



LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

**Provincial Gazette • Provinsiale Koerant • Gazete ya Xifundzankulu
Kuranta ya Profense • Gazethe ya Vundu**

*(Registered as a newspaper) • (As 'n nuusblad geregistreer) • (Yi rhijistariwile tanihi Nyuziphepha)
(E ngwadisits'we bjalo ka Kuranta) • (Yo redzhistariwa sa Nyusiphepha)*

Vol. 24

POLOKWANE,
25 AUGUST 2017
25 AUGUSTUS 2017
25 MHAWURI 2017
25 AGOSTOSE 2017
25 THANGULE 2017

No. 2847

PART 1 OF 3

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DEPARTMENT OF HEALTH

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ISSN 1682-4563



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Closing times for **ORDINARY WEEKLY** 2017 LIMPOPO PROVINCIAL GAZETTE

The closing time is **15:00** sharp on the following days:

- **29 December**, Thursday, for the issue of Friday **06 January 2017**
- **06 January**, Friday, for the issue of Friday **13 January 2017**
- **13 January**, Friday, for the issue of Friday **20 January 2017**
- **20 January**, Friday, for the issue of Friday **27 January 2017**
- **27 January**, Friday, for the issue of Friday **03 February 2017**
- **03 February**, Friday, for the issue of Friday **10 February 2017**
- **10 February**, Friday, for the issue of Friday **17 February 2017**
- **17 February**, Friday, for the issue of Friday **24 February 2017**
- **24 February**, Friday, for the issue of Friday **03 March 2017**
- **03 March**, Friday, for the issue of Friday **10 March 2017**
- **10 March**, Friday, for the issue of Friday **17 March 2017**
- **16 March**, Thursday, for the issue of Friday **24 March 2017**
- **24 March**, Friday, for the issue of Friday **31 March 2017**
- **31 March**, Friday, for the issue of Friday **07 April 2017**
- **07 April**, Friday, for the issue of Friday **14 April 2017**
- **12 April**, Wednesday, for the issue of Friday **21 April 2017**
- **20 April**, Thursday, for the issue of Friday **28 April 2017**
- **26 April**, Wednesday, for the issue of Friday **05 May 2017**
- **05 May**, Friday, for the issue of Friday **12 May 2017**
- **12 May**, Friday, for the issue of Friday **19 May 2017**
- **19 May**, Friday, for the issue of Friday **26 May 2017**
- **26 May**, Friday, for the issue of Friday **02 June 2017**
- **02 June**, Friday, for the issue of Friday **09 June 2017**
- **09 June**, Friday, for the issue of Friday **16 June 2017**
- **15 June**, Thursday, for the issue of Friday **23 June 2017**
- **23 June**, Friday, for the issue of Friday **30 June 2017**
- **30 June**, Friday, for the issue of Friday **07 July 2017**
- **07 July**, Friday, for the issue of Friday **14 July 2017**
- **14 July**, Friday, for the issue of Friday **21 July 2017**
- **21 July**, Friday, for the issue of Friday **28 July 2017**
- **28 July**, Friday, for the issue of Friday **04 August 2017**
- **03 August**, Thursday, for the issue of Friday **11 August 2017**
- **11 August**, Friday, for the issue of Friday **18 August 2017**
- **18 August**, Friday, for the issue of Friday **25 August 2017**
- **25 August**, Friday, for the issue of Friday **01 September 2017**
- **01 September**, Friday, for the issue of Friday **08 September 2017**
- **08 September**, Friday, for the issue of Friday **15 September 2017**
- **15 September**, Friday, for the issue of Friday **22 September 2017**
- **21 September**, Thursday, for the issue of Friday **29 September 2017**
- **29 September**, Friday, for the issue of Friday **06 October 2017**
- **06 October**, Friday, for the issue of Friday **13 October 2017**
- **13 October**, Friday, for the issue of Friday **20 October 2017**
- **20 October**, Friday, for the issue of Friday **27 October 2017**
- **27 October**, Friday, for the issue of Friday **03 November 2017**
- **03 November**, Friday, for the issue of Friday **10 November 2017**
- **10 November**, Friday, for the issue of Friday **17 November 2017**
- **17 November**, Friday, for the issue of Friday **24 November 2017**
- **24 November**, Friday, for the issue of Friday **01 December 2017**
- **01 December**, Friday, for the issue of Friday **08 December 2017**
- **08 December**, Friday, for the issue of Friday **15 December 2017**
- **15 December**, Friday, for the issue of Friday **22 December 2017**
- **20 December**, Wednesday, for the issue of Friday **29 December 2017**

LIST OF TARIFF RATES

FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2016

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 15h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
State of Budget (National Treasury)	Monthly	Any	7 days prior to publication	3 days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES**EXTRAORDINARY GAZETTES**

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .
(Please see *Quotation* section below for further details)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
 - 8.1.5. Any additional notice information if applicable.
9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**QUOTATIONS**

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** GPW's annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette(s)*.

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:

Government Printing Works
149 Bosman Street
Pretoria

Postal Address:

Private Bag X85
Pretoria
0001

GPW Banking Details:

Bank: ABSA Bosman Street
Account No.: 405 7114 016
Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za

E-mail: info.egazette@gpw.gov.za

Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za

Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 106 OF 2017**MAKHADO LAND-USE SCHEME 2009**

We **FEMplan (Pty) Ltd**, being the authorized agent of the owner of stand number 17 situated on a Portion of the remainder and Portion 2 of the farm Schuyngooste 29 LT.Limpopo Province, hereby give notice in terms of Regulation 18 (Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015) read together with section 63 (1) of the Makhado Municipality Spatial Planning, Land Development and Land Use Management By-Law, 2016 that we have made an application to the Makhado Local Municipality for the amendment of the Land Use Scheme, known as the Makhado land-use scheme, 2009, by rezoning of the above-mentioned property from "Agricultural" to "Business 2" for the purpose of establishing mini business complex.

Plans and particulars of the application will lie for inspection during normal office hours at the office of town planner, 83 Krogh Street, Makhado Municipality for the period of 28 days from the first day of the publication. objections and/or comments or representation in respect of the application must be lodged with or made in writing to the municipality at the above address or at private bag x 2596, Makhado 0920 within 28 days from the date of first publication. Address of the applicant, 24 Strelitzia Avenue, country view, 1685. Cell: 0781294060, email thendomudau@gmail.com

18–25

MAKHADO LAND-USE SCHEME 2009

Rine vha **FEMplan (Pty) Ltd**, vha imeleli vhare mulayoni vha vhane vha mavu a divhiwaho ngaupfi stand number 17 yo dzulaho kha Portion of the remainder and Portion 2 of the farm Schuyngooste 29 LT.Limpopo,, Ri nea ndivhadzo malugana na khethekanyo 18 (Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015) ri tshi ivhala khathihi na khethekanyo 63 (1) ya Makhado Municipality Spatial Planning, Land Development and Land Use Management By-Law, 2016, Uri ro ita khumbelo Masipalani wa Makhado malugana na u shandukisa kushumisele kwa tshikimu tsha u langa mavu tshi divhiwaho nga upfi Makhado land-use scheme, 2009, nga u shandukisa kushumisele kwa tshitentsi tsho bulwaho afho ntha ubva kha "Agricultural" uya kha "Business 2" ndivho hu u fhata Mini business Complex.

Pulane na dzinwe dokhumenthe dza khumbelo iyi dzinga wanala ofisini ya Town planner, 82 Krough Street Masipalani wa Makhado nga tshifhinga tsha mushumo lwa maduvha a 28 ubva duvha la ino khunguwedzo. Khanedzano na vhunwe vhudipfi vhunga rumeliwa kha adiresi ya masipala private bag x 2596, Makhado 0920. Adiresi ya Vhaimleli, **24 Strelitzia Avenue, country view, 1685**. Thingokhwalwa: 0781294060 Email: thendomudau@gmail.com

18–25

NOTICE 107 OF 2017**NOTICE OF APPLICATION FOR DEMARCATION OF SITES IN TERMS OF SECTION 56 OF THULAMELA MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY LAW 2015 READ WITH PROVISIONS OF SPATIAL PLANNING AND LAND USE MANAGEMENT ACT 16 OF 2013.**

I, Magau Mulisa of MOK Development Consultants being the authorised agent of the owner of the property mentioned hereunder, hereby give notice in terms of Section 56 of Thulamela Municipality Spatial Planning and Land Use Management by-law 2015 read with provisions of Spatial Planning and Land Use Management Act 16 of 2013, that I have applied to Thulamela Local Municipality for the demarcation of sites as mentioned below.

ANNEXURES

Township: Mangondi Extension

Property description: Remainder of the Farm Mpapuli 278 MT.

Erven: Residential 386, Business 4, Church 1, Special 4, Public open space 5.

The first day of publication for this notice is 25 August 2017 (Friday) and the second day is 01 September 2017 (Friday). Plans and particulars of the application will lie for inspection during normal office hours at the office of the Senior Manager: Planning and Economic Development, Thulamela Local Municipality, 1st floor, office no.47, Thohoyandou for the period of 28 days from the first date of publication. Objections and /or comments or representation in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or to P.O. Box 5066, Thohoyandou, 0950 within a period of 28 days from the date of first publication. Contact the agent: magau.m@mokdc.co.za.

NDIVHADZO YA U APULAYELA UTSHEWA HA ZWITENSTI UYA NGA MULAYO WA SECTION 56 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT BY LAW 2015 WA MASIPALA WA THULAMELA, WO VHALIWA NA MULAYO WA SPATIAL PLANNING AND LAND USE MANAGEMENT ACT 16 OF 2013.

Nne, Magau Mulisa wa MOK Development Consultants vhane vha vha zhendedzi lo nangiwo nga vhane vha mavu o buliwaho afho fhasi, ndi khou fha ndivhadzo hu tshi tevhedzwa maitele a mulayo wa Spatial Planning and Land Use Management Act, 2013 na mulayo wa Thulamela Municipality Spatial Planning and Land Use Management by-laws 2015, uri ndoita khumbelo yau tshea zwitensti kha masipha wa Thulamela.

ANNEXURES

Dzina la fhetu: Mangondi Extension

Bulasi: Remainder of the Farm Mpapuli 278 MT.

Zwitensi: Vhudzulapo 386, Vhubindudzi 4, Kereke 1, tshipentshele 4, Zwannyinanyi 5.

Duvha lau thoma la ndivhadzo iyi ndi dzi 25 dza Thangule 2017 (Lavhutanu), li tevhelaho ndi 01 Khubvumedzi 2017 (Lavhutanu). Dzi pulane na zwidombedzwa zwahone zwidowanala ofisini ya vhupulani yobulwaho afho fhasi lwa maduvha a sa fhiri 28 ubva nga duvha lauthoma la ndivhadzo ino. Khanedzo dza khumbelo iyi dzi nga itwa nga uto nwala dza livhiswa ofisini dza masipala wa thulamela, 1st floor, ofisi 47, Thohoyandou kana nga poso kha P.O. Box 5066, Thohoyandou, 0950 husathu fhelamaduvha a 28 ubva kha duvha lau thoma la ndivhadzo ino. Vhangarikwama kha: magau.m@mokdc.co.za

NOTICE 108 OF 2017**NOTICE OF APPLICATION FOR DEMARCATION OF SITES IN TERMS OF SECTION 56 OF THULAMELA MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY LAW 2015 READ WITH PROVISIONS OF SPATIAL PLANNING AND LAND USE MANAGEMENT ACT 16 OF 2013.**

I, Magau Mulisa of MOK Development Consultants being the authorised agent of the owner of the property mentioned hereunder, hereby give notice in terms of Section 56 of Thulamela Municipality Spatial Planning and Land Use Management by-law 2015 read with provisions of Spatial Planning and Land Use Management Act 16 of 2013, that I have applied to Thulamela Local Municipality for the demarcation of sites as mentioned below.

ANNEXURES

Township: Mangondi Extension

Property description: Remainder of the Farm Mpapuli 278 MT.

Erven: Residential 386, Business 4, Church 1, Special 4, Public open space 5.

The first day of publication for this notice is 25 August 2017 (Friday) and the second day is 01 September 2017 (Friday). Plans and particulars of the application will lie for inspection during normal office hours at the office of the Senior Manager: Planning and Economic Development, Thulamela Local Municipality, 1st floor, office no.47, Thohoyandou for the period of 28 days from the first date of publication. Objections and /or comments or representation in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or to P.O. Box 5066, Thohoyandou, 0950 within a period of 28 days from the date of first publication. Contact the agent: magau.m@mokdc.co.za.

25-1

NDIVHADZO YA U APULAYELA UTSHEWA HA ZWITENSTI UYA NGA MULAYO WA SECTION 56 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT BY LAW 2015 WA MASIPALA WA THULAMELA, WO VHALIWA NA MULAYO WA SPATIAL PLANNING AND LAND USE MANAGEMENT ACT 16 OF 2013.

Nne, Magau Mulisa wa MOK Development Consultants vhane vha vha zhendedzi lo nangiwo nga vhane vha mavu o buliwaho afho fhasi, ndi khou fha ndivhadzo hu tshi tevhedzwa maitele a mulayo wa Spatial Planning and Land Use Management Act, 2013 na mulayo wa Thulamela Municipality Spatial Planning and Land Use Management by-laws 2015, uri ndoita khumbelo yau tshea zwitensti kha masipha wa Thulamela.

ANNEXURES

Dzina la fhetu: Mangondi Extension

Bulasi: Remainder of the Farm Mpapuli 278 MT.

Zwitensti: Vhudzulapo 386, Vhubindudzi 4, Kereke 1, tshipentshele 4, Zwannyinanyi 5.

Duvha lau thoma la ndivhadzo iyi ndi dzi 25 dza Thangule 2017 (Lavhutanu), li tevhelaho ndi 01 Khubvumedzi 2017 (Lavhutanu). Dzi pulane na zwidodombedzwa zwahone zwidowanala ofisini ya vhupulani yobulwaho afho fhasi lwa maduvha a sa fhiri 28 ubva nga duvha lauthoma la ndivhadzo ino. Khanedzo dza khumbelo iyi dzi nga itwa nga uto nwala dza livhiswa ofisini dza masipala wa thulamela, 1st floor, ofisi 47, Thohoyandou kana nga poso kha P.O. Box 5066, Thohoyandou, 0950 husathu fhelamaduvha a 28 ubva kha duvha lau thoma la ndivhadzo ino. Vhangarikwama kha: magau.m@mokdc.co.za

25-1

PROCLAMATION • PROKLAMASIE

PROCLAMATION 20 OF 2017**EPHRAIM MOGALE LOCAL MUNICIPALITY****NOTICE OF THE REMOVAL OF RESTRICTIVE CONDITIONS OF TITLE IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 16 OF 2013.**

The Local Municipality of Ephraim Mogale declares hereby:

In terms of section 41(2)(e) of Spatial Planning and Land Use Management Act, 2013, the removal of the following restrictive conditions is approved:

Condition (B) as contained in Title Deed T54883/1990, being the Title Deed of Portion 1039 of the farm Loskop North 12, Registration Division J.S., Province Limpopo.

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

M.M. MATHEBELA
Municipal Manager

Municipal Offices
2 Ficus Street
P.O. Box 111
Marble Hall
0450

Date:

PROKLAMASIE 20 VAN 2017

EPHRAIM MOGALE PLAASLIKE MUNISIPALITEIT

**KENNISGEWING VAN DIE VERWYDERING VAN BEPERKENDE VOORWAARDES VAN
DIE TITELAKTE IN TERME VAN DIE RUIMTELIKE BEPLANNING EN
GRONDBESTUURSWET, 2013**

Die Ephraim Mogale Plaaslike Munisipaliteit verklaar hiermee:

In terme van Artikel 41(2)(e) van Ruimtelike Beplanning en Grondbestuurswet, 16 van 2013, het gemelde munisipaliteit die opheffing van die volgende beperkende voorwaarde opgehef: Beperkende voorwaarde (B) soos uiteengesit in die Titelakte No. T54883/1990, naamlik die titelakte vir Gedeelte 1039 van die plaas Loskop Noor 12, Registrasie Afdeling J.S., Provinsie Limpopo.

Die verwydering sal in werking tree op datum van publikasie van hierdie kennisgewing.

M.M. MATHEBELA
Munisipale Bestuurder

Munisipale Kantore
2 Ficus Straat
Posbus 111
Marble Hall
0450

Datum:

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 82 OF 2017

**MUSINA LAND USE MANAGEMENT SCHEME 2010,
NOTICE OF APPLICATION IN TERMS OF VENDA LAND AFFAIRS
PROCLAMATION, 1990 (PROCLAMATION 45 OF 1990) READ TOGETHER WITH
SECTION 28 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT
16 OF 2013.**

Notice is hereby given in terms of Proclamation 45 of 1990 read together with Section 28 of the Spatial Planning and Land Use Management Act 16 of 2013, that I, Ntakadzeni Ramabandla intend to apply to Musina Local Municipality for Land Use Change on behalf of my client, Mr. Domina Napoleon Munzhelele, to establish a Shopping Complex at Dovho/Duluthulu Village, on Tshikundamalema 440-MT within Musina Local Municipality of Vhembe District, Limpopo Province. Plans and particulars of the application will lie for inspection during normal office hours at the office of the Municipal Manager, Civic Centre, at number 21 Irwin Street, Musina, for a period of 28 days from the first day of the publication.

Objection and/or comments or representation in respect of the application must be lodged with or made in writing to the Municipal Manager in writing at the above address or at Private Bag X611, Musina, 0900 within 28 days from the date of first publication. The address of applicant's representative is as follows: P.O. Box 1318, Phangami, 0904. Cell number: 082 051 3097. Email address: ntakaplanner@gmail.com.

18-25

**TSHIKIMU TSHA 2010 TSHA U LANGIWA HA U SHANDUKISWA HA MAVU
MALUGANA NA VENDA LAND AFFAIRS PROCLAMATION, 1990
(PROCLAMATION 45 OF 1990) VHA VHALE NA SECTION 28 OF THE SPATIAL
PLANNING AND LAND USE MANAGEMENT ACT 16 OF 2013.**

Ndivhadzo i khou bviswa malugana na Proclamation 45 ya 1990, vha vhale na Section 28 of the Spatial Planning and Land Use Management Act 16 of 2013, ngauri nne, Ntakadzeni Ramabandla, ndi khou toḡou u ita khumbelo kha Masipala wa Musina ya u Shandukiswa Ha Mavu, ndo imela muthusiwa wanga (Vho-Domina Napoleon Munzhelele), u itela u wana thendelo ya u bveledzisa mavhengele kha vhupo ha Dovho/Duluthulu, kha bulasi ya Tshikundamalema 440-MT, kha Masipala wa Musina tshitiḡirikini tsha Vhembe, Vunduni la Limpopo. Pulane na zwiḡwe zwidodombedzwa zwa khumbelo, zwi ḡo tendelwa u toliwa kha awara dzo ḡoweleaho dza mushumo ofisini ya Mulanguli wa Masipala wa Musina, Civic Centre, kha ḡomboro ya 21 Tshitiḡaraḡani tsha Irwin, Musina, lwa maḡuvha a 28, u bva ḡuvha la u thoma la ino khunguwedzo.

Khanedzo na vhuḡwe vhuḡipfi kana vhuimeleli, zwi nga rumeliwa nga u tou ḡwala kha ḡiresi ya vhupo ho bulwaho afho ḡḡa kana kha Private Bag X611, Musina, 0900 lwa maḡuvha a 28 u bva ḡuvha la u thoma la ino khunguwedzo. ḡiresi ya muimeleli wa o itaho khumbelo ndi heyi: P.O.Box 1318, Phangami, 0904. Luḡingo: 082 051 3097. ḡiresi ya imeji: ntakaplanner@gmail.com.

18-25

PROVINCIAL NOTICE 84 OF 2017

MUSINA LOCAL MUNICIPALITY**SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2016**

To give effect to the Municipality administrative rights as contemplated in the Constitution of Republic of South Africa, 1996 (Act 106 of 1996) and introduction, adoption of consolidated processes and procedures, to implement an effective systems of Land Development and Land Use applications, Spatial Planning and Land Use Scheme within the jurisdiction of the Musina Local Municipality and provide for the establishment of Musina Municipal Planning Tribunal or Joint Vhembe Municipal Planning and Appeals Tribunal in line with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and for matters in connection thereto.

PREAMBLE

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

WHEREAS Part B of Schedule 4 to the Constitution lists "municipal planning" as a local government matter; and

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

WHEREAS Parliament has enacted the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), which inter alia sets out development principles which apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land.

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.

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

ARRANGEMENT THE OF BY-LAW

CHAPTER 1

1. Definitions
2. Application of this By-law and Conflict of Laws

CHAPTER 2

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK AND LAND USE SCHEME

3. Municipal Spatial Development Framework
4. Content of Municipal Spatial Development Framework
5. Legal effect of Municipal Spatial Development Framework
6. Land Use Scheme
7. Purpose and content of land use scheme
8. Legal effect of Land use scheme
9. Amendment of land use scheme

CHAPTER 3

INSTITUTIONAL STRUCTURE FOR LAND DEVELOPMENT AND LAND USE MANAGEMENT DECISIONS

PART A: DIVISION OF FUNCTIONS

10. Division of functions between Municipal Planning Tribunal and Land Development Officer

PART B: ASSESSMENT TO ESTABLISH MUNICIPAL PLANNING TRIBUNAL

11. Municipal assessment prior to establishment of Municipal Planning Tribunal

PART C: ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNAL FOR LOCAL MUNICIPAL AREA

12. Establishment of Municipal Planning Tribunal for local municipal area
13. Composition of Municipal Planning Tribunal for local municipal area

14. Nomination procedure
15. Submission of nomination
16. Initial screening of nomination by Municipality
17. Evaluation panel
18. Appointment of members to Municipal Planning Tribunal by Council
19. Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area
20. Vacancy
21. Proceedings of Municipal Planning Tribunal for municipal area
22. Tribunal of record
23. Commencement date of operations of Municipal Planning Tribunal for local municipal area

PART E: ESTABLISHMENT OF DISTRICT MUNICIPAL PLANNING TRIBUNAL

24. Agreement to establish district Municipal Planning Tribunal
25. Composition of district Municipal Planning Tribunals
26. Status of decision of district Municipal Planning Tribunal
27. Applicability of Part C, F and G to district Municipal Planning Tribunal

PART F: DECISIONS OF MUNICIPAL PLANNING TRIBUNAL

28. General criteria for consideration and determination of application by Municipal Planning Tribunal
29. Conditions of approval

PART G: ADMINISTRATIVE ARRANGEMENTS

30. Administrator for Municipal Planning Tribunal for municipal area

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LAND USE PROCEDURES AND DEVELOPMENT MANAGEMENT

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32. Application for land development required

PART B: CONSENT USE AND BUILDING LINE RELAXATION

- 33. Consent use
- 34. Building line relaxation

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- 35. Amendment of Land Use Scheme
- 36. Decision and post-decision procedures
- 37. Correction of errors and omissions
- 38. Prohibition of a further application in certain circumstances
- 39. Contributions to be paid in respect of external engineering services and Open Spaces

PART D: TOWNSHIP ESTABLISHMENT, DIVISION/PHASING OF AN APPROVED TOWNSHIP, EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP AND MATTERS RELATED THERETO

- 40. Township establishment
- 41. Consent to certain contracts and options
- 42. Decision and post-decision procedures
- 43. Prohibition of registration of certain deeds of transfer or endorsement on certain title deeds
- 44. Failure to comply with requirements of the municipality
- 45. Division/phasing of an approved township
- 46. Extension of boundaries of an approved township

PART E: SUBDIVISION AND/OR CONSOLIDATION OF AN ERF IN AN APPROVED TOWNSHIP AND THE SUBDIVISION OF ANY OTHER LAND AND MATTERS RELATED THERETO

- 47. Subdivision and/or consolidation of an erf/erven in an approved township
- 48. Cancellation and amendment of conditions/plan, endorsement of certain documents by Registrar and access
- 49. Subdivision of any other land
- 50. Failure to comply with requirements of the municipality
- 51. Prohibition of registration of certain deeds of transfer

PART F: ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN

- 52. Alteration, amendment or cancellation of a general plan
- 53. Decision and post-decision procedures
- 54. Effect of alteration, amendment or cancellation of general plan

PART G: AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF LAND AND MATTERS RELATED THERETO

- 55. Amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations in respect of land
- 56. Decision and post-decision procedures
- 57. Endorsements in connection with amendments, suspensions or removals or restrictions or obligations
- 58. Contributions to be paid in respect of external engineering services and Open Spaces

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- 60. Application on communal land

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110. Offences and penalties
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112. Powers and functions of a Development Compliance Officer
113. Warrant of entry for enforcement purposes
114. Resistance of enforcement action
115. Compliance with the provisions, Schedules and Forms to this By-law
116. Naming and numbering of streets
117. Liability for errors or omissions in the Municipality's Land Use Scheme
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- SCHEDULE 1 REQUIREMENTS FOR CONSENT USE APPLICATION**
- SCHEDULE 2 REQUIREMENTS FOR BUILDING LINE RELAXATION APPLICATION**
- SCHEDULE 3 REQUIREMENTS FOR AMENDMENT OF LAND USE SCHEME APPLICATION (REZONING)**
- SCHEDULE 4 REQUIREMENTS FOR TOWNSHIP ESTABLISHMENT APPLICATION**
- SCHEDULE 5 REQUIREMENTS FOR PHASING OF AN APPROVED TOWNSHIP**
- SCHEDULE 6 REQUIREMENTS FOR EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP**
- SCHEDULE 7 REQUIREMENTS FOR SUBDIVISION OF AN ERF/ERVEN IN AN APPROVED TOWNSHIP**
- SCHEDULE 8 REQUIREMENTS FOR CONSOLIDATION OF TWO OR MORE ERVEN IN AN APPROVED TOWNSHIP**
- SCHEDULE 9 REQUIREMENTS FOR SUBDIVISION OF ANY OTHER LAND**
- SCHEDULE 10 REQUIREMENTS FOR ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION**
- SCHEDULE 11 REQUIREMENTS FOR AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF LAND**
- SCHEDULE 12 REQUIREMENTS FOR PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET**
- SCHEDULE 13 REQUIREMENTS FOR TRADITIONAL USE APPLICATION**

CHAPTER 1

DEFINITIONS, APPLICABILITY AND CONFLICT BY-LAWS

1. DEFINITIONS

In this By-law, unless the context indicates otherwise, any word or term to which a meaning has been assigned in the Spatial Planning and Land Use Management Act, 16 of 2013 and has the meaning assigned to it in that Act.

