
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 139 OF 2015**CE70/2015
A9171****SOL PLAATJE LOCAL MUNICIPALITY LAND USE
MANAGEMENT
BY-LAW**

PUBLISHED UNDER LOCAL GOVERNMENT NOTICE IN *NORTHERN CAPE PROVINCIAL GAZETTE* OF 21ST OF SEPTEMBER 2015. NOTICE IS HEREBY GIVEN IN TERMS OF SECTION 6(1) (A) OF THE SPATIAL PLANNING AND LAND USE ACT (ACT NO. 16 OF 2013) AND THE PROVISIONS OF SECTION 13 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 32 OF 2000 THAT THE COUNCIL OF SOL PLAATJE MUNICIPALITY HAS TAKEN A RESOLUTION ON THE ADOPTION AND IMPLEMENTATION OF THE SOL PLAATJE MUNICIPALITY LAND USE MANAGEMENT BY-LAW, 2015 ACCORDING TO COUNCIL RESOLUTION NUMBER C196/08/2015 DATED 05 AUGUST 2015.

THE LAND USE MANAGEMENT BY-LAW, 2015 WILL BE AVAILABLE TO THE PUBLIC VIA THE SOL PLAATJE MUNICIPALITY WEBSITE AS WELL AS OFFICE OF THE EXECUTIVE DIRECTOR: SEDP AT THE CIVIC CENTRE, OLD BUILDING, 2ND FLOOR, SOL PLAATJE MUNICIPALITY.

KENNISGEWING 139 VAN 2015**SOL PLAATJE PLAASLIKE MUNISIPALITEIT VERORDENING
RUIMTELIKE BEPLANNING EN GRONDGEBRUIK
BESTUUR**

GEPUBLISEER ONDER PLAASLIKE REGERING KENNISGEWING (NOMMER) IN DIE NOORD-KAAP PROVINSIALE KOERANT 21STE SEPTEMBER 2015.

KENNIS GESKIED HIERMEE IN TERME VAN ARTIKEL 6 (1) (A) VAN DIE RUIMTELIKE BEPLANNING EN GRONDGEBRUIKSBEHEER (WET NO. 16 VAN 2013) EN DIE BEPALINGS VAN ARTIKEL 13 VAN DIE WET OP PLAASLIKE REGERING: MUNISIPALE STELSELS, WET 32 VAN 2000 DAT DIE RAAD VAN DIE MUNISIPALITEIT SOL PLAATJE HET 'N BESLUIT GENEEM OOR DIE VOORBEREIDING, AANVAARDING EN IMPLEMENTERING VAN DIE SOL PLAATJE MUNISIPALITEIT GRONDGEBRUIKBESTUUR BY- LAW, 2015 VOLGENS RAADSBESLUIT NOMMER C196/08/2015 GEDATEER 5 AUGUSTUS 2015 .

DIE LAND USE MANAGEMENT BY- LAW , 2015 SAL AAN DIE PUBLIEK BESKIKBAAR VIA DIE SOL PLAATJE MUNISIPALITEIT WEBSIT ASOOK DIE STEDELIKE BEPLANNING DEPARTMET EN REGISTER BY DIE BURGERSENTRUM, OU GEBOU, 2DE FLOOR, SOL PLAATJE MUNICIPALITY.
2752230017011IJ1ZZ7E

MR. G. AKHARWARAY
THE MUNICIPAL MANAGER
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LAND USE MANAGEMENT BY-LAW,
2015
SOL PLAATJE LOCAL MUNICIPALITY

Preamble

WHEREAS the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

WHEREAS there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

WHEREAS there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

WHEREAS the commencement of the Spatial Planning and Land Use Management Act, 16 of 2013 on 1 July 2015 has necessitated the promulgation of a By-Law to ensure that the Municipality can give effect to its obligations and to ensures that all Spatial Planning and Land Use policies and legislations are consistent, uniform, transparent and inclusive in nature; and

BE IT THEREFORE ENACTED by the Municipal Council of the Sol Plaatje Local Municipality as follows:-

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CHAPTER I – INTERPRETATION AND APPLICATION

1. DEFINITIONS AND INTERPRETATIONS

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).

All references to sections in this By-law refers to the By-law unless clearly indicated otherwise stated—

“Adopt”, in relation to a spatial development framework, zoning scheme, policy or strategy, means the approval thereof by the executive authority;

“Appeal Authority” means the Appeal Authority contemplated in section 52(1);

“Applicant” means a person who makes a land development application as contemplated in section 45 of the Spatial Planning and Land Use Management Act, 2013.

“Application” means an application to the Municipality referred to in section 4(2) (a);

“Authorised agent” means a person appointed in terms of a power of attorney by an owner in terms of section 45 of Spatial Planning and Land Use Management Act, 2013;

“Authorised employee” means a municipal employee who is authorised by the Municipality to exercise a power or perform a duty in terms of this By-law or to inspect land and buildings in order to enforce compliance with this By-law or the zoning scheme;

“Bio-regional planning” means planning that promote sustainable development by enhancing environmental integrity and human well-being through economic efficiency within a defined geographical area, the boundaries of which are determined in accordance with environmental, social and economic criteria.

“Consolidation” “In relation to land, means the merging of two or more adjacent land parcels into a single land parcel and includes the notarial linking of two or more properties

“Council” means the municipal council of the Sol Plaatje Local Municipality;

“Date of notification” means the date on which a notice is served as contemplated in section 31 or published in the media or Provincial Gazette;

“Day” means a calendar day, and when any number of days are prescribed for the execution of any act, it must be calculated by excluding the first day and including the last day, however, should the last day fall on a Saturday, Sunday or Public Holiday, the number of days must be calculated by excluding the first day and also the Saturday, Sunday or public holiday;

“Development charge or Bulk Service Contribution” means a development charge or bulk service levied by the Municipality as contemplated in section 64;

“Emergency” includes a situation that arises from a flood, strong wind, severe rainstorm, fire, earthquake or industrial accident and that requires the relocation of human settlements;

“External engineering service” means an engineering service situated outside the boundaries of a land area and that is necessary to serve the utilisation and development of the land area;

“Northern Cape Spatial Planning and Land Use Bill” means the Northern Cape Spatial Planning and Land Use Bill, and upon enactment the Act;

“Local Spatial Development Framework” means a local spatial development framework contemplated in section 9;

“Municipal Spatial Development Framework” means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act 32 of 2000 and Chapter 4 of the Spatial Planning and Land Use Management Act 16 of 2013;

“Municipal Manager” means the municipal manager of the Municipality;

“Municipality” means the municipality of Sol Plaatje established by Establishment in terms of the Local Government: Municipal Structures Act 117 of 1998, and any employee of the Municipality acting in terms of delegated or sub delegated authority of the Municipality;;

“Precinct plans” Means an area or precinct in a zoning scheme that is demarcated for the purpose of promoting certain type of development and that is subject to conditions, requirements or restrictions in addition to those of the zoning

“Public facilities” means amenities that are—

- (a) intended for the use of the general public;
- (b) used to offer a service or for recreation; and
- (c) ordinarily owned by the state or a municipality;

“Service” means a service provided by the Municipality, any other organ of state or a service provider, including services for the provision of water, sewerage, electricity, refuse removal, roads, storm water, and includes infrastructure, systems and processes related to the service;

“site development plan” means a scaled and dimensioned plan that shows details of the proposed land development, including the site layout, positioning of buildings and structures, property access, building designs and landscaping;

“Social infrastructure” means community facilities, services and networks that meet social needs and enhance community well-being;

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

“Subdivisional area” means an overlay zone that permits subdivision for the purposes of a subdivision application involving a change of zoning;

“Tribunal” means the Municipal Planning Tribunal established by Section 35 of SPLUMA.

“Overlay Zoning” means a zoning that stipulates the purpose for which land may be used and the development rule which may be more or less restrictive.

2. APPLICATION OF BY-LAW

This By-law applies to all land situated within the Sol Plaatje Municipal area, including land owned by the state and by organs of state.

CHAPTER II – DEVELOPMENT MANAGEMENT

3. DETERMINATION OF ZONING

- (1) The agent on behalf of owner of land or the owner may apply in terms of section 3(1) to the Municipality for the determination of a zoning for land within its municipal jurisdiction.
- (2) When the Municipality considers an application in terms of subsection (1) it must have the following:
 - (a) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
 - (b) any departure or consent use that may be required in conjunction with that zoning;
 - (c) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of Sol Plaatje Municipality Land Use Scheme;
 - (d) Where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and serve a notice of its intention in terms of Section 3(1)
- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, may not be considered to be lawful.

