dispatched by the applicant within 7 days of date of first display of the notice envisaged in section (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available, informing such owners/occupiers of all the detail as prescribed in subsections (f), (g) and (h) above.
- (3) Proof of compliance with subsection (2) above in the form of a written affidavit shall be submitted by the applicant to the Municipality within 14 days of expiry of the date as contemplated in subsection (2)(h) above.
- (4) Where objections, comments and/or representations have been received as a result of subsection (2) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where

after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to the provisions of section 84 of this By-law.

- (5) No decision on the application shall be taken unless due regard has been given to each objection, comment and representation lodged timeously.
- (6) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase as contemplated in section 41(3) of this By-law.
- (7) Such consent use application may be refused or it may be approved subject to any condition the Municipality may deem fit and it may include a condition that-
 - (a) the consent shall lapse if the use of the land or building concerned is not commenced with within the period stated in the condition;
 - (b) the consent shall lapse if it is discontinued for a period stated in the condition;
 - (c) the consent shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;
 - (d) the consent may be withdrawn if there has been non-compliance with any of the conditions of approval or as a result of change in circumstances;
 - (e) a contribution be paid to the Municipality in respect of engineering services where it will be necessary to enhance or improve such services as a result of the consent granted; and
 - (f) an amount of money be paid to the Municipality in respect of open spaces or parks where the granting of the consent will bring about a higher residential density.
- (8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

- (9) The Municipality shall keep a proper record of approval granted in terms of subsection (7) of this By-law.
- (10) The contribution and amount of money envisaged in subsection (7)(e) and (7)(f) above shall become due and payable on a date to be determined by the Municipality after the date of the expiry of the time period referred to in section 74(1) of this By-law or any other date as the Municipality may allow, and failure to comply within the date specified by the Municipality, the consent will automatically lapse.

44. Building line relaxation application

- (1) Any building line restriction imposed on land in terms of the Municipality's land use scheme or any other scheme that may still be applicable to the land under consideration, may be relaxed in terms of an application submitted by an owner of land in terms of this By-law.
- (2) A building line relaxation application as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) a written motivation, accompanied by a proposed building/site plan, shall be dispatched in writing and by registered post, by hand or by any other means available to any adjoining owners whom, at the discretion of the Municipality, may possibly be adversely affected by the relaxation of the applicable building line restriction setting out the following:
 - (aa) full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application with specific emphasis on which building lines (side/rear or street) are being applied for;
 - (bb) the date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, facsimile and e-mail address of the person submitting the application; and

- (cc) that any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (bb) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 14 days from date of receipt of a written motivation.
- (b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the Municipality prior to consideration of the complete application within 14 days of expiry of the time period in subsection (2)(a)(cc) above.
- (3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(cc) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to the provisions of section 84 of this By-law.
- (4) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.
- (5) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days after the date of expiry of the administrative as contemplated in section 41(3) above.
- (6) Such building line relaxation may be refused or approved subject to any condition the Municipality may deem fit.
- (7) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

- (8) The Municipality shall keep a proper record of each building line relaxation approval granted.
- (9) No site development plans and building plans may be approved in terms of the National Building Regulations and Building Standards Act showing the proposed building within a building line restriction area without the approval of such building line relaxation application as envisaged in subsection (1) above.

Part 2

Amendment of Land Use Scheme (Rezoning) and matters related thereto

45. Amendment of land use scheme applications

- (1) An applicant who wishes to have a provision of the Municipality's land use scheme or any provision of any other scheme, which may still be applicable to the land under consideration amended, may submit an application in terms of this By-law to the Municipality for consideration.
- (2) An application for the amendment of a provision of the Municipality's land use scheme or any other scheme that may still be applicable to the land under consideration, as envisaged in subsection (1) above, shall comply with the following procedures:
 - (a) notice of the application shall be given by the applicant, at his/her own cost, once a week for 2 consecutive weeks by publishing a notice in English in the *Provincial Gazette* and a newspaper that circulates within the area of the application site;
 - (b) such notice shall clearly reflect in terms of which section of this by-law the application is made and which land use scheme or any other scheme is applicable;
 - (c) such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, agricultural holding, farm, a clear erf description of the erf concerned and the nature and general purpose of the application;

- (d) such notice shall further reflect the date on which such application was submitted to the Municipality, the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
- (e) such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (2)(a) above.
- (f) a site notice that contains the same detail as envisaged in subsections (2)(b) to (2)(e) above shall be in English and displayed on the land under consideration;
- (g) such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (2)(a) above;
- (h) such notice shall be in the format as determined by the Municipality;
- (i) such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street, right of way servitude or other adjacent public place; and
- (j) such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of publication of the notice mentioned in subsection (2)(a) above; and
- (k) in addition to the requirements in subsection (2)(a) and (f) above, a letter shall also be dispatched by the applicant within 7 days of date of the publication of the notice envisaged in subsection 2(a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available, informing such owners/occupiers of all the detail as prescribed in subsection (2)(b) to (e) above.

- (3) Proof of compliance with subsection (2) above must be submitted to the Municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection 2(e) above.
- (4) On receipt of an application in terms of subsection (1) above, the Municipality shall, within a reasonable period, advise the applicant to make a copy of the application to, but not limited to, the following parties and to submit proof to the Municipality in respect thereof:
 - (a) any roads authority whether local (as a municipal owned entity), provincial or national which may have an interest in the application;
 - (b) any neighbouring municipality who may have an interest in the application; and
 - (c) any other stakeholder, municipal department, provincial department, national department, municipal entity or any other interested party who may, in the discretion of the Municipality, have an interest in the application.
- (5) The interested parties mentioned in subsection (4)(a) to (c) above to which a copy of the application has been forwarded shall submit the objection, comment and/or representation to the Municipality in writing within 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.
- (6) The Municipality shall forward a copy of each objection, comment and representation received in terms of the notices envisaged in subsection (2)(a) above and from the interested parties in terms of subsection (4) above in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to the provisions of section 84 of this By-law.
- (7) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

- (8) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase contemplated in section 41(3) above.
- (9) An applicant may at any stage prior to a decision been taken on the application, amend or withdraw his application provided that with an amendment, the amendment is not regarded in the opinion of the Municipality as being material which would warrant re-compliance with subsections (2) and (4) above.

46. Decision and post-decision procedures

- (1) An application as envisaged in section 45(1) above may be approved subject to any conditions the Municipality deems fit or it may be refused.
- (2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (3) The Municipality shall keep a proper record of each decision in terms of subsection (1) above.
- (4) Only where the Municipality has approved an application in terms of subsection (1) above and after the expiry of the time period envisaged in section 74(1) of this By-law, the Municipality shall inform the applicant to, at his/her own costs and after the Municipality has approved the notice, forthwith give notice thereof in the *Provincial Gazette* and state in the notice that a copy of the application as approved will lie open for inspection and at all reasonable times at Municipality's office and thereupon the application shall be an approved scheme which is an amendment scheme.
- (5) Prior to the notice being published as envisaged in subsection (4) above, the owner of land may abandon the approval by giving written notice to the Municipality.

- (6) The Municipality shall cause a copy of every approved scheme as envisaged in subsection (4) above to lie for inspection at all reasonable times at its office.
- (7) An approved scheme as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.
- (8) The Municipality shall observe and enforce the provisions of the scheme from the date of it coming into operation and any person who contravenes a provision of an approved scheme shall be guilty of an offence.
- (9) No provisional authorisation as contemplated in section 7(6) of the National Building Regulation and Building Standards Act shall be issued unless an approval has been granted in terms of subsection (1) above.

47. Correction of errors or omissions

Where the Municipality is of the opinion that any error or omission in an approved scheme relating to land situated within its area of jurisdiction may be corrected without the necessity of following the provisions of sections 45 and 46 above, it may correct such error or omission by publishing a notice in the *Provincial Gazette*.

48. Prohibition of a further application in certain circumstances

- (1) Where the Municipality has approved an application envisaged in section 45(1) above, no person shall in respect of the land to which the amendment scheme relates apply for a further amendment in terms of section 45(1) within a period of 24 months from the date of coming into operation of the scheme.
- (2) Notwithstanding subsection (1) above, the Municipality may, upon written application, grant consent that, due to an acceptable change of circumstances, a further amendment application as envisaged in section 45(1) above may be submitted.

- (3) Within a period of 30 days from date of receipt of the change of circumstances application envisaged in subsection (2) above, the Municipality shall consider the application and notify the applicant of its decision.
- (4) The provisions of subsection (1) above shall not apply to what is deemed by the authorised official to be minor amendments to the approved amendment scheme.