All references to sections in this by-law refers to the by-law unless clearly indicated otherwise.

Apart from the words and terms defined in the Act, the following words or terms shall have the following meaning in this by-law

“Act” or “the Act” means the Spatial Planning and Land Use Management Act, 16 of 2013 and any Regulations published in terms of section 54 of the Act;

“Additional information” means any information that may be requested by the Municipality which in its opinion is necessary to consider and decide on a land development application;

“Adopt or adopted” in relation to a municipal spatial development framework, Land Use Scheme, amendment scheme, policy or plans, means;

(a) the publication as may be required in terms of this By-law, of the said documents by Municipality, but shall where the date of coming into operation differs from the date in terms of which any document is published in the provisions of this By-law only be adopted upon the date of coming into operation thereof; or

(b) where any land development application is approved but does not require any further notification in the provincial gazette for it to come into operation and the date of approval shall be the date it has been adopted and shall be deemed to have been adopted.

“Adjoining owner (s)” means the owner of any land abutting or sharing a common boundary, touches the corners of the land and includes properties that are separated by a road, or roadway or right of way servitude in relation to a subject property;

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

“Amendment scheme” means an amendment to the Land Use Scheme which has been approved, adopted and came into operation in terms of this By-law or any other relevant legislation and the scheme shall have a corresponding meaning and include;

- (a) an amendment land use scheme contemplated in section 28(1) of the Act;
- (b) an application deemed to be an amendment scheme in terms of section 41(1)(a) of the Act;
- (c) an amendment of an existing Land Use Scheme as contemplated in Chapter 3 of this By-law;
- d) a land development application for the amendment of any provision of the Land Use Scheme applicable to a property or properties, and includes a rezoning and township establishment application in terms of section 35 and 40 of this By-law.

“Amended Spatial Development Framework” means an amended spatial development framework as contemplated in section 2 in this By-law, which has been amended for purpose of submission to a decision-making person or body, for approval to commence public participation in terms section 20 and 21 of the Act and section 9 of this By-law and shall be referred to as a draft spatial development framework until adopted by a Municipal Council;

“Appeal authority” means an appeal authority contemplated in section 71 of this By-law, as established by Council Resolution, in terms of section 51 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and Appeals Tribunal shall have a corresponding meaning;

“Appeal tribunal” means the appeal authority as contemplated in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“Applicant” means an owner authorised person/agent (Professional Town Planner) who submits a land development application or combination of land development applications contemplated in section 40 of this By-law and includes a municipality and an organ of state as an owner of land or under which the control and management of the land falls, within the jurisdiction of the Municipality read with section 45 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“Approved Township” means a township declared an approved township in terms of section 42 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) or an approved township in terms of any other legislation, a township approved in terms of any repealed law relating to townships and a proclaimed township shall have a corresponding meaning;

“Application” means an application submitted to the Municipality in terms of section 62 of this By-law and section 45 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and a land development application shall have a corresponding meaning;

“Authorised official” means an official in the employ of this municipality as envisaged in section 35(2) of the SPLUMA and section 31 (1) of this By-law authorised to take decisions on certain land use and land development applications and it includes those municipal officials to which such power has been sub delegated as envisaged in section 32 of this By-law

“Beneficial owner” means where specific property rights and equity in the property lawfully belongs to a person even though dominium or formal title of the property has not been registered or transferred;

“Body” means any organisation or entity, whether a juristic person or not, and includes a community association;

“Building” includes any structure of any nature whatsoever as envisaged in section 1 of the National Building Regulations and Building Standards Act;

“By-Law” mean this By-Law and includes the schedules, processes, procedures and forms attached hereto or referred to herein;

“Code of Conduct” means the Code of Conduct approved and adopted by Council to which the members of the Municipal Planning Tribunal or Municipal Appeals Tribunal/Authority established in terms of section 35 and 51 of the Act, and or any official appointed for purposes of considering land development applications shall be bound, and as contemplated in section 39(6) and Schedule 4 of this By-law;

“Communal land” means land under the jurisdiction of a traditional council determined in terms of section 6 of the Limpopo Traditional Leadership and Governance Act, 2005 (**Act No 6 of 2005**) and which was at any time vested in -
(a) the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or
(b) the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

“Conditions of approval” means condition(s) imposed by the, Municipality, Municipality Planning Tribunal or Authorised official in the approval of a land development application, including any conditions contained in the annexure(s) and or Regulation(s) and or plans or attachment(s) that form part of the approval or are referred to in the approval of the land development application;

“Consent use” means the usage of land for which it is not zoned for, but which is made provision for in the existing land use management scheme applicable to the land in question;

“Consolidation” means the joining of two or more adjacent erven into a single registered entity through the registration thereof in the deeds registry, but excludes the consolidation of farm portions for purposes of this By-law read with the Land Survey Act;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 106 of 1996);

“Council” means the Musina local municipal council and legislative authority as contemplated in section 157 of the Constitution;

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

“Date of notice or notification” means the date on which a notice is served as contemplated in the provisions of this by-law or published in the media or Provincial Gazette as the case may be;

“Decision-making person or body” means any person or body duly authorised by the Municipality who is required to take a decision in terms of this By-law or Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

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

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

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

“Deliver” means to submit or serve documents or copies on any organ of state or person as contemplated in this By-law of which proof of delivery is obtained as may be prescribed by the Municipality and delivering and serve shall have the same meaning;

“Development charge” means a development charge or charges that may be levied by the Municipality as contemplated in this By-law read with section 40(7)(b) and 49 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“Development principles” means the principles as set out in Chapter 2 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) read with development principles as may be determined in addition to those by the Municipality from time to time;

“Diagram” means a diagram as defined in the Land Survey Act, 1997 (Act No. 8 of 1997), but for purpose of this By-law shall be an approved diagram in terms of the Land Survey Act;

“Draft Land Use Scheme” means a scheme prepared in terms of section 24(1), 27 and 28 of the Act and section 17, 18, 19 of this By-law, for submission to a decision-making person or body, for approval to commence public participation in terms of section 26(5) of the Act and this By-law, and shall be referred to as a draft land use scheme until adopted by Municipal Council;

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

“Engineering services agreement” means the agreement envisaged in section 63 (2) of this By-law;

“Engineering services contribution” means a monetary contribution as envisaged in this By-law;

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

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

“External engineering service” means an engineering service situated outside the boundaries of a land area required to serve the use and development of the land area and is either a link engineering service or a bulk engineering service or an engineering service which has been classified by agreement as such in terms of section 46(6) of this By-law;

“File” means the lodgement of a document with the appeal authority of the municipality;

“Gazette” means the Provincial Gazette where any publications are done or required to be done by an applicant or the Municipality in terms of this By-law as the context may include;

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

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

“Illegal township” means land held under farm title or as an agricultural holding in terms of the Agricultural Holdings (Transvaal Registration) Act, 1919 (Act 22 of 1919), or other forms of ownership, used for purposes contemplated in the definition of a “township” where such use is not being exercised as a result of the establishment of a township contemplated in section 26(1) of this By-law or a township established in terms of any other law, but excludes informal settlements as may be determined by the Municipality; “inclusionary housing contribution” means a monetary contribution as envisaged in section 48(7) of this By-law;

“Incremental upgrading of informal area” means the progressive introduction of administration, management, engineering services and land tenure rights to an area that is established outside the existing planning legislation, and may include any settlement or area under traditional tenure;

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

“Integrated development plan” means a plan as contemplated in section 25 of the Municipal Systems Act; “interested person” means any person or group of persons, legal entity or body that can demonstrate their interest in any land development application as contemplated in section 52(1) of this By-law;

“Inspector” means a person designated or appointed as an inspector under section 32 of the Spatial Planning and Land Use Management Act, 2013(Act 16 of 2013) or any other relevant legislation pertaining to the inspection of land and or buildings in order to enforce compliance with this By-law, land use conditions, Land Use Scheme or any other legislation under the jurisdiction of the Municipality;

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

“Interested and affected party” unless specifically delineated, means any person or group of persons that can demonstrate that a specific action or decision, or intended action or decision, negatively affects their rights with specific reference to town planning principles or development principles;

“Land” means –

(a) any erf, agricultural holding or farm portion, and includes any improvements or building on the land and any real right in land, and

(b) the area of communal land to which a household holds an informal right recognised in terms of the customary law applicable in the area where the land to which such right

is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

“Land development application” means a land development application contemplated in section 41(2) of the Act, and its regulations and Section 54 of this By-law, and any other land development application in terms of the Land Use Scheme or planning Development Legislation within the jurisdiction of the Municipality as may be determined by the Municipality from time to time;

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

Land Development Officer” means an official who is authorised by the Municipality to consider and determine applications as contemplated in section 35(2) of the Act;

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

Land Use Management System” means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development procedures;

“Land Use Scheme” means the land use scheme adopted and approved in terms of Chapter 3 and for the purpose of these By-laws include an existing scheme until such time as the existing scheme is replaced by the adopted and approved land use scheme;

“Land Use Scheme Register” means the register as contemplated in Section 25(2)(c) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) read with section 6 of this By-law;

“Legally Incomplete or Incomplete Land Development Application” means a land development application submitted without the prescribed accompanying documents and or information as may be required by the Municipality or required in terms of the provisions of the By-law read with Regulations of this By-law;

“Land Use Plan” means a plan indicating existing land uses;

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

“Mineral Petroleum Resource Development Act” means the Mineral Petroleum and Resources Development Act, (Act 28 of 2002);

“Mining and Mining Rights” means mining as contemplated in the definitions of the Musina Land Use Scheme, 2009 or a Land Use Scheme in terms of the Act, as may be amended from time to time read with the Mineral Petroleum and Resources Development Act, (Act 28 of 2002) as may be amended from time to time;

“Municipal Planning Tribunal” means the municipal planning tribunal appointed by the Council and established by the Municipality in terms of the Act;

“Municipal Area” means the area of jurisdiction of the Musina Local Municipality in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“Municipal Manager” means the person appointed as the Musina Local Municipality Municipal Manager in terms of section 54A of the Municipal Systems Act and includes any person acting in that position or to whom authority has been delegated;

“Municipal Spatial Development Framework” means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act, 2000 (Act 32 of 2000) read with Chapter 2 of this By-law and includes any component thereof or regionalised spatial development frameworks forming part of the municipal spatial development framework;

“Municipality” means the Municipality of Musina or its successor in title as envisaged in section 155(1) of the constitution, established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

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

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

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

“Open Space” means an area of land set aside and required to be legally protected in the opinion and to the satisfaction of the Municipality from development over and above the assignment of land use rights, which shall be for the use and benefit of a community, irrespective of ownership of such land and may include, in the opinion of the Municipality parks, public and private open space for purpose of compliance with this By-law;

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

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

“Owner” means the person registered in a deeds registry as the owner of land or who is the beneficial owner in law;

“Permission” means a permission in terms of a Land Use Scheme of the Musina Local Municipality as may be amended from time to time;

“Regulations” means any Regulations published in terms of the Act.

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

“Premier” means the Premier of the Province of Limpopo;

“Prepared Spatial Development Framework” means a prepared spatial development framework as contemplated in section 4 in this By-law, which has been prepared for purpose of submission to a decision-making person or body, for approval to commence public participation in terms section 20 and 21 of the Act and section 9 of this By-law and shall be referred to as a draft spatial development framework until adopted by a Municipal Council;

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

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

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

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

“Registered Planner” means a person registered as a professional planner in terms of the Planning Profession Act, 2002 (Act 36 of 2002), and shall mean that category of registered persons for which the work has been reserved;

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

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

“Restrictive Condition” means any condition registered against the title deed of land restricting the use, development or subdivision of land concerned;

“Reviewed Spatial Development Framework” means a reviewed spatial development framework as contemplated in section 3 in this By-law, which has been reviewed for purpose of submission to a decision-making person or body, for approval to commence public participation in terms section 20 and 21 of the Act and section 3 of this By-law and shall be referred to as a draft spatial development framework until adopted by a Municipal Council;

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

“Services Agreement” means a written agreement which is concluded between an applicant(s) and the Municipality, and in terms of which the respective responsibilities of the two parties for the planning, design, provision, installation, financing and maintenance of engineering services, and the standard of such services, are determined and engineering services are classified as internal or external services;

“Servitude” means a servitude registered against a title deed of land or which has been created through legislation;

“Site Development Plan” means a plan which reflects full details of the intended development, including the relative location of existing buildings and structures, the location of engineering services, access to the land, parking, existing developments and features that will/must be retained, areas for landscaping, and any other required information or details as may be determined by a Municipality and as may be defined in Land Use Scheme;

“Spatial Development Framework” means the Musina Local Municipality Spatial Development Framework referred to in Chapter 4 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000) and this By-law;

“Subdivision” means the division of a piece of land into two or more portions and as contemplated in section 47 of this By-law which provisions shall apply mutatis mutandis to a division of farm land or a portion of farm land read with the Division of Land Ordinance, 1986 (Ordinance 20 of 1986);

“Surveyor-General” means the Surveyor-General as defined in the Land Survey Act, 1997 (Act 8 of 1997);

“Title Deed” means any deed registered in a Deeds Registry recording ownership of land and includes deeds of grant;

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

“Township Owner” means the person who is the owner of an approved township or any remaining portion of an approved township or his successor in township title;

“Township Register” means an approved subdivision register of a township in terms of the Deeds Registries Act, 1939 (Act 47 of 1939);

“Traditional Council” means a council established and recognised in terms of section 5 of the Limpopo Traditional Leadership and Governance Act, 2005;

“Traditional communities” means communities recognised in terms of section 3 of the Limpopo Traditional Leadership and Governance Act, **2005 (Act No 6 of 2005)**.

“Vhembe District Municipal Planning Tribunal” means the joint Vhembe District Municipal Planning Tribunal established in terms of section 34(2)(3) of SPLUMA read with clause 13(1) of this By-law;

“Zoning” means where the context indicates the zoning categories and conditions relating thereto contained in a Land Use Scheme as the case may be;

2. Application of this By-law and Conflict of Laws

(1) The provisions of this By-law shall apply to all properties within the jurisdictional geographical area of the Musina Local Municipality and its successor in title, including properties owned by the state.

(2) This By-law binds every owner and their successor-in-title and every occupier of a property (ies), including the state.

(3) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.

(4) Where:

(a) a provision of a Land Use Scheme is in conflict with the provisions of this By-law, the provisions of this By-law shall prevail; and

(b) any provision of this By-law is in conflict with the provision of the Act or any provincial legislation this By-law shall only prevail in so far as it relates to Municipal Planning.

(5) Where there is a conflict between this By-law and another By-law, this By-law prevails over the affected provision of the other By-law in respect of any Municipal Planning matter.

CHAPTER 2

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK AND LAND USE SCHEME

3. Municipal Spatial Development Framework

- (1) The Municipality must by notice in the *Provincial Gazette* adopt and approve a Municipal Spatial Development Framework for the municipality.
- (2) The Intention to prepare, amend or review Musina Local Municipality Spatial Development Framework contemplated in section 6 (a) of the Act, is to provide the credible, useful Spatial interpretation of Integrated development Plan to be used by: Service providers; Councillors; all Stakeholders; Provincial; and other government agencies;
- (3) Musina Local Municipality and its Councils based on agreed Vision and Planning Principles:
 - (a) may provide financial and institutional capacity of the municipality to implement the proposal;
 - (b) may convene the intergovernmental Steering Committee and Project Committee; where applicable;
 - (c) includes an implementation plan, with measurable targets;
 - (d) may provide sufficient detail mechanisms to inform Councils during development phases;
 - (e) undertake Public participation comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal System Act, 2000 (Act No 32 of 2000) as amended;
 - (f) aligned with the municipal Local Spatial Development Framework (LSDF), Precincts Plan or Municipal Master Plan, where applicable;
 - (g) Aligned with the municipal Environmental Management Framework (EMF) and Bioregional Plan, where applicable;
 - (e) Take into consideration National and Provincial Guidelines for the development of Municipal Spatial Development Frameworks;
 - (f) Consider all representations received in respect of the proposed Municipal Spatial Development Framework.

4. Content of Municipal Spatial Development Framework

(1). The Municipal's Spatial Development Framework must-

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

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

5. Legal effect of Municipal Spatial Development Framework

- (1) The Municipal or any other authority required or mandated to make a land development decision in terms of this By-law or any other applicable legislation relating to land development, may not make a decision which is inconsistent with its Municipal Spatial Development Framework.
- (2) The Municipal or any other authority required or mandated to make a land development decision in terms of this By-law or any other applicable legislation relating to land development, may only depart from the provisions of its Municipal Spatial Development Framework where merit and site specific circumstances warrant or justify such departure.
- (3) Where a conflict exists between the Municipality's Municipal Spatial Development Framework and the National Spatial Development Framework and/or a Regional Spatial Development Framework and/or a Provincial Spatial Development Framework, the provisions of the Municipality's Municipal Spatial Development Framework shall prevail as a result of its executive authority to

do "Municipal Planning" in terms of section 156 read with Schedule 4 Part B of the Constitution.

- (4) If the effect of an approval of an application will be a material change of the Municipal Spatial Development Framework, the Municipality may amend the Municipal Spatial Development Framework in terms of the provisions of this Chapter, prior to taking a decision which constitutes a deviation from the Municipal Spatial Development Framework.

6. Land Use Scheme

- (1) The Municipality shall adopt and approve, after public consultation, a single land use scheme for its entire area as prescribed.
- (2) A Land Use Scheme adopted in terms of subsection (1) above must-
- (a) include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme;
 - (b) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;
 - (c) include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme;
 - (d) include provisions to promote the inclusion of affordable housing in residential land development;
 - (e) include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies;
 - (f) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
 - (g) give effect to Municipal Spatial Development Frameworks and Integrated Development Plans.
- (3) The Land Use Scheme may include provisions relating to-
- (a) the use and development of land only with the written consent of the Municipality;

- (b) specific requirements regarding any special zones identified to address the development priorities of the City; and
- (c) the variation of conditions of a land use scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

7. Purpose and content of land use scheme

(1) The Land Use Scheme adopted and approved in terms of Section 7 above must give effect to and be consistent with the Municipality's Municipal Spatial Development Framework and determine the use and development of land within the Municipality's area of jurisdiction in order to promote-

- (a) economic growth;
- (b) social inclusion;
- (c) efficient land development; and
- (d) minimal impact on public health, the environment and natural resources.

(2) The land use scheme must include-

- (a) scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;
- (b) a map indicating the zoning of the municipal area into land use zones; and
- (c) a register of all amendments to such land use scheme.

8. Legal effect of land use scheme

(1) An adopted and approved land use scheme-

- (a) has the force of law and all land owners and users of land, including the municipality, a state-owned enterprise and organs of state within the Municipality's area of jurisdiction are bound by the provisions of such a land use scheme;
- (b) replaces all existing schemes within the Municipality's area of jurisdiction to which the land use scheme applies; and
- (c) provides for land use and development rights.

(2) Land may be used only for the purposes permitted-

- (a) by a land use scheme; or

(b) by a Town Planning Scheme, until such scheme is replaced by a land use Municipality has a duty to enforce the provisions of its land use scheme and any use of land which is deemed contrary to such land use scheme shall constitute a criminal offence.

(4) A Land Use Scheme developed and approved in terms of section 7 above must address conflict between the Land Use Scheme adopted and the one it purports to repeal or replace.

9. Amendment of Land Use Scheme

(1) The Municipal may amend its Land Use Scheme if the amendment-

- (a) is in the public interest;
- (b) to advance, or is in the interest of, a disadvantaged community; and
- (c) in order to further the vision and development goals and objectives of the Municipal as set out in its IDP and MSDF.

(2) Where the Municipal intends to amend its Land Use Scheme, same procedure of rezoning shall apply *mutatis mutandis* to such amendment.

CHAPTER 3

INSTITUTIONAL STRUCTURE FOR LAND DEVELOPMENT AND LAND USE MANAGEMENT DECISIONS

Part A: Division of Functions

10. Division of functions between Municipal Planning Tribunal , Joint Municipal Planning Tribunal and Land Development Officer

(1) For purposes of section 35 of the Act, the following categories of applications defined in section 31 of these By-laws must be considered and determined -

- (a) by the Municipal Planning Tribunal or Joint Municipal Tribunal:
 - (i) All category 1 applications; and
 - (ii) all opposed category 2 applications;

(b) by the Land Development Officer, all category 2 applications that are not opposed;

(2) For the purposes of subsection (1), an opposed application means an application on which negative comments or objections were received after the public participation process from persons, internal municipal departments, ward councillors, service providers and organs of state.

Part B: Assessment to establish Municipal Planning Tribunal

11. Municipal assessment prior to establishment of Municipal Planning Tribunal

(1) The decision of a municipality to –

- (a) establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act; or
- (b) agree to the establishment of a Municipal Planning Tribunal by a district municipality as contemplated in section 34(2) of the Act; or
- (c) establish a Municipal Planning Tribunal for its municipal area, must be preceded by an assessment of the factors referred to in sub-regulation (2).

(2) The assessment referred to in sub-regulation (1) includes, amongst others, the following factors -

- (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
- (b) the ability of the municipality to effectively implement the provisions of the Act;
- (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
- (d) the development pressures in the municipal area.

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

12. Establishment of Municipal Planning Tribunal for local municipal area

- (1) The establishment of the Municipal Planning Tribunal or Joint District Municipal Planning Tribunal shall be done in terms of Section 34 and 35 of the Act read together with regulation 2.
- (2) In case of Musina independent Planning Tribunal, the office of accommodation should be provided within the Municipal Building.
- (3) In case of Vhembe Joint District Municipality Tribunal shall provide office accommodation for the District Municipal Planning Tribunal (as it is the case in terms of agreement).

13. Composition of Vhembe Joint District Municipal Planning Tribunal or Independent Musina Tribunal

(1) The Planning Tribunal (both Joint and its own independent) consists of 13 members, but a maximum of five are allowed to form part of sitting and minimum of three can form a quorum. however, the composition of five members and three is made up as follows:

- (a) Three (3) members appointed by the Municipal Council who are not municipal officials or vice-versa such persons must be composed of a professional Town and Regional Planner, legal expert and either of the experts in engineering or environmental management or economics or expertise related thereto.
- (b) Two (2) persons in the full-time service of the municipality or vice-versa where one person comes from a local municipality of which the application under consideration.

14. Nomination procedure

- (1) The Municipality must -

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

15. Submission of nomination

- (1) The nomination must be in writing and be addressed to the Municipal Manager.

- (2) The nomination must consist of –
- (a) the completed declaration contained in the form and all pertinent information must be provided within the space provided on the form;
 - (b) the motivation by the nominator contemplated in subsection (3)(a); and
 - (c) the summarised curriculum vitae of the nominee contemplated in subsection (3)(b).
- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –
- (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
 - (b) a summarised curriculum vitae of the nominee not exceeding two A4 pages.

16. Initial screening of nomination by Municipality

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of section 36.
- (2) The nominations that are incomplete or do not comply with the provisions of section 36 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 36 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
- (a) was not duly nominated;
 - (b) is disqualified from appointment as contemplated in section 38 of the Act;
 - (c) does not possess the knowledge or experience as required in terms of section 36(b); or

- (d) is not registered with the professional councils or voluntary bodies, if applicable, the nomination must be rejected and may not be considered by the evaluation panel contemplated in section 36.
- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 37.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

17. Evaluation panel

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

18. Appointment of members to Municipal Planning Tribunal by Council

- (1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.
- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson and a deputy chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are

designated as chairperson and deputy chairperson, indicate that they have been appointed as such.

- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 43, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

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

- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of two years, which is renewable once for a further period of two years.
- (2) The office of a member becomes vacant if that member -
- (a) is absent from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
 - (c) is removed from the Municipal Planning Tribunal under subsection (3);
or
 - (d) dies.
- (3) The Council may remove a member of the Municipal Planning Tribunal if -
- (a) sufficient reasons exist for his or her removal;
 - (b) a member contravenes the code of conduct;
 - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act.
- (4) An official of a municipality contemplated in section 32(2)(a) who serves on the Municipal Planning Tribunal –

- (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality shall immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of section 32(2)(b) to (g) to the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
 - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
 - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.

- (6) All members of the Municipal Planning Tribunal shall sign the Code of Conduct before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Municipal Planning Tribunal shall adhere to ethics adopted and applied by the Municipality and shall conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Municipal Planning Tribunal in the execution of their duties shall comply with the provisions of the Act, provincial legislation, these By-laws and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

20. Vacancy

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

21. Proceedings of Municipal Planning Tribunal for municipal area

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

- (5) The chairperson may arrange multiple Municipal Planning Tribunal meetings on the same day constituted from different members of the Municipal Planning Tribunal and must designate a presiding officer for each of the meetings.

22. Tribunal of record

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

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

- (1) The Municipal Manager must within 30 days of the first appointment of members to the Municipal Planning Tribunal -
- (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
 - (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in section 38(4).
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

Part

E: Establishment of District Municipal Planning Tribunal

24. Agreement to establish Vhembe District Municipal Planning Tribunal

- (1) (a) The establishment of the District Municipal Planning Tribunal shall be

done in terms of Section 34 and 35 of the Act.

(b) Vhembe District Municipality shall provide office accommodation for the District Municipal Planning Tribunal (as it is the case in terms of Agreement)

(2) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

25. Composition of district Municipal Planning Tribunals

(1) A district Municipal Planning Tribunal must consist of -

(a) at least one official of each participating municipality in the full-time service of the municipalities; and

(b) persons who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto appointed from a list of service providers maintained by the district municipality to serve on the district Municipal Planning Tribunal.

(2) No municipal councillor of a participating municipality may be appointed as a member of a district Municipal Planning Tribunal.

26. Term of office and conditions of service of members of Vhembe District Municipal Planning Tribunal

(1) A member of the Interim District Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of two (02) years, which is renewable once for a further period of two years.