4. LAND DEVELOPMENT REQUIRING APPROVAL

- (1) No person may commence, continue, or cause the commencement or continuation of land development applications subdivision or consolidation of land without the approval of the Municipality except those exempted in terms of Section 15 of by-laws.
- (2) The municipality has categorized their applications, as contemplated in section 35(3) of the Spatial Planning and Land Use Management Act, into two categories;

(a) Category 1:

LAND USE APPLICATION TO BE CONSIDERED BY THE MPT	
i.	Township Establishment Applications;
ii.	Extension of Township Boundaries;
iii.	Rezoning or amendment of Land Use Management Scheme;
iv.	Removal of Restrictive conditions imposed on Title Deed;
v.	Amendment or cancellation of general plan (whole or part of).
vi.	Cancellation or phasing of Layout Plans of Township.
vii.	Approval of Conditions of Establishment as and when township is established.
viii.	Notarial removal; of title deed conditions

(b) Category 2 applications consist of:

LAND USE APPLICATIONS TO BE CONSIDERED BY THE AUTHORISED OFFICIAL	
i.	Subdivision.
ii.	Consolidation.
iii.	Departures
iv.	Consent Uses.
v.	Relaxation of Building Lines, Height or Coverage.
vi.	Removal or suspension of Conditions relating to density of Residential Developments.
vii.	SDP (Site Development Plans).
viii.	Amendment of SG Diagram.
ix.	Extension of time for abovementioned land use applications not more than 5 years.
x.	Permanent close of public open space owned by municipality

- (3) The agent on behalf of owner of land may apply in terms of section 45 of the Spatial Planning and Land Use Management Act, 2013 for the abovementioned land use applications.
- (4) If the land development is of provincial interest the provincial department responsible for land use planning must be approached for comments.
- (3) If the land development is of national interest the national and provincial department responsible for land use planning must be approached for comments.

- (4) If section 52 of the Spatial Planning and Land Use Management Act is applicable to the land development, the authorised agent on behalf of owner of land may apply in terms of that Act.
- (5) When an applicant or owner exercises a use right granted in terms of an approval, he or she must comply with the conditions of the approval and the applicable provisions of the zoning scheme.
- (6) When the Municipality on its own initiative develops land as contemplated in subsection (2), it must apply to the Municipal Planning Tribunal for change in land use contemplated in category 1 land use applications.

5. CONTINUATION OF APPLICATION AFTER CHANGE OF OWNERSHIP

- (1) If 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, if an agent was appointed to make the application.
- (2) The new owner must advise the Municipality in writing of the continuation of the application.

6. REZONING OF LAND

- (1) The Municipality may, on its own initiative, rezone land that belongs to the Municipality in order to;
 - (a) provide a public service or to provide a public recreational space; or
 - (b) Substitute a zoning scheme or part thereof for a zoning scheme in terms of which the land is not necessarily zoned in accordance with the utilisation thereof or existing use right as determined by Sol Plaatje Municipality Land Use Management Scheme.
- (2) An applicant who wishes land to be rezoned, must submit an application to the Municipality in terms of section 4(2) (a).
- (3) The applicant must place a site notice in two (2) official languages indicating his/her Intention in terms of Section 4 (2) (a) for a period of 21 days on site.
- (4) An applicant must also serve a notice in terms of section 31 and 32 indicating his/her intention.
- (5) The municipality will not be held liable for any errors or omissions on the zoning sheets or maps i.e. Scheme Maps A & B series.

7. LAPSING OF REZONING AND EXTENSION OF VALIDITY PERIODS

- (1) Subject to subsection 4 (2) (a) , a rezoning approval lapses after a period five(5) years, or a shorter period as the municipality may determine, from the date that the approval comes into operation if, within that five-year period or shorter period—
 - (a) The zoning is not utilised in accordance with the approval; or
 - (b) The following requirements have not been met:
 - (i) The approval by the Municipality of a building plan envisaged for the Utilisation of the approved use right; and
 - (ii) Commencement of the construction of the building contemplated in subparagraph (i).
- (2) Subject to subsection (4) (2) (a), the approval of a rezoning to sub-divisional area lapses after five (5) years, or the shorter period that the municipality may determine, from the date that the approval comes into operation.
- (3) If a subdivision application is submitted in respect of land that is zoned as sub-divisional area, the zoning of sub-divisional area lapses after the period contemplated in subsection (2) including any extended period approved in terms of subsection (5) or when the subdivision is approved, whichever period is the longest.
- (4) The approval of a rezoning to sub-divisional area must include conditions as determined by Municipal Planning Tribunal.
- (5) The Municipality may approve extensions of a period contemplated in subsection (1) or (2), but the period together with any approved extensions may not exceed 5 years.
- (6) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies, or where no zoning existed prior to the approval of the rezoning, the Municipality must determine a zoning in terms of section 10.

8. CONSENT USES

- (1) An applicant may apply to the Municipality in terms of section 8(2) ,(3) and (4) for Consent use;
- (2) A Consent use that is indicated as a secondary use within the Sol Plaatje Land Scheme will not lapse.
- (3) A consent use that is not contemplated in the Sol Plaatje Land Use Management Scheme will lapse after a period of five years, or a shorter period as the Municipality may determine, from the date that the approval thereof comes into

operation, if within that five-year period or shorter period if the consent use is not utilised in accordance with the approval

- (4) The following temporary Consent Uses or Departures may be issued by the Municipality for a period of (5) five years or shorter as deemed by the Municipality,

All the below uses will be limited to a maximum of 40 m²:

- a. Tuck-shops;
 - b. Bed and Breakfast application with a limit of not more than 2 bedrooms for accommodation purposes;
 - c. Home Office;
 - d. Crèche with a limitation of 15 children, childcare and nursery school;
 - e. Hair salon;
 - f. Juice Den and Shoe Repairs limited 40 m²;
 - g. Fast food Store;
 - h. Motor Repairs with a maximum of 4 cars in the Erven;
 - i. Internet Café;
 - j. Pool table for business use.
- (5) The applicant must place a site notice in two (2) official languages indicating his/her intention in terms of Section 8(4) for a period of 21 days on site;
- (6) In case of Consent Use contemplated in terms of Section 8 (2) applicant need to advertise in local newspaper for a period of 21 days.
- (7) A consent use may not be granted if it is in conflict with a condition in the title-deed of the erf to which the application for consent use relates to.

9. SUBDIVISION

- (1) No person may subdivide land without the approval of the Municipality unless the Subdivision is exempted in terms of section 15.
- (2) An application for subdivision involving a change of zoning must be considered by the Municipality.
- (3) An applicant may submit a subdivision application simultaneously with an application for rezoning
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval with the following:
 - (a) The Municipality's decision to approve the subdivision;
 - (b) The conditions of approval and
 - (c) The approved subdivision plan.

- (6) If the Municipality approves a subdivision, the applicant must within a period of two years, or a shorter period as the Municipality may determine, from the date that the approval comes into operation comply with the following requirements:
 - (a) Approval by the Surveyor-General of the general plan or diagram contemplated in subsection (5);
 - (b) Completion of the installation of engineering services in accordance with the conditions contemplated in subsection (4) or other applicable legislation;
 - (c) Proof to the satisfaction of the Municipality that all the relevant conditions of the approved subdivision, that must be complied with before compliance with paragraph (d), have been met in respect of the area shown on the general plan or diagram; and
 - (d) Registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (7) The Municipality must issue a certificate to confirm that it is satisfied that all conditions of approval contemplated in subsection (5) (c) have been met.
- (8) If the Municipality issues a certificate referred to in subsection (7) in error, the applicant is not absolved from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

10. CONFIRMATION OF SUBDIVISION

- (1) Upon compliance with section 9, a subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof, zonings indicated on an approved subdivision plan is confirmed and it cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or any other person on his or her written request that a subdivision or part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 9 for the subdivision or part thereof.
- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed or the Municipality approved the construction prior to the confirmation of the subdivision.

11. LAPSING OF SUBDIVISION AND EXTENSION OF VALIDITY PERIODS

- (1) An approved subdivision or a part thereof lapses if the applicant does not comply with section 9
- (2) An applicant may apply for an extension to the period contemplated in to comply with subsection 9 or must comply with subsection (5).
- (3) An extension contemplated in subsection (2) may be approved for a period not exceeding five years or shorter as determined by municipality and, if after expiry of the extended period have not been complied with, the subdivision lapses and subsection (6) applies.