49. Contributions to be paid in respect of external engineering services and open spaces or parks

- (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 46(7) above, the Municipality may by registered letter, by hand or by any other means available direct the applicant to which the scheme relates to pay a contribution to it in respect of the provision of:
 - (a) the engineering services envisaged in section 71(1) of this By-law where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme;
 - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.
- (2) The letter envisaged in subsection (1) above shall state the:
 - (a) the amount of the contribution payable;
 - (b) particulars of the manner in which the amount of the contribution was determined; and
 - (c) the purpose for which the contribution is required.
- (3) The applicant who:
 - (a) wishes to avoid the payment of a contribution envisaged in subsection (1) above may request the Municipality to repeal the amendment scheme concerned within a period of 90 days from the date of the letter envisaged in subsection (1) above; or

- (b) wishes to reduce the amount of a contribution envisaged in subsection (1) above, may in terms of section 45(1) above apply for the further amendment of the land use scheme concerned, within a period of 60 days, from the date of the letter envisaged in subsection (1) above; or
 - (c) wishes to dispute the contributions as determined by the Municipality in terms of the letter envisaged in subsection (1) above shall, within a period of 14 days upon receipt of such letter, advise the Municipality in writing of his/her intention to dispute such contributions and to state the grounds of objection and the motivation in support of such grounds whereafter the Municipality shall, within 21 days of receipt of the grounds of objection, in writing, indicate to the applicant whether it agrees or not and to provide the reasons in respect thereof.
- (4) On receipt of a request as envisaged in subsection (3)(a) above, the Municipality shall grant the request and direct the applicant to, at his/her own costs and in the matter as prescribed by the Municipality, give notice thereof in the *Provincial Gazette* and file with the Municipality a copy of such notice.
- (5) Where a notice of such repeal has been given in terms of subsection (4) above, the obligation to pay any contribution envisaged in subsection (1) above shall lapse from the date of the notice envisaged in subsection (4) above and any contribution already paid shall be refunded to the applicant and subject to the availability of funds as provided for in the approved budget by the Municipality.
- (6) Where an agreement cannot be reached between the Municipality and the owner in respect of the dispute envisaged in subsection (3)(c) above, the Municipality shall, within 14 days after its response to the owner's grounds of objection, refer the matter to the Municipal Planning Tribunal for a decision, which decision shall be final and any party aggrieved by the decision of the Municipal Planning Tribunal may invoke the provisions of section 74(1) of this By-law.
- (7) The contribution levied under subsection (1) above shall become due and payable on a date to be specified by the Municipality after a decision has been taken by the Municipal

Planning Tribunal or the Municipal Appeals Tribunal, as the case may be, regarding the dispute mentioned in subsection (3)(c).

- (8) No site development plans and building plans in respect of the approved scheme shall be approved in terms of the National Building Regulations and Building Standards Act unless the contribution levied under subsection (1) above has been settled in full.
- (9) The Municipality may consider a request, on good cause shown, that:
 - (a) the contribution levied under subsection (1) above be paid over a specific period of time not exceeding 3 years in instalments;
 - (b) that a prospective new purchaser be liable for the contribution in terms of an agreement/undertaking after transfer; or
 - (c) that payment of the contribution be postponed for a period not exceeding 3 years where security or a guarantee for the contribution has been provided to the satisfaction of the Municipality.
- (10) In exercising any of the powers under subsections (9)(a) to (c) above, the Municipality may impose any condition it may deem fit including a condition regarding interest.

50. Lapsing of rezoning and extension of validity periods

- (1) Subject to section 50(2) below, a rezoning approval envisaged in section 46(7) above, lapses after a period of 3 years, from the date that the approval comes into operation if, within that 3 years period, the rights approved are not as yet been exercised on the land to which the approval relates.
- (2) The applicant may apply to the Municipality, on good cause shown, for the extension of the 3 year period referred to in subsection (1) above, prior to its expiry and the Municipality may grant an additional period not exceeding 2 years.

Part 3

Township establishment, division/phasing of an approved township, extension of boundaries of an approved township and matters related thereto

51. Township establishment application

- (1) An owner of land or any of his/her authorised agent who wishes to establish a township on the land which falls within the jurisdiction of the Municipality may submit an application in terms of this By-law to the Municipality for consideration.
- (2) A township must be established on any farm portion or agricultural holding where the land concerned is to be used, developed or subdivided mainly for residential, business, commercial, industrial, institutional, educational or other similar purposes as defined in the applicable land use scheme, excluding agricultural, open space or nature conservation purposes.
- (3) An application for the establishment of a township as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) notice of the application shall be given by the applicant, at his own costs, once a week for 2 consecutive weeks by simultaneously publishing a notice in English in the *Provincial Gazette* and newspaper that circulates within the area of the application site;
 - (b) such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;
 - (c) such notice shall reflect full details of the application including, but not limited to, the street address, the name of the proposed township and the nature and general purpose of the application;
 - (d) such notice shall further reflect the name, postal address, telephone number, facsimile and e-mail address of the person submitting the application;

- (e) such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (3)(a) above;
 - (f) a notice that contains the same detail as envisaged in subsections (3)(b) to (e) above shall be in English and displayed on the land under consideration;
 - (g) such notice shall be displayed on the land from the same day as the date of the publication of the notice mentioned in subsection (a) above;
 - (h) such notice shall be in the format as prescribed by the Municipality;
 - (i) such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (j) such notice shall be maintained in a clearly legible condition for a period of no less than 21 days from the date of publication of the notice mentioned in subsection (3)(a) above; and
 - (k) in addition to the requirements in subsections (3)(a) and (f) above, a letter shall also be dispatched by the applicant within 7 days of date of the publication of the notice envisaged in subsection (3)(a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsection 3(b) to (e) above.
- (4) Proof of compliance with subsection (3) above must be submitted to the Municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (3)(e) above.

- (5) On receipt of an application in terms of subsection (1) above, the Municipality shall, within a reasonable period, advise the applicant to make a copy of the application to, but not limited to, the following person and to submit proof to the Municipality in respect thereof:
- (a) any roads authority whether local (as a municipal own entity), provincial or national which may have an interest in the application;
 - (b) any neighbouring Municipality who may have an interest in the application; and
 - (c) any other stakeholder, municipal department, provincial department, national department, municipal entity or any other interested party who may, in the discretion of the Municipality, have an interest in the application.
- (6) The interested parties mentioned in subsections (5)(a) to (c) above to which a copy of the application has been forwarded shall submit the objection, comment and/or representation to the Municipality in writing with 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.
- (7) The Municipality shall forward a copy of each objection, comment and representation received in terms of the notice envisaged in subsection (3) above and from the interested parties in terms of subsection (5) in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 28 days of date of receipt of such objection, comment and/or representation whereafter the Municipality shall refer the application to the Municipal Planning Tribunal for determination subject to the provisions of section 84 of this By-law.
- (8) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (9) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase as contemplated in section 41(3) above.

(10) Prior to a decision being taken on a township application submitted under this section whether by the Municipal Planning Tribunal or the authorised official, the owner of land may –

- (a) of his own accord and in consultation with the Municipality; or
- (b) at the request of the Municipality,

amend his application, provided that the amendment is not regarded in the opinion of the Municipality as being material which would warrant re-compliance with subsection (3) and (5) above.

52. Consent to certain contracts and options

- (1) After the submission of a township establishment application to the Municipality, whether complete or incomplete, or where such township establishment application was finally approved as contemplated in section 53(1) below and after complying with section 53(5) of this By-law, no owner, which includes the successors in-title, shall enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in the proposed township or to grant an option to purchase or otherwise acquire an erf in the proposed township without first obtaining the consent from the Municipality in respect thereof.
- (2) The Municipality may grant such authorisation envisaged in subsection (1) above subject to any condition it may deem expedient, which may include a condition that the applicant shall, before entering into such contract or granting such option and within 6 months of granting the consent, furnish to the Municipality a guarantee of such type and for such amount as the Municipality may determine and which is otherwise to its satisfaction that the applicant will fulfil its duties in respect of the engineering services as envisaged in section 71(1) below and if the applicant fails to do so, the consent shall lapse.

- (3) The Municipality shall notify the owner of land of its decision in writing and of any conditions imposed.
- (4) Where the Municipality has granted such consent as envisaged in subsection (1) above, the contract or option shall contain a clause stating that the township concerned has not been declared as an approved township for purposes of section 53(15) below.
- (5) Where such contract or option does not contain such clause as envisaged in subsection (4) above, the contract or option shall, at any time before the township is declared an approved township as contemplated in section 53(15) below, be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.
- (6) Any person who alienates or disposes of an erf and who enters into a contract or grants an option without complying with the provision of subsection (4) above shall be guilty of an offence.

53. Decision and post-decision procedures

- (1) After the provisions of section 51 have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.
- (2) Where the Municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.
- (3) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.
- (4) After the applicant has been notified in terms of subsection (3) above that his application has been approved, but before the township is declared an approved township as contemplated in subsection (15) below, the Municipality may, in consultation with the

applicant, amend or delete any condition imposed in terms of subsection (2) above or add any further condition.

- (5) After an applicant has been notified in terms of subsection (3) that his application has been approved, the applicant shall, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the applicant fails to do so, the approval will automatically lapse.
- (6) An application for an extension of the period envisaged in subsection (5) above shall be made prior to the expiry of the 12 months period stated in that subsection and if granted, may not exceed another 24 months and no further extension shall be granted and as a result, the approval granted will automatically lapse upon the expiry of such period.
- (7) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after consulting the applicant, that the applicant has failed to comply with any such requirement, without good cause shown, the approval will automatically lapse.
- (8) After an applicant has been notified in terms of subsection (3) above that his application has been approved but prior to the township being declared an approved township as contemplated in subsection (15) below, the Municipality may –
 - (a) where the documents envisaged in subsection (5) above have not yet been lodged with the Surveyor-General; or
 - (b) where the documents envisaged in subsection (5) above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General, submit a further application to the Municipality for the amendment of such an application unless:
 - (i) the amendment is, in the Municipality's opinion, so material as to constitute a new application in terms of section 51(1) above;

- (ii) the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in section 51(3) and/or (5) above.
- (9) The applicant shall lodge with the Municipality, within a period of 3 months from the date upon which the Surveyor-General has approved the plans, diagrams and any other documents envisaged in subsection (5) above, a certified copy or tracing of the general plan of the township and where the applicant fails to comply within the 3 months period, the Municipality may obtain a certified copy or tracing directly from the Surveyor-General at the applicant's costs.
- (10) After complying with subsection (5) above, the applicant shall lodge with the Registrar the plans, diagrams and any other documents as envisaged in subsection (5) above and as approved by the Surveyor-General together with the relevant title deeds for endorsement or registration, as the case may be, within 12 months from the date of approval of such plans, diagrams and any other documents by the Surveyor-General, or within such further period as the Municipality may allow.
- (11) The Registrar shall not accept such plans, diagrams or any other documents for endorsement or registration until such time as the Municipality has advised him in writing that the applicant has complied with such pre-proclamation conditions as the Municipality may require to be fulfilled before giving notice in terms of subsection (15) below, declaring that the township is an approved township.
- (12) Failure by the applicant to comply with subsection (10) above, the approval will automatically lapse.
- (13) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-months period stated in that subsection and if granted, may not exceed another 24 months and no further extension shall be granted and as a result, the approval granted will automatically lapse upon the expiry of such period.
- (14) Having endorsed or registered the title deeds envisaged in subsection (10) above, the Registrar shall notify the Municipality thereof without delay and the Registrar shall not

register any further transactions in respect of any land situated in the township thereafter until such time as the township is declared an approved township in terms of subsection (15).