(2) The office of a member becomes vacant if that member -

(a) is absent from two consecutive meetings of the Interim District Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;

(b) tenders his or her resignation in writing to the chairperson of the Interim District Municipal Planning Tribunal;

(c) is removed from the Interim District Municipal Planning Tribunal under subsection (3); or

(d) dies.

- (3) The Council may remove a member of the Interim District Municipal Planning Tribunal if -
- (a) sufficient reasons exist for his or her removal;
 - (b) a member contravenes the code of conduct;
 - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act.
- (4) An official of a municipality contemplated in section 32(2)(a) who serves on the Interim District Municipal Planning Tribunal –
- (a) may only serve as member of the Interim District Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Interim District Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality shall immediately be disqualified from serving on the Interim District Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of section 32(2)(b) to (g) to the Interim District Municipal Planning Tribunal -
- (g) is not an employee on the staff establishment of that municipality;
 - (h) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Interim District Municipal Planning Tribunal;
 - (i) performs the specific tasks allocated by the chairperson of the Interim District Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;

- (j) sits at such meetings of the Interim District Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (k) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
 - (l) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Interim District Municipal Planning Tribunal shall sign the Code of Conduct before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Interim District Municipal Planning Tribunal shall adhere to ethics adopted and applied by the Vhembe District Municipality and shall conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Interim District Municipal Planning Tribunal in the execution of their duties shall comply with the provisions of the Act, provincial legislation, these By-laws and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

27. Status of decision of district Municipal Planning Tribunal

A decision of a Interim District Municipal Planning Tribunal is binding on both the applicant and the Municipality in whose area of jurisdiction the land relating to the land development application is located as if that decision was taken by a Municipal Planning Tribunal for a local municipal area.

28. Applicability of Part C, F and G to Interim District Municipal Planning Tribunal

The provisions of Part C, Part F and Part G apply, with the necessary changes, to a joint Municipal Planning Tribunal.

Part F: Decisions of Municipal Planning Tribunal

29. General criteria for consideration and determination of application by Interim District Municipal Planning Tribunal or Independent Municipal

- (1) When the Municipal Planning Tribunal considers an application it must have regard to the following:
- (a) the application submitted in terms of this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by the member of the Executive Council regarding proposed land uses;
 - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (e) the response by the applicant to the comments referred to in paragraph (d);
 - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (g) a written assessment by a professional planner registered in terms of the Planning Profession Act, 2002, in respect of the following applications:
 - (i) a rezoning;
 - (ii) a subdivision of more than 20 cadastral units;
 - (iii) a removal, suspension or amendment of a restrictive condition, if it relates to a change of land use.
 - (iv) an amendment, deletion or additional conditions in respect of an existing approval, listed in this paragraph;
 - (v) an approval of an overlay zone as provided in the land use scheme;
 - (vi) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;

- (vii) a determination of a zoning;
 - (viii) a closure of a public place or part thereof;
 - (h) the integrated development plan and municipal spatial development framework;
 - (i) the applicable local spatial development frameworks adopted by the Municipality;
 - (j) the applicable structure plans;
 - (k) the applicable policies of the Municipality that guide decision-making;
 - (l) the provincial spatial development framework;
 - (m) where applicable, the regional spatial development framework;
 - (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (o) the matters referred to in section 42 of the Act;
 - (p) the relevant provisions of the land use scheme.
- (2) A municipality must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) is consistent with the development rules of the zoning;
 - (b) is consistent with the development rules of the overlay zone;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
- (a) the municipality may not approve a building plan if the site development plan has not been approved; and
 - (b) the municipality may not approve a building plan that is inconsistent with the approved site development plan.

30. Conditions of approval

- (1) When the Municipal Planning Tribunal approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
 - (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;
 - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;
 - (j) requirements aimed at addressing climate change;
 - (k) the establishment of an owners' association in respect of the approval of a subdivision;
 - (l) the provision of land needed by other organs of state;
 - (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality or the registration of public places in the name of the municipality, and the transfer of ownership to the municipality of land needed for other public purposes;
 - (n) the implementation of a subdivision in phases;

- (o) requirements of other organs of state.
 - (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
 - (q) agreements to be entered into in respect of certain conditions;
 - (r) the phasing of a development, including lapsing clauses relating to such phasing;
 - (s) the delimitation of development parameters or land uses that are set for a particular zoning;
 - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
 - (u) the setting of dates by which particular conditions must be met;
 - (v) requirements relating to engineering services as contemplated in Chapter 7;
 - (w) requirements for an occasional use that must specifically include –
 - (i) parking and the number of ablution facilities required;
 - (ii) maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the land use scheme;
- (3) If a Municipal Planning Tribunal imposes a condition contemplated in subsection (2)(a), an engineering services agreement must be concluded between the municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the municipality in accordance with norms and standards, as may be prescribed.

- (5) Municipal public expenditure contemplated in subsection (3) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
 - (b) conservation purposes;
 - (c) energy conservation;
 - (d) climate change; or
 - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal may not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.
- (8) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (10) If the Municipal Planning Tribunal approves a land development or use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) The Municipal Planning Tribunal may, on its own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.

Part G: Administrative Arrangements

31. Administrator for Municipal Planning Tribunal for municipal area

- (1) The Municipal Manager must designate an employee as the administrator for the Municipal Planning Tribunal.
- (2) The person referred to in subsection (1) must—
 - (a) liaise with the relevant Municipal Planning Tribunal members and the parties in relation to any application or other proceedings filed with the Municipal Planning Tribunal;
 - (b) maintain a diary of hearings of the Municipal Planning Tribunal;
 - (c) allocate meeting dates and application numbers to applications;
 - (d) arrange the attendance of meetings by members of the Municipal Planning Tribunal;
 - (e) arrange venues for Municipal Planning Tribunal meetings;
 - (f) administer the proceedings of the Municipal Planning Tribunal;
 - (g) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;
 - (h) ensure the efficient administration of the proceedings of the Municipal Planning Tribunal, in accordance with the directions of the chairperson of the Municipal Planning Tribunal;
 - (i) arrange the affairs of the Municipal Planning Tribunal so as to ensure that time is available to liaise with other authorities regarding the alignment of integrated applications and authorisations;
 - (j) notify parties of orders and directives given by the Municipal Planning Tribunal;
 - (k) keep a record of all applications submitted to the Municipal Planning Tribunal and the outcome of each, including—
 - (i) decisions of the Municipal Planning Tribunal;
 - (ii) on-site inspections and any matter recorded as a result thereof;

- (iii) reasons for decisions; and
- (iv) proceedings of the Municipal Planning Tribunal; and
- (l) keep records by any means as the Municipal Planning Tribunal may deem expedient.

CHAPTER 4

LAND USE PROCEDURES AND DEVELOPMENT MANAGEMENT

Part A: Categories of Applications

32. Categories of land use and land development applications

- 1) The categories of land development and land use management for the Municipality, as contemplated in section 35(3) of the Act, are as follows -
 - (a) Category 1 Applications; and
 - (b) Category 2 Applications.
- (2) Category 1 applications are applications for -
 - (a) the establishment of a township or the extension of the boundaries of a township;
 - (b) the amendment of an existing scheme or land use scheme by the rezoning of land;
 - (c) subject to subsection (3), the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
 - (d) the amendment or cancellation in whole or in part of a general plan of a township;
 - (e) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
 - (f) permanent closure of any public place;
 - (g) all applications for the restriction of access to a public road in terms of the Rationalization of Local Government Affairs Act, 1998 (Act No. 10 of 1998);

- (h) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
- (i) instances where the Municipality acting on its own accord wishes to remove, amend a restrictive or obsolete condition, servitude or reservation registered against the title deed of a property or properties which may also arise out of a condition of establishment of a township or any other legislation;
- (j) any consent or approval provided for in a provincial law; and
- (k) land development on communal land that will have a high impact on the traditional community concerned.

(3) Category 2 applications are applications for:

- (a) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;
- (b) the consolidation of any land;
- (c) the simultaneous subdivision, under circumstances contemplated in paragraph (a) and consolidation of land;
- (d) the amendment of an existing scheme or land use scheme by the rezoning of land in area supported by council policies
- (e) the consent of the municipality for any land use purpose or departure or deviation in terms of a land use scheme or existing scheme which does not constitute a land development application;
- (f) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation; and
- (g) a temporary use application.

(4) The division of functions per category of application as contemplated in section 35(3) of the Act between a Land Development Officer and a Municipal Planning Tribunal is set out in section 30.

33. Application for land development required

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality in terms of subsection (3).
- (2) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.
- (3) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.

Part B

CONSENT USE AND BUILDING LINE RELAXATION

34. Consent use

- (1) An owner of land may submit a consent use application in terms of this By-law and as provided for in Musina Local Municipality land use scheme to use the land or site or any building on the land or site for a particular purpose.
- (2) A consent use application as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) A notice shall be displayed on the land under consideration in English and one other local Language;
 - (b) Such notice shall be displayed on the land immediately after submission of the application to the Local Municipality;
 - (c) Such notice shall be in the format and guidance stipulated from subsection (d) to (h) below by Musina Local Municipality;
 - (d) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (e) Such notice shall be maintained in a clearly legible condition for a period of not less than 14 days from the date of 1st display of such notice;
 - (f) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf, farm portion or agricultural holding concerned and the nature and general purpose of the application;

(g) Such notice shall reflect the date of 1st display of such notice and it shall reflect the name, postal address, telephone number, fax number and email address of the person submitting the application;

(h) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the applicant (g) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from date of first displaying the notice on the land under consideration; and

(i) In addition to the requirements in subsections (a) to (h) above, a letter shall also be dispatched within 7 days of date of first display of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsections (f), (g) and (h) above.

(3) Proof of compliance with subsection (2) above in the form of a written affidavit shall be submitted to the municipality within 14 days of expiry of the date contemplated in subsection (2)(h) above.

(4) Where objections, comments and/or representations have been received as a result of subsection (2) above, the applicant may respond in writing thereto to the municipality within 14 days of date of receipt of such objection, comment and/or representation where after the municipality shall refer the application to the Municipal Planning Tribunal for a decision.

(5) No decision on the application shall be taken unless due regard has been given to each objection, comment and representation lodged timeously.

(6) In the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase;

(7) Such consent use application may be refused or it may be approved subject to any condition the municipality may deem fit and it may include a condition that-

(a) The consent shall lapse if the use of the land or building concerned is not commenced with within the period stated in the condition;

(b) The consent shall lapse if it is discontinued for a period stated in the condition;

(c) The consent shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;

- (d) The consent may be withdrawn if there has been non-compliance with any of the conditions of approval or because of change of circumstances;
 - (e) a contribution be paid to the municipality in respect of engineering services where it will be necessary to enhance or improve such services as a result of the consent granted; and
 - (f) An amount of money be paid to the municipality in respect of open spaces where the granting of the consent will bring about a higher residential density.
- (8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (9) The municipality shall keep a proper record of each approval granted in terms of subsection (7) above.
- (10) The contribution and amount of money envisaged in subsection (7)(e) and (f) above shall become due and payable within 30 days from date of the expiry of the time period or within such further period as the municipality may allow, failing which, the consent shall automatically lapse.
- (11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 30 day period stated in that subsection.
- (12) Where the municipality's land use scheme makes provision for a written consent application, such application shall be exempted from compliance with subsection (2) above.

35. Building line relaxation

- (1) Any building line restriction imposed on land in terms of the municipality's land use scheme may be relaxed in terms of an application submitted by an owner of land in terms of this By-law.
- (2) A building line relaxation application as envisaged in subsection (1) above shall comply with the following procedures:
- (a) A letter, accompanied by a proposed building/site plan, shall be dispatched in writing and by registered post, by hand or by any other means available to any adjoining owners whom, at the discretion of the municipality, may possibly be adversely affected by the relaxation of the applicable building line restriction setting out the following:
 - (aa) Full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf

concerned and the nature and general purpose of the application with specific emphasis on which building lines (side/rear or street) are being applied for;

(bb) The date on which such application was submitted to the municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and

(cc) That any objection, comment or representation in regard thereto must be submitted timeously to both the municipality and the person mentioned in subsection (bb) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 14 days from date of receipt of the letter.

(b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the municipality prior to consideration of the complete application within 14 days of expiry of the time period in subsection (2)(a)(cc) above.

(3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(cc) above, the applicant may respond in writing thereto to the municipality within 14 days of date of receipt of such objection, comment and/or representation where after the municipality shall refer the application to the Municipal Planning Tribunal for a decision.

(4) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.

(5) In the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the administrative phase;

(6) Such building line relaxation may be refused or approved subject to any condition the municipality may deem fit.

(7) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(8) The municipality shall keep a proper record of each building line relaxation approval granted.

(9) No building plans may be approved in terms of the National Building Regulations and Building Standards Act showing a proposed building within a building line restriction area without the approval of such building line relaxation application as envisaged in subsection (1) above.

Part C

AMENDMENT OF LAND USE SCHEME (REZONING) AND MATTERS RELATED THERETO

36. Amendment of land use scheme

1) An owner's authorized agent (Professional Town Planner) of land who wishes to have a provision of the municipality's land use scheme or any provision of any other scheme which may still be applicable to the land under consideration amended, may submit an application in terms of this By-law to the municipality for consideration.

(2) An application for the amendment of a provision of the municipality's land use scheme or any other scheme that may still be applicable to the land under consideration as envisaged in subsection (1) above shall comply with the following procedures:

(a) Notice of the application shall be publishing once a week for two consecutive weeks on Provincial gazette and Local Newspaper that circulates within the area of jurisdiction of the application site and written in English and any other language;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;

(c) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;

(d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (2)(a) above.

(f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration written in English and any other local language;

(g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;

(h) Such notice shall be in the format and guidance stipulated from subsection (d) to (g) below by Musina Local Municipality;

(i) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;

(j) Such notice shall be maintained in a clearly legible condition for a period of not less than 14 days from the date of publication of the notice mentioned in subsection (a) above; and

(k) In addition to the requirements in subsections (a) and (f) above, a letter shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing 22 such owners/occupiers of all the detail as prescribed in subsection (2)(b) to (e) above.

(3) Proof of compliance with subsection (2) above must be submitted to the municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.

(4) On receipt of an application in terms of subsection (1) above, the municipality shall submit a copy of such application to:

(a) Any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;

(b) any neighbouring municipality who may have an interest in the application; and

(c) any other stakeholder, Municipal Department, Provincial Department, National Department, Municipal Entity or any other interested party who may, in the discretion of the municipality, have an interest in the application.

(5) The interested parties mentioned in subsection (4)(a)-(c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the municipality in writing within 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.

(6) The municipality shall forward a copy of each objection, comment and representation received in terms of the notices envisaged in subsection (2) and from the interested parties in terms of subsection (4) above in respect of the application to the applicant and the applicant may respond in writing thereto to the municipality within 14 days of date of receipt of such objection, comment and/or representation where after the municipality shall refer the application to the Municipal Planning Tribunal for a decision.

(7) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(8) In the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase.

(9) An owner of land may at any stage prior to a decision been taken on the application, amend or withdraw his application provided that with an amendment, the amendment is not regarded in the opinion of the municipality as being material which would warrant re-compliance.

37. Decision and Post-Decision Procedures

(1) An application as envisaged in section 35(1) above may be approved subject to any condition the municipality deems fit or it may be refused.

(2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(3) The municipality shall keep a proper record of each decision in terms of subsection (1) above.

(4) Only where the municipality has approved an application in terms of subsection (1) above and after the expiry of the time period envisaged in this By-law, it shall forthwith give notice thereof in the Provincial Gazette and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be an approved scheme which is an amendment scheme.

(5) Prior to the notice being published as envisaged in subsection (4) above, the owner of land may abandon the approval by giving written notice to the municipality.

(6) The municipality shall cause a copy of every approved scheme as envisaged in subsection (4) above to lie for inspection at all reasonable times at its office.

(7) An approved scheme as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.

(8) The municipality shall observe and enforce the provisions of the scheme from the date of it coming into operation and any person who contravenes a provision of an approved scheme shall be guilty of an offence.

(9) No provisional authorisation as contemplated in section 7(6) of the National Building Regulations and Building Standards Act shall be issued unless an approval has been granted in terms of subsection (1) above.

38. Correction of errors or omissions

Where the municipality is of the opinion that any error or omission in an approved scheme relating to land situated within its area of jurisdiction may be corrected without the necessity of again following the provisions of sections 35 and 36 above, it may correct such error or omission by notice in the Provincial Gazette.

39. Prohibition of a further application in certain circumstances

(1) Where the municipality has approved an application envisaged in section 37(1) above, no person shall in respect of the land to which the amendment scheme relates apply for a further amendment in terms of section 37(1) within a period of 24 months from the date of coming into operation of the scheme.

(2) Notwithstanding subsection (1) above, the municipality may, upon written application, grant consent that, due to an acceptable change of circumstances, a further amendment application as envisaged in section 37(1) above may be submitted.

(3) Within a period of 30 days from date of receipt of the change of circumstances application envisaged in subsection (2) above, the municipality shall consider the application and notify the owner of land of its decision.

(4) The provisions of subsection (1) above shall not apply to what is deemed by the authorised official to be minor amendments to the approved amendment scheme.

40. Contributions to be paid in respect of external engineering services and Open Spaces

(1) Where an amendment scheme which is an approved scheme came into operation in terms of section 38(7) above, the municipality may, by registered letter, by hand or by any other means available direct the owner of land to which the scheme relates to pay a contribution to it in respect of the provision of:

(a) The engineering services envisaged in section 39(1) of this By-law where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme;

(b) Open spaces where the commencement of the amendment scheme will bring about a higher residential density.

(2) The letter envisaged in subsection (1) above shall state the:

(a) The amount of the contribution payable;

(b) Particulars of the manner in which the amount of the contribution was determined; and

(c) The purpose for which the contribution is required.

(3) An owner of land who:

(a) wishes to avoid the payment of a contribution envisaged in subsection (1) above may request the municipality to repeal the amendment scheme concerned within a period of 90 days from the date of the letter envisaged in subsection (1) above; or

(b) Wishes to avoid payment of or wishes to reduce the amount of a contribution envisaged in subsection (1) above may in terms of section 8(1) above apply for the further amendment of the land use scheme concerned within 90 days from the date of the letter envisaged in subsection (1) above.

(4) On receipt of a request as envisaged in subsection (3)(a) above the municipality shall grant or refuse the request and, if granted, give notice thereof in the Provincial Gazette.

(5) Where the municipality has given notice of such repeal in terms of subsection (4) above, the obligation to pay any contribution envisaged in subsection (1) above shall lapse from the date of the notice envisaged in subsection (4) above and any contribution already paid shall be refunded.

(6) Subject to subsection (8) below, the contribution levied under subsection (1) above shall become due and payable within 30 days of the expiry of the 60- day time period envisaged in subsection (3) above or within such further period as the municipality may allow.

(7) Subject to subsection (8) below, no building plans in respect of the approved scheme shall be approved in terms of the National Building Regulations and Building Standards Act unless the contribution levied under subsection (1) above has been settled in full.

(8) The municipality may consider a request, on good cause shown, that:

(a) The contribution levied under subsection (1) above be paid over a specific period of time not exceeding three (3) years in instalments;

(b) That a prospective new purchaser be liable for the contribution in terms of an agreement/undertaking after transfer; or

(c) That payment of the contribution be postponed for a period not exceeding three years where security or a guarantee for the contribution has been provided to the satisfaction of the municipality.

(9) In exercising any of the powers under subsections (8)(a) – (c) above, the municipality may impose any condition it may deem fit including a condition regarding interest.

PART D

TOWNSHIP ESTABLISHMENT, DIVISION/PHASING OF AN APPROVED TOWNSHIP, EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP AND MATTERS RELATED THERETO.

41. Township Establishment

(1) An owner's authorized agent (Professional Town Planner) of land who wishes to establish a township on its land which falls within the jurisdiction of the Musina local Municipality may submit an application in terms of this By-law to the municipality for consideration.

(2) A township must be established on any farm portion or agricultural holding where the land concerned is to be used, developed or subdivided mainly for residential, business, commercial, industrial, institutional, educational or other similar purposes as defined in the applicable land use scheme, excluding agricultural, open space or nature conservation purposes.

(3) An application for the establishment of a township as envisaged in subsection (1) above shall comply with the following procedures:

(a) Notice of the application shall be publishing once a week for two consecutive weeks on Provincial gazette and Local Newspaper that circulates within the area of jurisdiction of the application site and written in English and any other language;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;

(c) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the proposed township and the nature and general purpose of the application;

(d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (a) above.

(f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration in English;

- (g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;
- (h) Such notice shall be in the format as determined by the municipality;
- (i) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
- (j) Such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of publication of the notice mentioned in subsection (a) above; and
- (k) In addition to the requirements in subsections (a) and (f) above, a letter shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above to the owners/occupiers of all 26 contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsection 3(b) to (e) above.
- (4) Proof of compliance with subsection (3) above must be submitted to the municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (3)(e) above.
- (5) On receipt of an application in terms of subsection (1) above, the municipality shall submit a copy of such application to:
- (a) Any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;
 - (b) any neighbouring Municipality whose boundary area are situated within a distance of 10km from the land in respect of which an application has been made; and
 - (c) To the district municipality that shares municipal executive and legislative authority in its area
 - d) any other stakeholder, Municipal Internal Department, Provincial Department, National Department, Municipal Entity or any other interested party who may, in the discretion of the municipality, have an interest in the application.
- (6) The interested parties mentioned in subsections (5) (a) to (d) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the municipality in writing within 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.
- (7) The municipality shall forward a copy of each objection, comment and representation received in terms of the notice envisaged in subsection (3) and from the interested parties in terms of subsection (5) above in respect of the application to

the applicant and the applicant may respond in writing thereto to the municipality within 28 days of date of receipt of such objection, comment and/or representation where after the municipality shall refer the application to the Municipal Planning Tribunal for determination.

(8) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(9) In the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase.

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

(a) of his own accord and with the consent of the ; or

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

42. Authorisation of certain contracts and options

(1) After a township application has been approved as contemplated in section 42(1) below and after complying with section 42(5) of this By-law, an owner of land may also apply to the municipality for authorisation to enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in the proposed township or to grant an option to purchase or otherwise acquire an erf in the proposed township.

(2) The municipality may grant such authorisation envisaged in subsection (1) above subject to any condition it may deem expedient, which may include a condition that the applicant shall, before entering into such contract or granting such option and within 6 months of granting the consent, furnish to the municipality a guarantee of such type and for such amount as the municipality may determine and which is otherwise to its satisfaction that the applicant will fulfil its duties in respect of the engineering services and if the applicant fails to do so the authorisation shall lapse.

(3) The municipality shall notify the owner of land of its decision in writing and of any condition imposed.

(4) Where the municipality has granted such authorisation as envisaged in subsection (1) above, the contract or option shall contain a clause stating that the township concerned has not been declared an approved township

(5) Where such contract or option does not contain such clause as envisaged in subsection (4) above, the contract or option shall, at any time before the township is declared an approved township as contemplated in section 42(15), be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.

(6) Any person who alienates or disposes of an erf and who enters into a contract or grants an option without such clause as envisaged in subsection (4) above shall be guilty of an offence.

43. Decision and Post-Decision Procedures

(1) After the provisions of section 40 have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.

(2) Where the municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.

(3) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.

(4) After the owner of land has been notified in terms of subsection (3) above that his application has been approved, but before the township is declared an approved township as contemplated in subsection (43) below, the municipality may, in consultation with the owner of land, amend or delete any condition imposed in terms of subsection (2) above or add any further condition.

(5) After an owner of land has been notified in terms of subsection (3) that his application has been approved, the owner of land shall within a period of 12 months from the date of such notice, or such further period as the municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the applicant fails to do so the approval will automatically lapse.

(6) An application for an extension of time as envisaged in subsection (5) above shall be made prior to the expiry of the 12-month period stated in that subsection and if granted, may not exceed another 24 months and no further extension shall be granted.

(7) Where the owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the municipality accordingly and where the municipality is satisfied, after consulting the owner of land, that the owner of land has failed to comply

with any such requirement without good cause shown, the approval will automatically lapse.

(8) An owner of land who has been notified in terms of subsection (3) above that his application has been approved but prior to the township being declared an approved township as contemplated in subsection (43) below, may-

(a) Where the documents envisaged in subsection (5) above have not yet been lodged with the Surveyor-General; or

(b) where the documents envisaged in subsection (5) above have already been lodged with the Surveyor-General, in consultation with the Surveyor General, submit a further application to the municipality for the amendment of such approval unless:

(i) the amendment is, in the municipality's opinion, so material as to constitute a new application in terms of section 40(1) above;

(ii) the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in section 40(3) and/or (5) above, and subsections (1) and (2) of this section shall apply mutatis mutandis to such application.

(9) The owner of land shall lodge with the municipality, within a period of 3 months from the date upon which the Surveyor-General has approved the plans, diagrams and any other documents envisaged in subsection (5) above, a certified copy or tracing of the general plan of the township and where the applicant fails to comply within the 3 month period, the municipality may obtain a certified copy or tracing directly from the Surveyor-General at the applicant's costs.

(10) After complying with subsection (5) above, the applicant shall lodge with the Registrar the plans, diagrams and any other documents as envisaged in subsection (5) above and as approved by the Surveyor-General together with the relevant title deeds for endorsement or registration, as the case may be, within 12 months from the date of approval of such plans, diagrams and any other documents by the Surveyor-General, or within such further period as the municipality may allow.

(11) The Registrar of Deeds shall not accept such plans, diagrams or any other documents for endorsement or registration until such time as the municipality has advised him in writing that the applicant has complied with such pre-proclamation conditions as the municipality may require to be fulfilled before giving notice in terms of subsection (15) below declaring that the township is an approved township.

(12) Failure by the applicant to comply with subsection (10) above, the approval will automatically lapse.

(13) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-month period stated in that subsection and if granted, may not exceed another 24 months and no further extension shall be granted.

(14) Having endorsed or registered the title deeds envisaged in subsection (10) above, the Registrar shall notify the municipality thereof without delay and the Registrar shall not register any further transactions in respect of any land situated in the township thereafter until such time as the township is declared an approved township in terms of subsection (15).