- (4) If the Municipality approves an extension contemplated in subsection (2), the extended period together with the period contemplated in subsection (3) may not exceed 5 years.
- (5) If an applicant complies with section 9 only in respect of a portion of the land reflected on the general plan, he or she must withdraw the general plan and submit a new general plan to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses in terms of subsection (1)—
 - (a) The Municipality must—
 - (i) Amend the zoning map and, where applicable, the register accordingly; and
 - (ii) Notify the Surveyor-General accordingly; and
 - (b) The Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

12. AMENDMENT OR CANCELLATION OF SUBDIVISION PLAN

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

13. CONSOLIDATION OF LAND PARCELS

- (1) No person may consolidate land without the approval of the Municipality in terms of section 13(1), unless the consolidation is exempted in terms of section 15.
- (2) A copy of the approval must accompany the diagram that is submitted to the Surveyor-General's office.
- (3) If a Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) The decision to approve the consolidation;
 - (b) The conditions of approval ; and
 - (c) The approved consolidation plan.

- (4) If a Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.

14. LAPSING OF CONSOLIDATION AND EXTENSION OF VALIDITY PERIODS

- (1) Subject to subsection (2), an approved consolidation of land units lapses if the consolidation is not registered in terms of the Deeds Registries Act within two (2) years of the date of the approval of the consolidation.
- (2) If the consolidation of land units forms part of land development that has been approved in terms of this By-law subject to longer validity periods, the applicant may apply for an extension of the period referred to in subsection (1).
- (3) If the Municipality approves an extension contemplated in subsection (2), the extended period together with the period contemplated in subsection (1) may not exceed five (5) years.
- (4) If an approval of a consolidation lapses in terms of subsection (1)—
- (a) the Municipality must—
- (i) Amend the zoning map and, where applicable, the register accordingly;
and
- (ii) Notify the Surveyor-General accordingly; and
- (b) The Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the consolidation has lapsed.

15. EXEMPTION OF SUBDIVISIONS AND CONSOLIDATIONS

- (1) The subdivision or consolidation of land does not require the approval of the Municipality in the following cases:
- (a) If the subdivision or consolidation arises from the implementation of a court ruling;
- (b) If the subdivision or consolidation arises from an expropriation;
- (c) A minor amendment to the common boundary between two or more land parcels if the resulting change in area of any of the land parcels is deemed to be a minor amendment by the municipality and the Erven have the similar zoning in terms of Land Use Management Scheme;
- (d) The registration of a servitude or lease agreement for the provision or installation of—
- (i) Water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider (excluding those applications affected by the national environmental management act;
- (ii) Telecommunication lines by or on behalf of a licensed telecommunications operator;
- (e) The exclusive utilisation of land for agricultural purposes, if the utilisation—

- (i) Requires approval in terms of legislation regulating the subdivision of agricultural land; and
 - (ii) Does not lead to urban expansion or expansion of Urban Edge as determined by the SDF (Spatial Development Framework);
- (f) The granting of a right of habitation, right of way or usufruct.
- (2) An applicant must obtain a certificate from the municipality that certifies in writing that the subdivision or consolidation is exempted from the application of section 15 and sections 9 and 10 in the case of a subdivision, or section 13 in the case of a consolidation.
- (3) The municipality must indicate on the subdivision plan, or on the diagram in respect of the consolidation, that the subdivision or consolidation is exempted from the application of the sections referred to in subsection (2).

16. SERVICES ARISING FROM SUBDIVISION

- (1) Subsequent to the approval of an application for subdivision in terms of this By-law, the owner of any land unit originating from the subdivision must—
- (a) Allow without compensation that the following be conveyed across his or her land unit in respect of other land units originating from the subdivision:
- (i) Gas mains;
 - (ii) Electricity cables;
 - (iii) Telephone cables;
 - (iv) Television cables;
 - (v) Other electronic infrastructure;
 - (vi) Main and other water pipes;
 - (vii) Foul sewers;
 - (viii) Storm water pipes; and
 - (ix) Ditches and channels;
- (b) Allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:
- (i) Surface installations such as mini-substations;
 - (ii) Meter kiosks; and
 - (iii) Service pillars;
- (c) Allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs (a) or (b); and

- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and to provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of, and within a period to be determined by, the Municipality.

17. OWNERSHIP OF PUBLIC PLACES AND LAND REQUIRED FOR MUNICIPAL ENGINEERING SERVICES AND SOCIAL FACILITIES

- (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vests in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed under section 17(1) determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved subdivision plan, be transferred to the Municipality upon confirmation of the subdivision or a part thereof.

18. CLOSURE OF PUBLIC PLACES

- (1) The Municipality may upon application, permanently close a public place or any portion thereof in accordance with provisions of this By-Law.
- (2) An applicant who requires the closure of a public place, including the Municipality, whether permanently or temporarily, must apply in terms of section 18(1) in the manner prescribed to the Municipality.
- (3) The ownership of the land comprised in any public place or portion thereof that is permanently closed in terms of this section continues to vest in the Municipality, unless the Municipality determines otherwise.
- (4) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.
- (5) The Municipal Manager may, without complying with Chapter IV, temporarily close a public place—
- (a) For the purpose of, or pending, the construction, reconstruction, maintenance or repair of the public place;
 - (b) For the purpose of, or pending, the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, over or under the public place;
 - (c) If the street or place is in a state that is dangerous to the public;
 - (d) By reason of an emergency or public event that requires special measures for the control of traffic or special provision for the accommodation of crowds; or
 - (e) For any other reason that renders the temporary closing of the public place necessary or desirable.

19. CERTIFICATION BY MUNICIPALITY

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of section 118(1) (a) & (b) of the Municipal Systems Act.
- (2) A prescribed certificate issued by a municipality in terms of subsection (1) is valid for a period of 60 days from the date it has been issued.
- (3) The Municipality may not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
 - (a) a conveyancer's certificate confirming that money due by the transferor of land to an owners' association established in respect of that land has been paid, or that provision has been made to the satisfaction of the owners' association for the payment thereof;
 - (b) proof of payment of any contravention penalty or proof of compliance with an instruction in a compliance notice issued;
 - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the zoning scheme;
 - (d) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

20. REQUIREMENTS FOR AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS

- (1) The Municipality may, on its own initiative or on application in terms of section 4(2), by notice in the *Provincial Gazette* amend, suspend or remove a restrictive condition.
- (2) The Municipality may amend, suspend or remove a restrictive condition—
 - (a) Permanently;
 - (b) For a period specified in the notice; or
 - (c) Subject to conditions specified in the notice.
- (3) In addition to the procedures set out in Chapter IV, the owner must—
 - (a) Submit the original title deed to the Municipality or a certified copy thereof; and
 - (b) Where applicable, submit the bondholder's consent to the application.
- (4) The Municipality must cause a notice of an application in terms of subsection (1) to be served on—
 - (a) Any organs of state that may have an interest in the title deed restriction;
 - (b) On any person who in the opinion of the Department Head or Chief Authorised Official, as case may be, may have interest in the matter and who's address he/she knows or can obtain

- (c) Whose rights or legitimate expectations will be materially and adversely affected by the approval of the application in the opinion of the Department Head or Authorised Official; an
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
- (a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - (b) The personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is amended, suspended or removed;
 - (c) Whether the amendment, suspension or removal of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

21. ENDORSEMENTS IN CONNECTION WITH AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS

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

CHAPTER III – APPLICATION PROCEDURES

APPLICATION PROCEDURES

22. PROCEDURES FOR APPLICATIONS

- (1) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter III of this By-law.
- (2) The application procedures are distinctive to the different types of applications referred to in section 4(2).
- (3) Category 1 and 2 applications as contemplated in section 4(2) should be submitted to the Municipality
- (4) Category 1 applications must be submitted with a comprehensive application.
- (5) Category 2 applications must be submitted with a comprehensive application.

23. INFORMATION REQUIRED

- (1) An application contemplated in section 4(2) must be accompanied by the following documents:
 - (a) If the applicant is an agent, a power of attorney authorising the applicant to make the application on behalf of the owner;
 - (b) If the owner of the land is a company, close corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, close corporation, trust, body corporate or a home owners' association;
 - (c) The relevant bondholder's consent, if required by the Municipality;
 - (d) A comprehensive motivation for all applications which includes need and desirability, based on the criteria for consideration of the application;
 - (e) Proof of payment of application fee;
 - (f) A full copy of the title deeds indicating all existing title conditions required;
 - (i) If required by the Municipality, a conveyancer's certificate indicating that no restrictive condition in respect of the application is contained in the title deeds;
 - (j) Should any other legislation or authority require any other actions, proof of compliance to such prerequisites must be attached to the application.
- (2) Additional to the application form as contemplated in subsection (1)(a) the following plans and maps must form part of a comprehensive application, unless the Municipality has, in writing, indicated differently:
 - (a) Orientating locality map;
 - (b) Zoning map extract;
 - (c) Land use map;
 - (d) Detailed layout map;
 - (e) Detailed Site development plan;
- (3) Additional to the application form as contemplated in subsection (1)(a) the following plans and maps must form part of an abridged application, unless the Municipality has, in writing, indicated differently:
 - (a) Orientating locality map;
 - (b) Basic layout map
- (4) The Municipality may add or remove any information requirements for a particular application;
- (5) The Municipality may make guidelines regarding the submission of additional information and procedural requirements.