- (15) After the notice envisaged in subsection (14) above and after compliance with subsections (5), (9), (10) and (11) above, the Municipality shall inform the applicant to, at his own costs and in the manner as prescribed by the Municipality, give notice in the *Provincial Gazette* in which it declares the township an approved township and the Municipality shall, in a schedule to such notice, set out the conditions on which the township is declared an approved township.
- (16) Any external engineering services, open spaces and parks contributions (if applicable) required to be paid in respect of the approved township as envisaged in section 72(1), 73(5) and 73(7) below, shall be paid within 12 months from date of the notice envisaged in subsection (15) above, failing which, it shall be subject to arrear interest as well as escalation.
- (17) Where a township owner is required to transfer land to the Municipality or any other organ of state by virtue of a condition set out in the schedule envisaged in subsection (15) above, the land shall be so transferred at the expense of the township owner within a period of 6 months from date of the issuing of the certificate as contemplated in section 54(1) below.
- (18) With effect from the date of the notice as envisaged in subsection (15) above, the ownership in any public road in a township established in terms of this By-law, shall vest in the Municipality.

54. Prohibition of registration of certain deeds of transfer or endorsement on certain title deeds

- (1) The Registrar shall not register a deed of transfer by which ownership of an erf in a township is transferred unless the Municipality certifies that –

- (a) the township has been declared an approved township in terms of section 53(15) above;
 - (b) that any condition as set out in the schedule envisaged in subsection 53(15) above has been complied with;
 - (c) the provisions of section 53(17) above in respect of the transfer of land to the Municipality or any other organ of state (if applicable) have been complied with;
 - (d) that the Municipality will, within a period of 3 months from the date of such certification, be able to provide the erf with such engineering services as it may deem necessary and that it is prepared to consider an application for the approval of a building plan in terms of the National Building Regulation and Buildings Standards Act in respect of the erf in question; and
 - (e) subject to section 53(16) above, all outstanding external engineering services contributions and all amounts in lieu of open spaces or parks as envisaged in sections 72(1), 73(5) and 73(7) below in respect of the township has been paid in full.
- (2) The Registrar shall not endorse a title deed in terms of section 4C (1)(a) of the Housing Development Schemes for Retired Persons Act unless the certificate envisaged in subsection (1) above has been issued.
- (3) No building plans shall be approved and no occupancy certificate shall be issued in terms of the provisions of the National Building Regulations and Building Standards Act unless the certificate contemplated in subsection (1) above has been issued.

55. Failure to comply with requirements of the Municipality

Where an applicant has, for a period of 1 year from the date he was requested in writing to comply with any requirement of the Municipality in respect of an application envisaged in section 51(1) above, failed to comply, the Municipality shall notify the applicant of such failure and the application shall immediately lapse on the date of the issuing of such notice.

56. Division/phasing of an approved township

- (1) An applicant who has been notified in terms of section 53(3) above that his township application has been approved may, within a period of 6 months from the date of the notice, or such further period as the Municipality may allow, or shall, if directed to do so by the Municipality, within such period as the Municipality may determine, apply to the Municipality for the division of the approved township into two or more separate townships.
- (2) On receipt of an application envisaged in subsection (1) above, the Municipality may, where the documents envisaged in section 53(5) have not as yet been lodged with the Surveyor-General or where the documents envisaged in section 53(5) above have been lodged with the Surveyor-General, after consultation with the Surveyor-General, consent to the division of the township subject to any condition the Municipality may deem expedient.
- (3) Where consent has been granted in terms of subsection (2) above, the Municipality shall forthwith notify the applicant in writing thereof and of any condition imposed.
- (4) The applicant shall within a period of 3 months from the date of the notice envisaged in subsection (3) above, or such further period as the Municipality may allow, submit to the Municipality such plans, diagrams or other documents and furnish to it such information as it may require in respect of each separate township.
- (5) On receipt of the documents or information as envisaged in subsection (3) above, the Municipality shall forthwith notify the Surveyor-General and the Registrar in writing of the consent granted in terms of subsection (2) and such notice shall be accompanied by a copy of the plan of each separate township.
- (6) The granting of consent in terms of subsection (2) above and the notice envisaged in subsection (3) above shall, in respect of each separate township, be deemed to be the

approval of an application as envisaged in section 53(1) above and a notice envisaged in section 53(3) above.

- (7) The provisions of sections 53(4) to (18), 54(1) to (3) and 55 shall apply *mutatis mutandis* to such divided/phased township.

57. Extension of boundaries of an approved township

- (1) An owner of land as envisaged in section 49 of the Deeds Registries Act who wishes to have the boundaries of an approved township extended to include his land may apply, in writing, to the Municipality.
- (2) The provisions of section 51(3) to (10) shall apply *mutatis mutandis* to an application envisaged in subsection (1) above and any reference to an application to establish a township shall be construed as a reference to an application to extend the boundaries of a township as envisaged in subsection (1) above.
- (3) After the provisions of section 51(3) to (10) have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.
- (4) Where the Municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.
- (5) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.
- (6) Where the Municipality approves an application envisaged in subsection (1) above, it may-
- (a) apply all or any of the conditions set out in the schedule envisaged in section 53(15) on which the township concerned was declared an approved township;

- (b) impose a condition that the applicant shall pay to the Municipality an amount of money in respect of the provision of the engineering services envisaged in terms of section 71(1) below where it will be necessary to enhance or improve such services as a result of the approval of the application envisaged in subsection (1) above.
- (7) Any condition imposed in terms of subsection (4) and (6) above shall be set out in a schedule to the proclamation envisaged in section 49 of the Deeds Registries Act and shall have the same force of law as a condition envisaged in section 53(15) above.

Part 4

Subdivision and/or Consolidation of an erf in an approved township and the subdivision and/or consolidation of any other land

58. Subdivision and/or consolidation of an erf/erven in an approved township

- (1) An owner of-
 - (a) an erf in an approved township who wishes to subdivide such erf;
 - (b) two or more erven in an approved township who wishes to consolidate such erven, may apply in writing, simultaneously or separately, as the case may be, to the Municipality as provided for in its land use scheme or town planning scheme that may still be in operation, by lodging an application with the Municipality setting out the proposed subdivision and/or consolidation.
- (2) An application as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) a written motivation, accompanied by a plan showing the proposed subdivision and/or consolidation, shall be dispatched in writing and by registered post, by hand or by any other means available, to the owners/occupiers of all contiguous erven including those on the opposite side of a street or lane, setting out the following:

- (aa) full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;
 - (bb) the date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, facsimile and e-mail address of the person submitting the application; and
 - (cc) that any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (bb) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from date of receipt of a written motivation.
- (b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the Municipality within 14 days from date of expiry of the date contemplated in subsection (2)(a)(cc) above.
- (3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(cc) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to the provisions of section 84 of this By-law.
- (4) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.
- (5) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 of date of expiry of the administrative phase as contemplated in section 41(3) above.

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- (6) Such subdivision and/or consolidation application may be refused or approved subject to any condition the Municipality may deem fit which may include conditions to be registered against the relevant erf's title deed.
- (7) With a subdivision application, such condition may include a condition that the owner shall pay to the Municipality an amount of money in respect of the provision of –
- (a) the engineering services where it will be necessary to enhance or improve the services as a result of the subdivision;
 - (b) open spaces or parks and such amount shall be determined by the Municipality in terms of this By-law or approved policy.
- (8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (9) The Municipality shall keep a proper record of each subdivision and consolidation decisions.
- (10) An application that has been approved in terms of subsection (6) above shall automatically lapse if not registered with the Surveyor-General and the Registrar within 12 months from date of approval or within such further period as the Municipality may allow.
- (11) An application for an extension of the period envisaged in subsection (10) above shall be made prior to the expiry of the 12 months period stated in that subsection and if granted, may not exceed a further 12 months period.
- (12) Subject to 59(5) below, the amount of money envisaged in subsection (7) above shall become due and payable before the date of the first registration of the newly created erven with the registrar as envisaged in subsection (10) above.

- (13) The owner of land shall within 3 months after the Surveyor-General has approved the diagram of the subdivision or the plan for consolidation in terms of the provisions of the Land Survey Act, submit 2 clear legible photocopies of the approved diagram or plan to the Municipality.

59. Cancellation and amendment of conditions/plan, endorsement of certain documents by Registrar and access

- (1) The Municipality may, in consultation with the owner of land or on application by owner of land, prior to the registration of the subdivision and/or consolidation approval with the Surveyor-General and the Registrar as envisaged in section 58(10) above and;
- (a) cancel the approval of an application submitted in terms of section 58(1) above;
 - (b) amend or delete any condition imposed in terms of section 58(6) above or add any conditions to those already imposed; and
 - (c) approve an amendment of the plan setting out the proposed subdivision and/or consolidation.
- (2) The Municipality may not approve an application envisaged in section 58(1) above if it will bring about a result which is in conflict with –
- (a) any condition set out in the schedule as envisaged in section 53(15) on which the township concerned was declared an approved township;
 - (b) a condition of title imposed in terms of any law;
 - (c) a provision of a land use scheme applicable to the erf or erven in question.
- (3) The Municipality may not approve an application envisaged in section 58(1) above unless the Municipality is satisfied that each subdivided portion has satisfactory vehicular access to a public street, which access may be provided by means of a panhandle or a servitude.
- (4) If access to a public street is to be provided to more than one proposed subdivided portion by means of a single panhandle, the Municipality shall, when it approves the application

for the subdivision of the erf concerned, impose a condition that the applicant shall cause a servitude of right of way in favour of each portion, other than the portion of which the panhandle forms part, to be registered over the latter portion.