(15) After the notice envisaged in subsection (14) above and after compliance with subsections (5), (9), (10) and (11) above, the municipality shall, by giving notice in the Provincial Gazette, declare the township an approved township and it shall in a schedule to such notice set out the conditions on which the township is declared an approved township.

(16) Any external engineering services, open spaces and inclusionary housing contributions (if applicable) required to be paid in respect of the approved township as shall be paid within 12 months from date of the notice envisaged in subsection (15) above, failing which, it may be subject to arrear interest as well as escalation.

(17) Where a township owner is required to transfer land to the municipality or any other organ of state by virtue of a condition set out in the schedule envisaged in subsection (15) above, the land shall be so transferred at the expense of the township owner within a period of 6 months from date of the issuing of the certificate as contemplated in section 43(1) below.

(18) With effect from the date of the notice envisaged in subsection (15) above, the ownership in any public road in a township established in terms of this By-law, shall vest in the municipality.

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

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

- (a) The township has been declared an approved township in terms of section 42(15) above;
- (b) That any condition as set out in the schedule envisaged in subsection 42(15) above has been complied with;
- (c) The provisions of section 42(17) above in respect of the transfer of land to the municipality or any other organ of state (if applicable) have been complied with;

(d) That the municipality will, within a period of 3 months from the date of such certification, be able to provide the erf with such engineering services as it may deem necessary and that it is prepared to consider the approval of a building plan in terms of the National Building Regulations and Building Standards Act in respect of the erf in question; and

(e) subject to section 42(16) above, all outstanding external engineering services- and inclusionary housing contributions and all amounts in lieu of open spaces (where applicable) as envisaged in respect of the township has been paid in full.

(2) The Registrar shall not endorse a title deed in terms of section 4C (1)(a) of the Housing Development Schemes for Retired Persons Act unless the certificate envisaged in subsection (1) above has been issued.

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

45. Failure to comply with requirements of the municipality

Where an owner of land has, for a period of one year from the date he was requested in writing to comply with any requirement of the municipality in respect of an application envisaged in section 40(1) above, failed to comply, the municipality shall notify the owner of land of such failure and thereupon the application shall automatically lapse.

46. Phasing of an approved township

(1) An owner of land who has been notified in terms of section 42(3) above that his township application has been approved-

(a) May within a period of 6 months from the date of the notice, or such further period as the municipality may allow;

(b) Shall, if directed to do so by the municipality, within such period as the municipality may determine, apply to the municipality for the phasing of the approved township into two or more separate townships.

(2) On receipt of an application envisaged in subsection (1) above, the municipality may-

(a) Where the documents envisaged in subsection 42(5) have not yet been lodged with the Surveyor-General;

(b) Where the documents envisaged in subsection 42 (5) above have been lodged with the Surveyor-General, after consultation with the Surveyor General, consent

to the phasing of the township subject to any condition the municipality may deem expedient.

(3) Where consent has been granted in terms of subsection (2) above, the municipality shall forthwith notify the owner of land in writing thereof and of any condition imposed.

(4) The owner of land shall within a period of 3 months from the date of the notice envisaged in subsection (3) above, or such further period as the municipality may allow, submit to the municipality such plans, diagrams or other documents and furnish to it such information as it may require in respect of each separate township.

(5) On receipt of the documents or information as envisaged in subsection (4) above, the municipality shall forthwith notify the Surveyor-General and the Registrar in writing of the consent granted in terms of subsection (2) and such notice shall be accompanied by a copy of the plan of each separate township.

(6) The granting of consent in terms of subsection (2) above and the notice envisaged in subsection (3) above shall, in respect of each separate township, be deemed to be the approval of an application as envisaged in section 42(1) above and a notice envisaged in section 42(3) above.

(7) The provisions of sections 42(4), 43(1) to (3) and 44 shall apply mutatis mutandis to such phased townships.

46. Extension of boundaries of an approved township

(1) An owner of land as envisaged in section 49 of the Deeds Registries Act who wishes to have the boundaries of an approved township extended to include his land may submit an application to the municipality.

(2) The provisions of section 40(3) to (10) shall apply mutatis mutandis to an application envisaged in subsection (1) above and any reference to an application to establish a township shall be construed as a reference to an application to extend the boundaries of a township as envisaged in subsection (1) above.

(3) After the provisions of section 40(3) to (10) have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.

(4) Where the municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.

(5) Whether a decision was taken on the complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.

(6) Where the municipality approves an application envisaged in subsection (1) above, it may-

(a) Apply all or any of the conditions set out in the schedule envisaged in section 55(15) on which the township concerned was declared an approved township;

(b) Impose a condition that the applicant shall pay to the municipality an amount of money in respect of the provision of the engineering services where it will be necessary to enhance or improve such services as a result of the approval of the application envisaged in subsection (1) above.

(7) Any condition imposed in terms of subsection (4) and (6) above shall be set out in a schedule to the proclamation envisaged in section 49 of the Deeds Registries Act and shall have the same force of law as a condition envisaged in section 42(15).

PART E

SUBDIVISION AND/OR CONSOLIDATION OF AN ERF IN AN APPROVED TOWNSHIP AND THE SUBDIVISION OF ANY OTHER LAND AND MATTERS RELATED THERETO

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

(1) An owner of-

(a) An erf in an approved township who wishes to subdivide such erf;

(b) two or more erven in an approved township who wishes to consolidate such erven, may submit an application, simultaneously or separately, as the case may be, to the municipality as provided for in its land use scheme and at the same time lodge a plan with the municipality setting out the proposed subdivision and/or consolidation.

(2) Only an application for subdivision in respect of land zoned "Residential 1" as envisaged in subsection (1) above shall comply with the following procedure:

(a) A brief motivational, accompanied by a plan showing the proposed subdivision and/or consolidation, shall be dispatched in writing and by registered post, by hand or by any other means available, to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane, setting out the following:

- I. Full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;

- II. The name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and
- III. That any objection, comment or representation in regard thereto must be submitted timeously to both the municipality and the person mentioned in subsection (bb) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from date of receipt of the letter.

(b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the municipality within 14 days from date of expiry.

(3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(cc) above, the applicant may respond in writing thereto to the municipality within 14 days of date of receipt of such objection, comment and/or representation where after the municipality shall refer the application to the Municipal Planning Tribunal for a decision.

(4) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.

(5) In the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase.

(6) Such subdivision and/or consolidation application may be refused or approved subject to any condition the municipality may deem fit which may include conditions to be registered against the relevant erf's title deed.

(7) With a subdivision application, such condition may include a condition that the owner shall pay to the municipality an amount of money in respect of the provision of-

(a) the engineering services where it will be necessary to enhance or improve the services as a result of the subdivision;

(b) open spaces, and such amount shall be determined by the municipality in terms of this By-law or approved policy, provided that in calculating the amount of the contribution to be paid envisaged in subsections (a) and (b) above, a contribution that has been paid or has become due and payable.

(8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(9) the municipality shall keep a proper record of all subdivision and consolidation decisions.

(10) An application that has been approved in terms of subsection (6) above shall automatically lapse if not registered with the Surveyor-General and the Registrar within 12 months from date of approval or within such further period as the municipality may allow.

(11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-month period stated in that subsection and if granted, may not exceed a further 12 months.

(12) The amount of money envisaged in subsection (7) above shall become due and payable before the date of the first registration of the newly created erven with the Registrar.

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

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

(1) The municipality may, in consultation with the owner of land, or on application by the owner of land himself, prior to the registration of the subdivision and/or consolidation approval with the Surveyor-General and the Registrar

(a) Cancel the approval of an application submitted in terms of section 47(1) above;

(b) Amend or delete any condition imposed in terms of section 47(6) above or add any conditions to those already imposed; and

(c) Approve an amendment of the plan setting out the proposed subdivision and/or consolidation.

(2) The municipality may not approve an application envisaged in section 47(1) above if it will bring about a result which is in conflict with-

(a) any condition set out in the schedule as envisaged in section 42(15) on which the township concerned was declared an approved township;

(b) a condition of title imposed in terms of any law;

(c) a provision of a land use scheme or an approved amendment scheme applicable to the erf or erven in question.

(3) The municipality may not approve an application envisaged in section 47(1) above unless the municipality is satisfied that each subdivided portion has

satisfactory vehicular access to a public street, which access may be provided by means of a panhandle or a servitude.

(4) If access to a public street is to be provided to more than one proposed subdivided portion by means of a single panhandle, the municipality shall, when it approves the application for the subdivision of the erf concerned, impose a condition that the applicant shall cause a servitude of right of way in favour of each portion, other than the portion of which the panhandle forms part, to be registered over the latter portion.

(5) The owner of land shall, before he submits a deed of transfer or certificate of registered title in respect of the subdivided portion to the Registrar for 34 registration in terms of the Deeds Registries Act have the power of attorney in respect of the transfer or the application for such certificate endorsed by the authorised official of the municipality to the effect that the owner of land has complied with the conditions imposed in terms of section 47(6) above or that arrangements in respect of such compliance, including the furnishing of guarantees in respect of any condition requiring payment of an amount of money as envisaged in section 47(7) above, have been made to the satisfaction of the municipality.

(6) The Registrar shall not issue a certificate of consolidated title in respect of a consolidation unless the municipality has confirmed in writing that the owner of land has complied with the conditions imposed in terms of section 47(6) above.

50. Subdivision of any other land

(1) Subject to any other law that may be applicable to such land, an owner of land, excluding land as envisaged in section 47(1) above, who wishes to divide such land may apply in writing to the City and such application shall be accompanied by such plans, diagrams and other documents as may be required.

(2) The provisions of section 48 (2) to (6) shall apply mutatis mutandis to an application envisaged in subsection (1) above.

(3) Subject to compliance with subsection (2) above, the application envisaged in subsection (1) above may be approved, either wholly or partly, or it may be refused or a decision thereon may be postponed.

(4) Where an application has been approved in terms of subsection (3) above, the municipality may impose any condition it may deem expedient.

(5) Whether a decision was taken on the complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal the municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision and of any condition imposed in terms of subsection (4) above in writing by registered post, by hand or by any other means available without delay.

(6) After the owner of land has been notified in terms of subsection (5) above that his application has been approved, but before any portion of land is transferred, the municipality may, in consultation with the applicant, amend or delete any condition imposed in terms of subsection (4) above or add any further condition.

(7) After an owner of land has been notified in terms of subsection (5) that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the applicant fails to do so the approval will automatically lapse.

(8) An application for an extension of time as envisaged in subsection (7) above shall be made prior to the expiry of the 12-month period stated in that subsection which if granted, shall not exceed a further 12 months.

(9) Where the owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (7) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the municipality accordingly and where the municipality is satisfied, after consulting the applicant, that the applicant has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.

(10) An owner of land who has been notified in terms of subsection (5) above that his application has been approved, may-

(a) where the documents envisaged in subsection (7) above have not yet been lodged with the Surveyor-General; or

(b) where the documents envisaged in subsection (7) above have already been lodged with the Surveyor-General, in consultation with the Surveyor General, submit a further application to the municipality for the amendment of such approval unless:

(i) The amendment is, in the municipality's opinion, so material as to constitute a new application in terms of subsection (1) above;

(ii) The amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in subsection (2) above, and subsections (3) and (4) of this section shall apply mutatis mutandis to such application.

(11) Upon receipt of the notice envisaged in subsection (5) above and after compliance with subsection (7) above, the Registrar shall endorse the deeds registry copy of the title deed under which the land concerned is held to the effect that an application for the division of such land has been approved by the municipality and if the copy of the title deed of the owner is thereafter, for whatever reason, lodged with the Registrar, he shall endorse it in like manner.

(12) An endorsement in terms of subsection (11) above shall be brought forward as a condition of title in any subsequent deed of transfer of the whole or the remainder of the land concerned, and any succeeding owner of such whole or remainder shall be bound by the conditions imposed by the municipality in terms of subsection (4) above.

(13) The Registrar shall-

(a) After the land envisaged in subsection (11) above has been divided;

(b) When he is notified that the application has lapsed, cancel any endorsement made by him in terms of subsection (11) above.

(14) Where the owner of land is required to transfer land to the municipality or any other organ of state by virtue of a condition imposed in terms of subsection (4) above, the land shall be so transferred at the expense of the owner of land within a period of 6 months from date of the issuing of the certificate.

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

51. Failure to comply with requirements of the municipality

Where an applicant has, for a period of one year from the date he was requested in writing to comply with any requirement of the municipality in respect of an application, failed to comply, the application shall automatically lapse.

52. Prohibition of registration of certain deeds of transfer

(1) The Registrar shall not register a deed of transfer of any portion of land where an application for the subdivision of land was approved by the municipality as envisaged in section 49(3) above unless the municipality certifies that-

(a) that any condition imposed in terms of section 49(4), excluding any condition dealing with the transfer of land as envisaged in section 49(14) above, have been complied with;

(b) the provisions of section 49(14) in respect of the transfer of land to the municipality or any other organ of state (if applicable) have been complied with; and (c) subject to section 49(15) above, all outstanding external engineering services contributions in respect of the land have been paid in full.

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

PART F
ALTERATION, AMENDMENT OR CANCELLATION OF GENERAL PLAN

53. Alteration, amendment or cancellation of a general plan application

(1) Any person who wishes to have the general plan of an approved township or an approved SG diagram of a subdivision of land (if any) altered, amended or totally or partially cancelled by the Surveyor-General in terms of the Land Survey Act may subject to the provisions of section 53(3) below, apply in writing to the municipality for approval.

(2) An application for the alteration, amendment or totally or partially cancellation of a general plan envisaged in subsection (1) above shall comply with the following procedures:

(a) Notice of the application shall be given once by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the municipality in English and any other local language;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;

(c) Such notice shall reflect full details of the application including, but not limited to, the name of the township concerned and the nature and general purpose of the application;

(d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (a) above.

(3) Proof of compliance with subsection (2) above must be submitted to the municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.

(4) The municipality shall forward a copy of each objection, comment and representation received in terms of subsection (2) (a) above in respect of the application to the applicant and the applicant may respond in writing thereto to the municipality within 14 days of date of receipt of such objection, comment and/or representation where after the municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision.

(5) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(6) In the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase.

54. Decision and post decision procedures

(1) The municipality may approve an application envisaged in section 52(1) above either wholly or in part, or refuse it or postpone a decision thereon, either wholly or in part, provided that the municipality shall not approve such application unless-

(a) The applicant has the unencumbered ownership of all the land within the area affected by the alteration, amendment or cancellation of the general plan other than land transferred in terms of section 49(14) above;

(b) Where the land envisaged in subsection (a) above is subject to a mortgage bond, the bondholder has consented in writing to the alteration, amendment or cancellation of the general plan.

(2) Where the municipality approves the application envisaged in subsection (1) above, the municipality may-

(a) Impose any condition it may deem expedient;

(b) Amend or delete any condition set out in the schedule envisaged in section 40(15) above on which the township concerned was declared an approved township.

(3) The provisions of section 38 shall not apply to an alteration or amendment of a general plan of an approved township which is necessary as a result of the closing of any public place or street or any portion thereof or diversion of a street or a portion of such street.

(4) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties, including the Surveyor-General, of the decision, and where the application has been approved, state any condition imposed in terms of subsection (2)(a) above, in writing by registered post, by hand or by any other means available without delay.

(5) After an applicant has been notified in terms of subsection (4) above that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if the applicant fails to do so the approval will automatically lapse.

- (6) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the municipality accordingly and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.
- (7) After the Surveyor-General has in terms of the Land Survey Act altered or amended the general plan or has totally or partially cancelled it, he shall notify the municipality thereof without delay.
- (8) On receipt of the notice envisaged in subsection (7) above, the municipality shall forthwith give notice thereof by publishing a notice in the Provincial Gazette declaring that the general plan has been altered, amended or totally or partially cancelled and the municipality shall in a schedule to the notice set out the conditions imposed in terms of subsection (2) (a) above or the amendment or deletion of any condition envisaged in subsection (2) (b) above, where applicable.
- (9) The municipality shall forthwith provide the Registrar with a copy of the notice and schedule envisaged in subsection (8) above.

55. Effect of Alteration, Amendment or Cancellation of General Plan

- (1) Where the general plan of an approved township established in terms of the provisions of legislation other than this By-law, is cancelled in whole or in part, or altered or amended or cancelled in part, any public place or street which vested in trust in the municipality by virtue of section 63 of the Local Government Ordinance, 1939, the ownership thereof shall revert in the township owner.
- (2) Where a general plan is cancelled in whole, the township shall cease to exist as a township.
- (3) Where a general plan is cancelled in part, that portion of the township to which the cancellation of the general plan relates, shall cease to exist as a portion of the township.
- (4) Where such original township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, the ownership of such public places or streets shall then automatically vest in the municipality.

PART G

56. AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS AND MATTERS RELATED THERETO

1. This part of the By-law refers to any restriction, obligation, servitude or reservation which relates to the subdivision of the land or the purpose for which the land may be used or to the requirements to be complied with or to be observed in connection with the erection of structures or buildings on or the use of the land, which is binding on the owner of the land arising out

(a) Any restrictive condition or servitude which is registered against the title deed or leasehold title of such land; or

(b) A provision of a by-law or of a Land Use scheme; or (c) the provisions of a title condition contained in the schedule to the proclamation of a township; or (d) the provisions of a law relating to the establishment of townships or town planning.

(2) The municipality may only amend, suspend or remove a restriction or obligation where the municipality is satisfied that-

(a) To do so would promote the preparation and approval of a general plan, the establishment of a township or the development of any area;

(b) The affected land is required for public purposes by the State, the Province or the municipality;

(c) The affected land is required for the use or construction of a building or other structure by the State, the Province or the municipality;

(d) The affected land is required for purposes incidental to any purpose envisaged in subsections (a) to (c) above.

(3) The provisions of subsection (1) above shall not apply to-

(a) any building line restriction which has been imposed by or under the provisions of any applicable legislation pertaining to roads, whether national or provincial unless consent has been obtained in writing from the relevant roads authority;

(b) Any condition relating to mining or mining rights;

(c) any condition imposed in respect of land transferred to a beneficiary in terms of any provincial small farmer settlement programme or any similar land reform programme relating to the circumstances under which such land may be alienated or encumbered; or

(d) Any condition relating to the risk of development on land which has been undermined.

(4) An owner of land who wishes to have any restriction, obligation, servitude or reservation as envisaged in subsection (1) above amended, suspended or removed, may lodge an application to the municipality in terms of this By-law for consideration.

(5) Notwithstanding subsection (4) above, the municipality may of its own accord amend, suspend or remove any restriction or obligation envisaged in subsection (1) above in respect of any land.

(6) An application envisaged in subsection (4) above may be submitted simultaneously with any other application envisaged in sections 33, 34, 35 and 47 above.

(7) If an application is made only for the amendment, suspension or removal of any restriction, obligation, servitude or reservation as envisaged in subsection (1) above whether by an owner of land or by the municipality, the provisions of section 8(2) to (7) above shall mutatis mutandis apply to such application.

(8) Where simultaneous applications are submitted as envisaged in subsection (6) above, the applicant shall comply with all the essential elements of the procedures as set out in this section as well as sections 33, 34, 35 and 47, as the case may be, in a consolidated form.

(9) In the instance of an unopposed complete application envisaged in subsection (4) or (5) above, a decision on the application shall be taken by the authorised official or his/her duly authorised 40 sub-delegate within 60 days after the date of expiry of the administrative phase.

(10) In the instance of unopposed complete applications submitted simultaneously as envisaged in subsection (6) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days after the expiry of the time periods mentioned in sections 35, 40, and 49 above, which ever section is relevant.

(11) The provisions of section 35(9) above shall also apply mutatis mutandis to an application envisaged in subsections (4), (5) and (6) above.

(12) For purposes of this section, where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the administrator, a Premier, the townships board or any other controlling authority, such consent may be granted by the municipality and such reference to the administrator, a Premier, the townships board or other controlling authority shall be deemed to be a reference to the municipality.

(13) For purposes of this section, where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the township owner and such township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, such consent

may be granted by the municipality and such reference to the township owner shall be deemed to be a reference to the municipality.

57. Decision and post-decision procedures

(1) An application envisaged in section 55(4), (5) or (6) above may be approved subject to any condition the municipality deems fit or it may be refused.

(2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(3) The municipality shall keep a proper record of each decision under subsection (1) above.

(4) Only where the municipality has approved an application as envisaged under section 55(4), (5) or (6) above and after the expiry of the time period of this By-law, it shall give notice thereof in the Provincial Gazette and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be deemed to be an approved application.

(5) An approved application as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.

(6) The provisions of section 24 shall also mutatis mutandis apply to an approval envisaged in subsection (1) above if it was in relation to a simultaneous application as envisaged in section 55(6) above and such simultaneous application included the amendment of a land use scheme as envisaged in section 35(1) above.

58. Endorsements in connection with amendments, suspensions or removals of restrictions or obligations

(1) After the coming into operation of any approved application as envisaged in section 55(4), (5) or (6) above, the owner of land shall as soon as practically possible deliver the original title deed to the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the notice envisaged in section 56(4) above.

(2) Upon receipt of such original title deed as envisaged in subsection (1) above, the Registrar shall not register any further transactions relating to the land in question until the entries and endorsements envisaged in subsection (1) above have been effected and shall impound the title deed for the purpose of such entries and endorsements whenever it may for any reason be lodged in his or her office.

59. Contributions to be paid in respect of external engineering services and Open Spaces

Where applicable, the provisions of section 33(7)(e) and (f), section 52 and section 47(7) shall mutatis mutandis apply to an approval envisaged in section 29(1) above, as the case may be.

PART H PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET

60. Permanent closing of a public place or diversion of a street

(1) The municipality may, either of its own accord or upon a written application by any person, permanently close a public place or divert any street or portion of a street.

(2) A written application for the closing of a public place or diversion of a street or portion of a street shall be accompanied by a plan showing the public place to be closed or showing the boundaries of the street or portion of the street proposed to be closed or diverted.

(3) When the municipality intends to exercise the power envisaged in subsection (1) above or upon receipt of a written application, it shall comply with the following procedures:

(a) Notice of the application shall be given once by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the application site in English and any other local language;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;

(c) Whether it is a written application submitted by any person or an application initiated by the municipality, such notice shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(d) Such notice shall reflect full details of the application including, but not limited to, the relevant street or portion of street to be closed or diverted (if applicable), the name of the applicable township, a clear erf description of the public place to be closed (if applicable) and the nature and general purpose of the application;

(e) Such notice shall further reflect that the application and its accompanied plan will lie open for inspection at specified times and at specified places at the City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (a) above.

(f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration or on or near the street or portion of the street to be closed or diverted in English and other local language;

(g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;

(h) Such notice shall be in the format as determined by the municipality;

(i) Such notice shall be displayed in a conspicuous place on the land in question or on or near the street or portion of street to be closed or diverted where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place; and

(j) Such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of publication of the notice mentioned in subsection (a) above.

(k) In addition to the requirements in subsections (a) and (f) above, a letter containing the same detail as envisaged in subsections (b) to (e) above shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above by hand or by any other means available to the owners or reputed owners, lessees or reputed lessees and the occupiers of all properties abutting upon the public place or the street or portion of the street which it is proposed to close or divert, provided that if any such property has more than one lessee, reputed lessee or occupier, a copy of the said letter may be posted on the principal door of the main building or in another conspicuous place on such property, except where such property is a sectional title development, in which case the notice shall also be served on the owners of each such unit that constitutes the Body Corporate.

(4) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(5) Whether by the Municipal Planning Tribunal, the authorised official or his duly authorised delegate, a permanent closure of a public place or closure or diversion of a street or portion of a street as advertised in subsection (3) above may be approved, subject to any conditions the municipality may deem fit, or it may be refused and all relevant parties shall be notified of the decision by registered post, by hand or by any other means available without delay.

(6) After the closure or diversion as envisaged in subsection (1) above has been approved and has been carried out, the municipality shall notify the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the approval envisaged in subsection (5) above and that it has been carried out properly in accordance with the provisions of this By-law.

(7) The notification envisaged in subsection (6) above to the Registrar and the Surveyor General shall include a Land Surveyor's diagram to enable them to make such necessary entries and endorsements as envisaged in that subsection.

(8) Such entries and endorsements envisaged in subsection (6) above do not require a formal application as envisaged in section 52(1) above.

(9) For purposes of this section the word "street" shall include a road, thoroughfare, footpath, sidewalk or lane.

(10) Where any public place or street or any portion thereof has been closed by virtue of an approval envisaged in subsection (5) above, the township owner shall, without any claim to compensation, be divested of all rights of ownership in the land comprising such public place, street or portion and such rights shall vest in the municipality and the Registrar shall do whatever is necessary to record such ownership in its registers.

(11) Notwithstanding the above provisions of this section, the municipality may, by giving written notice in a newspaper that circulates within the area of jurisdiction of the relevant public place:

(a) Temporarily close any public place; or

(b) Permanently or temporarily close any street, road or thoroughfare for any particular class of traffic, procession or gathering or temporarily for all traffic; or

(c) Divert temporarily any street, road or thoroughfare contemplated in subsection

(b) above, and any public place temporarily closed in terms of subsection (a) above may be let temporarily or the use thereof may be granted temporarily to any person on such terms and conditions as the municipality may deem fit.

PART I: TRADITIONAL USE

61. Application on communal land

(1) An applicant who wishes to amend and or use the communal land after the harmony consent from traditional leader, must apply to the Municipality for the amendment of the land use in the manner provided for in Chapter 4.

CHAPTER 5

ENGINEERING SERVICES AND DEVELOPMENT CHARGES

PART A: PROVISION AND INSTALLATION OF ENGINEERING SERVICES

62. Responsibility for providing engineering services

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.
- (3) The Municipality is responsible for the installation and provision of external engineering services, unless the engineering services agreement referred to in section 61 provides otherwise.

63. Installation of engineering services

- (1) The applicant shall provide and install the internal engineering services in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant shall lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.
- (2) The Municipality shall have regard to such standards as the Minister/MEC may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.
- (3) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.