24. APPLICATION STANDARDS

- (1) Applications that do not comply with the provisions of this section are deemed to be incomplete
- (2) An orientation locality map should be a clearly readable A4 sized map indicating the application area in relation to the surrounding properties and must include the following basic details:
 - (a) True north, scale, key and heading "Locality Map";
 - (b) The approximate location of the land unit involved in the application, relative to the nearest town for farming areas and the immediate residential neighbourhoods for urban areas;
 - (c) Boundary of the Local Authority, including the names of adjacent Local Authorities for applications near the border of the aforementioned;
 - (d) Roads, indicated whether they are main roads, highways, national roads or provincial roads if near or adjacent to the application area;
 - (e) Size and location of the particular portion applicable to the application and;
 - (f) Any other applicable particulars requested by municipality.
- (3) A basic layout map of at least A3 size must include the following details:
 - (a) True north, scale, key and heading "Layout Map";
 - (b) Erf boundaries, street names (if applicable), including neighbouring erf or farm numbers.
 - (c) The location of existing buildings on the application area and surrounding properties, if the application has an influence on them.
 - (d) Detail regarding the proposed development, including proposed subdivision and consolidation boundaries.
 - (e) Any physical restrictions on the land unit or neighbouring land units that might influence the application (if applicable).
 - (f) Any other applicable particulars to give more clarity to the application.
- (1) A zoning map extract of at least A4 size must include an extract of the municipality's official zoning map with the following detail:
 - (a) The scale, true north, key and heading "Zoning Map";
 - (b) All land units and existing zonings thereof within a radius of 300m from the outside boundary of the application area, as well as of all undeveloped land units for applications within Urban Areas and;
 - (c) All land units and existing zonings of adjacent farms for applications within Rural Areas.

- (2) A land use map must be included where the existing land uses differ from the relative zonings of the application area, or if it is requested by the municipality. A land use map must include the following:
- (d) The scale, true north, key and heading "Land Use Map";
 - (e) All existing land uses found within a radius of 300m from the outside boundary of the application area, as well as all undeveloped land units for applications within Urban Areas and;
 - (f) All land units and existing land uses of adjacent farms for applications within Rural Areas.
- (3) A detail layout map must be included for any application that necessitates such detail for consideration. A detailed map must be a minimum size of A4 and consist of the following details:
- (g) The scale, true north, key and heading "Layout Map";
 - (h) The Detail Layout plan must indicate the map number and all amendments shall have consecutive numbers.
 - (i) Contours with 1m or 2m height differences up to outside of the Layout boundary.
 - (j) All areas steeper than 1:5.
 - (k) If the property / development is subject to a flood line the 1:50 and 1:100 year flood lines should be indicated and signed on the plan by a practising registered professional engineer. Should the property not be subject to a flood line a registered practicing engineer should confirmed that the subject property is not affected by a flood line'
 - (l) Other physical restrictions that might influence the layout (e.g. cliffs, marshes, dunes, etc.).
 - (m) All existing services within and surrounding the application area.
 - (n) Road layout on adjacent land units.
 - (o) The proposed subdivision(s).
 - (p) Sufficient measurements to indicate the sizes of the subdivisions.
 - (q) The erven numbered consecutively.
 - (r) The name of the person or firm that prepared the layout
 - (s) If contours, indicated on the map, were prepared by another person or firm, the particular name should also be mentioned.
 - (t) Co-coordinates together with grid references if requested.
 - (u) The proposed new streets names for new township establishments.

- (v) A list of the proposed zonings distinguished by means of different colours, the colour code shall be in accordance with the scheme regulations, indicating the different uses, amount of erven for each use, surfaces per use and surfaces expressed as a percentage of the total area of the subdivision. The surface area shall be expressed in m² and or hectares.
- (4) A site development plan must be included for any application that can have an influence on interested and affected parties and must include the following:
 - (a) The scale, true north, key and heading "Site Development Plan";
 - (b) Existing buildings on the land unit and on directly adjacent land units.
 - (c) All existing services within and surrounding the application area.
 - (d) All proposed buildings, parking bays, landscaped areas and any other detail that can give more clarity to the application.
- (5) All maps should be compiled using the Lo or Hartebeeshoek 1994 coordinate system for town level maps and Lambert Conical Conform with the appropriate standard parallels for municipal level maps.
- (6) All maps and plans must be printed in colour or black and white with a minimum dots per inch (dpi) of 300.
- (7) All documentation for e-lodgement must be uploaded in pdf format with a minimum dots per inch (dpi) of 300.
- (8) All maps and plans should be a minimum standard A4 size in accordance with International Standards Organization' standards.
- (9) The municipality can at any time insist on adding details to application standards if the application necessitates such detail for consideration.

25. APPLICATION FEES

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

26. GROUNDS FOR REFUSING TO ACCEPT APPLICATION

- (1) The Municipality may refuse to accept an application if—
 - (a) The Municipality has already decided on the application;
 - (b) There is no proof of payment of the applicable fees;
 - (c) The application is not in the form required by the Municipality or does not contain the documents required for the submission by municipality.

27. RECEIPT OF APPLICATION AND REQUEST FOR FURTHER INFORMATION, DOCUMENTATION, PLANS OR ADDITIONAL FEES

- (1) The Municipality must—
 - (a) Record the receipt of an application, in writing or by affixing a stamp on the application, on the day of receipt; and
 - (b) Notify the applicant in writing of any outstanding information, documentation, plans or additional fees that it requires within 7 days of receipt of the application or the further period as may be agreed upon.
- (2) If the Municipality fails to notify the applicant as contemplated in subsection (1)(b) the applicant may appeal against failure to confirm application is complete.

28. PROVISION OF FURTHER INFORMATION, DOCUMENTATION OR PLANS AND PAYMENT OF FEES

- (1) The applicant must provide the Municipality with the requested information, documentation or plans or payment of the requested additional fees contemplated in section 39 for the completion of the application within 14 days of the request therefore or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the requested information, documentation or plans or pay the additional fees within the periods contemplated in subsection (1).
- (3) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (2) and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (2) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider in terms of subsection (2), the applicant must apply again and pay the applicable application fees.

29. CONFIRMATION OF COMPLETE APPLICATION

- (1) The Municipality must notify the applicant in writing that the application is complete within 7 days of receipt of the requested information, documentation or plans or additional fees required, if further information is required as a result of the additional information received.
- (2) If the Municipality fails to notify the applicant as contemplated in subsection (1) the applicant may appeal against failure to confirm application is complete.
- (3) If the Municipality notified the applicant that further information is required as contemplated in subsection (1), section 44 applies to the further submission of the information required.

30. WITHDRAWAL OF APPLICATION OR AUTHORISATION

- (1) An applicant may, at any time before the Municipality makes a decision, withdraw an application on written notice to the Municipality.
- (2) The owner of land must in writing inform the Municipality if he or she has withdrawn the authorisation given to his or her former agent.

31. NOTIFICATION OF APPLICATION IN MEDIA

- (1) The Municipality must, in accordance with this By-law, cause notice to be given in the media for Category 1 applications as contemplated in section 4(2)(a).
- (2) Applications that will materially affect the public interest or the interests of the community if approved must cause notice to be given in the media.
- (3) Notice of the application in the media must be given by—
 - (a) Publishing a notice of the application, in newspapers with a general circulation in the area concerned, in at least two of the official languages of the Province most spoken in the area concerned; or
 - (b) If there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.

32. SERVING OF NOTICES

- (1) Notice of an application must be served—
 - (a) In accordance with section 115 of the Municipal Systems Act;
 - (b) In at least two of the official languages of the Province most spoken in the area concerned; and
 - (c) On owner or occupant of land who in the opinion of the Departmental Head or Authorised Official, as the case may be, may have an interest in the matter and whose address he/she knows or can obtain.
- (2) The Municipality must at least cause a notice contemplated in section 32 to be served of the following applications:
 - (a) A determination of a zoning;
 - (b) An application for subdivision or the phasing, amendment or cancellation of a subdivision contemplated in section 12 respectively;
 - (c) An application for consolidation contemplated in section 13(1) or
- (3) The Municipality may require the serving of a notice as for any other application made in terms of this By-law and that is not listed in subsection (2).

- (4) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (5) If an applicant has served a notice at the request of the Municipality, the applicant must furnish the Municipality with proof that the notice has been served as required.
- (6) The date of notification in respect of a notice served in terms of this section—
 - (a) When it was served by certified or registered post, is the date of registration of the notice; and
 - (b) When it was delivered to that person personally, is the date of delivery to that person;
 - (c) When it was left at that person's place of residence or business in the republic with a person apparently over the age of sixteen years, is the date on which it was left with that person; or
 - (d) When it was displayed in a conspicuous place on the property or premises to which it relates, is the date that it is posted in that place.