- (5) The owner of land shall, before he submits a deed of transfer or certificate of registered title in respect of the subdivided portion to the Registrar for registration in terms of the Deeds Registries Act, have the power of attorney in respect of the transfer or the application for such certificate endorsed by the authorised official of the Municipality to the effect that the owner of land has complied with the conditions imposed in terms of section 58(6) above or that arrangements in respect of such compliance, including the furnishing of guarantees in respect of any condition requiring payment of an amount of money as envisaged in section 58(7) above, have been made to the satisfaction of the Municipality.
- (6) The Registrar shall not issue a certificate of consolidated title in respect of a consolidation unless the Municipality has confirmed in writing that the owner of land has complied with the conditions imposed in terms of section 58(6) above.

60. Subdivision of any other land

- (1) Subject to any other law that may be applicable to such land, an owner of land, excluding land as envisaged in section 58(1) above, who wishes to divide such land may apply in writing to the Municipality and such application shall be accompanied by such plans, diagrams and other documents as may be required.
- (2) The provisions of section 45(2) to (9) shall apply *mutatis mutandis* to an application envisaged in subsection (1) above.
- (3) Subject to compliance with subsection (2) above, the application envisaged in subsection (1) above may be approved, either wholly or partly, or it may be refused or a decision thereon may be postponed.
- (4) Where an application has been approved in terms of subsection (3) above, the Municipality may impose any condition it may deem expedient.

- (5) Whether a decision was taken on the complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision and of any condition imposed in terms of subsection (4) above in writing by registered post, by hand or by any other means available without delay.
- (6) After the owner of land has been notified in terms of subsection (5) above that his application has been approved, but before any portion of land is transferred, the Municipality may, in consultation with the applicant, amend or delete any condition imposed in terms of subsection (4) above or add any further condition.
- (7) After an owner of land has been notified in terms of subsection (5) that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval of such plans, diagrams or other documents as may be required by the Surveyor-General and if the applicant fails to do so the approval will automatically lapse.
- (8) An application for an extension of the period envisaged in subsection (7) above shall be made prior to the expiry of the 12 months period stated in that subsection which, if granted, shall not exceed a further 12 months period.
- (9) Where the owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (7) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after consulting the applicant, that the applicant has failed to comply with any such requirement without such good cause shown, the approval will automatically lapse.
- (10) An owner of land who has been notified in terms of subsection (5) above that his application has been approved, may –

- (a) where the documents envisaged in subsection (7) above have not as yet been lodged with the Surveyor-General; or
 - (b) where the documents envisaged in subsection (7) above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General, submit a further application to the Municipality for the amendment of such approval unless:
 - (i) the amendment is, in the opinion of the Municipality, so material as to constitute a new application in terms of subsection (1) above;
 - (ii) the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in subsection (2) above, and subsections (3) and (4) of this section shall apply *mutatis mutandis* to such application.
- (11) Upon receipt of the notice envisaged in subsection (5) above and after compliance with subsection (7) above, the Registrar shall endorse the deeds registry copy of the title deed under which the land concerned is held to the effect that an application for the division of such land has been approved by the Municipality and if the copy of the title deed of the owner is thereafter, for whatever reason, lodged with the Registrar, he shall endorse it in like manner.
- (12) An endorsement in terms of subsection (11) above shall be brought forward as a condition of title in any subsequent deed of transfer of the whole or the remainder of the land concerned, and any succeeding owner of such whole or remainder shall be bound by the conditions imposed by the Municipality in terms of subsection (4) above.
- (13) The Registrar shall –
- (a) after the land envisaged in subsection (11) above has been divided;
 - (b) when he is notified that the application has lapsed, cancel any endorsement made by him in terms of subsection (11) above.
- (14) Where the owner of land is required to transfer land to the Municipality or any other organ of state by virtue of a condition imposed in terms of subsection (4) above, the land shall be

so transferred at the expense of the owner of land within a period of 6 months from date of the issuing of the certificate as contemplated in section 62(1) below.

- (15) Any external engineering services contribution levied in terms of section 72(1) in relation to an application in terms of subsection (1) above shall become due and payable before the registration of a deed of transfer with the Registrar.

61. Failure to comply with requirements of the Municipality

Where an applicant has, for a period of 1 year from the date he was requested in writing to comply with any requirement of the Municipality in respect of an application envisaged in section 60(1) above, failed to comply, the Municipality shall notify the applicant of such failure and thereupon the application shall automatically lapse.

62. Prohibition of registration of certain deeds of transfer

- (1) The Registrar shall not register a deed of transfer of any portion of land where an application for the division of land was approved by the Municipality as envisaged in section 60(3) above unless the Municipality certifies –
- (a) that any condition imposed in terms of section 60(4), excluding any condition dealing with the transfer of land as envisaged in section 60(14) above, have been complied with;
 - (b) the provisions of section 60(14) in respect of the transfer of land to the Municipality or any other organ of state (if applicable) have been complied with; and
 - (c) subject to section 60(15), all outstanding external engineering services contributions and all amounts relating to open spaces or parks in respect of the land have been paid in full.

- (2) No building plans shall be approved and no occupancy certificate shall be issued in terms of the provisions of the National Building Regulations and Building Standards Act unless the certificate contemplated in subsection (1) above has been issued.

Part 5

Alteration, amendment or cancellation of a general plan

63. Alteration, amendment or cancellation of a general plan

- (1) Any person who wishes to have the general plan of an approved township or an approved SG diagram of a subdivision of land (if any) altered, amended or totally or partially cancelled by the Surveyor-General in terms of the Land Survey Act may, subject to the provisions of section 64(3) below, apply in writing to the Municipality for approval.
- (2) An application for the alteration, amendment or totally or partially cancellation of a general plan envisaged in subsection (1) above shall comply with the following procedures:
- (a) notice of the application shall be given by the applicant, at his own costs, once a week for 2 consecutive weeks by simultaneously publishing a notice in English in the *Provincial Gazette* and a newspaper that circulates within the area of the application site;
 - (b) such notice shall clearly reflect in terms of which section of this by-law the application is made;
 - (c) such notice shall reflect full details of the application including, but not limited to, the name of the township concerned and the nature and general purpose of the application;
 - (d) such notice shall further reflect the date on which such application was submitted to the Municipality, the name, postal address, telephone number, facsimile and e-mail address of the person submitting the application;
 - (e) such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the

Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (2)(a) above.

- (3) Proof of compliance with subsection (2) above must be submitted to the Municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.
- (4) The Municipality shall forward a copy of each objection, comment and representation received in terms of subsection (2)(a) above in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to section 84 of this By-law.
- (5) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (6) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase as contemplated in section 41(3) above.

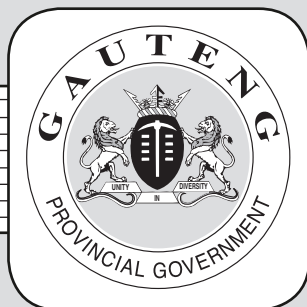
64. Decision and post decision procedures

- (1) The Municipality may approve an application envisaged in section 63(1) above either wholly or in part, provided that the Municipality shall not approve such application unless –
 - (a) the applicant has the unencumbered ownership of all the land within the area affected by the alteration, amendment or cancellation of the general plan other than land transferred in terms of section 60(14) and subject to sections 53(17) above;

- (b) where the land envisaged in subsection (1)(a) above is subject to a mortgage bond, the bondholder has consented in writing to the alteration, amendment or cancellation of the general plan.
- (2) Where the Municipality approves the application envisaged in subsection (1) above, the Municipality may-
 - (a) impose any condition it may deem expedient;
 - (b) amend or delete any condition set out in the schedule envisaged in section 53(15) above on which the township concerned was declared an approved township.
- (3) The provisions of section 63 shall not apply to an alteration or amendment of a general plan of an approved township which is necessary as a result of the closing of any public place or street or any portion thereof or diversion of a street or a portion of such street in terms of section 70(1) of this By-law.
- (4) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties, including the Surveyor-General, of the decision, and where the application has been approved, state any condition imposed in terms of subsection (2)(a) above, in writing by registered post, by hand or by any other means available without delay.
- (5) After an applicant has been notified in terms of subsection (4) above that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval 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 the applicant fails to do so the approval will automatically lapse.
- (6) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify

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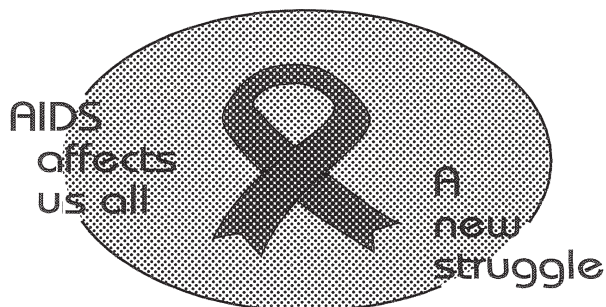
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the Municipality accordingly and where the Municipality is satisfied, after consulting the applicant, that the applicant has failed to comply with any such requirement, without good cause shown, the approval will automatically lapse.

- (7) After the Surveyor-General has, in terms of the Land Survey Act, altered or amended the general plan or has totally or partially cancelled it, he shall notify the Municipality thereof without delay.
- (8) On receipt of the notice envisaged in subsection (7) above, the Municipality shall, within a reasonable period and in the manner as prescribed by it, inform the applicant to, at his own costs, forthwith give notice thereof by publishing a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality shall, in a schedule to the notice, set out the conditions imposed in terms of subsection (2)(a) above or the amendment or deletion of any condition envisaged in subsection (2)(b) above, where applicable.
- (9) The Municipality shall, after submission by the applicant of the notice and schedule envisaged in subsection (8) above, provide the Registrar with a copy of such notice and the schedule.