64. Engineering services agreement

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

- (a) Classify the services as internal engineering services or external engineering services;
- (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
- (c) provide for the inspection and handing over of internal engineering services to the Municipality;
- (d) determine the date on which all risk and ownership in respect of such services shall pass to the Municipality;
- (e) require the applicant and the Municipality to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
- (f) provide for the following responsibilities after the internal services have been handed over to the Municipality:
 - (i) when normal maintenance by the relevant authority must commence;
 - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
 - (iii) the rights of the relevant authority if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
- (g) If any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
- (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
- (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
- (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water-pipe terminating at a water meter; and
 - (iii) an electricity house connection cable terminating on

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

65. Abandonment or lapsing of land development application

Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 61 lapses and if the applicant had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she shall have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

66. Internal and external engineering services

For the purpose of this Chapter:

- (a) "**external engineering services**" has the same meaning as defined in section 1 of the Act and consist of both "bulk services" and "link services";

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

PART B: DEVELOPMENT CHARGES

67. Payment of development charge

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -
- (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improves such services as a result of the commencement of the amendment scheme; and
 - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If a land development application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must, subject to section 65, pay the development charge to the Municipality.
- (3) An applicant or owner who is required to pay a development charges in terms of this By-law shall pay such development charges to the Municipality before:
- (a) a written statement contemplated in section 65 of the Municipal System Act is furnished in respect of the land;
 - (b) a building plan is approved in respect of:
 - (i) the proposed alteration of or addition to an existing building on the land;
 - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
 - (b) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

68. Offset of development charge

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.

- (2) The applicant or the owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) If the cost of the installation of the external engineering services exceed the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.
- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 61.

69. Payment of development charge in instalments

The Municipality may -

- (a) in the circumstances contemplated in subparagraph (b) or (c), allow payment of the development charge contemplated in section 64 in instalments over a period not exceeding three months;
- (b) in any case, allow payment of the development charge contemplated in section 118 to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest.

70. Refund of development charge

No development charge paid to the Municipality in terms of section 64 or any portion thereof shall be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 62 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

71. General matters relating to contribution charges

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

- (2) The Municipality must annually prepare a report on the development charges paid to the Municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and must submit such report and statement to the Premier.

CHAPTER 6

APPEAL PROCEDURES

PART A: MANAGEMENT OF AN APPEAL AUTHORITY

72. Presiding officer of appeal authority

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

73. Bias and disclosure of interest

(1) No presiding officer or member of an appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the official contemplated in section 35(2) of the Act and he or she made the decision that is the subject of the appeal.

(2) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in subregulations (5) and (6) must recuse himself or herself from the appeal hearing.

(3) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.

(4) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.

(5) For the purpose of this Chapter “conflict of interest” means any factor that may impair or reasonable give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.

(6) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following:

- (a) A person with whom the presiding officer or member has a personal, familiar or professional relationship;
- (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
- (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer's or member's participation in the adjudication of the matter would be inappropriate.

74. Registrar of appeal authority

- (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of subregulation (1), a municipal council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority and if it so appoints or designates a person or an official, that person or official has delegated authority as contemplated in section 56 of the Act.
- (3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the municipal council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.
- (4) Any person appointed under subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

75. Powers and duties of registrar

- (1) The registrar is responsible for managing the administrative affairs of the appeal authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the appeal authority and to ensure accessibility and maintenance of the dignity of the appeal authority.
- (2) The duties of the registrar include –
 - (a) the determination of the sitting schedules of the appeal authority;

- (b) assignment of appeals to the appeal authority;
- (c) management of procedures to be adhered to in respect of cash flow management and the finalisation of any matter before the appeal authority;
- (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
- (e) the establishment of a master registry file for each case which must record –
 - (i) the reference number of each appeal;
 - (ii) the names of the parties;
 - (iii) all actions taken in connection with the preparation of the appeal for hearing;
 - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
 - (v) the date of the hearing of the appeal;
 - (vi) the decision of the appeal authority;
 - (vii) whether the decision was unanimous or by majority vote; and
 - (viii) any other relevant information.

(3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.

(4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

PART B: APPEAL PROCESS

76. Commencing of appeal

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

77. Notice of appeal

(1).A Notice of Appeal must clearly indicate:

- (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
- (b) where applicable, whether the appeal is against any conditions of approval of an application and which conditions;
- (c) the grounds of appeal including any findings of fact or conclusions of law;
- (d) a clear statement of the relief sought on appeal;
- (e) any issues that the appellant wants the appeal authority to consider in making its decision; and
- (f) a motivation of an award for costs.

(2) An appellant may, within seven days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

78. Notice to oppose an appeal

(1).A notice to oppose an appeal must clearly indicate:

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

79. Screening of appeal

(1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:

- (a) It complies with the form referred to in section 127;
- (b) it is submitted within the required time limit; and,
- (c) the appeal authority has jurisdiction over the appeal.

(2) If a Notice of Appeal does not comply with the form referred to in section 127, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.

(3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.

(4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.

(5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.

(6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.

PART C: PARTIES TO AN APPEAL

80. Parties to appeal

- (1) The parties to an appeal before an appeal authority are:
- (a) the appellant who has lodged the appeal with the appeal authority;
 - (b) the Municipal Planning Tribunal that or the official authorised by the municipality as contemplated in section 35(2) of the Act who made the decision;
 - (c) if the Minister or MEC intervenes in the proceeding under regulation 9, the Minister or the MEC, as the case may be; and
 - (d) any other person who has been made a party to the proceeding by the appeal authority after a petition to the appeal authority under section 45(2) of the Act to be granted intervener status.

81. Intervention by Minister or MEC

(1) The Minister or the MEC may, on behalf of the national or provincial sphere of government, intervene in a proceeding before the appeal authority and must request to the appeal authority in writing to be added as a party to the appeal.

(2) The appeal authority may after due consideration of the request contemplated in subregulation (1), in its own discretion, make the Minister or the MEC a party to the appeal.

(3) Where the Minister or the MEC intervenes under subregulation (1) in an appeal proceeding, the Minister or the MEC may authorise the payment to a party to the proceeding by the department concerned of such costs as he or she considers were reasonably incurred by that party in relation to the proceeding as a result of that intervention.

82. Intervention by interested person

(1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or official referred to in section 34(2) of the Act and might therefore be affected by the judgement of the appeal authority.

(2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –

- (a) does not collude with any of the appellants; and
- (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.

(3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.

(4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.

(5) The presiding officer may, in his or her discretion or on request of one of the parties to the appeal, require security for that party's costs of appeal from the

petitioner, in the form and manner determined by him or her, by delivering a notice setting forth the grounds on which the security is claimed and the amount demanded.

(6) If one of the parties request security for costs and only the amount of security is contested, the registrar must determine the amount to be given and his or her decision is final.

(7) If the person from whom security is demanded contests his or her liability to give security or if he or she fails or refuses to furnish security in the amount demanded or the amount fixed by the registrar within ten days of the demand or the registrar's decision, the other party may apply to the appeal authority for an order that such security be given and that the proceedings be stayed until such order is complied with.

(8) The appeal authority may, if security is not given within the time determined in the order, dismiss any petition for intervener status.

(9) An "interested person" for the purpose of this Part means a person who -

- (a) does not have a direct or indirect pecuniary or proprietary interest in the land affected by the decision of the Municipal Planning Tribunal or Land Development Officer referred to in section 34(2) of the Act and might therefore be affected by the judgement of the appeal authority; and
- (b) who submitted written comments or made oral representations during the decision-making process of the Municipal Planning Tribunal or Land Development Officer referred to in paragraph (a).

PART D: JURISDICTION OF APPEAL AUTHORITY

83. Jurisdiction of appeal authority

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

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

84. Appeal hearing by appeal authority

(1) An appeal may be heard by an appeal authority by means of -

- (a) an oral hearing; or

- (b) a written hearing.

85. Written hearing by appeal authority

A written hearing may be held if it appears to the appeal authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.

86. Oral hearing by appeal authority

- (1) An oral hearing may be held –
 - (a) if it appears to the appeal authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - (b) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (2) If appropriate in the circumstances, the oral hearing may be held by electronic means.

87. Representation before appeal authority

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

88. Opportunity to make submissions concerning evidence

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

PART E: HEARINGS OF APPEAL AUTHORITY

89. Notification of date, time and place of hearing

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

90. Hearing date

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

91. Adjournment

(1) If a party requests an adjournment more than one day prior to the hearing, the party must obtain the written consent of the other party and the presiding officer of the appeal authority.

(2) The party requesting an adjournment must deliver to the appeal authority a completed form including reasons for the request.

(3) The appeal authority will notify the parties in writing of the decision of the presiding officer of the appeal authority.

(4) If the presiding officer of the appeal authority or the other party does not consent to the request for an adjournment, the hearing will not be adjourned.

(5) If a party requests an adjournment within one day prior to the hearing, the request must be made to the appeal authority at the hearing and may be made notwithstanding that a prior request was not consented to.

92. Urgency and condonation

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

iii. Determined by the presiding officer in such manner as he or she considers proper.

c. Where a failure is condoned in terms of sub regulation (1)(b), the applicant for condonation must comply with the directions given by the registrar when granting the condonation concerned.

93. Withdrawal of appeal

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

PART F: ORAL HEARING PROCEDURE

94. Location of oral hearing

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

95. Presentation of each party's case

(1) Each party has the right to present evidence and make arguments in support of that party's case.

(2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Land Development Officer.

96. Witnesses

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

- (c) a representative of a party to the appeal.

97. Proceeding in absence of party

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

98. Recording

Hearings of the appeal authority may be recorded.

99. Oaths

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

100. Additional documentation

- d. Any party wishing to provide the appeal authority with additional documentation not included in the appeal record should provide it to the appeal authority at least three days before the hearing date.
- e. The registrar must distribute the documentation to the other party and the members of the appeal authority.
- f. If the party is unable to provide the additional documentation to the appeal authority at least 3 days prior to the hearing, the party may provide it to the appeal authority at the hearing.
- g. The party must bring copies of the additional documentation for the members of the appeal authority and the other party.
- h. If the additional documentation brought to the hearing is substantive or voluminous, the other party may request an adjournment from the appeal authority.

PART G: WRITTEN HEARING PROCEDURE

101. Commencement of written hearing

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

102. Presentation of each party's case in written hearing

i. Each party must be provided an opportunity to provide written submissions to support their case.

j. The appellant will be given seven days to provide a written submission.

k. Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Land Development Officer.

l. The Municipal Planning Tribunal or the Land Development Officer has seven days in which to provide a submission in response.

m. If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

103. Extension of time

n. If a party wishes to request an extension of the time established to provide a written submission, this request must be in writing to the appeal authority in advance of the date on which the submission is due.

o. Any request for an extension must be accompanied by the reasons for the request.

p. Following receipt of a request for an extension of time, the appeal authority will issue a decision in writing to the parties.

104. Adjudication of written submissions

q. Following receipt of any written submissions from the parties, the registrar must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.

r. If no written submissions are received from the parties, the registrar will forward the existing appeal record to the appeal authority for adjudication.

s. Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.

t. The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given seven days to provide a written submission in response.

PART H: DECISION OF APPEAL AUTHORITY

105. Further information or advice

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

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

106. Decision of appeal authority

(1) The appeal authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or Land Development Officer and may include an award of costs.

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

107. Notification of decision

The registrar must notify the parties of the decision of the appeal authority in terms of regulation 34, together with the reasons therefor within seven days after the appeal authority handed down its decision.

108. Directives to municipality

(1) The appeal authority must, in its decision, give directives to the municipality concerned as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the municipality as far as implementation of the decision is concerned.

(2) Where an appeal authority upholds a decision on a development application, the Municipal Manager must, within 21 days of the decision, take the necessary steps to have the decision published in the *Provincial Gazette*.

PART I: GENERAL

109. Expenditure

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

CHAPTER 7

COMPLIANCE AND ENFORCEMENT

110. Enforcement of this By-law and provisions of the Land Use Scheme and other relevant provisions

(1) The observance and enforcement of this By-law, Land Use Scheme or of conditions imposed by the Municipality as a result of any land development application either in terms of this By-law, and Land Use Scheme or any other law shall be read with section 32 of the Act.

(2) Where the Municipality has, in terms of the provisions of any law, imposed a condition relating to a land development application or any land use right in terms of a Land Use Scheme it shall:

- (a) observe such condition; and
- (b) refuse to approve:
 - (i) any land development application;
 - (ii) any site development plan or other plan as may be required by the land use scheme in operation; or
 - (iii) any building plan for the erection or alternation of or addition to an existing building;

in conflict with any provision of a Land Use Scheme, this By-law or any other law related to land development applications.

111. Offences and penalties

- (1) An owner and/or other person are guilty of an offence if such owner or person:
- (a) contravenes or fails to comply with a:

- (i) decision taken or a condition imposed or deemed to have been taken or imposed by the Municipality in terms of this By-law or any other law relating to land development;
 - (ii) provision of the Land Use Scheme or amendment scheme;
 - (iii) uses land or permits land to be used in a manner other than permitted by the Land Use Scheme or amendment scheme;
 - (iv) compliance notice issued in terms of subsection (5);
 - (v) uses land or permits land to be used in a manner that constitutes an illegal township as defined in terms of the provisions of this By-law;
- (b) alters or destroys land or buildings to the extent that the property cannot be used for the purpose set out in the Land Use Scheme or zoning scheme;
- (c) threatens, obstructs, hinders or fails to permit entry when called upon to do so or uses abusive language to a Development Compliance Officer or any persons lawfully accompanying such Development Compliance Officer in the exercising of a power conferred in terms of section 112 of this By-law;
- (d) furnishes false or misleading information to an official of the Municipality when called upon to furnish information; or
- (e) supplies particulars, information or answers in a land development application, request or other application, hearing or in an appeal knowing it to be false, incorrect or misleading.
- (2) An owner who permits land to be used in a manner contemplated in subsection (1) and who does not cease such use or who permits a person to breach the provision of subsection (1) is guilty of an offence and upon conviction is liable to the penalties contemplated in subsections (3) and (4).
- (3) Any person convicted of an offence in terms of this By-law, shall be liable to a fine or as may be determined by a Court of Law or to imprisonment for a period not exceeding 12 months or both such fine and such imprisonment.
- (4) A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he/she was so convicted, is guilty of a continuing offence and liable to a fine, or upon conviction, to imprisonment for a period not exceeding three months or to both such fine and imprisonment, in respect of each day for which he/she has so continued or continues with such act or omission.

(5) The Municipality may issue a compliance notice to a person contemplated in subsections (1) to (4) who uses any land or building or causes it to be used in a manner as contemplated in subsection (1) to (4), in writing requiring that person to:

(a) discontinue such erection, alteration, addition or other work or such use or cause it to be discontinued; and

(b) at his/her own expense:

(i) to remove such building or other work or cause it to be removed;
or

(ii) to cause such building or other work or such use to comply with the provisions of the scheme; and the directive shall state the period within which it shall be carried out.

(6) The provisions of subsection (1) shall not apply to the erection or alteration of or addition to a building in accordance with an approved building plan.

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

(8) Where any person fails to comply with a compliance notice issued in terms of subsection (5), the Municipality may, whether or not a prosecution has been or will be instituted, remove the building or other works or cause the building or other works executed to comply with the provisions of its Land Use Scheme and recover all expenses incurred in connection therewith from such person.

(9) In the event of an offence in terms of subsection 1(a)(v) the Municipality may request the Registrar of Deeds to place a caveat against the property title deed on which the offence is being committed to the effect that no registration transaction may be registered which shall have the purpose of disposing of any property, portion thereof or unit in a sectional title scheme to facilitate or permit the implementation and continuation of an illegal township in terms of this By-law.

(10) Where the Municipality, Surveyor-General or Registrar of Deeds has reasonable grounds to believe that any person in the exercising of land use rights, layout plans, divisions or disposal of land, the erection of any building on a subdivision of farm land is defeating or is about to defeat any object of this By-law, Land Use Scheme or relevant legislation in whatever manner the Municipality may issue a notice or notices upon such person as contemplated in subsection (5) and the provisions of subsection (6) to and including (9) shall apply mutatis mutandis.

112. Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

- (1) a corporate body established in terms of any law; or
- (2) a partnership; and
- (3) such person failed to take reasonable steps to prevent the offence.

113. Powers and functions of a Development Compliance Officer

(1) The Municipality may authorise an official or any other person to act in terms of this By-law for the purposes of investigating any matter in connection with this By-law.

(2) A peace-officer appointed in terms of the Criminal Procedures Act, 1977 (Act 51 of 1977), or any officer duly authorised and entrusted with law enforcement in terms any law related to land development, appointed by the Municipality as such, are considered to be a Development Compliance Officer contemplated in subsection (1).

(3) A Development Compliance Officer may, subject to subsection (4), at any reasonable time, and without prior notice, enter any land, building or premises purposes of ensuring compliance with this By-law.

(4) An inspection of a private dwelling may only be carried out by a Development Compliance Officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of section 32 of the Act.

(5) The Development Compliance Officer is not required to give reasonable or any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:

- (a) He/she believes on reasonable grounds that a warrant would be issued to him/her on application under section 112 of this By-law; and
- (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.

(6) The Municipality must issue each official contemplated in subsection (2) with a written appointment, stating that the person has been appointed for executing functions in terms of this By-law.

(7) A Development Compliance Officer contemplated in subsection (2) must show proof when required to do so by any person affected by the exercising of a power in terms of this section of such appointment, which proof shall be in accordance with the provisions of subsection (6).

(8) A Development Compliance Officer may not investigate a matter in which he/she has a direct or indirect personal interest.

(9) In ascertaining compliance with this By-law, a Development Compliance Officer may:

(a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;

(b) question any person who is or was on that land or other land, who in the opinion of the Development Compliance Officer may be able to furnish information on a matter to which this By-law relates;

(c) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute:

(i) an offence in terms of this By-law;

(ii) a breach of an approval or a term or condition of such approval.

(d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of subsection (1).

(e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;

(f) require a person to produce or to deliver to a place specified by the Development Compliance Officer, any document, book, record, or any written or electronic information referred to in subsection (e) for inspection;

(g) require from such person an explanation of any entry in such document, book, record or written or electronic information;

(h) inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;

(i) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his/her opinion may serve as evidence at the trial of any person charged with an offence under this

By-law, provided that the person in control of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;

(j) direct any person to appear before him or her at such time and place as may be determined by the Development Compliance Officer and question such person either alone or in the presence of his/her representative any other person on any matter to which this By-law relates; and

(k) take photographs or make audio visual recordings or tape recordings of any person or anything the purposes of his/her investigation.

(10) When a Development Compliance Officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he/she must issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

(11) Where a Development Compliance Officer enters any land in terms of subsection (3), a person who controls or manages the land must at all times provide such facilities as are reasonably required by the Development Compliance Officer to enable him/her to perform his/her functions effectively and safely under this By-law.

(12) A Development Compliance Officer who enters and searches any land or private dwelling under this section, must conduct such search or seizure with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy

114. Warrant of entry for enforcement purposes

(1) A judge or magistrate for the district in which the land is situated, may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the:

(a) Development Compliance Officer has been refused entry to land or a building that he/she is entitled to inspect;

(b) prior permission of the occupier or owner of land on which a private dwelling is situated cannot be obtained after reasonable attempts;

(c) the owner, occupier or person in control of a private dwelling has refused consent; or

(d) the purpose of the inspection would be defeated by the prior knowledge thereof.

(2) A warrant referred to in subsection (1) may be issued by a judge of the High Court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may be issued if it appears to the judge or magistrate from information under oath that there are reasonable grounds for believing that an offence in terms of this By-law is being committed and such warrant must specify which of the acts mentioned in section 38 of this By-law may be performed thereunder by the person to whom it is issued.

(3) The warrant must contain at least the following information:

- (a) the statutory provision in terms of which it is issued;
- (b) the identity of the person who is going to carry out the investigation;
- (c) the authority conferred on the person concerned;
- (d) the nature of the investigation to be carried out and the items reasonably expected to be obtained;
- (e) the premises to be investigated; and
- (f) the offence which is being investigated.

(4) A warrant authorises the Development Compliance Officer to enter upon land or to enter the building or premises and to perform any of the acts referred to in section 112 of this By-law as specified in the warrant on one occasion only and that entry must occur:

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

115. Resistance of enforcement action

(1) When implementing an order of court or enforcement action provided for in this By-law, the Development Compliance Officer may use such force as may be reasonably necessary to overcome any resistance against the implementation of the court order or other enforcement action or against the entry onto the premises, including the breaking of any door, or window of such premises, provided that the Development Compliance Officer shall first audibly demand admission to the premises and deliver a notice concerning the purpose for which he/she seeks to enter such premises.

(2) Nothing contained herein shall prevent the Development Compliance Officer from requesting assistance from the South African Police Service of the Municipality in enforcing an order of court.

(3) The Municipality is exempt from liability for any damage arising out of any actions contemplated in subsection (1).

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

(1) The Schedules and Forms to this By-law are aimed at assisting the public and the Municipality in dealing with any matter in terms of this By-law and provides draft forms and formats which shall substantially be complied with, in the opinion of the Municipality, by an applicant, owner or anybody or person as contemplated in this By-law.

(2) Nothing contained in this By-law or any other law shall prohibit the Municipal Manager from determining through its Schedules or Forms, or subsequent amendments thereof, processes and procedures to be complied with by the owner, applicant or any other person acting in terms of these By-laws; provided that in determining these processes and procedures it shall not do so if the determination materially, in the opinion of the Municipal Manager, amend this By-law as adopted.

(3) The Municipality's interpretation of the content of the Schedules and Forms to this By-law shall prevail; provided that where a conflict exists between the content of the Schedules and/or Forms to this By-law and the By-law, the By-law shall prevail.

(4) The headings contained in this By-law are for reference purposes only and do not constitute any provisions in the By-law.

(5) Where any provision of this By-law refers to the Schedules to this By-law, the Schedule in relation to the type of land development application, request, actions or other applications shall be applicable; provided that the Schedules may apply mutatis mutandis to other type of land development applications, requests, actions or other applications.

(6) Where in terms of this By-law any Schedule or Form is applicable and reference is made to any Schedule, Form or provision of the By-law therein, the Schedule, Form or provision shall be applicable mutatis mutandis.

(7) Where any notice is required in terms of this By-law which has the purpose of soliciting public participation, such notices shall be substantially in accordance with the Schedules and Forms to this By-law; provided that; public participation and notices shall comply with the intention of soliciting comments and objections through public participation is to ensure that the public is properly informed of the land development application brought in terms of this By-law the Municipality may require the applicant to amplify or supplement the notices in terms of the Schedules and Forms to this By-law.

(8) Any documentation issued by the Municipality in terms of the provisions of this By-law:

(a) which does not comply with any procedural requirement of the By-law, is nevertheless valid if the non-compliance is not material and does not prejudice any person; and

(b) may be amended or replaced without following a procedural requirement of this By-law if:

(i) the purpose is to correct an error; and

(ii) the correction does not change the rights and duties of any person materially.

(9) The failure to take any steps in terms of this By-law as a prerequisite for any decision or action does not invalidate the decision or action if the failure:

(a) is not material;

(b) does not prejudice any person; and

(c) is not procedurally unfair.

Limitation of liability

(10) Neither the Municipality nor any other person in the employ of the Municipality or acting on behalf of the Municipality, is liable for any damage or loss caused by:

(a) the exercise of any power or the performance of any duty under this By-law;
or

(b) the failure to exercise any power, or perform any duty under this By-law, unless such failure was unlawful, negligent or in bad faith.

117. Naming and numbering of streets

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

(2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision and/or township establishment

(3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.

(4) The Municipality must, within 30 days of the approval of street names related to land development applications in writing inform the Surveyor General of the approval thereof as contemplated in subsection (1).

(5) The owner of the land development application must erect street name boards according to the name board specifications determined by the Municipality.

(6) No person may alter or amend any street name previously approved by the Municipal Council without the Municipal Council approving the amendment/alteration; provided that any unauthorised amendment or alteration shall be regarded as an offence in terms of this By-law.

(7) The Municipality as the sole custodian of street addresses must allocate a street number for each property located in public and private streets/roads read with subsection (1).

(8) An owner of property(ies) to which a street number has been allocated as envisaged in subsection (1) and (7), shall ensure that the number as approved for that property is displayed and remain displayed.

(9) In the case of corner stands, the owner may request the street address to be amended by the Municipality to the side where the entrance is. The street address number must be placed according to the street in which the street address entrance is situated as approved by the Municipality.

(10) The Municipality may, by written notice, direct the owner of a property to display the number allocated to the property and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such land shall, within 30 days of the date of such notice, affix the allocated number on the premises in accordance with such notice.

(11) The Municipality may direct the owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

118. Liability for errors or omissions in the Municipality's Land Use Scheme

(1) The Municipality's Land Use Scheme shall be regarded as the record of land use rights together with the approved and or adopted land development application, its conditions and or any document approved as part of the land development application.

(2) A zoning or land use right(s) recorded in the Land Use Scheme, read with the general provisions of the Land Use Scheme or the approved or adopted land development application, is presumed to be correct, unless proven otherwise by an applicant or owner.

(3) A zoning or land use right(s) ceases to exist on the day when it lapses in terms of this By-law or section 117 of the Act, or a condition of approval of a land development application, even if the Land Use Scheme or zoning map still records the land use right as existing.

(4) The Municipality is exempt from liability for any damage which may be caused by:

(a) an error in the Land Use Scheme; or

(b) an erroneous presentation by the Municipality about the land use rights or the zoning of a property.

119. Prohibition of works on and use of certain land.

(1) Where the Municipality intends to acquire land it may subject to subsection (2) prohibit:

(a) the proposed erection or alteration of or addition to any building on the land;

(b) any other proposed work on the land; or

(c) any particular use of the land.

(2) Where the Municipality fails within a period of 12 months from the date of a prohibition imposed in terms of subsection (1) to take possession of the land concerned, the prohibition shall lapse and in such a case no further prohibition shall be so imposed in respect of that land.

(3) Any person who contravenes or fails to comply with a prohibition imposed in terms of subsection (1) shall be guilty of an offence.

(4) Where any person has erected, altered or added to a building or other work in contravention of a prohibition imposed in terms of subsection (1), the Municipality may remove the building or other work and recover all expenses incurred in connection therewith from such person.