33. CONTENT OF NOTICE

- (1) When notice of an application must be given in terms of section 32 or served in terms of section 33, the notice must—
 - (a) Provide the full names of the applicant, if authorised representative, the full names and organisation of the representative;
 - (b) Identify the land or land unit to which the application relates by giving the property description and the physical address;
 - (c) State the intent and purpose of the application;
 - (d) State that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
 - (e) State the name and contact details of the person to whom comments, objections or representations must be addressed;
 - (f) Invite members of the public to submit written comments, objections or representations, together with the reasons therefore, in respect of the application;
 - (g) State in which manner comments, objections or representations may be submitted;
 - (h) State the date by which the comments, objections or representations must be submitted, which date may not be less than 30 days from the date on which the notice was given;

- (i) State that any person who cannot write may during office hours come to an address stated in the notice where a named staff member of the Municipality will assist those persons by transcribing their objections, comments or representations.

34. ADDITIONAL METHODS OF PUBLIC NOTICE

- (1) The Municipality may, on its own initiative or on request, require the applicant to employ one or more of the following methods to give additional public notice of any application in terms of this By-law:
 - (a) displaying a notice of a size of at least 60 centimetres by 42 centimetres on the frontage of the Erf concerned or at any other conspicuous and easily accessible place on the Erf, provided that—
 - (i) the notice must be displayed for a minimum of 30 days during the period that the public may comment on the application; and
 - (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
 - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (bb) at least two photos of the notice, one from close up and one where the notice and full extent of a boundary can be seen, where possible;
 - (b) convening a meeting for the purpose of informing the affected members of the public of the application;
 - (c) broadcasting information regarding the application on a local radio station in a specified language;
 - (d) holding an open day or public meeting to notify and inform the affected members of the public of the application;
 - (e) publishing the application on the Municipality's website for the duration of the period within which the public may comment on the application; or
 - (f) Obtaining letters of consent or objection to the application.
 - (g) by serving a copy of the notice on every adjoining owner, provide that-
 - (i) the applicant must within 21 days of the last day of notice submit to the municipality a copy of the registered posting delivery
- (2) The Municipality must give additional public notice contemplated in subsection (1) if it considers notice in accordance with sections 32 or 33 to be ineffective or if it expects that the public notice would be ineffective.

- (3) Additional public notice can be given simultaneously with notice given in accordance with sections 32 or 33 or thereafter.
- (4) If an applicant has given additional public notice of an application on behalf of the Municipality, the applicant must provide proof that the additional public notice has been given as required.
- (5) Category 1 applications, as contemplated in section 4(2) (a) must give additional notice in terms of subsection (1) (a) and 1(f).
- (6) Category 2 applications, as contemplated in section 4(2) (b) must give notice in terms of subsection 1(a) and 1(f).

35. REQUIREMENTS FOR OBJECTIONS, COMMENTS OR REPRESENTATIONS

- (1) A person may in response to a notice received in terms of sections 32, 33 and 35 object, comment or make representations in accordance with this section.
- (2) Any objection, comment or representation received as a result of a notice process must be in writing and addressed to the person mentioned in the notice and must be submitted within the time period stated in the notice and in the manner set out in this section.
- (3) The objection, comment or representation must state the following:
 - (a) The name of the person or body concerned;
 - (b) The address or contact details at which the person or body concerned will accept notice or service of documents;
 - (c) The interest of the body or person in the application; and
 - (d) The reason for the objection, comment or representation.
- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—
 - (a) Indicate the facts and circumstances that explain the objection, comment or representation;
 - (b) Demonstrate the undesirable effect which the application will have; or
 - (c) Demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must refuse to accept an objection, comment or representation received after the closing date.

36. FURNISHING OF COMMENT AND INFORMATION

- (1) If a person or government department is required by the Municipality in terms of this by-law to furnish any comment or other information in terms of this by-law, fails to furnish that comment or other information within a period of 60 days from the date on which that comment or other information was so required, that person or body may be deemed to have had no comment or other information to furnish.
- (2) The period of 60 days mentioned in subsection (1) shall not apply to the notice of applications for public comment or objections, where the period mentioned in the notice concerned shall apply.
- (3) The Municipality, MEC or Minister may request Provincial or National Technical Advisory directorates to investigate the refusal or failure of a person or body to furnish comment or information.

37. AMENDMENTS PRIOR TO APPROVAL

- (1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof—
 - (a) At the applicant's own initiative;
 - (b) As a result of an objection comment or representation made during the notice process; or
 - (c) At the request of the municipality.
- (2) If an amendment to an application is material, the Municipality may require that further notice of the application be given or served in terms of this By-law or that notice of the application be given or served anew and may require that the notice and the application be re-sent to municipal departments, organs of state and service providers for further comment.

38. LIABILITY FOR COST OF NOTICE

- (1) The applicant is liable for the costs of giving and serving notice of an application in terms this By-law and the costs of such notices do not form part of the fees payable in terms of this By-law.

39. RIGHT OF AN APPLICANT TO REPLY

Copies of all objections, comments or representations submitted to the Municipality must be given to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.

- (1) Should a person submit an objection or representation within that period of 14 days, as contemplate in subsection (1), he automatically gets another 14 days in which to substantiate his objection or representation.

- (2) The applicant may, within a period of 14 days from the date of the provision of the objections, comments or representations, as contemplated in subsection (2), submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.
- (3) The applicant may, before the expiry of the thirty-day period referred to in subsection (2), apply to the Municipality for an extension of the period to submit a written reply, to an additional period of 14 days.
- (4) If the applicant does not submit comments within the period of 60 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations submitted to the Municipality additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the additional information within the period contemplated in subsection (5), the necessary changes, applies.

40. WRITTEN ASSESSMENT OF APPLICATION

- (1). Application must be assessed in writing in accordance with section 36 , 37 & 38 and a recommendation is made to the competent authority regarding the approval or refusal of the application within 14 days from the date of the closing of objection and reply period.

The assessment in subsection (1) must be made by:

- an employee, other than the authorised official, who have appropriate knowledge and experience of spatial planning, or
- A registered professional, who have appropriate knowledge and experience of spatial planning, not in the employ of the local municipality, or,
- if the local municipality cannot afford to solicit the services of a private registered professional, who have appropriate knowledge and experience of spatial planning, the local municipality must make use of the Provincial or National technical advisers employed as registered planners in the Directorates responsible for spatial planning in these two spheres

- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

41. DECISION-MAKING PERIOD

- (1) If the power to take a decision in respect of an application is delegated to an authorised employee and no integrated process in terms of another law is being followed, the authorised employee must decide on the application within 120 days reckoned from—
 - (a) The last day of submission of comments from all internal and external departments, objections or representations if no comments, objections or representations, were submitted;

- (b) The last day of the submission of the applicant's reply to comments, objections or representations submitted as contemplated in sections 40(2) and (3);
 - (c) The last day of the submission of additional information as contemplated in section 40(5); or
 - (d) Within such further period agreed to between the applicant and the municipality.
- (2) If the power to take a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Tribunal must decide on the application within 120 days calculated from the dates contemplated in subsections (1)(a) to (d)

42. FAILURE TO ACT WITHIN TIME PERIOD

- (1) An applicant may lodge an appeal to the Appeal Authority if the authorised employee or the Tribunal fails to decide on an application within the period referred.
- (2) An applicant may not appeal to the Appeal Authority if the authorised employee or the Tribunal fails to decide on an application due to the fact that all required information to decide on the matter is not available.

43. POWERS TO CONDUCT ROUTINE INSPECTIONS

- (1) Members of the Municipal Planning Tribunal, the designated employee or an employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a written assessment contemplated in section 54
- (2) When conducting an inspection, the persons referred to in subsection (1) may —
 - (a) Request that any record, document or item be produced to assist in the inspection;
 - (b) Make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
 - (c) On providing a receipt, remove a record, document or other item that is related to the inspection; or
 - (d) Inspect any building or structure and make enquiries regarding that building or structure.
- (4) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (5) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.

- (6) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

44. NOTIFICATION OF DECISION

- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the determination of the decision and their right to appeal if applicable.
- (2) A notice contemplated in subsection (1) must inform an applicant that an approval comes into operation only after the expiry of the period within which an appeal must be lodged if no appeal has been lodged.
- (3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.

45. ERRORS AND OMISSIONS

- (1) The Municipality may at any time correct an error in the wording of its decision if the correction does not change its decision or result in an alteration, suspension or deletion of a condition of approval.
- (2) The Municipality may, on its own initiative or on application by the applicant or interested party, upon good cause shown, condone an error in a procedure, provided that such condonation does not have a material adverse effect on, or unreasonably prejudices, any party.