65. Effect of alteration, amendment or cancellation of a general plan

- (1) Where the general plan of an approved township established in terms of the provisions of legislation other than this By-law, is cancelled in whole or in part, or altered or amended or cancelled in part, any public place or street which vested in trust in the Municipality by virtue of section 63 of the Local Government Ordinance, 1939, the ownership thereof shall revert in the township owner.
- (2) Where a general plan is cancelled in whole, the township shall cease to exist as a township.
- (3) Where a general plan is cancelled in part, that portion of the township to which the cancellation of the general plan relates, shall cease to exist as a portion of the township.

- (4) Where such original township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, the ownership of such public places or streets shall then automatically vest in the Municipality.

Part 6

Amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations and matters related thereto

66. Application for the amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations in respect of land

- (1) This part of the By-law refers to any restriction, obligation, servitude or reservation which relates to the subdivision of the land or the purpose for which the land may be used or to the requirements to be complied with or to be observed in connection with the erection of structures or buildings on or the use of the land, which is binding on the owner of the land arising out of-
- (a) any restrictive condition or servitude which is registered against the title deed or leasehold title of such land; or
 - (b) a provision of a by-law or of a town-planning scheme; or
 - (c) the provisions of a title condition contained in the schedule to the proclamation of a township; or
 - (d) the provisions of a law relating to the establishment of townships or town planning.
- (2) The Municipality may only amend, suspend or remove a restriction or obligation where the Municipality is satisfied that-
- (a) to do so would promote the preparation and approval of a general plan, the establishment of a township or the development of any area;

- (b) the affected land is required for public purposes by the state, the province or the Municipality;
 - (c) the affected land is required for the use or construction of a building or other structure by the state, the province or the Municipality;
 - (d) the affected land is required for purposes incidental to any purpose envisaged in subsections (2)(a) to (2)(c) above;
 - (e) is in the interest of the general public to do so.
- (3) The provisions of subsection (1) above shall not apply to –
- (a) any building line restriction which has been imposed by or under the provisions of any applicable legislation pertaining to roads, whether national or provincial unless consent has been obtained in writing from the relevant authority;
 - (b) any condition relating to mining or mineral rights;
 - (c) any condition imposed in respect of land transferred to a beneficiary in terms of any provincial small farmer settlement programme or any similar land reform programme relating to the circumstances under which such land may be alienated or encumbered; or
 - (d) any condition relating to the risk of development on land which has been undermined.
- (4) An owner of land who wishes to have any restriction, obligation, servitude or reservation as envisaged in subsection (1) above amended, suspended or removed, may lodge an application to the Municipality in terms of this By-law.
- (5) Notwithstanding subsection (4) above, the Municipality may, of its own accord, amend, suspend or remove any restriction or obligation envisaged in subsection (1) above in respect of any land.

- (6) An application envisaged in subsection (4) above may be submitted simultaneously with any other application envisaged in sections 43, 44, 45, and 58 above.
- (7) If an application is made only for the amendment, suspension or removal of any restriction, obligation, servitude or reservation as envisaged in subsection (1) above whether by an owner of land or by the Municipality, the provisions of section 45(2) to (7) above shall *mutatis mutandis* apply to such application.
- (8) Where a simultaneous applications are submitted as envisaged in subsection (6) above, the applicant shall comply with all the essential elements of the procedures as set out in this section as well as sections 43, 44, 45 and 58, as the case may be, in a consolidated form.
- (9) Subject to section 39(3) of this By-law, in the instance of an unopposed complete application envisaged in subsection (4) or (5) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the administrative phase contemplated in section 41(3) above.
- (10) Subject to section 39(3) of this By-law, in the instance of an unopposed complete applications submitted simultaneously as envisaged in subsection (6) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days after the expiry of the time periods mentioned in sections 43, 44, 45 and 58 above, which ever section is relevant.
- (11) The provisions of section 45(9) above shall also apply *mutatis mutandis* to an application envisaged in subsections (4), (5) and (6) above.
- (12) For purposes of this section, where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the administrator, a Premier, the townships board or any other controlling authority, such consent may be granted by the Municipality and such reference to the administrator, a Premier, the townships board or other controlling authority shall be deemed to be a reference to the Municipality.

- (13) For purposes of this section, where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the township owner and such township owner is no longer in existence or, in the case of a company, which has been deregistered, as the case may be, such consent may be granted by the Municipality and such reference to the township owner shall be deemed to be a reference to the Municipality.

67. Decision and post decision procedures

- (1) An application envisaged in section 66(4), (5) or (6) above may be approved subject to any condition the Municipality deems fit or it may be refused.
- (2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (3) The Municipality shall keep a proper record of each application granted under subsection (1) above.
- (4) Where the Municipality has approved an application as envisaged under section 66(4), (5) or (6) above and after the expiry of the time period envisaged in section 74(1) of this By-law, the applicant shall, at his own costs and subject to notice given to the Municipality, give notice thereof in the manner as prescribed by the Municipality in the *Provincial Gazette* and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at the Municipality's office and thereupon the application shall be deemed to be an approved application.
- (5) An approved application as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.

- (6) The provisions of section 48 shall also *mutatis mutandis* apply to an approval envisaged in subsection (1) above if it was in relation to a simultaneous application as envisaged in section 66(6) above and such simultaneous application included the amendment of a land use scheme as envisaged in section 45(1) above.

68. Endorsements in connection with amendment, suspension or removal of restrictions or obligations

- (1) After the coming into operation of any approved application as envisaged in section 66(4), (5) or (6) above, the owner of land shall, within 28 days from the date of the approval coming into operation, deliver the original title deed to the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the notice envisaged in section 67(4) above.
- (2) Upon receipt of such original title deed as envisaged in subsection (1) above, the Registrar shall not register any further transactions relating to the land in question until the entries and endorsements envisaged in subsection (1) above have been effected and shall impound the title deed for the purpose of such entries and endorsements whenever it may for any reason be lodged in his or her office.

69. Contributions to be paid in respect of external engineering services and open spaces or parks

Where applicable, the provisions of section 43(7)(e) and (f) and subsection (10) of the same section, section 49 and section 58(7) and subsection (12) of the same section shall *mutatis mutandis* apply to an approval envisaged in section 67(1) above, as the case may be.

Part 7

Permanent closure of a public place or diversion of a street

70. Permanent closure of a public place or diversion of a street

- (1) The Municipality may, either of its own accord or upon a written request by any party, permanently close a public place or divert any street or portion of a street.
- (2) An application for the closing of a public place or diversion of a street or portion of a street shall be accompanied by a plan showing the public place to be closed or showing the boundaries of the street or portion of the street proposed to be closed or diverted.
- (3) When the Municipality intends to exercise the power envisaged in subsection (1) above or upon receipt of an application, it shall comply with the following procedures:
 - (a) notice of the application shall be given once a week for 2 consecutive weeks by simultaneously publishing a notice in English by the Municipality or the applicant, as the case may be, at that party's own costs, in the *Provincial Gazette* and a newspaper that circulates within the area of the application site;
 - (b) such notice shall clearly reflect in terms of which section of this By-law the application is made;
 - (c) whether it is a written application submitted by any person or an application initiated by the Municipality, such notice shall reflect the name, postal address, telephone number, facsimile number and e-mail address of the person submitting the application;
 - (d) such notice shall reflect full details of the application including, but not limited to, the relevant street or portion of street to be closed or diverted (if applicable), the name of the applicable township, a clear erf description of the public place to be closed (if applicable) and the nature and general purpose of the application;
 - (e) such notice shall further reflect that the application and its accompanied plan will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (a) above;

- (f) a site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be in English and displayed on the land under consideration or on or near the street or portion of the street to be closed or diverted;
 - (g) such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;
 - (h) such notice shall be in the format as prescribed by the Municipality;
 - (i) such notice shall be displayed in a conspicuous place on the land in question or on or near the street or portion of street to be closed or diverted where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (j) such notice shall be maintained in a clearly legible condition for a period of no less than 21 days from the date of publication of the notice mentioned in subsection (a) above;
 - (k) in addition to the requirements in subsections (a) and (f) above, a letter containing the same detail as envisaged in sections (b) to (e) above shall also be dispatched by the Municipality or the applicant, as the case may be, within 7 days of date of the publication of the notice envisaged in subsection (a) above by hand or by any other means available to the owners or lessees or the occupiers of all properties abutting upon the public place or the street or portion of the street which it is proposed to be closed or diverted, provided that if any such property has more than one lessee or occupier, a copy of the said letter may be posted on the principal door of the main building or in another conspicuous place on such property, except where such property is a sectional title development, in which case the notice shall also be served on the owners of each such unit that constitutes the body corporate.
- (4) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (5) Whether by the Municipal Planning Tribunal, the authorised official or his duly authorised delegate, a permanent closure of a public place or closure or diversion of the street or

portion of a street as advertised in subsection (3) above may be approved, subject to any conditions the Municipality may deem fit, or it may be refused and all relevant parties shall be notified of the decision by registered post, by hand or by any other means available without delay.