120. Language of Communication, Land Development Applications, Notices and related matters

(1) This By-law on commencement will be published in English, provided that on request to the Municipality it may be provided either wholly or in part in the languages adopted by the Municipality as the official language of communication.

(2) Where practicably possible any and all land development applications, requests, reports, documentation or communication with or to the Municipality in terms of this By-law, should be in English; provided that:

(a) where such land development applications, requests, reports, documentation or communication are in one of the official languages adopted by the Municipality, other than English, the Municipality may require that it be translated prior to dealing with it;

(b) if translated by the Municipality's language services the time delay shall not be calculated as part of the phases as contemplated in Regulation 16 of the Regulations to the Act and such time shall be excluded;

(c) where the applicant submits the application in terms of subsection

(2) and have at its own costs translated the application thereafter, the date of the receipt of the translated land development application shall be the date upon which the application shall be regarded as submitted;

(d) where in terms of subsection (a) the Municipality's language services translates any land development application, request, report, documentation or communication, the Municipality shall not be held accountable for the accuracy of the translation; and

(e) where a registered title deed contains conditions or servitudes in any other language than English, the applicant and Municipality shall not be obliged to translate the condition or servitude provision.

(3) All notices for the adoption of any land development application, amendments scheme, Land Use Scheme or other application, by notice in the Provincial Gazette in terms of this By-law, shall be placed in English and any other local official local language; provided that any interested person may request that it be translated either wholly or in part by the Municipality in terms of its approved and adopted language policy.

CHAPTER 8

TRANSITIONAL PROVISIONS

121. Transitional provisions

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

law, read with section 2(2) and section 60 of the Act;

(2) Where on the date of the coming into operation of an approved land use scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a land use scheme in terms of this By-law read with section 27 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of this subsection (3), be continued after that date read with the provisions of a Town Planning Scheme or land use scheme.

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

(a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;

(b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (2);

(c) where on the date of the coming into operation of an approved land use scheme -

(i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;

(ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved land use scheme, the building shall for a period of 15 years from that date be deemed to comply with that provision.

(d) where a period of 15 years has, in terms of subsection (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard shall, for the

purposes of those subsections, be had to an approved scheme which comes into operation after that date.

(e) within one year from the date of the coming into operation of an approved land use scheme -

(i) the holder of a right contemplated in subsection (2) may notify the Municipality in writing that he is prepared to forfeit that right;

(ii) the owner of a building contemplated in subsection (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection;.

(4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (2)(a), such allegation shall be deemed to be correct until the contrary is proved.

(5) Where any land use provisions are contained in any title deed, deed of grant or 99 year leasehold, which did not form part of a town planning scheme, such land use provisions shall apply as contemplated in subsection (2).

(6) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the land use scheme or town planning scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

122. Determination of zoning

(1) Notwithstanding the provisions of section 120(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act

(2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:

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LIMPOPO PROVINCE
 LIMPOPO PROVINSIE
 XIFUNDZANKULU XA LIMPOPO
 PROFENSE YA LIMPOPO
 VUNDU LA LIMPOPO
 IPHROVINSI YELIMPOPO

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 Kuranta ya Profense • Gazethe ya Vundu**

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 (E ngwadisits'we bjalo ka Kuranta) • (Yo redzhistariwa sa Nyusiphepha)*

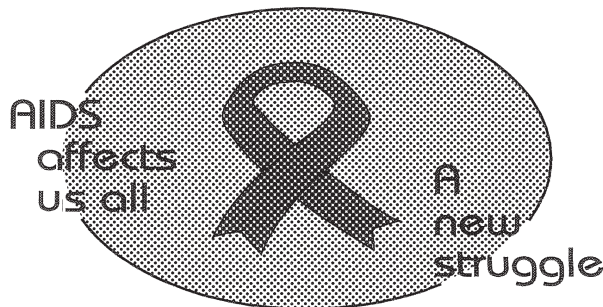
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ISSN 1682-4563



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- (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
- (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
- (c) any departure or consent use that may be required in conjunction with that zoning;
- (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
- (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any 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 give notice of its intention to do so in terms of section 92.

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

CHAPTER 9 GENERAL PROVISIONS

123. Provision of information

(1) Subject to the Promotion of Access to Information Act, 2000 (Act 2 of 2000), and the law relating to documentary privilege, any person shall be entitled to obtain a copy of any document or information relating to a land development application or any other document referred to in this By-law from the Municipality, provided that:

- (a) the copy of the document or information must be provided within a reasonable time of the date of such copy of the document or information being requested in writing;
- (b) the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy;
- (c) any document containing confidential proprietary information may only be disclosed with the consent of the owner thereof;
- (d) where such documents or information can reasonably be accessed at the Municipality's public information counters as public information the Municipality shall not be obliged to provide such information other than making the information available at such public information counters and subject to subsection (b) and (c) copies may be requested at those counters;
- (e) the Municipality shall not provide information where the provision thereof constitutes research on behalf of the applicant or interpretation of information; and
- (f) information provided in terms of this subsection may be provided electronically by the Municipality where practically possible.

124. Delegations

1) Any power conferred in this By-law, Act, Land Use Scheme or any other law on the Municipality may be delegated by the Municipality in terms of section 59 of the Municipal Systems Act, 2000 (Act 32 of 2000) and section 56 of the Act, to any official within its employ, which may include the power to sub-delegate as may be determined by the Municipal Council; except in so far as it is a requirement of the Act that applications be dealt with in terms of the categories contemplated in sections 31(1) and 31(3) of this By-law.

(2) Where in terms of subsection (1) an official is delegated to consider category 2 land development applications as contemplated in section 31(4) of this By-law section

shall apply mutatis mutandis to his/her consideration of a land development application.

(3) Where this By-law requires any discretionary power or opinion to be expressed by the Municipality, such discretion and opinion shall be exercised or expressed, by the official authorized in terms of the delegations contemplated in subsection (1) or, in the absence of a specific delegation by the Head of the Department responsible for Development Planning.

125. Application fees

(1) Where in terms of this By-law the applicant is required to pay an application fee, such fee shall be determined by the Municipality and shall be payable by the applicant prior to or simultaneously with the submission of an application.

(2) Nothing contained in this By-law shall prevent the Municipality from determining application fees for any information, requests, consents or permissions either in terms of this By-law, Land Use Scheme or other law dealing with land development.

(3) Application fees paid to the Municipality are non-refundable and proof of payment must accompany the application.

(4) Fees applicable to application processes and/or requests and certification shall be dealt with as part of the charges and tariffs published by the Municipality in terms of the Municipal System Act, 2000 (Act 32 of 2000).

(5) Where any charges and tariffs have been published in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), prior to the coming into operation of this By-law, with reference to any law dealing with land development applications, processes and/or requests including certifications, such charges and tariffs shall be applicable to application fees in accordance with the type of land development application, processes and/or requests and certifications as defined or provided for in terms of this By-law.

(6) The Municipality may, in its discretion, exempt any person from the payment of the fees prescribed in terms of subsection (1), provided that the Municipality shall with the

determination of fees indicated in subsection (1); also determine criteria for exemptions as set out in Schedule 18 to this By-law.

(7) Land development applications which, prior to the enactment of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), were dealt with by spheres of government other than a Municipality, shall be subject to the payment of fees for such in terms of the categories of land development applications provided for in subsection (4) to (6) as may be determined by the Municipality; provided that: the Municipality shall after the publication of this By-law, ensure that when its charges and tariffs are amended in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), the fees for land development applications in terms of this By-law are incorporated therein.

126. Short title and commencement

(1) This By-law is called Musina Local Municipality Spatial Planning and Land Use By-Law.

(2) This By-law comes into operation on the date that the Act comes into operation in the municipal area of the Municipality.

SCHEDULE 1

DOCUMENTS, MAPS, DIAGRAMS, REPORTS AND ANY OTHER RELEVANT INFORMATION NECESSARY TO BE SUBMITTED WITH ANY LAND DEVELOPMENT APPLICATION ENVISAGED IN CHAPTER 5 OF THIS BY-LAW AND AS ENVISAGED IN SECTION 54 OF THIS BY-LAW

1. REQUIREMENTS FOR CONSENT USE APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;

- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) Information on the proposed use on the land;
- (12) A locality map;
- (13) Proposed lay out plan that includes the parking lay out;
- (14) A comprehensive motivational report in support of the application; and
- (15) Any other information deemed relevant to the application.

SCHEDULE 2

2. REQUIREMENTS FOR BUILDING LINE RELAXATION APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which 58 authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;

- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A proposed building plan/site plan which shows the relevant building lines to be relaxed with the necessary elevations, where applicable;
- (12) Where it also affects a relevant Roads authority's building line, consent in writing from such relevant roads authority;
- (12) A comprehensive motivational report in support of the application with specific emphasis on the purpose/objective of the building line relaxation(s); and
- (13) Any other information deemed relevant to the application.

SCHEDULE 3

3. REQUIREMENTS FOR AMENDMENT OF LAND USE SCHEME APPLICATION (REZONING)

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;

- (10) Information on the existing development on the land;
- (11) Information on the proposed use on the land;
- (12) A land use map of the surrounding immediate area;
- (13) A zoning map of the surrounding immediate area;
- (14) A locality map;
- (15) The proposed scheme clauses, schedules, maps and annexures (where applicable);
- (16) Proposed site development plan, where required, showing, inter alia, the parking lay out;
- (17) A comprehensive motivational report in support of the application; and
- (18) Any other information deemed relevant to the application.

SCHEDULE 4

4. REQUIREMENTS FOR TOWNSHIP ESTABLISHMENT APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable;

(10) Information on the existing development on the land;

(11) A proposed lay-out plan of the proposed township indicating or containing-

- (a) contour lines, the values of which shall be based on a datum plane acceptable to the municipality;
- (b) existing buildings in the proposed township;
- (c) streets and open spaces in the proposed township;
- (d) the widths and names of streets envisaged in (c) above;
- (e) all adjoining existing and adjoining proposed streets and roads with their names as well as erven in existing or proposed adjoining townships;
- (f) water-courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township;
- (g) by means of a distinctive notation, the sites/erven in the proposed township proposed to be reserved for specific purposes;
- (h) the boundaries of the proposed township;
- (i) a table indicating the total number of erven in the proposed township, the number of erven for specific purposes and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets as a percentage of the total area of the township and the area of the parks and open spaces, if any, as a percentage of the total area of the township;
- (j) the erven in the proposed township accurately drawn to a scale acceptable to the municipality and numbered consecutively in each block;
- (k) in an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plane on which the contour values are based;
- (l) if the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings;
- (m) each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed new route;
- (n) Grid co-ordinates and a reference to the geodetic system used;
- (o) if the proposed township is subject to flooding, the 1:50 and 1:100 year flood lines or, if the land is not subject to flooding, a certificate by a

qualified engineer to the effect that the land is not so subject, where required;

(p) a bar scale;

(q) the true North;

(12) A locality plan, as an inset on the lay-out plan of the proposed township, accurately drawn to a scale acceptable to the municipality indicating-

(a) the situation of the proposed township on the farm portion or agricultural holding;

(b) the routes giving access to the nearest main road and the road network in the vicinity of the proposed township;

(c) the boundaries of the farm portion or agricultural holding on which the proposed township is to be established;

(d) a bar scale in respect of the locality plan;

(e) the true North in respect of the locality plan;

(13) An outline scheme report in relation to any engineering service, where required;

(14) A traffic impact study/statement, where required;

(15) A ROD on any environmental impact assessment issued by the relevant authority, where required;

(16) A geotechnical- and Radon report submitted by a professional Geotechnical Engineer, where required;

(17) A comprehensive motivational report in support of the application; and

(18) Any other information deemed relevant to the application.

SCHEDULE 5

5. REQUIREMENTS FOR PHASING OF AN APPROVED TOWNSHIP

In addition to the information already provided in (4) above-

(1) The prescribed application fee;

(2) A copy of the approved plan of the township on which the proposed divisional lines are clearly marked;

- (4) A comprehensive motivational report which sets out the reasons for the division of the township.

SCHEDULE 6

6. REQUIREMENTS FOR EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP

The requirements as envisaged in (4) above shall mutatis mutandis be applicable to an extension of boundaries of an approved township application and-

- (1) a certificate from the Surveyor-General that the land can be shown on the general plan of the township concerned.

SCHEDULE 7

7. REQUIREMENTS FOR SUBDIVISION OF AN ERF/ERVEN IN AN APPROVED TOWNSHIP

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning and density on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;

(11) A sketch plan of the erf concerned and the cadastral information of such erf and each adjoining property signed by the owner of land and shall indicate the following:

- (a) the name of the township in which the erf to be subdivided is situated and the delineation of the proposed subdivided portions accurately drawn to a scale acceptable to the municipality;
- (b) the true north;
- (c) the scale to which the sketch plan is drawn;
- (d) a legend which identifies each proposed subdivided portion by means of a figure;
- (e) the number of the erf to be subdivided and each adjoining erf and if an adjoining erf is not situated within the same township as the erf to be subdivided, the name of that other township;
- (f) the approximate size of the erf to be subdivided and of each subdivided portion;
- (g) the situation of each building on the erf to be subdivided and the approximate distance between the street boundary and every other boundary of the erf and the nearest wall of the building nearest to such boundary as well as the approximate distance between the proposed subdivisional line and the nearest wall of the building nearest to such line;
- (h) the number of storeys in each existing building on the erf to be subdivided which is situated within 5 metres of a proposed subdivisional line;
- (i) the direction, by means of an arrow, of the slope of the roof of each building on the erf to be subdivided situated immediately adjacent to the proposed subdivisional line;
- (j) the nature of a building on the erf to be subdivided which fronts on and is within 10 metres of the proposed subdivisional line, the purpose for which any room on that side of a building which fronts on such line is used and the position of a door or window in a wall facing such line;
- (k) the approximate location of an existing conductor on the erf to be subdivided used for telephonic or electrical purposes or any transformer, structure or other obstruction relating thereto as well as any tree, fire hydrant or bus shelter on the street reserve adjoining the street frontage of such erf;
- (l) where the cross slope or longitudinal slope of the street reserve or the cross slope or longitudinal slope of any proposed access to the proposed subdivided portions is more than 1:5, contours with intervals of 1 metre or alternatively a longitudinal section of the access portion of the erf or portion, showing details

of the profile of the natural ground level as well as the proposed access way in relation to the street which gives access to the newly created portion;

(m) any building or portion thereof on the erf to be subdivided which the applicant intends demolishing;

(n) any natural water course which traverses the erf to be subdivided;

(o) where the erf to be subdivided is situated in an area which is subject to flooding, the 1:50 and 1:100 year flood line on the proposed subdivided portions.

(12) A comprehensive motivational report in support of the application; and

(13) Any other information deemed relevant to the application.

SCHEDULE 8

8. REQUIREMENTS FOR CONSOLIDATION OF TWO OR MORE ERVEN IN AN APPROVED TOWNSHIP

(1) The prescribed application fee;

(2) Full name of the owner of the land, including telephone- and facsimile details;

(3) Postal-, residential- and e-mail address of the owner of the land;

(4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;

(5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;

(6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which 63 authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;

(7) Copies of the relevant registered title deeds of all the erven to be consolidated;

(8) If the erven are subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;

(9) Information regarding the existing zoning and density on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;

(10) Information on the existing development on the land;

- (11) A plan showing the cadastral information of the component erven;
- (12) A comprehensive motivational report in support of the application; and
- (13) Any other information deemed relevant to the application.

SCHEDULE 9

9. REQUIREMENTS FOR SUBDIVISION OF ANY OTHER LAND

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A subdivisional plan indicating-
 - (a) contour lines, the values of which shall be based on a datum plane acceptable to the municipality;
 - (b) the area of the land and distinctive numbers and areas of the portions;
 - (c) existing buildings on the land;

- (d) roads, their names, widths and connections with existing streets or roads in adjoining areas;
 - (e) water-courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the land;
 - (f) by means of a distinctive notation, the sites/erven proposed to be reserved for specific purposes;
- (12) A locality plan as an inset on the subdivisional plan showing-
- (a) the locality of the land with the principal topographical features of the land and its environs, and its situation in relation to surrounding farms, farm portions and agricultural holdings and portions of agricultural holdings;
- (13) A comprehensive motivational report in support of the application; and
- (14) Any other information deemed relevant to the application.

SCHEDULE 10

10. REQUIREMENTS FOR ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land which would be affected by the application, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land which would be affected by the application;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land which would be affected by the application;
- (8) If the land which is affected by the application is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;

- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land, if any;
- (11) A copy of the relevant sheet of the general plan which may be in a reduced format;
- (12) A copy of a plan of the township showing the proposed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
- (13) A comprehensive motivational report in support of the application; and
- (14) Any other information deemed relevant to the application.

SCHEDULE 11

11. REQUIREMENTS FOR AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF LAND

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A list of the restrictive conditions or obligations, servitudes or reservations to be amended, suspended or to be removed;

(12)A comprehensive motivational report in support of the application; and

(13)Any other information deemed relevant to the application. If the application is submitted as an application submitted simultaneously with any other, any additional requirements which have not been listed under 11(1) to (13) above as set out in (1), (2), (3), (7) and (8) above shall mutatis mutandis apply to such an application.

SCHEDULE 12

12. REQUIREMENTS FOR PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET

(1) The prescribed application fee;

(2) Full name of the person making the application, including telephone- and facsimile details;

(3) Postal-, residential- and e-mail address of the person making the application;

(4) If the person is being represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;

(5) If the person is represented by an agent, an original power of attorney authorising the agent to make such application on such person's behalf;

(6) If the person is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;

(7) Copy of registered title deed relevant to the land which would be affected by the application, if any;

(8) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;

(9) Information on the existing development on the land, if any;

(10)A plan showing the public place to be closed or showing the boundaries of the street or portion of the street proposed to be closed or diverted; 66

(11)Where necessary, a Land Surveyor's diagram showing the street or portion of street to be closed or diverted;

(12)A comprehensive motivational report in support of the application;

(13)Any other information deemed relevant to the application.

SCHEDULE 13

13. REQUIREMENTS FOR TRADITIONAL USE APPLICATION

- (1) An applicant who wishes to make an application for the use of communal land such application must be accompanied by the following documents:
- (a) an approved application form, completed and signed by the applicant;
 - (b) receipt for proof of payment
 - (c) if the applicant is not the owner of the land, a power of attorney authorising the applicant to make the application on behalf of the owner;
 - (d) if the owner of the land is a company, closed corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or a home owners' association;
 - (e) a copy of identity copy of the applicant
 - (f) letters from the following structures:
 - I. Traditional council
 - II. Ward councillor
 - III. Civic/Sanco
 - IV. Communal Property Association
 - V. a sketch plan done by land surveyor
 - (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;

The municipality may direct an applicant to submit as many copies of any document, plan, diagram or other information relevant to any of the above applications as may be required.

Application forms to be attached.

PROVINCIAL NOTICE 85 OF 2017

**THE BLOUBERG
SPATIAL PLANNING
AND LAND USE
MANAGEMENT BY-
LAW**

Draft 5: 17 August 2015

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CHAPTER 1 DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

1 Definitions

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

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

“**appeal authority**” means the executive authority of the Municipality, the Municipal Appeal Tribunal established in terms of Part A of Chapter 8 or any other body or institution outside of the Municipality authorised by the Municipality to assume the obligations of an appeal authority for purposes of appeals lodged in terms of the Act;

“**application**” means a land development and land use application as contemplated in the Act;

“**approved township**” means a township declared an approved township in terms of section 64 of this By-law;

“**By-Law**” means this By-Law and includes the schedules attached hereto or referred to herein;

“**communal land**” means land under the jurisdiction of a traditional council determined in terms of the Limpopo Traditional Leadership and Institutions Act, 2005 (Act No. 6 of 2005) and which was at any time vested in -

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

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

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

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

“**Council**” means the municipal council of the Municipality;

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

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

“**file**” means the lodgement of a document with the appeal authority of the Municipality;

“**land**” means -

- (a) any erf, agricultural holding or farm portion, and includes any improvements or building on the land and any real right in land; and

- (b) the area of communal land to which a household holds an informal right recognized in terms of the customary law applicable in the area where the land to which such right is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

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

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

“land use scheme” means the land use scheme adopted and approved in terms of Chapter 3 of this By-law and for the purpose of this By-law includes an existing scheme until such time as the existing scheme is replaced by the adopted and approved land use scheme;

“local spatial development framework” means a local spatial development framework referred to in section 10 of this By-law;

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

“municipal area” means the area of jurisdiction of the Blouberg Local Municipality demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“Municipal Manager” means the person appointed as the Municipal Manager of the Municipality in terms of section 54A of the Municipal Systems Act and includes any person acting in that position or to whom authority has been delegated;

“Municipal Planning Tribunal” means the Blouberg Municipal Planning Tribunal established in terms of section 33 or the joint or district Municipal Planning Tribunal, if established by the Municipality agreement contemplated in section 34 of the Act;

“Municipality” means the Municipality of Blouberg or its successor in title as envisaged in section 155(1) of the Constitution, established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes a municipal department, the Council, the Municipal Manager or an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act, section 56 of the Act or section 188 of this By-law;

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

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

“Premier” means the Premier of the Province of Limpopo;

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

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

“**Province**” means the Province of Limpopo referred to in section 103 of the Constitution;

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

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

“**spatial development framework**” means the Blouberg Spatial Development Framework prepared and adopted in terms of sections 20 and 21 of the Act and Chapter 2 of this By-Law;

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

“**the Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 and any subsidiary legislation or other legal instruments issued in terms thereof;

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

“**traditional communities**” means communities recognised in terms of the Limpopo Traditional Leadership and Institutions Act, 2005.

2 Application of By-law

(1) This By-law applies to all land within the municipal area of the Municipality, including land owned by the state.

(2) This By-law binds every owner and their successor-in-title and every user of land, including the state.

3 Conflict of laws

(1) This By-law is subject to the relevant provisions of the Act and the provincial legislation.

(2) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.

(3) Where a provision of this By-law is in conflict with a provision of the Act or provincial legislation, the Municipality must institute the conflict resolution measures provided for in the Act or in provincial legislation, or in the absence of such measures, the measures provided for in the Intergovernmental Relations Framework Act, 2005 (Act No.13 of 2005); to resolve the conflict and until such time as the conflict is resolved, the provisions of this By-law prevails.

(4) Where a provision of the land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law prevail.

(5) Where there is a conflict between this By-law and another By-law of the Municipality, this By-law prevails over the affected provision of the other By-law in respect of any municipal planning matter.

CHAPTER 2

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

4 Municipal spatial development framework

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

(2) The municipal spatial development framework does not confer or take away land use rights but guides and informs decisions to be made by the Municipality relating to land development.

(3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.

5 Contents of municipal spatial development framework

(1) The municipal spatial development framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Municipal Systems Act and provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for municipal planning.

(2) Over and above the matters required in terms of subsection (1), the Municipality may determine any further plans, policies and instruments by virtue of which the municipal spatial development framework must be applied, interpreted and implemented.

(3) The municipal spatial development framework must contain transitional arrangements with regard to the manner in which the municipal spatial development framework is to be implemented by the Municipality.

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

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

- (a) may convene an intergovernmental steering committee and must convene a project committee in accordance with section 7;
- (b) must publish a notice in two official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act, of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act in one newspaper that is circulated in the municipal

area;

- (c) must inform the Member of the Executive Council in writing of its intention to prepare, amend or review the municipal spatial development framework;
- (d) must register interested and affected persons who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

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

(1) The purpose of the intergovernmental steering committee contemplated in section 6(a) is to coordinate the applicable contributions into the municipal spatial development framework and to—

- (a) provide technical knowledge and expertise;
- (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
- (c) communicate any current or planned projects that have an impact on the municipal area;
- (d) provide information on the locality of projects and budgetary allocations; and
- (e) provide written comment to the project committee at each of various phases of the process.

(2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—

- (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
- (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.

(3) The purpose of the project committee contemplated in section 6(a) is to –

- (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
- (b) provide technical knowledge and expertise;
- (c) monitor progress and ensure that the drafting of the municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
- (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
- (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;

- (f) facilitate the integration of other sector plans into the municipal spatial development framework;
 - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;
 - (i) if the Municipality decides to establish an intergovernmental steering committee—
 - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee must consist of –
- (a) the Municipal Manager; and
 - (b) employees in the full-time service of the Municipality designated by the Municipality.

8 Preparation, amendment or review of municipal spatial development framework

(1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.

(2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo report and submit it to the Council for adoption.

(3) The project committee must prepare a first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.

(4) After consideration of the comments and inputs of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and submit it to the Council, together with the report referred to in subsection (5), to approve the publication of a notice referred to in section9(4) that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.

(5) The project committee must submit a written report as contemplated in subsection (4) which must at least —

- (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
- (b) summarise the process of drafting the municipal spatial development framework;
- (c) summarise the consultation process to be followed with reference to section9 of this By-law;

- (d) indicate the involvement of the intergovernmental steering committee, if convened by the Municipality;
- (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
- (f) indicate the alignment with the national and provincial spatial development frameworks;
- (g) indicate all sector plans that may have an impact on the municipal spatial development framework;
- (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
- (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.

(6) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.

(7) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the final municipal spatial development framework or final amendment or review of the municipal spatial development framework and submit it to the Council for adoption.

(8) If the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, as contemplated in subsection (6), is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.

(9) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision –

- (a) give notice of its adoption in the media and the *Provincial Gazette* in the manner as contemplated in section 6 and that section applies with the necessary changes; and
- (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.

(10) The municipal spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subsection 9.

(11) If no intergovernmental steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review

thereof directly to the Council.

9 Public participation

(1) Public participation undertaken by the Municipality must contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act.

(2) In addition to the publication of notices in the *Provincial Gazette* and one newspaper that is circulated in the municipal area, the Municipality may, subject to section 21A of the Municipal Systems Act, use any other method of communication it may deem appropriate.

(3) The Municipality may for purposes of public engagement on the content of the draft municipal spatial development framework arrange –

- (a) a consultative session with traditional councils and traditional communities;
- (b) a specific consultation with professional bodies, ward communities or other groups; and
- (c) a public meeting.