CHAPTER IV – CRITERIA FOR DECISION-MAKING

46. GENERAL CRITERIA FOR CONSIDERATION OF APPLICATIONS

- (1) When the Municipality considers an application it must have regard to the following:
- (a) The application submitted in terms of this By-law;
- (b) The procedure followed in processing the application;
- (c) The objection, comment or representation in response to the notice of the application and the comment received from organs of state and municipal departments;
- (d) The response by the applicant, if any, to the objection, comment or representation referred to in paragraph (c);
- (e) Investigations carried out in terms of other laws that are relevant to the consideration of the application;
- (f) A registered planner's written assessment, in respect of application for—
Applications contemplated in terms of section 4(2) (a) and (b).

- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) Is consistent with the development rules of the zoning;
 - (b) Is consistent with the development rules of the overlay zone;
 - (c) Complies with the conditions of approval; and
 - (d) Complies with this by-law.

47. CONDITIONS OF APPROVAL

- (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) The provision of engineering services and infrastructure;
 - (b) The cession of land or the payment of money;
 - (c) The provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) The extent of land to be ceded to the municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the municipality;
 - (e) Settlement restructuring;
 - (f) Agricultural or heritage resource conservation;
 - (g) Biodiversity conservation and management;
 - (h) The provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) Energy efficiency;
 - (j) Requirements aimed at addressing climate change;
 - (k) The establishment of an owners' association in respect of the approval of a subdivision;
 - (l) The provision of land needed by other organs of state;
 - (m) The endorsement of the deeds registries act in respect of public places where the ownership thereof vests in the municipality;
 - (n) The registration of public places in the name of the municipality;
 - (o) The transfer of ownership to the municipality of land needed for other public purposes;

- (p) The implementation of a subdivision in phases;
 - (q) Requirements of other organs of state.
 - (r) The submission of a construction management plan to manage the impact of the construction of a new building on the surrounding properties or on the environment;
 - (s) Agreements to be entered into in respect of certain conditions;
 - (t) The phasing of a development, including lapsing clauses relating to such phasing;
 - (u) The delimitation of development parameters or land uses that are set for a particular zoning;
 - (v) The setting of a validity period, if the municipality determined a shorter validity period as contemplated in this by-law;
 - (w) The setting of a period within which a particular condition must be met;
 - (x) Requirements relating to engineering services as contemplated in section 69;
 - (y) Requirements for an occasional use, which must include—
 - (i) parking and the number of ablution facilities required;
 - (ii) the maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the zoning scheme.
- (3) If the Municipality imposes a condition contemplated in subsection (2)(a) or (x), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefore arising from the approval, as determined by the Municipality in accordance with provincial norms and standards.
- (5) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) Community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
 - (b) Conservation purposes;
 - (c) Energy conservation;
 - (d) Climate change; or
 - (e) Engineering services.

- (6) Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) An owners' association or home owners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this By-law is regarded as an owners' association that came into being by virtue of a condition imposed by the Municipality in accordance with this By-law.
- (8) The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.
- (9) Conditions requiring a standard to be met must specifically refer to an approved or published standard.
- (10) No conditions may be imposed that rely on a third party for fulfilment.
- (11) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (12) The Municipality may, on its own initiative or on application, amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.

CHAPTERV: EXTENSION OF THE VALIDITY PERIOD OF APPROVALS

48. APPLICATIONS FOR EXTENSION OF VALIDITY PERIODS

- (1) The Municipality may approve an application for the extension of a validity period imposed in terms of this By-law, on a date before or after the expiry of the validity period of an approval, if the application for the extension of the period was submitted before the expiry of the validity period.
- (2) When the Municipality considers an application in terms of subsection (1), it must have regard to the following:
 - (a) Whether the circumstances prevailing at the time of the original approval have materially changed; and
 - (b) Whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed.
- (3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application must be submitted for consideration before or simultaneously with the application for the extension of a validity period.

- (4) The extended validity period takes effect on and is calculated from the expiry date of the validity period applicable to the original approval or from the expiry date of the previous extended validity period approved in terms of this By-law.

CHAPTER VI – MUNICIPAL PLANNING DECISION-MAKING STRUCTURES

49. MEETINGS OF TRIBUNAL FOR MUNICIPAL AREA

- (1) The Tribunal 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
 - (d) the frequency of meetings.
- (2) A quorum for a meeting of the Tribunal or its committees is a majority of its members.
- (3) Decisions of the Tribunal are taken by resolution of a majority of all the members present at a meeting of the Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Tribunal.
- (4) Meetings of the Tribunal must be held at the times and places determined by the chairperson of the Tribunal in accordance with the rules of the Tribunal.

50. CODE OF CONDUCT FOR MEMBERS OF THE TRIBUNAL FOR MUNICIPAL AREA

The code of conduct in Schedule 1 applies to every member of the Tribunal.

51. ADMINISTRATOR FOR TRIBUNAL FOR MUNICIPAL AREA

- (1) The Municipal Manager must appoint an employee as the Administrator and other staff for the Tribunal in terms of the Systems Act.
- (2) The Administrator must—

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

52. APPEALS

- (1) The Executive Authority is the Appeal Authority that will consider the appeal and confirm or revoke a decision by the MPT or Authorised Official and intervene on a failure to decide on an application.
- (2) A person whose rights are affected by a decision of the Tribunal or an authorised employee may appeal in writing to the Appeal Authority within 21 days of notification of the decision, as contemplated in section 51(1) in the Spatial Planning and Land Use Management Act.
- (3) An applicant may appeal in writing to the Appeal Authority in respect of the failure of the Tribunal or an authorised employee to take a decision within the period any time after the expiry of the applicable period contemplated in section 61.

- (4) A Municipality, in the place of its Executive Authority, authorise that a body or institution outside of the Municipality or in a manner regulated in terms of a provincial legislation assume the obligations of an appeal authority.

53. PROCEDURES FOR APPEAL

- (1) An appeal that is not lodged within the applicable period is invalid.
- (2) An appeal must set out the grounds on which the appellant believes the decision-maker erred in coming to the conclusion it did or the decision-maker failed to take a decision.
- (3) An applicant who lodges an appeal must simultaneously serve notice of the appeal on any person who commented or made representations on, or objected to, the application concerned.
- (4) The notice must be served in accordance with section 115 of the Municipal Systems Act and the additional requirements as may be determined by the Municipality.
- (5) The notice must invite persons to object, comment or make a representation on the appeal within 21 days of being notified of the appeal.
- (6) The appellant must submit proof of the notification contemplated in subsections (3) and (4) to the Municipality within 14 days of the date of notification.
- (7) If a person other than the applicant lodges an appeal, the Municipality must give notice of the appeal to the applicant within 14 days of receipt thereof.
- (8) An applicant who has received notice of an appeal in terms of subsection (7) may comment on the appeal within 21 days of being notified.
- (9) The Municipality may refuse to accept any comments on an appeal after the closing date for those comments.
- (10) The Municipality—
 - (a) may request National and Provincial departments to comment in writing on an appeal within 60 days of receipt of the request; and
 - (b) must notify and request the National and Provincial departments to comment on an appeal in respect of the following applications within 60 days of receipt of the request:
 - (i) a development outside the Municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (ii) if the Municipality has no approved municipal spatial development framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area;

- (iii) a rezoning of land zoned for agricultural or conservation purposes;
 - (iv) any development or category of land use applications as may be prescribed by legislation and national and provincial policies.
- (11) The authorised employee must draft a report assessing an appeal and must submit it to the Appeal Authority within—
 - (a) 30 days of the closing date for comments requested in terms of subsection (8) if no comments were requested in terms of subsection (10); or
 - (b) within 30 days of the closing date for comments requested in terms of subsection (10).
- (12) The Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report contemplated in subsection (11).
- (13) The parties to an appeal must be notified in writing of the decision of the Appeal Authority within 21 days from the date of the decision.
- (14) The Municipality must—
 - (a) on receipt of an appeal in terms of this section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and
 - (b) if a decision on the appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.
- (15) The operation of the approval of a land use application that is the subject of an appeal is suspended pending the decision of the appeal authority on the appeal, as contemplated in subsection 14.
- (16) If an appeal is lodged only against conditions imposed in terms of section 71, the Municipality may determine that the approval of the land use application is not suspended.