- (6) After the closure or diversion as envisaged in subsection (1) above has been approved and has been carried out, the Municipality shall notify the Registrar and the Surveyor-General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the approval envisaged in subsection (5) above and that it has been carried out properly in accordance with the provisions of this By-law.
- (7) The notification envisaged in subsection (6) above to the Registrar and the Surveyor-General shall include a Land Surveyor's diagram to enable them to make such necessary entries and endorsements as envisaged in that subsection.
- (8) Such entries and endorsements envisaged in subsection (6) above do not require a formal application as envisaged in section 63(1) above.
- (9) For purposes of this section the word "street" shall include a road, thoroughfare, footpath, sidewalk or lane.
- (10) Where any public place or street or any portion thereof has been closed by virtue of an approval envisaged in subsection (5) above, the township owner shall, without any claim to compensation, be divested of all rights of ownership in the land comprising such public place, street or portion and such rights shall vest in the Municipality and the Registrar shall do whatever is necessary to record such ownership in its registers.
- (11) Notwithstanding the above provisions of this section, the Municipality may, by giving written notice in a newspaper that circulates within the area of the relevant public place:
 - (a) temporarily close any public place; or
 - (b) permanently or temporarily close and street, road or thoroughfare for any particular class of traffic, procession or gathering or temporarily for all traffic; or

- (c) divert temporarily a street, road or thoroughfare contemplated in subsection (b) above.
- (12) Any public place temporarily closed in terms of subsection (11)(a) above may be let temporarily or the use thereof may be granted temporarily to any person on such terms and conditions as the Municipality may deem fit.

CHAPTER 8

ENGINEERING SERVICES, CONTRIBUTIONS AND OPEN SPACES OR PARKS

Part 1

Engineering services and engineering services contributions

71. Engineering services

- (1) Every land development application approved in terms of the provisions of this By-law shall be provided with such engineering services as the Municipality deems it necessary to ensure sustainable development.
- (2) For the proper management and enforcement of this Chapter, the owner of the land in question shall enter into an engineering services agreement with the Municipality and such agreement shall contain every reasonable detail relevant to the engineering services to be installed and comprehensive detail on the different roles, duties and responsibilities of the respective parties.
- (3) Subject to subsection (2) above, the owner of the land in question shall be responsible for the provision, installation and costs of internal engineering services required for a development when an application is approved, as contemplated in section 49(1) of the Act.

- (4) Subject to subsection (2) above, the Municipality shall be responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the Act, subject to the availability of funds as provided for in the approved budget by the Municipality.
- (5) When the Municipality is not the provider of an engineering service, the owner of the land in question must satisfy the Municipality that adequate alternative arrangements have been made either by the owner himself or with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Act and the Municipality shall in such instances not be responsible for the maintenance and management of such engineering service.
- (6) Every engineering service to be provided as envisaged in subsection (1) above shall be classified in terms of the engineering services agreement envisaged in subsection (2) above between the owner of the land in question and the Municipality as an internal or external engineering service in accordance with the provisions of this By-law.
- (7) The internal engineering services to be provided by the owner of the land in question shall be installed and provided to the satisfaction and to the standards of the Municipality or any of its municipal entities and for that purpose the owner of the land shall lodge with the municipality or relevant municipal entity such reports, diagrams and specifications as the Municipality or municipal entity may require.
- (8) Where any township approval has lapsed in terms of any provision of this By-law, the engineering services agreement shall also automatically lapse and the owner of the land in question having installed any engineering services based on the above agreement shall have no claim against the Municipality or any of its entities with regard to the installation or construction of any engineering services of whatsoever nature.
- (9) Where the Municipality has been satisfied that adequate alternative arrangements have been made by the owner in relation to an engineering service as envisaged in subsection (5) above and a Municipal service does not become available in future, the owner of land shall without delay and at his own cost connect to such Municipal engineering service and

decommission such other alternative arrangement all to the satisfaction of the Municipality or its municipal entities, as the case may be.

72. External engineering services contributions

- (1) The Municipality may levy an external engineering services contribution in respect of the provision of an external engineering service as envisaged in section 71(1) above and when it does so, the Municipality shall inform the owner of the land in writing of the contribution payable with the necessary supporting documentation on how the contribution was calculated and any conditions it might be subject to.
- (2) The external engineering services contribution envisaged in subsection (1) above must be set out in a policy/By-law adopted by the Municipality and the amount of the external engineering services contribution, payable by the owner of the land in question, shall be calculated in accordance with such policy/By-law.
- (3) The external engineering services contribution in respect of an approved development shall be calculated in terms of the tariff that is applicable at the time of approval and is subject to escalation at the rate calculated in accordance with the policy/By-law as adopted by the Municipality.
- (4) The owner of land in question may, in terms of the engineering services agreement with the Municipality envisaged in section 71(2) above, install any external engineering services on behalf of the Municipality and the fair and reasonable cost of installing such services may be set off against the external engineering services contributions payable.
- (5) When an external engineering service is installed by the owner of land as envisaged in subsection (4) above, the provisions of the Municipal Finance Management Act pertaining to procurement and the appointment of Contractors on behalf of the Municipality shall not apply.
- (6) Should the cost of installing such an external engineering service(s) exceed the amount of the external engineering services contribution as determined by the Municipality, then the

Municipality may refund the owner of the land, provided that the necessary funds are available on the Municipality's approved budget.

- (7) The external engineering services contribution levied in terms of subsection (1) above shall become due and payable as envisaged in sections 53(16) and 60(15) above and shall be subject to escalation after expiry of the time period mentioned in the said sections.
- (8) No building plans may be approved by the Municipality in terms of the National Building Regulations and Building Standards Act until the external engineering services contribution envisaged in subsection (1) above has been settled in full.
- (9) Subject to subsection (7) above, the provisions of section 49(8) and (9) above shall apply *mutatis mutandis* to an external engineering services contribution levied in terms of subsection (1) above.

Part 2

Provision of land for open spaces and parks

73. Provision of land for open space, parks and payment in lieu of providing open spaces and parks contribution

- (1) The approval of a township application as envisaged in section 51(1) and a division of land application envisaged in section 56(1) and 58(1) above, which provides for the use of land for residential purposes is subject to the provision of land for parks or open space by the applicant.
- (2) The land required for parks or open space must be provided within the land area to which the development application refers or may be provided elsewhere within the Municipality's jurisdiction, at the discretion of the Municipality.
- (3) The extent of land required for parks or public open spaces shall be determined by the Municipality in accordance with the formula as set out in Schedule 11 to this By-law.

- (4) Any area of land in a proposed township or in a division of land application, which is subject to flooding by a 1:50 and 1:100 year flood, shall be shown on the plan of the township as an open space or park, if so required by the Municipality.
- (5) When a township or a division of land application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay an amount of money to the Municipality in lieu of the provision of land and when it does so, the Municipality shall inform the owner of land in writing of the amount payable with the necessary supporting documentation on how the amount was calculated and the conditions it might be subject to.
- (6) The amount of money envisaged in subsection (5) above shall be calculated in accordance with the formula as set out in Schedule 11 to this By-law and it shall be calculated in terms of a valuation relevant at the time of the notice envisaged in section 53(15) above.
- (7) The amount of money calculated in terms of subsection (6) above shall be subject to escalation until it has been settled in full.

CHAPTER 9

APPEAL AUTHORITY AND PETITION TO INTERVENE

74. Internal appeals

- (1) The applicant, any person that submitted an objection and any person whose petition to intervene has been granted as envisaged in section 77 below, whose rights may be adversely affected by a decision or failure to take a decision or for non-compliance with any of the time frames as contemplated in Section 41 of this By-law by the Municipality, the Municipal Planning Tribunal, the authorised official or any of his/her sub-delegates in respect of –
 - (a) any land development application envisaged in Chapter 7 of this By-law;

- (b) a change of circumstances application envisaged in section 48(2) and 67(6) above;
 - (c) any engineering services and/or parks or open spaces contributions imposed or levied in terms of any provision of this By-law;
 - (d) may appeal to the Municipal Manager by giving written notice of the appeal, including comprehensive grounds of appeal, within 28 days of the date of receipt of such notification of the decision or of date of receipt of the notification of such engineering services, or parks or open spaces contributions imposed or levied or upon the expiry of the time frames provided for, in this By-law to make a decision.
- (2) The Municipal Manager shall within a period of 7 days after the expiry of the pre-hearing process submit the appeal to the Municipality's executive authority as the appeal authority for a decision and the pre-hearing process may not exceed 150 days.
- (3) The Municipality's executive authority may delegate its appeal authority in terms of section 56 of the Act read with section 59 of the Municipal Systems Act to –
 - (a) a body or institution outside of the Municipality to assume the obligations of an appeal authority; or
 - (b) to an official or a committee of officials in the employ of the Municipality; or
 - (c) to a member of the executive committee or Mayoral Committee, as the case may be, provided that such appeal authority may not be delegated to an official in the employ of the Municipality who originally made the decision on the application or who is a member of the Municipal Planning Tribunal.
- (4) An appeal is invalid if it is not lodged within the time period contemplated in subsection (1) above or does not comply in any other manner with this section.
- (5) If the applicant lodges an appeal in terms of subsection (1) above, the applicant shall give notice of the appeal to any person who validly opposed the application and who has been granted intervener status as envisaged in section 77 below.

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- (6) The notice must be given in accordance with section 115 of the Municipal Systems Act and notice may be given by hand, by registered post or by any other means available.
 - (7) The appellant must provide the Municipality with proof of notification, envisaged in subsection (5), within 14 days of the date of notification.
 - (8) If an objector or any intervening party lodges an appeal, the Municipal Manager must give notice of the appeal to the applicant and any other person who validly opposed the application or who has been granted intervener status as envisaged in section 77 below, if any, within 14 days of receipt thereof.
 - (9) Any person who has received notice of the appeal in terms of either subsections (5) or (8) may comment on or oppose the appeal within 21 days of date of receipt of such notice.
 - (10) If opposition to or comment on the appeal is not lodged with the Municipality within the time period envisaged in subsection (9) above, the objection or comment will be invalid and the appeal authority will be under no obligation to entertain such opposition or comment.
 - (11) Any comment or objection received as envisaged in subsection (9) above shall be forwarded to the appellant to reply within 14 days from date of receipt thereof.
 - (12) The relevant municipal department must draft a report in which it assesses the appeal and all comments, objections and replies received, if any, and submit it to the Municipal Manager to enable the Municipal Manager to comply with the time frame as envisaged in subsection (2) above.
 - (13) The appeal authority shall decide the appeal within 30 days from the date of receipt of the appeal documents from the Municipal Manager.
 - (14) The appeal authority may decide an appeal based on undue delay or confirm, vary or revoke the decision appealed against.