(4) The notice contemplated in section 8(4) must specifically state that any person or body wishing to provide comments must-

- (a) do so within a period of 60 days from the first day of publication of the notice;
- (b) provide written comments; and
- (c) provide their contact details as specified in the definition of contact details.

10 Local spatial development framework

(1) The Municipality may adopt a local spatial development framework for a specific geographical area of a portion of the municipal area.

(2) The purpose of a local spatial development framework is to:

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

11 Preparation, amendment or review of local spatial development framework

(1) If the Municipality prepares, amends or reviews a local spatial development framework, it must comply with the requirements and procedures for the preparation, amendment or review of the municipal spatial development framework, including notification and public participation, prescribed in terms of this Chapter and sections 5 to 9 apply with the necessary changes as the context may require.

(2) The Municipality must, within 21 days of adopting a local spatial development framework or an amendment of local spatial development framework –

- (a) publish a notice of the decision in the media and the *Provincial Gazette* in the manner as contemplated in section 6 and that section applies with the necessary changes to the publication of the decision; and
- (b) submit a copy of the local spatial development framework to the Member of the Executive Council.

12 Effect of local spatial development framework

(1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 8(9).

(2) A local spatial development framework guides and informs decisions made by the Municipality relating to land development, but it does not confer or take away land use rights.

13 Record of and access to municipal spatial development framework and local spatial development framework

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

(2) Should anybody or person request a copy of the municipal or local spatial development framework the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved municipal spatial development framework or any component thereof in accordance with the provisions of its Promotion of Access to Information By-Law or policy, if applicable.

14 Departure from municipal spatial development framework

(1) For purposes of section 22(2) of the Act, site specific circumstances include –

- (a) a departure that does not materially change the desired outcomes and objectives of a municipal spatial development framework and local spatial development framework, if applicable;
- (b) the site does not permit the proposed development for which an application is submitted to the Municipality as contained in the municipal spatial development framework; or
- (c) a unique circumstance pertaining to a discovery of national or provincial importance that results in an obligation in terms of any applicable legislation to protect or conserve such

discovery.

(2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, and must approve the amended spatial development framework prior to the Municipal Planning Tribunal taking a decision which would constitute a departure from the municipal spatial development framework.

(3) The timeframe for taking a decision on any application that cannot be decided by the Municipal Planning Tribunal before an amendment of the municipal spatial development framework is approved by the Municipality is suspended until such time as the municipal spatial development framework is approved by the Municipality.

(4) For purposes of this section, "site" means a spatially defined area that is impacted by the decision, including neighbouring land.

CHAPTER 3 LAND USE SCHEME

15 Land use scheme

(1) The Municipality must prepare and adopt a land use scheme and sections 24 to 28 of the Act apply to any land use scheme so prepared and adopted.

(2) The provisions of this Chapter apply, with the necessary change, to the review and amendment of the land use scheme contemplated in sections 27 and 28 of the Act.

16 Purpose of land use scheme

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

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

17 General matters pertaining to land use scheme

(1) In order to comply with section 24(1) of the Act, the Municipality must -

- (a) prepare a draft land use scheme as contemplated in section 18;
- (b) create the institutional framework as contemplated in section 19;
- (c) obtain Council approval for publication of the draft land use scheme as contemplated in section 20;

- (d) embark on the necessary public participation process as contemplated in section 21;
- (e) incorporate relevant comments received during the public participation process as contemplated in section 22;
- (f) prepare the land use scheme as contemplated in section 23;
- (g) submit the land use scheme to the Council for approval and adoption as contemplated in section 24;
- (h) publish a notice of the adoption and approval of the land use scheme in the *Provincial Gazette* as contemplated in section 25; and
- (i) submit the land use scheme to the Member of the Executive Council as contemplated in section 26.

(2) The Municipality may, on its own initiative or on application, create an overlay zone for land situated within the municipal area.

(3) Zoning may be made applicable to a land unit or part thereof and must follow cadastral boundaries except for a land unit or part thereof which has not been surveyed, in which case a reference or description as generally approved by Council may be used.

(4) The land use scheme of the Municipality must take into consideration:

- (a) the Integrated Development Plan in terms of the Municipal Systems Act;
- (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law,
- (c) provincial legislation, and
- (d) an existing town planning scheme.

18 Preparation of draft land use scheme

The Municipality which intends to prepare, review or amend its land use scheme -

- (a) may convene an intergovernmental steering committee and must convene a project committee in accordance with section 19;
- (b) must publish a notice in one newspaper that is circulated in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems of its intention to prepare, review or amend the land use scheme;
- (c) must inform the Member of the Executive Council in writing of its intention to prepare, review or amend the land use scheme;
- (d) must register interested and affected persons who must be invited to comment on the draft land use scheme or draft review or amendment of the land use scheme as part of the process to be followed;

- (e) must determine the form and content of the land use scheme;
- (f) must determine the scale of the land use scheme;
- (g) must determine any other relevant issue that will impact on the preparation and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
- (h) must confirm the manner in which the land use scheme must *inter alia* set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or must not require a consent or permission from the Municipality for purposes of the use of land.

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

(1) The purpose of the intergovernmental steering committee contemplated in section 18(a) is to co-ordinate the applicable contributions into the land use scheme and to-

- (a) provide technical knowledge and expertise;
- (b) provide input on outstanding information that is required to draft the land use scheme or an review or amendment thereof;
- (c) communicate any current or planned projects that have an impact on the municipal area;
- (d) provide information on the locality of projects and budgetary allocations; and
- (e) provide written comment to the project committee at each of various phases of the process.

(2) The Municipality must, before commencement of the preparation, review or amendment of the land use scheme, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—

- (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
- (b) any other body or person that may assist in providing information and technical advice on the content of the land use scheme.

(3) The purpose of the project committee contemplated in section 18(a) is to –

- (a) prepare, review or amend the land use scheme for adoption by the Council;
- (b) provide technical knowledge and expertise;
- (c) monitor progress and ensure that the development of the land use scheme or review or amendment thereof is progressing according to the approved project plan;
- (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;

- (e) ensure alignment of the land use scheme with the municipal spatial development framework, development plans and strategies of other affected municipalities and organs of state;
 - (f) oversee the incorporation of amendments to the draft land use scheme or draft review or amendment of the land use scheme to address comments obtained during the process of drafting thereof;
 - (g) if the Municipality decides to establish an intergovernmental steering committee—
 - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee must consist of –
- (a) the Municipal Manager; and
 - (b) employees in the full-time service of the Municipality and designated by the Municipality.

20 Council approval for publication of draft land use scheme

- (1) Upon completion of the draft land use scheme, the project committee must submit it to the Council for approval as the draft land use scheme.
- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the project committee and the report must at least –
- (a) indicate the rationale in the approach to the drafting of the land use scheme;
 - (b) summarise the process of drafting the draft land use scheme;
 - (c) summarise the consultation process to be followed with reference to section 21 of this By-law;
 - (d) indicate the departments that were engaged in the drafting of the draft land use scheme;
 - (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Council;
 - (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.
- (3) An approval by the Council of the draft land use scheme and the public participation thereof must be given and undertaken in terms of this By-law and the Act.
- (4) The Municipality must provide the Member of the Executive Council with a copy of the draft land use scheme after it has been approved by the Council as contemplated in this section.

21 Public participation

(1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-law and in the event of an amendment of the land use scheme, the matters contemplated in section 28 of the Act.

- (2) Without detracting from the provisions of subsection (1) above the Municipality must -
- (a) publish a notice in the *Provincial Gazette*;
 - (b) publish a notice in one newspaper that is circulated in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act, once a week for two consecutive weeks; and
 - (c) enable traditional communities to participate through the appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Municipal Systems Act;
 - (d) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections must:
 - (i) do so within a period of 60 days from the first day of publication of the notice;
 - (ii) provide written comments in the form approved by Council; and
 - (iii) provide their contact details as specified in the notice.
- (3) The Municipality may for purposes of public engagement arrange –
- (a) a consultative session with traditional councils and traditional communities;
 - (b) a specific consultation with professional bodies, ward communities or other groups; and
 - (c) a public meeting.

22 Incorporation of relevant comments

(1) Within 60 days after completion of the public participation process outlined in section 21 the project committee must –

- (a) review and consider all submissions made in writing or during any engagements; and
- (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
 - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
 - (ii) all persons and or bodies that made submissions must be notified of the time, date and place of the hearing as may be determined by the Municipality not less than 30 days prior to the date determined for the hearing, by electronic means or registered post;

- (iii) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.

(2) The project committee must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in subsection(1)(b).

23 Preparation of land use scheme

The project committee must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section21(2), the Municipality must follow a further consultation and public participation process in terms of section21(2) of this By-law, before the land use scheme is adopted by the Council.

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

(1) The project committee must -

- (a) within 60 days from the closing date for objections contemplated in section21(2)(d)(i), or
- (b) if a further consultation and public participation process is followed as contemplated in section23, within 60 days from the closing date of such further objections permitted in terms of section 23 read with section21(2)(d)(i),

submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.

(2) The Council must consider and adopt the land use scheme with or without amendments.

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

(1) The Council must, within 60 days of its adoption of the land use scheme referred to in section24(2),publish notice of the adoption in the media and the *Provincial Gazette*.

(2) The date of publication of the notice referred to in subsection (1), in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

26 Submission to Member of Executive Council

After the land use scheme is published in terms of section 25 the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.

27 Records

(1) The Municipality must in hard copy or electronic format keep record in the register of amendments to the land use scheme contemplated in section29of the land use rights in relation to each erf or portion of land and which information is regarded as part of its land use scheme.

(2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal area of the Municipality.

(3) Should anybody or person request a copy of the approved land use scheme, or any component thereof, the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved land use scheme or any component thereof in accordance with the provisions of its Promotion of Access to Information By-Law or policy, if applicable.

28 Contents of land use scheme

(1) The contents of a land use scheme prepared and adopted by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –

- (a) a zoning for all land within the municipal area in accordance with a category of zoning as approved by Council;
- (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of an application on a property;
- (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
- (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
- (e) servitudes for municipal services and access arrangements for all properties;
- (f) provisions applicable to all properties relating to storm water;
- (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
- (h) zoning maps as approved by Council that depicts the zoning of every property in the municipal area as updated from time to time in line with the land use rights approved or granted; and
- (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.

(2) The land use scheme may –

- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and

- (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

29 Register of amendments to land use scheme

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

- (a) Date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) property description and registration division;
- (e) previous and approved zoning and existing land use;
- (f) a copy of the approved site development plan referred to in section 53;
- (g) amendment scheme number;
- (h) annexure number;
- (i) item number;
- (j) item date;
- (k) decision (approved/on appeal/not approved);
- (l) decision date.

30 Consolidation of amendment of land use scheme

(1) The Municipality may of its own accord in order to consolidate an amendment of a land use scheme or map, annexure or schedule of the approved land use scheme, of more than one portion of land, prepare a certified copy of documentation as the Municipality may require, for purposes of consolidating the said amendment scheme, which consolidated amendment scheme is in operation from the date of the signing thereof provided that:

- (a) such consolidation must not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights;
- (b) after the Municipality has signed and certified a consolidation amendment scheme, it must publish it in the *Provincial Gazette*.

(2) Where as a result of repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.

(3) The provisions of sections 15 to 29 apply, with the necessary changes, to the review or amendment of an existing land use scheme.

CHAPTER 4 INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS

Part A: Division of Functions

31 Categories of applications for purposes of section 35(3) of Act

(1) The Council must, subject to subsection 4, by resolution, categorise applications to be considered by the Land Development Officer and applications to be referred to the Municipal Planning Tribunal.

(2) When categorising applications contemplated in subsection (1), the Council must take cognisance of the aspects referred to in regulation 15(2) of the Regulations.

(3) If the Council does not categorise applications contemplated in subsection (1), regulation 15(1) of the Regulations apply.

(4) If the municipality is a member of a joint or district Municipal Planning Tribunal by virtue of an agreement concluded in terms of section 34 of the Act, and the agreement does not contain a categorisation as contemplated in section 35(3) of the Act, the Council must, by resolution, categorise applications to be considered by the Land Development Officer and applications to be referred to the Municipal Planning Tribunal.

Part B: Land Development Officer

32 Designation and functions of Land Development Officer

(1) The Municipality must, in writing, determine that the incumbent of a particular post on the Municipality's post establishment is the Land Development Officer of the Municipality.

(2) The Land Development Officer must:

- (a) assist the Municipality in the management of applications submitted to the Municipality;
- (b) consider and determine categories of applications contemplated in section 31(1).

(3) The Land Development Officer may refer any application that he or she may decide in terms of section 31, to the Municipal Planning Tribunal.

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

33 Establishment of Municipal Planning Tribunal for local municipal area

If the Municipality is a party to an agreement to establish a joint or district Municipal Planning Tribunal as contemplated in section 34 of the Act, and the agreement is terminated or the Municipality withdraws from the agreement in accordance with the provisions thereof, the Blouberg Municipal Planning Tribunal is established for the municipal area of the Municipality, in compliance with section 35 of the Act and the provisions of this Part will apply to the Blouberg Municipal Planning Tribunal.

34 Composition of Municipal Planning Tribunal for local municipal area

(1) If the Municipality is a party to an agreement to establish a joint or district Municipal Planning Tribunal as contemplated in section 34 of the Act, and the agreement is terminated or the Municipality withdraws from the agreement in accordance with the provisions thereof, the Blouberg Municipal Planning

Tribunal must consist of between 5 and 16 members of which three members must be in the full-time service of the Municipality and the remaining members must be appointed from the following:

- (a) a person who is registered as a professional planner with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
- (b) a person who is registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
- (c) a person with financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
- (d) a person who is either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
- (e) a person who is registered as a professional land surveyor in terms of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), or a geomatics professional in the branch of land surveying in terms of the Geomatics Profession Act, 2013 (Act No. 19 of 2013);
- (f) a person who is registered as an environmental assessment practitioner with a relevant professional body; and
- (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.

(2) The persons in the full-time service of the Municipality referred to in subsection (1) must have at least three years' experience in the field in which they are performing their services.

(3) The persons referred to in subsection (1)(a) to (g) must –

- (a) demonstrate knowledge of spatial planning, land use management and land development of the law related thereto;
- (b) have at least five years' practical experience in the discipline within which they are registered or in the case of a person referred to in subsection (1)(g) in the discipline in which he or she is practising;
- (c) demonstrate leadership in his or her profession or vocation or in community organisations.

35 Nomination procedure

(1) The Municipality must –

- (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and

- (b) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations.

(2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule 1 and the form may be amended to provide for a joint or district Municipal Planning Tribunal and may contain any other information that the Municipality considers necessary.

(3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations must be in the form contemplated in Schedule 2 and the form may be amended to provide for a joint or district Municipal Planning Tribunal and may contain any other information that the Municipality considers necessary and -

- (a) must be published in one local newspaper that is circulated in the municipal area in two official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act;
- (b) may be submitted to the various professional bodies which registers persons referred to in section 34(1) with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
- (c) may advertise the call for nominations on the municipal website; and
- (d) utilise any other method and media it deems necessary to advertise the call for nominations.

36 Submission of nomination

(1) The nomination must be in writing and be addressed to the Municipal Manager.

(2) The nomination must consist of –

- (a) the completed declaration contained in the form contemplated in Schedule 2 and all pertinent information must be provided within the space provided on the form;
- (b) the completed declaration of interest form contemplated in Schedule 3;
- (c) the motivation by the nominator contemplated in subsection (3)(a); and
- (d) the summarised curriculum vitae of the nominee contemplated in subsection (3)(b).

(3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –

- (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and

- (b) a summarised curriculum vitae of the nominee not exceeding two A4 pages.

37 Initial screening of nomination by Municipality

(1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of section 35.

(2) The nominations that are incomplete or do not comply with the provisions of section 35 must be rejected by the Municipality.

(3) Every nomination that is complete and that complies with the provisions of section 35 must be subjected to verification by the Municipality.

(4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –

- (a) was not duly nominated;
- (b) is disqualified from appointment as contemplated in section 38 of the Act;
- (c) does not possess the knowledge or experience as required in terms of section 34(3); or
- (d) is not registered with the professional councils or voluntary bodies contemplated in section 34(1), if applicable,

the nomination must be rejected and must not be considered by the evaluation panel contemplated in section 38.

(5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 38.

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

38 Evaluation panel

(1) The evaluation panel contemplated in regulation 3(1)(g) read with regulation 3(11) of the Regulations, consists of five officials in the employ of the Municipality appointed by the Municipal Manager.

(2) The evaluation panel must evaluate all nominations within 30 days of receipt of the verified nominations and must submit a report with their recommendations to the Council for consideration.

39 Appointment of members to Municipal Planning Tribunal by Council

(1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.

(2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson from the officials referred to in section 34(1) and a deputy chairperson from the members so appointed.

(3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.

(4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 44, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

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

(1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of five years, which is renewable once for a further period of five years.

(2) The office of a member becomes vacant if that member -

- (a) is absent from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
- (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
- (c) is removed from the Municipal Planning Tribunal under subsection (3); or
- (d) dies or becomes permanently incapacitated.

(3) The Council may remove a member of the Municipal Planning Tribunal if -

- (a) sufficient reasons exist for his or her removal;
- (b) a member contravenes the code of conduct contemplated in Schedule 4;
- (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act.

after giving the member an opportunity to be heard.

(4) A person in the full-time service of the Municipality contemplated in section 34(1) who serves on the Municipal Planning Tribunal –

- (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time service of the Municipality;
- (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
- (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality must immediately be disqualified from serving on the Municipal Planning Tribunal.

(5) A person appointed by the Municipality in terms of section 34(1)(a) to (g) to the Municipal Planning Tribunal -

- (a) is not an employee on the staff establishment of the Municipality;
- (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
- (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
- (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
- (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the Municipality in accordance with the Act;
- (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by the Municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.

(6) All members of the Municipal Planning Tribunal must sign the Code of Conduct contained in Schedule 4 before taking up a seat on the Municipal Planning Tribunal.

(7) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and must conduct themselves in a manner that will not bring the name of the Municipality into disrepute.

(8) The members of the Municipal Planning Tribunal, in the execution of their duties, must comply with the provisions of the Act, provincial legislation, this By-law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

41 Vacancy and increase of number of members of Municipal Planning Tribunal

(1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 34.

(2) A member who is appointed by virtue of subsection (1) in a vacant seat holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

(3) The Municipality may, during an existing term of office of the Municipal Planning Tribunal and after a review of the operations of the Municipal Planning Tribunal, increase the number of members appointed in terms of this Part and in appointing such additional members, it must adhere to the provisions of sections 34 to 39.

(4) In appointing such additional members the Municipality must ensure that the total number of members of the Municipal Planning Tribunal does not exceed 16 members as contemplated in section 34.

(5) A member who is appointed by virtue of subsection (3) holds office for the unexpired portion of the period that the current members of the Municipal Planning Tribunal hold office.

42 Proceedings of Municipal Planning Tribunal for municipal area

(1) The Municipal Planning Tribunal must operate in accordance with the operational procedures determined by the Municipality.

(2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of the members appointed for that decision meeting and present at that decision meeting.

(3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Municipal Planning Tribunal.

(4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the operational procedures of the Municipal Planning Tribunal but meetings must be held at least once per month, if there are applications to consider.

(5) The chairperson may arrange multiple Municipal Planning Tribunal meetings on the same day constituted from different members of the Municipal Planning Tribunal and must designate a presiding officer for each of the meetings.

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

43 Tribunal of record

(1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.

(2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon request and payment of the fee approved by the Council and in accordance with the provisions of its Promotion of Access to Information By-Law or policy, if applicable.

44 Commencement date of operations of Municipal Planning Tribunal for local municipal area

(1) The Municipal Manager must within 30 days of the first appointment of members to the Municipal Planning Tribunal -

- (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
- (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in section 39(4).

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

Part D: Establishment of Joint Municipal Planning Tribunal

45 Agreement to establish joint Municipal Planning Tribunal

(1) If the Municipality decides to establish a joint Municipal Planning Tribunal, it must, as soon as possible, commence discussions with any other Municipality that has indicated that it would be party to a joint Municipal Planning Tribunal.

(2) The Municipality must, as soon as practicable, conclude an agreement to establish a joint Municipal Planning Tribunal that complies with the requirements of the Act.

(3) The Municipality must, as soon as is practicable after signing the agreement to establish a joint Municipal Planning Tribunal, publish notice of the agreement as contemplated in section 34(3) of the Act and the Municipality may issue a joint notice together with any other municipality that is party to the agreement to establish a joint Municipal Planning Tribunal.

(4) Upon publication of the notice referred to in subsection (3), the joint Municipal Planning Tribunal is established and remains the Municipal Planning Tribunal for the municipal area of the Municipality until such time as the agreement referred to in this section is terminated or the Municipality terminates its participation in the agreement in accordance with the provisions thereof.

46 Composition of joint Municipal Planning Tribunal

(1) If a joint Municipal Planning Tribunal is established in accordance with the Act and this Part, it must consist of such members as determined in the agreement to establish a joint Municipal Planning Tribunal contemplated in section 34(1) of the Act.

(2) The persons in the full-time service of the Municipality referred to in regulation 3(1)(a) of the Regulations must have at least three years' experience in the field in which they are performing their services.

(3) The persons referred to in regulation 3(1)(b) of the Regulations must –

- (a) demonstrate knowledge of spatial planning, land use management and land development or the law related thereto;
- (b) have at least five years' practical experience in the discipline within which they are registered or are practising; and
- (c) demonstrate leadership in his or her profession or vocation or in community organisations.

(4) No municipal councillor of any other municipality who is a party to the agreement referred to in section 45(2) may be appointed as a member of the joint Municipal Planning Tribunal.

47 Status of decision of joint Municipal Planning Tribunal

A decision of the joint Municipal Planning Tribunal is binding on both the applicant and the Municipality as if that decision was taken by a Municipal Planning Tribunal for a local municipal area.

48 Applicability of Part C, F and G to joint Municipal Planning Tribunal

(1) Subject to subsection (2), the provisions of Part C, Part F and G apply, with the necessary changes, to the joint Municipal Planning Tribunal.

(2) The Municipality, in the establishment of the joint Municipal Planning Tribunal -

- (a) may, in a joint invitation and notice with the other municipality that is party to the agreement referred to in section 45(2), issue the invitation and call for nominations for appointment of the persons referred to in section 46(3), as contemplated in section 35;
- (b) may, together with the other municipality that is party to the agreement referred to in section 45(2), establish a joint evaluation panel to evaluate nominations and the powers and functions of an evaluation panel as contemplated in this Chapter apply to the joint evaluation panel;
- (c) must screen all nominations, before it submits the compliant nominations to the joint evaluation panel referred to in paragraph (b);
- (d) must designate the employees contemplated in section 46(2) and appoint the members contemplated in section 46(3);
- (e) notwithstanding section 39(2) and subject to subsection (3), must designate the chairperson and deputy chairperson from the members referred to in section 46(2) in accordance with the provisions of the agreement referred to in section 45(2);
- (f) must, in a joint notice together with the other municipality that is party to the agreement referred to in section 45(2), inform the members of their appointment to the joint Municipal Planning Tribunal and notify the chairperson and the deputy-chairperson of their designation as such;
- (g) may, in a joint notice together with the other municipality that is party to the agreement referred to in section 45(2), publish the names and term of office of the members contemplated in section 39(4) and the commencement of the operation of the joint Municipal Planning Tribunal as contemplated in section 44.

(3) The chairperson of the joint Municipal Planning Tribunal must be a person referred to in section 46(2).

Part E: Establishment of District Municipal Planning Tribunal**49 Agreement to establish district Municipal Planning Tribunal**

(1) If, after a request from the relevant district municipality, the Municipality decides to become a member of a district Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the district municipality and the other local municipalities in the district.

(2) The Municipality must, as soon as practicable, conclude an agreement to establish a district Municipal Planning Tribunal that complies with the requirements of the Act.

(3) The Municipality must, as soon as practicable after signing the agreement to establish a district Municipal Planning Tribunal, publish notice of the agreement as contemplated in section 34(3) of the Act and may issue a joint notice with the district and other local municipalities that are parties to the agreement.

(4) Upon publication of the notice referred to in subsection (3), the district Municipal Planning Tribunal is established and remains the Municipal Planning Tribunal for the municipal area of the Municipality until such time as the agreement referred to in this section is terminated or the Municipality terminates its participation in the agreement in accordance with the provisions thereof.

50 Composition of district Municipal Planning Tribunal

(1) If a district Municipal Planning Tribunal is established in accordance with the Act and this Part, it must consist of such members as determined in the agreement to establish a district Municipal Planning Tribunal contemplated in section 49(2).

(2) The persons in the full-time service of the Municipality referred to in regulation 3(1)(a) of the Regulations must have at least three years' experience in the field in which they are performing their services.

(3) The persons referred to in regulation 3(1)(b) of the Regulations must –

- (a) demonstrate knowledge of spatial planning, land use management and land development or the law related thereto;
- (b) have at least five years' practical experience in the discipline within which they are registered or are practising; and
- (c) demonstrate leadership in his or her profession or vocation or in community organisations.

(4) No municipal councillor of a participating municipality may be appointed as a member of a district Municipal Planning Tribunal.

51 Status of decision of district Municipal Planning Tribunal

A decision of a district Municipal Planning Tribunal is binding on both the applicant and the Municipality as if that decision was taken by a Municipal Planning Tribunal for a local municipal area.

52 Applicability of Part C, F and G to district Municipal Planning Tribunal

(1) Subject to subsection (2), the provisions of Part C, Part F and Part G apply, with the necessary changes, to a district Municipal Planning Tribunal.

(2) The Municipality, in the establishment of a district Municipal Planning Tribunal -

- (a) may, in a joint invitation and notice together with the other municipalities who are party to the agreement referred to in section 49(2), issue the invitation and call for nominations for appointment of the persons referred to in section 50(3) as contemplated in section 35;
- (b) may establish a joint evaluation panel together with the other municipalities who are party to the agreement referred to in section 49(2), to evaluate nominations and the powers and

functions of an evaluation panel as contemplated in this Chapter apply to the district evaluation panel;

- (c) must screen all nominations before it submits the compliant nominations to the joint evaluation panel referred to in paragraph (b);
- (d) must designate the employees contemplated in section 50(2) and appoint the members contemplated in section 50(3);
- (e) notwithstanding section 39(2) and subject to subsection (3), must designate the chairperson and deputy chairperson from the members referred to in section 50(2) recommended by the joint evaluation panel;
- (f) must notify the chairperson and the deputy-chairperson of their designation as such in a joint notification together with the other municipalities who are party to the agreement referred to in section 49(2);
- (g) must, in a joint notice together with the other municipalities who are party to the agreement referred to in section 49(2), publish the names and term of office of the members contemplated in section 39(4) and the commencement of the operation of the district Municipal Planning Tribunal as contemplated in section 44.