54. HEARING OF APPEAL AUTHORITY

- (1) The appeal authority must notify the relevant parties of the date, time and place of the hearing, 14 days prior to the hearing.
- (2) A hearing must commence within 14 days after the completed notice of appeal has been delivered to the appeal authority, unless otherwise stated by the appeal authority.
- (3) An appellant or any respondent may at any time before the appeal hearing withdraw an appeal or opposition to an appeal and must give notice of such withdrawal to the registrar and all other parties to the appeal.
- (4) The hearing of the appeal authority may take as place as an oral hearing or a written hearing.
- (5) Procedural arrangements for an oral hearing include that:

- (a) An oral hearing must take place in an area within the jurisdiction of the municipality excluding the office of the municipal planning tribunal or the official authorised.
 - (b) The appellant will first present his or her case, followed by the municipal planning tribunal or the official authorised.
 - (c) Each party has the right to call witnesses to give evidence.
 - (d) If a party does not appear at an oral hearing, the appeal authority may proceed in the absence of the party, after it was determined if the absent party was notified. If the party was not notified the hearing cannot proceed and the presiding officer must reschedule the hearing.
 - (e) Hearings of the appeal authority may be recorded.
 - (f) Witnesses and parties are required to give evidence under oath or confirmation.
 - (g) Any additional documentation not included in the appeal record should be provided three days before the hearing to the appeal authority.
 - (h) The registrar must distribute the documentation to all parties to the appeal authority and members of the appeal authority.
 - (i) If the additional documentation, as contemplated in subsection (g) is not provided at least 3 days prior to the hearing, it may be provided at the hearing, where the party must bring copies of the additional documentation for the members of the appeal authority.
 - (j) If the additional documentation, as contemplated in subsection (g), is substantive or voluminous, the other party may request an adjournment.
- (6) Procedural arrangements for an oral hearing include that:
- (a) Each party must be provided an opportunity to provide written submissions to support their case.
 - (b) the appellant will be given seven days to provide a written submission.
 - (c) Upon receipt of the appellant's written submission the appeal authority must forward it to the municipal planning tribunal or the official authorised.
 - (d) The municipal planning tribunal or the authorised official has seven days in which to provide the written response, if no written submission is received it will be deemed that the party has declined the opportunity.
 - (e) An extension of time maybe requested in writing in advance of the due date for submissions, accompanied by reasons for the request of extension.
 - (f) Following receipt of a request the appeal authority must issue a written decision to all parties.
 - (g) Following receipt of any written submissions the registrar must forward the appeal record to the appeal authority, including written submissions.

- (h) If no written submissions are received from the parties the registrar will forward the existing appeal record to the appeal authority for adjudication.
- (i) The presiding officer of the appeal authority will decide whether or not to accept the late written submissions.
- (j) The appeal authority issues a decision in writing to all other parties, who have seven days to respond.

55. DECISION OF APPEAL AUTHORITY

- (1) After hearing all parties the appeal authority:
 - (a) May request any further information from any party;
 - (b) May postpone the matter for a reasonable period;
 - (c) Must within 21 days after the last day of the hearing, issue its decision with reasons
- (2) The appeal authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or official authorised official and may include an award of costs.
- (3) The presiding officer must sign the decision of the appeal authority and any order made by it.
- (4) The registrar must notify the parties of the decision of the appeal authority within 7 days, together with reasons.
- (5) The appeal authority must, in its decision, give directives to the municipality as to how such a decision must be implemented.
- (6) Where an appeal is upheld the municipal manager must within 21 days of the decision publish the decision in the Provincial Gazette.

CHAPTER VII – PROVISION OF ENGINEERING SERVICES

56. RESPONSIBILITY FOR PROVISION OF ENGINEERING SERVICES

- (1) An applicant is 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 Spatial Planning and Land Use Management Act.
- (2) The Municipality is responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the Spatial Planning and Land Use Management Act.

- (3) When the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Spatial Planning and Land Use Management Act.
- (4) The Municipality may enter into a written agreement with an applicant to provide that—
 - (a) the applicant will install the external engineering service instead of paying the applicable development charges; or
 - (b) the fair and reasonable cost of the external engineering service may be set off against the development charges payable by the applicant.

57. DEVELOPMENT CHARGES

- (1) The applicant must pay development charges to the Municipality in respect of the provision of an external engineering service.
- (2) The external engineering service for which development charges are payable must be set out in a policy adopted by the Municipality.
- (3) The amount of the development charges payable by an applicant must be calculated in accordance with the policy adopted by the Municipality.
- (4) The date by which a development charges must be paid and the means of payment must be specified in the conditions of approval.
- (5) The development charges imposed are subject to escalation at the rate calculated in accordance with the policy on development charges.
- (6) The Municipality must annually submit a report to the Council on the amount of development charges paid to the Municipality, together with a statement of the expenditure of the amount and the purpose of the expenditure.
- (7) When determining the contribution contemplated in sections 71(4) and (5), the Municipality must have regard to provincial norms and standards and—
 - (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
 - (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
 - (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
 - (d) money in respect of contributions contemplated in subsection 71(4) paid in the past by the owner of the land concerned; and
 - (e) money in respect of contributions contemplated in subsection 71(4) to be paid in the future by the owner of the land concerned.

58. LAND FOR PARKS, OPEN SPACES AND OTHER USES

- (1) When the Municipality approves a development application which provides for the use of land for residential purposes, the applicant may be required to provide land for parks or public open spaces.
- (2) The extent of land required for parks or public open spaces is determined by the Municipality in accordance with a policy approved by the Municipality.
- (3) The land required for parks or public open spaces must be provided within the land area of the development application or may, with the consent of the Municipality, be provided elsewhere within the municipal area, as contemplated in section 50(2) of the Spatial Planning and Land Use Management Act.
- (4) When a development 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 money to the Municipality in lieu of the provision of land.

CHAPTER VIII - ENFORCEMENT**59. ENFORCEMENT**

- (1) The Municipality must comply and enforce compliance with—
 - (a) the provisions of this By-law;
 - (b) the provisions of a zoning scheme;
 - (c) conditions imposed in terms of this By-law or previous planning legislation; and
 - (d) title deed conditions.
- (1) The Municipality may not do anything that is in conflict with subsection (1).

60. OFFENCES AND PENALTIES

- (1) Any person who—
 - (a) contravenes or fails to comply with sections 59
 - (b) fails to comply with a compliance notice served in terms of section 61;
 - (c) utilises land in a manner other than prescribed by a zoning scheme without the approval of the municipality shall be subject to a penalty as contemplated in schedule 2 (Fine Schedules);

- (d) upon registration of the first land unit arising from a subdivision, fails to transfer all common property arising from the subdivision to the owners' association;
 - (e) supplies particulars, information or answers in an application, or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
 - (f) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
 - (g) hinders or interferes with an authorised employee in the exercise of any power, or the performance of any duty, of that employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.
- (2) An owner who permits his or her land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of a zoning scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 20 years or to both a fine and such imprisonment.
- (3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.
- (4) A Municipality must adopt fines and contravention penalties to be imposed in the enforcement of this By-law.

61. SERVING OF COMPLIANCE NOTICE

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence.
- (2) A compliance notice must instruct the occupier and owner to cease the unlawful land use or construction activity or both without delay or within the time period determined by the Municipality, and may include an instruction to—
- (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or another period determined by the Municipal Manager; or

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

62. URGENT MATTERS

- (1) The Municipality does not have to comply with sections 61(6) in a case where an unlawful utilisation of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful utilisation of land immediately.
- (2) If the person or owner fails to cease the unlawful utilisation of land immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.

63. ENFORCEMENT LITIGATION

Whether or not a Municipality lays criminal charges against a person for an offence, the Municipality may apply to the High Court for an interdict or any other appropriate order including an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned; or
- (b) cease with the unlawful utilisation of land..

CHAPTER IX - MISCELLANEOUS

64. NAMING AND NUMBERING OF STREETS

- (1) If as a result of the approval of a 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 to 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.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies regarding street naming and numbering.
- (4) The Municipality must notify the Surveyor-General of the approval of new streets as a result of the approval of an amendment or cancellation of a subdivision in terms of section 24 and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment to the street names on an approved general plan.

65. REPEAL

The by-laws will not repeal any legislation

66. SHORT TITLE AND COMMENCEMENT

- (1) This By-law is called the Municipal Land Use Management By-Laws 2015, Sol Plaatje Municipality.
- (2) This By-law comes into operation on the date that Council approval the By-laws and after publication in the Government Gazette.

SCHEDULE 1

CODE OF CONDUCT FOR THE DELEGATED OFFICIAL, MEMBERS OF THE TRIBUNAL AND APPEAL AUTHORITY

General conduct

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

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

Gifts

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

Undue influence

4. A member of the Tribunal / Appeal Authority may not—
 - (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;

- (b) use confidential information acquired in the course of his or her duties to further a personal interest;
- (c) disclose confidential information acquired in the course of his or her duties, unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
- (d) commit a deliberately wrongful act that reflects adversely on the Tribunal / Appeal Authority , the Municipality, the government or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions of the Tribunal by improper means.