- (15) Parties to the appeal must be notified, in writing, of the decision of the appeal authority within 21 days from the date of the decision as contemplated in subsection (14) above by registered post or by any other means available.
- (16) An appeal lodged under this section suspends any decision taken under the provisions of this By-law and any post-decision procedures, as the case may be, until the appeal has been finalised.

75. Hearing by appeal authority

- (1) An appeal shall be heard by the appeal authority by means of a hearing based only on the written submissions received.
- (2) Notwithstanding subsection (1) above, the appeal authority may decide that a formal oral hearing be conducted if the appeal authority is of the opinion that the issues to be determined are of such a nature that it justifies the parties to the appeal to be heard in person.
- (3) Where the appeal authority decides that an oral hearing be held as envisaged in subsection (2) above, the appeal authority may conduct the oral hearing and make a decision on the appeal or designate a body as envisaged in section 74(3) to conduct the oral hearing and to make a recommendation to the appeal authority.
- (4) The appeal authority or the body as envisaged in Section 74(3) shall, for purposes of conducting the oral hearing, determine its own procedures in accordance with the principles of administrative justice and exercise any power in such proceedings to enable it to make a proper and informed decision.
- (5) The appeal authority shall decide the appeal within 30 days of date of the formal oral hearing.

76. Record of decisions

The appeal authority shall keep a proper record of all its proceedings and decisions taken.

77. Petition to be granted intervener status

- (1) Where an application has been submitted to a Municipal Planning Tribunal, authorised official or any of its sub-delegates or an appeal has been lodged to the appeal authority, an interested person may, at any time during the proceedings, but within 7 days of becoming aware of the proceedings, petition the Municipality in writing to be granted intervener status.
- (2) The petitioner must submit together with the petition to be granted intervener status a full motivation in support of the petition and an affidavit stating that he or she –
 - (a) does not collude with any applicant, objector or appellant; and
 - (b) is willing to deal with or act in regard to the application or appeal as the Municipality may direct.
- (3) The Municipality must determine whether the requirements of this regulation have been complied with and must thereafter provide a copy of the petition referred to in subsection (1) above to the parties to the application or appeal.
- (4) Where the Municipality, either through its Municipal Planning Tribunal, authorised official or any of his/her sub-delegates or the appeal authority, must determine whether a petitioner qualifies as an interested person as contemplated in section 45(4) of the Act, it may consider the following:
 - (a) whether such person has a pecuniary or proprietary right or interest in the matter;
 - (b) that such person's right or interest has been affected by the decision of the Municipal Planning Tribunal or authorised official or that his or her rights may be adversely affected by the decision of the Municipal Planning Tribunal or authorised official and might therefore be adversely affected by the decision of the appeal authority;

- (c) that the petitioner represents a group of people who have a direct concern in the proceedings;
 - (d) the ability of the petitioner to protect his or her interest would be impeded by the decision of the Municipal Planning Tribunal, authorised official or appeal authority and that his or her interest is not adequately represented by the current parties to the proceedings;
 - (e) the petitioner will provide a different perspective on the issues before the Municipal Planning Tribunal, authorised official or appeal authority, without expanding those issues.
- (5) A determination by the Municipal Planning Tribunal, appeal authority or authorised official or any of his/her sub-delegate whether a petitioner qualifies, as an interested person, is final and must be communicated to the petitioner and the parties to the proceedings in writing without delay.

CHAPTER 10

LAW ENFORCEMENT, OFFENCES AND PENALTIES

78. Law enforcement

- (1) The Municipality may designate an official or officials under its employ as a law enforcement officer(s) to investigate any non-compliance with the provisions of this By-law and its land use scheme or town planning scheme still in operation and, subject to subsection (4) and (5) below, such official(s) may enter upon any premises at all reasonable times to give effect to this section.
- (2) The provisions of section 32(5) of the Act shall apply *mutatis mutandis* to such law enforcement officer(s) envisaged in subsection (1) above.
- (3) An inspection of a private dwelling may only be carried out by a law enforcement officer at a reasonable time and after reasonable notice was given to the owner or occupier of the

land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of subsection (4) below.

- (4) A judge or 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) law enforcement officer has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) prior permission of the occupier or owner of land on which a private dwelling is situated as envisaged in subsection (3) above cannot be obtained after reasonable attempts;
 - (c) the owner, occupier or person in control of a private dwelling has refused consent; or
 - (d) the purpose of the inspection would be frustrated by the prior knowledge thereof.
- (5) The Municipality may apply to a court for an order-
 - (a) interdicting any person from using land in contravention of any provision of this By-law, its land use scheme or any other town planning scheme still in operation;
 - (b) authorising the demolition of any structure erected on land in contravention of any provision of this By-law, its land use scheme or any other town planning scheme still in operation without any obligation on the Municipality or the person carrying out the demolition to pay any compensation; or
 - (c) authorising any other appropriate relief.

79. Offences and penalties

- (1) Further to any section in this By-law that declares a specific action a criminal offence, where any person –
 - (a) undertakes or proceeds with the erection or alteration of or addition to a building or causes it to be undertaken or proceeded with;

- (b) performs, undertakes or proceeds with any other work or causes it to be performed, undertaken or proceeded with;
- (c) uses any land or building or causes it to be used;
- (d) alters the form and function of land;

in conflict with a provision of this By-law, any other applicable legislation dealing with land development, the Municipality's land use scheme or any other town planning scheme still in operation, such person shall be guilty of an offence.

(2) The Municipality may direct such person in writing-

- (a) to discontinue such erection, alteration, addition or other work or such use or cause it to be discontinued;
- (b) at his own expense-
 - (i) to remove such building or other work or cause it to be removed;
 - (ii) to cause such building or other work or such use to comply with the provisions of the scheme and the directive shall state the period within which it shall be carried out.

(3) The Municipality shall not approve a building plan for the erection or alteration of or addition to a building which would be in conflict with any provision of this By-law, the Municipality's land use scheme or any town planning scheme still in operation or any other applicable legislation dealing with land development.

(4) The provision of subsection (3) above shall not apply to the erection or alteration of or addition to a building in accordance with an approved building plan.

(5) Any person who contravenes or fails to comply with a directive issued in terms of subsection (2) above shall be guilty of an offence.

- (6) Where any person fails to comply with a directive issued in terms of subsection (2) above, the Municipality may, whether or not a prosecution has been or will be instituted, remove the building or other work or cause the building or other work to comply with the provisions of this By-law, its land use scheme or any other town planning scheme still in operation and recover all expenses incurred in connection therewith from such person.
- (7) Upon conviction of an offence in terms of this By-law a person is liable to a fine or imprisonment not exceeding 5 years or to both a fine and such imprisonment and the fine shall be calculated according to the ratio determined for such imprisonment in terms of the Adjustment of Fines Act.
- (8) 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 to a fine, or upon conviction, to imprisonment for a period not exceeding 3 months 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.

80. Content of Compliance Notice

- (1) A compliance notice must –
 - (a) state the name of a person to whom it is addressed;
 - (b) describe the alleged unlawful use of land or construction activity concerned and the land on which it occurs;
 - (d) state that the activity is unlawful and inform the person of the particular offence contemplated in the By-law which that person allegedly has committed or is committing through the continuation of that activity on the land;
 - (e) indicate the steps that the person must take and the period within which those steps must be taken to remedy the unlawful use of land or building;
 - (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 submit written representations to the Municipality within 21 days from date of such notice.
 - (g) issue a warning to the effect that –
 - (i) the person may be prosecuted for and convicted of an offence contemplated in this By-law or land use scheme or any town planning scheme still in operation;
 - (ii) on conviction of an offence, the person will be liable for the penalty as provided for in this By-law or land use scheme or any town planning scheme still in operation;
 - (iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to cease with the illegal activity and rehabilitate the land concerned.
- (2) Any person on whom a compliance notice is served must comply with that notice within a period of up to 30 days from the date of such notice, unless the Municipality has agreed to suspend the operation of the compliance notice on good cause shown.
- (3) A compliance notice envisaged in subsection (1) above shall be served on the person concerned by hand or by registered post or by e-mail or by facsimile.

CHAPTER 11

GENERAL PROVISIONS

81. Sectional title schemes

Notwithstanding the provisions of this By-law, the Registrar shall not register a sectional title scheme on any property unless the Municipality has confirmed in writing that there has been compliance with this By-law, the Municipality's land use scheme and/or any other planning legislation that might still be in operation and applicable to the property in question.

82. Approval or adoption of amendment scheme under certain circumstances

(1) Where –

- (a) a notice is or has been published in terms of section 53(15) above declaring a township an approved township; or
- (b) a proclamation envisaged in section 49 of the Deeds Registries Act is or has been published extending the boundaries of an approved township; or
- (c) a notice is or has been published in terms of section 64(8) above declaring that the general plan of an approved township or a division of land has been altered, amended or totally or partially cancelled;
- (d) the Municipality may direct the applicant, at his own costs to, by notice in the *Provincial Gazette*, declare that the Municipality has adopted an amendment scheme relating to the same land as the land envisaged in subsection 1(a) to (c) above and that a copy of the scheme will lie open for inspection at all reasonable times at the office of the Municipality and that thereupon the scheme shall be deemed to be an approved scheme.

(2) In respect of an amendment scheme envisaged in subsection (1) above –

- (a) any provision of this By-law;
- (b) any other provision, which the Municipality may prescribe, shall apply.

83. Documents, plans and diagrams and any other information to be submitted with land development applications under the provisions of this By-law

- (1) The documents, plans, diagrams, reports and any other information as set out in the various Schedules and Forms to this By-law, shall be submitted with each specific land development application to which the specific Schedule and Form applies.
- (2) All the necessary reports where required as per Schedule 4 and 5 to this By-law shall be certified by a qualified professional person.