SCHEDULE 2

DETERMINATION OF ADMISSION OF GUILT FINES IN TERMS OF SECTION 87(1)
OF THE SOL PLAATJE LAND USE MANAGEMENT BY-LAW, 2015.

1. REZONING: FINE SCHEDULES

OFFENCE	SECTION	FINE
Any person who contravenes or fails to comply with the provisions of this bylaw or a direction issued by this municipality in terms of this bylaw, or a condition imposed under this bylaw	6(1)	R25000
Any person who fails to comply with a compliance notice served in terms of section 88 (1) of the by-laws	60(1)(b)	R2000
Any person who utilises land in a manner other than prescribed by a Zoning Scheme without the approval of the Municipality	60(1)(c)	R2000
Any person who supplies particulars, information, or answer in an application ,or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct.	60(1)(e)	R2000
Any person who obstructs or hinders with an authorized employee in the exercise of any power or the performance of any duty or function of the employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to obtain both a fine and such imprisonment.	60(1)(g)	R2000

2. CONSENT USES: OFFENCES AND PENALTIES

OFFENCE	SECTION	FINE
Any person who contravenes or fails to comply with the provisions of this bylaw or a direction issued by this municipality in terms of this bylaw, or a condition imposed under this bylaw	8(1)	R 5000
Any person who fails to comply with a compliance notice served in terms of section 88 (1) of the by-laws	60(1)(b)	R2000
Any person who utilises land in a manner other than prescribed by a Zoning Scheme without the approval of the Municipality	60(1)(c)	R2000
Any person who supplies particulars, information, or answer in an application ,or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct.	60(1)(e)	R2000
Any person who obstructs or hinders with an authorized employee in the exercise of any power or the performance of any duty or function of the employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to	60(1)(g)	R2000

obtain both a fine and such imprisonment.		
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3. SUBDIVISION: OFFENCESAND PENALTIES

OFFENCE	SECTION	FINE
Any person who contravenes or fails to comply with the provisions of this bylaw or a direction issued by this municipality in terms of this bylaw, or a condition imposed under this bylaw	9(1)	R 5000
Any person who fails to comply with a compliance notice served in terms of section 88 (1) of the by-laws	60(1)(b)	R2000
Any person who utilises land in a manner other than prescribed by a Zoning Scheme without the approval of the Municipality	60(1)(c)	R2000
Any person who supplies particulars, information, or answer in an application ,or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct.	60(1)(e)	R2000
Any person who obstructs or hinders with an authorized employee in the exercise of any power or the performance of any duty or function of the employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to obtain both a fine and such imprisonment.	60(1)(g)	R2000

4. CONSOLIDATION: OFFENCESAND PENALTIES

OFFENCE	SECTION	FINE
Any person who contravenes or fails to comply with the provisions of this bylaw or a direction issued by this municipality in terms of this bylaw, or a condition imposed under this bylaw	13(1)	R 5000
Any person who fails to comply with a compliance notice served in terms of section 88 (1) of the by-laws	60(1)(b)	R2000
Any person who utilises land in a manner other than prescribed by a Zoning Scheme without the approval of the Municipality	60(1)(c)	R2000
Any person who supplies particulars, information, or answer in an application ,or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct.	60(1)(e)	R2000
Any person who obstructs or hinders with an authorized employee in the exercise of any power or the performance of any duty or function of the employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to obtain both a fine and such imprisonment.	60(1)(g)	R2000

Annexure A – application form

Sol Plaatje Municipality

Applications for land use (give full details in the attached motivation report, if space provided is not enough)

MUNICIPALITY: **SOL PLAATJE MUNICIPALITY**

**LAND USE
MANAGEMENT**

**APPLICATION FOR TOWNSHIP DEVELOPMENT, SUBDIVISION OF
LAND, CONSOLIDATION OF DIFFERENT PIECES OF LAND,
AMENDMENT OF LAND USE (REZONING), REMOVAL OF
RESTRICTIVE CONDITIONS, AMENDMENT OF TOWN PLANNING
SCHEME OR DEPARTURE FROM SCHEME REGULATIONS AND
CONSENT USE**

Application for any of the above-mentioned MUST be done in accordance with the following legislation:

- Sol Plaatje Municipality Land Use Management By-laws, 2015

SECTION A

Details of Applicant (As per section 45(1) of the Spatial Planning and Land Use Act, 2013)

Name: _____ Postal address: _____ _____ _____ Code: _____ Tel no: _____ Fax no: _____ SACPLAN Reg No: _____	Contact person: _____ Physical address: _____ _____ _____ Cell no: _____ E-mail address: _____ _____
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SECTION B

Details of Land Owner (If different from Applicant)

Name: _____ Postal address: _____ _____ _____	Contact person: _____ Physical address: _____ _____ _____
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Tel no:	Code:	Code:
Fax no:	Cell no:	E-mail address:

SECTION C Details of Property

Erf / Farm No	Physical address of erf / farm		Area (m ² or ha)	Existing land use	Existing zoning
	Street address:				
	Town:				
	Municipality:				

SECTION D Type of Application being Submitted (Mark with an X and give detail)

	Township development	Location:			
	Subdivision of land	Number of new erven (including remainder):			
	Consolidation of different pieces of land	Erf no.	Land use	Zoning	
	Amendment of a land use or zoning (rezoning)	From (existing zoning):	To (proposed zoning):		
	Amendment of town planning scheme or departure from scheme regulations (consent use, relaxation of building lines, etc)	Describe:			
	Removal, amendment or suspension of restrictive conditions NOTE: <i>Submit separate prescribed application form</i>	Sections to be removed:			

Brief description of proposed development / intent of application: (Detail motivation to be attached as annexure)

SECTION E
List of supporting information required / submitted (Mark with an X / number annexure)

Documents attached	Page reference	Yes	No	N/A
Application form - Land Use Management				
Application form - Removal of Restrictions (list of sections to be altered/removed)				
Power of attorney				
Copy of Title deeds				
Mortgage bond(s) - letter of approval/consent from mortgage holder				
Conditions of establishment				
Special endorsement/proxy				
Cadastral information - diagram/General Plan including servitudes, lease areas, etc.				
Status Report from Surveyor General - street closure or state owned land				
Topographic map				
Locality plan				
Site plan				
Zoning certificate				
Zoning plan – including surrounding area (± 250m radius)				
Land Use plan – including surrounding area (± 250m radius)				
Land Use Map indicating existing facilities and threshold distances (Township development)				
Proposed consolidation plan				
Proposed subdivision plan				
Proposed design/layout plan				
Proposed development plan				
Environment impact assessment (EIA) - including Heritage impact assessment (HIA - Dept Sport, Art and Culture) and Archaeological impact assessment (AIA - SAHRA)				
Mineral impact assessment (MIA)				
Social impact assessment (SIA)				
Traffic impact assessment (TIA)				
Geological and geo-technical report (NHBRC standards)				
Engineering services including storm water report (bulk and internal infrastructure)				
Flood line assessment				
Coastal setback report				
Subdivision of Agricultural Land - permission from relevant department				
Adherence to Planning Profession Act 36 of 2002				
Adherence to planning legislation				
Alignment to Provincial SDF				
Alignment to DM SDF				
Alignment to Municipal SDF				
Motivation report				
Public participation report and record of decisions (minutes) /copy of advertisements				
Reports from relevant departments /institutions				

The *Guidelines for Human Settlement Planning and Design* as published by CSIR - Building and Construction Technology, Pretoria forms the basis of planning standards.

SECTION F Fees payable

Application fee	R
Administration fee (including postage)	R
Advertisement fee	R
Other:	R
TOTAL	R

SECTION G Declaration

Note: *If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees' resolution is compulsory.*

I hereby certify the information supplied in this application form to be complete and correct and that I am properly authorised to make this application.

Applicant's / Owner's Signature: _____

Date:

Y	Y	Y	Y	M	M	D	D
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Full name (print): _____

Professional capacity: _____

Applicant's ref: _____

SECTION H For office use only

Date received:

Y	Y	Y	Y	M	M	D	D
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Receipt No:

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Received by: _____
File ref:

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Date advertised:

Y	Y	Y	Y	M	M	D	D
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Cut-off date for objections:

Y	Y	Y	Y	M	M	D	D
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Publications: _____

Submit to Council by:

Y	Y	Y	Y	M	M	D	D
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Resolution No: _____

Date of Letters to Applicant/Objectors conveying Council resolution:

Y	Y	Y	Y	M	M	D	D
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Checklist of documents attached to be submitted to Provincial Government (Removal of Restriction application):

See SECTION I.

Comments: _____