- (3) The applicant must, within 30 days or such further period as the Municipality may allow, provide the Municipality with relevant additional information which the Municipality may require and as provided for in the Schedules and Forms to this By-law in respect of each specific land development application.
- (4) If the applicant does not timeously provide the additional information, the Municipality may close the application and notify the applicant in writing.
- (5) Where the Municipality closes the application –
 - (a) the application is deemed to be withdrawn by the applicant; and
 - (b) the application fee is not refundable; and
 - (c) the applicant may submit a new application and must pay a new application fee.

84. Hearing of submissions, objections, comments or representations

- (1) Where in terms of any provision of this By-law a land development application is referred to the Municipal Planning Tribunal for a decision, the Municipality shall forthwith determine a day, time and place for such hearing.
- (2) The person making the application and any other person, who timeously submitted an objection, comment or representation in terms of any provision of this By-law, including an interested person who has been granted intervener status for purposes of section 77 above, shall receive 14 days notice of such day, time and place of the hearing.
- (3) At such hearing contemplated in subsection (1) above the parties envisaged in subsection (2) above may appear in person or through a legal representative and set out their motivation in support of the application or their grounds of objection or representation, as the case may be, and adduce any evidence in support thereof.
- (4) A hearing contemplated in subsection (1) above shall be open to the public unless otherwise directed by the Chairperson of the Municipal Planning Tribunal.

- (5) Where an objection, comment or representation has been submitted in the form of a petition, the Municipality will only be obliged to give notice of such hearing to the main petitioner.
- (6) The hearing may be preceded, at the discretion of the Municipal Planning Tribunal, by a site inspection.
- (7) The Municipal Planning Tribunal shall determine its own procedure in accordance with the principles of administrative justice.

85. Reasons for a decision

- (1) Unless otherwise provided for in this By-law, the Municipality shall be obliged to provide written reasons on any decision to any party whose rights may be adversely affected by such a decision taken in terms of any provision of this By-law.
- (2) In the event that a decision does not contain the reasons, the party envisaged in subsection (1) above shall request the reasons in writing within 7 days of being notified of the decision and the Municipal Planning Tribunal or an authorised official or any of his sub-delegates shall provide such reasons within 7 days from date of receipt of the request.
- (3) Should the reasons requested not be furnished to the aggrieved person within the period envisaged in subsection (2) above, the aggrieved person shall automatically be entitled to note an appeal as contemplated in Section 74(1) of this By-law.

86. Naming and numbering of streets

- (1) If as a result of the approval of a land development application, streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number for each of the erven or land units located in such street or road.

- (2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision and township establishment in terms of the provisions of this By-law.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.
- (4) The Municipality must, in writing, inform the Surveyor-General of the approval of new street names as a result of the approval or amendment of subdivision plans as envisaged in subsection (1) above and a street name which is indicated on an approved general plan within 30 days of the approval thereof.
- (5) The owner of land must erect the street names according to the Municipality's standards.
- (6) No person may alter or amend a street name as approved in terms of subsection (1) above without the approval of the Municipality.
- (6) An owner of land to which a street number has been allocated as envisaged in subsection (1) above shall ensure that the number as approved for that land unit is displayed and remain displayed.
- (7) No person may alter or amend or use another street number unless approved by the Municipality.
- (8) The Municipality may, by written notice direct the owner of a land unit to display the number allocated to the land unit and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such land unit shall, within 30 days of the date of such notice, affix the allotted number on the premises in accordance with such notice.
- (9) The Municipality may direct any owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

87. Tariff of charges

- (1) The Municipality may determine tariff of charges in respect of –
 - (a) any act, matter or application in terms of this By-law;
 - (b) anything required or authorised to be done in terms of this By-law.
- (2) Such tariff of charges shall be published in the *Provincial Gazette* for information.

88. National and Provincial interest

- (1) The Municipality shall forward a land development application to the relevant Minister or MEC for comment where such application will materially affect an exclusive functional area of the national or provincial sphere as per Schedule 4 and 5 of Part A of the Constitution.
- (2) Subject to section 52(6) of the Act, the relevant Minister or MEC, as the case may be, may submit his/her comments on the application to the Municipality within 60 days from date of receipt of the application, failing which, it shall be deemed that such Minister or MEC has no comment to make.

89. Transitional provisions

- (1) The repeal of the legislation referred to in Schedule 3 of the Act or by a provincial legislature in relation to provincial legislation dealing with municipal planning shall not affect the validity of anything done in terms of that legislation.
- (2) All applications, appeals or other matters pending before the Municipality at the commencement of this By-law, that have not been decided or otherwise disposed of, provided that such applications or appeals were submitted in terms of legislations not repealed by this Act or otherwise inconsistent with the provisions of the Act, shall be continued and disposed of in terms of the provisions of that legislation and if it is not

legally competent to do so, to be continued and disposed of in terms of the relevant provisions of this By-law.

- (3) Any tariff of charges adopted, approved and published in terms of any other legislation dealing with municipal planning prior to this By-law coming into operation, shall remain in force and shall apply *mutatis mutandis* to the provisions of this By-law until new tariff of charges have been approved and published in terms of this By-law.
- (4) Any notation system used to illustrate the provision of a town planning scheme in terms of any legislation envisaged in subsection (1) above, shall remain valid for purposes of the preparation, approval and adoption of the land use scheme envisaged in section 16 of this By-law.
- (5) Any town planning scheme in operation within the jurisdiction of the Municipality shall remain in force until the adoption and approval of a land use scheme envisaged in section 16 of this By-law.
- (6) Any municipal spatial development framework lawfully adopted prior to the coming into operation of the Act and this By-law shall remain valid until a new municipal spatial development framework is adopted in terms of the provisions of the Act and this By-law.

90. Exemption

- (1) The Municipality may, in writing, exempt any person from complying with any provision of this By-law upon good cause shown.
- (2) An application for exemption shall be in writing setting out which section of the By-law exemption is being applied for accompanied by a full motivation why such exemption should be granted.
- (3) Such application shall be considered by the authorised official and a decision shall be made on the application within 14 days from date of receipt of such application and the applicant shall be informed in writing of such decision.

91. Administrative language

- (1) This By-law on commencement shall be published in English and the official administrative language for purposes of this By-law shall be English.
- (2) All land development applications, requests, reports, documentation, notices and/or communications shall be in English provided that any person may, within good reason and where practically possible, request that it be translated to another language of choice in terms of the Municipality's approved language policy, if any.

92. Validity of Objections

- (1) Where in terms of any provision of this By-law any person may lodge an objection against any land development application or appeal, such objection must clearly set out:
 - (a) the right, interest or legitimate expectation the objection is framed to protect, and
 - (b) the full contact details, including e-mail and facsimile details, of the person objecting
—
failing which, the objection may be deemed to be invalid and may be disregarded.
- (2) Councillors may only lodge an objection against any land development application in their personal capacities and not in their capacity as a Ward Councillor on behalf of a third party or parties.

93. Excision from Agricultural Holding Register

- (1) If the excision of an Agricultural Holding is required as a result of a township establishment application envisaged in section 51(1) above, it may be included as a pre-proclamation condition as envisaged in section 53(2) above.

- (2) The endorsement of the Agricultural Holding Title by the Registrar of Deeds, to the effect that it excised and known as a farm portion for purposes of a township establishment application, can be done simultaneously with the endorsement of the title deed of the farm portion and the opening of a township register as envisaged in section 53(10) above.
- (3) In issuing a certificate as envisaged in section 53(11) above, the Municipality may require that certain conditions be complied with together with the opening of a township register as envisaged in section 53(10), which may include the registration of the excision of an Agricultural Holding.
- (4) Except as provided for in section 93(1) above, any application for excision of an agricultural holding shall be in accordance with Schedule 12 of this By-law.

94. False or misleading information in connection with application

Any person who wilfully and/or with intent to defraud, furnishes false or misleading information in connection with an application contemplated in this By-law shall be guilty of an offence.

95. Compliance with the provisions, Schedules and Forms to this By-law

- (1) The schedules and forms to this By-law are aimed at assisting the public and the Municipality in dealing with any matter in terms of this By-law and provide draft forms and formats which shall substantially be complied with by an applicant, owner or anybody or person as contemplated in this By-law.
- (2) Nothing contained in this By-law or any other law shall prohibit the Municipality from determining through its schedules or forms, or subsequent amendments thereof, processes and procedures to be complied with by the owner, applicant or any other person acting in terms of these By-laws; provided that in determining these processes and procedures it shall not do so if the determination is material, in the opinion of the Municipality, to amend this By-law as adopted.

- (3) Where a conflict exists between the content of the schedules and/or forms to this By-law and the provisions of the By-law, the By-law shall prevail.
- (4) Where any provision of this By-law refers to the schedules to this By-law, the schedule in relation to the type of land development application, request, actions or other applications shall be applicable, provided that the schedules may apply *mutatis mutandis* to other types of land development applications, requests, actions or other application.
- (5) Where any notice is required in terms of this By-law which has the purpose of soliciting public participation, such notices shall be substantially in accordance with the Schedules and Forms to this By-law.
- (6) Any documentation issued by the Municipality in terms of the provisions of this By-law:
 - (c) which does not comply with any procedural requirement of the By-law, is nevertheless valid if the non-compliance is not material and does not prejudice any person; and
 - (d) may be amended or replaced without following a procedural requirement of this By-law if:
 - (i) the purpose is to correct an error; and
 - (ii) the correction does not materially change the rights and duties of any person.

96. Short title and commencement

This By-Law is called the Mogale City Local Municipality Spatial Planning and Land Use management By-Law, 2018, and comes into operation on a date of publication in the *Provincial Gazette and accordingly replaces the By-law dated 2016*.