(3) The chairperson of the joint Municipal Planning Tribunal must be a person referred to in section 50(2).

Part F: Decisions of Municipal Planning Tribunal

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

(1) When the Municipal Planning Tribunal or Land Development Officer considers an application submitted in terms of this By-Law, it, he or she must have regard to the following:

- (a) the application submitted in terms of this By-law;
- (b) the procedure followed in processing the application;
- (c) the desirability of the proposed utilisation of land and any guidelines issued by the Member of the Executive Council regarding proposed land uses;
- (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
- (e) the response by the applicant to the comments referred to in paragraph (d);
- (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
- (g) a written assessment by a professional planner as defined in section 1 of the Planning Profession Act, 2002, in respect of land development applications to be considered and determined by the Municipal Planning Tribunal;

- (h) the integrated development plan and municipal spatial development framework;
- (i) the applicable local spatial development frameworks adopted by the Municipality;
- (j) the applicable structure plans;
- (k) the applicable policies of the Municipality that guide decision-making;
- (l) the provincial spatial development framework;
- (m) where applicable, the regional spatial development framework;
- (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
- (o) the matters referred to in section 42 of the Act;
- (p) the relevant provisions of the land use scheme.

(2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval contemplated in section 54 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 contemplated in section 54; and
- (d) complies with this By-law.

(3) When a site development plan is required in terms of development parameters or conditions of approval contemplated in section 54 -

- (a) the Municipality must not approve a building plan if the site development plan has not been approved; and
- (b) the Municipality must not approve a building plan that is inconsistent with the approved site development plan.

(4) The written assessment of a professional planner contemplated in subsection (1)(g) must include such registered planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

54 Conditions of approval

(1) When the Municipal Planning Tribunal or Land Development Officer approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.

(2) Conditions imposed in accordance with subsection (1) may include conditions relating to—

- (a) the provision of engineering services and infrastructure;
- (b) the cession of land or the payment of money;
- (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
- (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
- (e) settlement restructuring;
- (f) agricultural or heritage resource conservation;
- (g) biodiversity conservation and management;
- (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
- (i) energy efficiency;
- (j) requirements aimed at addressing climate change;
- (k) the establishment of an owners' association in respect of the approval of a subdivision;
- (l) the provision of land needed by other organs of state;
- (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the Municipality or the registration of public places in the name of the Municipality, and the transfer of ownership to the Municipality of land needed for other public purposes;
- (n) the excision of land from the agricultural holding register and the endorsement by the Registrar of Deeds of the agricultural holding title, to the effect that the land is excised;
- (o) the implementation of a subdivision in phases;
- (p) requirements of other organs of state;
- (q) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
- (r) agreements to be entered into in respect of certain conditions;
- (s) the phasing of a development, including lapsing clauses relating to such phasing;
- (t) the delimitation of development parameters or land uses that are set for a particular zoning;
- (u) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
- (v) the setting of dates by which particular conditions must be met;
- (w) the circumstances under which certain land uses will lapse;

- (x) requirements relating to engineering services as contemplated in Chapter 7;
- (y) requirements for an occasional use that must specifically include –
 - (i) parking and the number of ablution facilities required;
 - (ii) maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the land use scheme.

(3) If a Municipal Planning Tribunal or Land Development Officer imposes a condition contemplated in subsection (2)(a), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.

(4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.

(5) Except for land needed for public places, social infrastructure or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved application must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.

(6) Conditions which require a standard to be met must specifically refer to an approved or published standard.

(7) No condition may be imposed which affects a third party or which is reliant on a third party for fulfilment, with the exception of a condition that requires the approval in terms of other legislation.

(8) If the Municipal Planning Tribunal or Land Development Officer approves an application subject to conditions, it, he or she must specify which conditions must be complied with before the sale, development or transfer of the land.

(9) The Municipal Planning Tribunal or Land Development Officer may, on its, his or her own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.

(10) After the applicant has been notified that his or her application has been approved, the Municipal Planning Tribunal or Land Development Officer or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of this section or add any further condition, provided that if the amendment is in the opinion of the Municipal Planning Tribunal or Land Development Officer so material as to constitute a new application, the Municipal Planning Tribunal or Land Development Officer may not exercise its, his or her powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipal Planning Tribunal or Land Development Officer to re-advertise the application in accordance with section 107.

55 Reference to Municipal Planning Tribunal

Any reference to a Municipal Planning Tribunal in this Part is deemed to be a reference to a joint Municipal Planning Tribunal or a district Municipal Planning Tribunal.

Part G: Administrative Arrangements

56 Administrator for Municipal Planning Tribunal

(1) The Municipal Manager must designate an employee as the administrator for the Municipal Planning Tribunal.

(2) The person referred to in subsection (1) must—

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

CHAPTER 5
DEVELOPMENT MANAGEMENT
Part A: Types of Applications

57 Types of applications

A person may make application for the following in terms of this By-Law –

- (a) establishment of a township or the extension of the boundaries of a township;
- (b) division or phasing of a township;
- (c) amendment or cancellation in whole or in part of a general plan of a township;
- (d) amendment of an existing scheme or land use scheme by the rezoning of land, including rezoning to an overlay zone;
- (e) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
- (f) subdivision of land;
- (g) consolidation of land;
- (h) amendment or cancellation of a subdivision plan;
- (i) permanent closure of any public place;
- (j) consent use;
- (k) development on communal land that will have a high impact on the traditional community concerned;
- (l) permanent or temporary departure from land use scheme
- (m) extension of the period of validity of an approval;
- (n) exemption of a subdivision from the need for approval in terms of this By-Law as contemplated in section 75;
- (o) determination of a zoning;
- (p) amendment, deletion or addition of conditions in respect of an existing approval granted or deemed to be granted in terms of section 53(11);
- (q) approval of the constitution of an owners' association or an amendment of the constitution of the owners' association;
- (r) any other application provided for in this By-Law;
- (s) any other application which the Council may determine in terms of this By-Law.
- (t) any combination of the applications referred to in this section submitted simultaneously as one application.

58 Land use and land development

(1) No person may use or commence with, carry on or cause the commencement with or carrying on of land development which is not permitted in the land use scheme or for which an approval is granted in terms of this By-Law.

(2) Any land use right granted in terms of an approval of an application or reflected in the land use scheme vest in the land and not in the owner or applicant.

(3) When an applicant or owner exercises a land use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.

(4) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.

(5) Any reference to the Municipality in this Chapter includes a reference to the Municipal Planning Tribunal and the Land Development Officer, as the case may be.

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

59 Application for establishment of township

(1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.

(2) The Municipality must, in approving an application for township establishment, set out:

- (a) the conditions of approval contemplated in section 54 in a statement of conditions in the form approved by the Council;
- (b) the statement of conditions which conditions shall be known as conditions of establishment for the township; and
- (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-law.

(3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, contain the following:

- (a) Specify those conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;
- (b) the conditions of establishment relating to the township that must remain applicable to the township;
- (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
- (d) third party conditions as required by the Registrar of Deeds;
- (e) the conditions to be incorporated into the land use scheme by means of an amendment scheme.
- (f) if a non-profit company is to be established for purposes of maintaining or transfer of erven within the township to them the conditions that must apply;
- (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.

(4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (2)(a) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application in accordance with section 107.

(5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality in accordance with section 107.

(6) Without detracting from the provisions of subsection (4) and (5) the Municipality may require the applicant or the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

60 Division or phasing of township

(1) An applicant who has been notified in terms of section 115 that his or her application has been approved may, within the period permitted by the Municipality, apply to the Municipality for the division of the township into two or more separate townships.

(2) On receipt of an application in terms of subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor General.

(3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the applicant in writing thereof and of any conditions imposed.

(4) The applicant must, within a period of 3 months or such further period as the Municipality may allow from the date of the notice contemplated in subsection (3), submit to the Municipality the phasing plans, layout plans, conditions of establishment and other documents and furnish such information as may be required in respect of each separate township.

(5) On receipt of the documents or information contemplated in subsection (4) the Municipality must notify the Surveyor-General, and the registrar in writing of the approval of the application and such notice must be accompanied by a copy of the plan of each separate township.

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

(1) An applicant who has been notified in terms of section 115 that his or her application has been approved, must, within a period of 12 months from the date of such notice, or such further period as the

Municipality may allow which period may not be longer than five years, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application lapses.

(2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 59(2) and (3) of the conditions of establishment together with a stamped and approved layout plan.

(3) The Municipality must for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.

(4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General must notify the Municipality that he or she is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the approval lapses.

(5) After an applicant has been notified that his or her application has been approved, the Municipality may:

- (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General;
- (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General,

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

62 Compliance with pre-proclamation conditions of approval

(1) The applicant must provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the schedule to the approval of a township establishment application have been complied with.

(2) The Municipality must certify that all the conditions that have to be complied with by the applicant or owner as contemplated in section 59(2) and (3) have been complied with including the provision of guarantees and payment of monies that may be required.

(3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).

(4) The Municipality may agree to an extension of time as contemplated in subsection(1), after receiving a written application from the applicant for an extension of time: Provided that such application provides motivation for the extension of time.

63 Opening of Township Register

(1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 61 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.

(2) For purposes of subsection (1) the Registrar must not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 59(3).

(3) The plans, diagrams and title deeds contemplated in subsection (1) and certification contemplated in subsection (2) must be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.

(4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.

(5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar must not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 64.

64 Proclamation of approved township.

Upon compliance with sections 59, 60, 61 and 62 the approval of the Municipality is confirmed and cannot lapse and the Municipality or the applicant, if authorised in writing by the Municipality, must, by notice in the *Provincial Gazette*, declare the township an approved township and it must, in an annexure to such notice, set out the conditions on which the township is declared an approved township.

65 Prohibition of certain contracts and options

(1) After an owner of land has taken steps to establish a township on his or her land, no person is permitted to -

- (a) enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in that township;
- (b) grant an option to purchase or otherwise acquire an erf in that township,

until such time as the township is declared an approved township, provided that the provisions of this subsection must not be construed as prohibiting any person from purchasing land on which he or she wishes to establish a township subject to a condition that upon the declaration of the township as an approved township, one or more of the erven therein will be transferred to the purchaser.

(2) Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.

(3) For the purposes of subsection (1) -

- (a) "steps" includes steps preceding an application; and

- (b) “any contract” includes a contract which is subject to any condition, including a suspensive condition.

Part C: Rezoning of land

66 Application for amendment of a land use scheme by rezoning of land

(1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.

(2) A rezoning approval lapses after a period of two years calculated from the date of approval or the date that the approval comes into operation if, within that two year period -

- (a) the conditions of approval contemplated in section 54 have not been met; and
- (b) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments.

(3) An applicant may, prior to the lapsing of an approval, apply for an extension of the period contemplated in subsection(2), in accordance with the provisions of section 113.

(4) The Municipality may grant an extension of the two year period contemplated in subsection (2), but the two year period together with any extension that the Municipality grants, may not exceed five years.

(5) Upon compliance with subsection 2(a) and (b), the approval of the rezoning is confirmed and cannot lapse and the Municipality or the applicant, if authorised in writing by the Municipality, must cause notice to be published in the *Provincial Gazette* of the amendment of the land use scheme and it comes into operation on the date of publication of the notice.

(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 as contemplated in section 187.

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

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

(1) The Municipality may, of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.

(2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the Municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.

(3) The Municipality must, in accordance with section 97, cause a notice of its intention to consider an application under subsection (1) to be served on—

- (a) all organs of state that may have an interest in the title deed restriction;

- (b) every holder of a bond encumbering the land;
- (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
- (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.

(4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:

- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
- (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
- (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
- (d) the social benefit of the restrictive condition remaining in place in its existing form;
- (e) the social benefit of the removal or amendment of the restrictive condition; and
- (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

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

(1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in section 67(1), submit the following to the Registrar of Deeds:

- (a) a copy of the original title deed;
- (b) a copy of the original letter of approval; and
- (c) a copy of the notification of the approval.

(2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in section 67(1), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

Part E: Amendment or Cancellation in Whole or in Part of a General Plan of a Township

69 Notification of Surveyor General

(1) After the Municipality has approved or refused an application for the alteration, amendment or cancellation of a general plan, the Municipality must forthwith notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.

(2) An applicant who has been notified that his or her application has been approved must, within a period of 12 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he or she fails to do so the application lapses.

(3) Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General must notify the Municipality accordingly, and where the Municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the Municipality must notify the applicant, and thereupon the application lapses.

(4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1997, altered or amended the general plan or has totally or partially cancelled it, he or she must notify the Municipality.

(5) On receipt of the notice contemplated in subsection (4) the Municipality must publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality must, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.

(6) The Municipality must provide the Registrar of Deeds with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subsection (5).

70 Effect of amendment or cancellation of general plan

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

- (a) the township or part thereof ceases to exist as a township; and
- (b) the ownership of any public place or street re-vests in the township owner.

Part F: Subdivision and Consolidation

71 Application for subdivision

(1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 75.

(2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.

(3) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.

(4) If the Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—

- (a) the Municipality's decision to approve the subdivision;
- (b) the conditions of approval contemplated in subsection (3) and section 54; and
- (c) the approved subdivision plan.

(5) If the Municipality approves an application for a subdivision, the applicant must within a period of three years calculated from the date of approval of the subdivision or the date that the approval comes into operation, comply with the following requirements:

- (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (4);
- (b) in the case of an application for the subdivision for township establishment and an application for the subdivision of a farm portion, sign an engineering services agreement contemplated in section 124;
- (c) submit proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 54 for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
- (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram.

(6) A confirmation from the Municipality in terms of section 72(3) that all conditions of approval contemplated in section 54 have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

72 Confirmation of subdivision

(1) Upon compliance with section 71(5), the subdivision or part thereof is confirmed and cannot lapse.

(2) Upon confirmation of a subdivision or part thereof, the zonings indicated on the approved subdivision plan as confirmed cannot lapse.

(3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 71(5) 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 subdivision being confirmed.

73 Lapsing of subdivision and extension of validity periods

(1) An approved subdivision or a portion thereof lapses after the period referred to in section 71(5), if the applicant does not comply with section 71(5).

(2) An applicant may, prior to the lapsing of an approval, apply for an extension of the period referred to in section 71(5) in accordance with the provisions of section 113.

(3) The Municipality may grant an extension of the three year period contemplated in section 71(5), but the three year period together with any extension that the Municipality grants, may not exceed five years.

(4) If, after the expiry of the extended period, the requirements of section 71(5) have not been complied with, the subdivision may lapse and subsection (6) applies.

(5) If only a portion of the general plan, contemplated in section 71(5)(a) complies with section 71(5)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.

(6) If an approval of a subdivision or part thereof lapses under 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.

74 Amendment or cancellation of subdivision plan

(1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval contemplated in section 54, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.

(2) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed.

(3) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.

(4) An approval of a subdivision in respect of which an amendment or cancellation is approved in terms of subsection (1), remains valid for the remainder of the period contemplated in section 71(5) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

75 Exemption of subdivisions and consolidations

(1) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:

- (a) if the subdivision or consolidation arises from the implementation of a court ruling;
- (b) if the subdivision or consolidation arises from an expropriation;
- (c) a minor amendment of the common boundary between two or more land units if the resulting change in area of any of the land units is not more than 10 per cent;

- (d) the registration of a servitude or lease agreement for the provision or installation of—
 - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
 - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
 - (iii) the imposition of height restrictions;
- (e) the exclusive utilisation of land for agricultural purposes, if the utilisation—
 - (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
 - (ii) does not lead to urban expansion.
- (f) the subdivision and consolidation of a closed public place with an abutting erf; and
- (g) the granting of a right of habitation or usufruct;
- (h) the subdivision of land for the purpose of the construction or alteration of roads or any other matter related thereto;
- (i) the subdivision of land in order to transfer ownership to the Municipality or other organ of state;
- (j) the subdivision of land in order to transfer ownership from the Municipality or other organ of state, excluding a subdivision for the purposes of alienation for development;
- (k) the subdivision of land where the national or provincial government may require a survey, whether or not the national or provincial government is the land-owner; and
- (l) the subdivision of land in existing housing schemes in order to make private property ownership possible.

(2) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter and impose any condition it may deem necessary.

(3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 71 to 74.

76 Services arising from subdivision

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

- (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:
 - (i) gas mains;
 - (ii) electricity cables;
 - (iii) telephone cables;

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

77 Consolidation of land units

(1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 75.

(2) A copy of the approval must accompany the diagram which is submitted to the Surveyor-General's office.

(3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—

- (a) the decision to approve the consolidation;
- (b) the conditions of approval contemplated in section 54; and
- (c) the approved consolidation plan.

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

78 Lapsing of consolidation and extension of validity periods

(1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within three years of the approval, the consolidation approval lapses, unless the consolidation of land units form part of an application which has been approved for a longer period.

(2) An applicant may, prior to the lapsing of an approval, apply for an extension of the period referred to in subsection (1), in accordance with the provisions of section 113.

(3) The Municipality may grant extensions to the period contemplated in subsection (1), which period together with any extensions that the Municipality grants, may not exceed five years.

(5) If an approval of a consolidation lapses under subsection (1) the Municipality must—

- (a) amend the zoning map and, where applicable, the register accordingly; and
- (b) notify the Surveyor-General accordingly; and
- (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

Part G: Permanent Closure of Public Place**79 Closure of public place**

(1) The Municipality may on own initiative or on application close a public place or any portion thereof in accordance with the procedures in Chapter 6.

(2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the Municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.

(3) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.

(4) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—

- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
- (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
- (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
- (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or

- (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.

(5) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

Part H: Consent Use

80 Application for consent use

(1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.

(2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in section 54.

(3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 54.

(4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.

(5) A consent use contemplated in subsection (1) lapses after a period of two years or such shorter period as the Municipality may determine calculated from the date that the approval comes into operation if, within that the two year period -

- (a) the consent use is not utilised in accordance with the approval thereof; or
- (b) the following requirements, if applicable, are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).

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

Part I: Land Use on Communal Land

81 Application for development on or change to land use purpose of communal land

(1) An applicant who wishes to develop on or change the land use purpose of communal land located in the area of a traditional council where such development will have a high impact on the community or such change requires approval in terms of the land use scheme applicable to such area, must apply to the Municipality in the manner provided for in Chapter 6.

(2) No application pertaining to land development on or change the land use purpose of communal land may be submitted unless accompanied by power of attorney signed by the applicable traditional council.

(3) For the purpose of this section, a “high impact” development includes any of the following:

- (a) abattoir;
- (b) cemetery;
- (c) community services, including educational institutions and health care facilities;
- (d) crematorium and funeral parlour;
- (e) factory;
- (f) filling station and public garage;
- (g) guest house;
- (h) high density residential;
- (i) industry and light industry;
- (j) manufacturing, micro-manufacturing, retail selling and distribution as contemplated in the Liquor Act, 2003 (Act No. 59 of 2003);
- (k) mining;
- (l) noxious use;
- (m) office;
- (n) panel beating;
- (o) place of worship;
- (p) retail service, including a shopping complex and supermarket;
- (q) scrapyard;
- (r) tavern; and
- (s) any other development which may require a specialist report, including a geotechnical report or environmental impact assessment.

(4) The Municipality must define each of the high impact activities contemplated in subsection (3) in its land use scheme.

Part J: Departure from provisions of Land Use Scheme

82 Application for permanent or temporary departure

(1) An application for a permanent departure from the provisions of the land use scheme is an application that will result in the permanent amendment of the land use scheme provisions applicable to land, and includes:

- (a) The relaxation of development parameters such as building line, height, coverage or number of storeys; and
- (b) the departure from any other provisions of a land use scheme that will result in the physical development or construction of a permanent nature on land.

(2) An application for a temporary departure from the provisions of the land use scheme is an application that does not result in an amendment of the land use scheme provisions applicable to land, and includes:

- (a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002;
 - (b) the erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, workshops or such other uses as may be necessary during the erection of any permanent building or structure on the land;
 - (c) the occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall;
 - (d) the use of land or the erection of buildings necessary for the purpose of informal retail trade;
 - (e) any other application to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone .
- (3) An applicant may apply for a departure in the manner provided for in Chapter 6.
- (4) The Municipality may grant approval for a departure
- (a) contemplated in subsection (2)(a) for the period of validity of the prospecting license after which period the approval lapses; and
 - (b) contemplated in subsection (2)(b) for the period requested in the application or the period determined by the Municipality after which period the approval lapses.

(5) The Municipality may grant extensions to the period that it determines in terms of subsection (4)(b), which period together with any extensions that the Municipality grants, may not exceed five years and the granting of the extension may not be unreasonably withheld by the Municipality.

(6) A temporary departure contemplated in subsection(2) may not be granted more than once in respect of a particular use on a specific land unit.

(7) A temporary departure contemplated in subsection (2)(b) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert to its previous lawful use upon the expiry of the period contemplated in subsection (1)(b).

Part K: General Matters**83 Ownership of public places and land required for municipal engineering services and social facilities**

(1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vest in the Municipality upon confirmation of the subdivision or a part thereof.

(2) The Municipality may in terms of conditions imposed in terms of section 54 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.

84 Restriction of transfer and registration

(1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any application, the owner must, at his or her cost and to the satisfaction of the Municipality, survey and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.

(2) No Erf/Erven and/or units in a land development area, may be alienated or transferred into the name of a purchaser nor must a Certificate of Registered Title be registered in the name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:

- (a) All engineering services have been designed and constructed to the satisfaction of the Municipality, including guarantees for services having been provided to the satisfaction of the Municipality as may be required; and
- (b) all engineering services and development charges have been paid or an agreement has been entered into to pay the development charges in monthly instalments; and
- (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
- (d) all conditions of the approval of the application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance thereof within 3 months of having certified to the Registrar in terms of this section that registration may take place; and
- (e) that the Municipality is in a position to consider a final building plan; and
- (f) that all the properties have either been transferred or must be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

85 First transfer

Where an owner of land to which an application relates is required to transfer land to:

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

by virtue of a condition set out in the conditions to the approval contemplated in section 54, the land must be so transferred at the expense of the applicant, within a period of 6 months from the date of the land use rights coming into operation in terms of section 54, or within such further period as the Municipality may allow, but in any event prior to any registration or transfer of any erf, portion, opening of a sectional title scheme or unit within the development.

86 Certification by Municipality

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

(2) The Municipality must not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—

- (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
- (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
- (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
- (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred to the owners' association as contemplated in Schedule 5; and
- (e) proof that the conditions of approval that must be complied with before the transfer of even have been complied with.

87 Application affecting national and provincial interest

(1) In terms of section 52 of the Act an applicant must refer any application which affects national interest to the Minister for comment, which comment is to be provided within 21 days as prescribed in section 52(5) of the Act.

(2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.

(3) The Municipal Planning Tribunal or Land Development Officer as the case may be, may direct that an application before it, be referred to the Minister if such an application in their opinion affects national interest and the provisions of sections 52(5) to (7) apply with the necessary changes.

(4) The Municipality is the decision maker of first instance as contemplated in section 33(1) of the Act and the national department responsible for spatial planning and land use management becomes a party to the application that affects national interest.

(5) If provincial legislation makes provision for applications which may affect provincial interest, the provisions of this section apply with the necessary changes unless the provincial legislation provides for other procedures.

CHAPTER 6

GENERAL APPLICATION PROCEDURES

88 Applicability of Chapter

This Chapter applies to all types of applications contemplated in section 57 submitted to the Municipality.

89 Procedures for making application

(1) The Municipal Manager may determine in relation to any application required in terms of this By-Law –

- (a) information specifications relating to matters such as size, scale, colour, hard copy, number of copies, electronic format and file format;
- (b) the manner of submission of an application;
- (c) any other procedural requirements not provided for in this By-Law in accordance with the guidelines determined by the Municipality in accordance with section 191, if the Municipality has determined guidelines.

(2) A determination contemplated in subsection (1) may –

- (a) relate to the whole application or any part of it; and
- (b) differentiate between types of applications contemplated in section 57, categories of applications contemplated in section 31 or the type of applicant contemplated in section 45 of the Act..

(3) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter 5 or the relevant section of this By-law and the determination made by the Municipal Manager.

90 Information required

(1) Any application required in terms of this By-Law must be completed on a form approved by the Council, signed by the applicant and submitted to the Municipality.

(2) Any application referred to in subsection (1) must be accompanied by -

- (a) if the applicant is not the owner of the land, a power of attorney signed by the owner authorising the applicant to make the application on behalf of the owner and if the owner is married in community of property a power of attorney signed by both spouses;
- (b) if the owner of the land is a company, closed corporation, body corporate or owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, body corporate or owners' association;

- (c) if the owner of the land is a trust, the application must be signed by all the trustees;
- (d) a written motivation for the application based on the criteria for consideration of the application;
- (e) proof of payment of application fees; and
- (f) in the case of an application for development on communal land referred to in section 81, the power of attorney referred to in section 81(2).

(3) In addition to the documents referred to in subsection (2), an application referred to in subsection (1) must be accompanied by the following documents:

- (a) in the case of an application for the establishment of a township or the extension of the boundaries of a township, the documents contemplated in Schedule 6;
- (b) in the case of an application for the amendment of an existing scheme or land use scheme by the rezoning of land, the documents contemplated in Schedule 7;
- (c) in the case of an application for the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land, the documents contemplated in Schedule 8;
- (d) in the case of an application of the amendment or cancellation in whole or in part of a general plan of a township, such plans, diagrams and other documents contemplated in Schedule 9;
- (e) in the case of an application for the subdivision of any land, the documents contemplated in Schedule 10;
- (f) in the case of an application for the consolidation of any land, the documents contemplated in Schedule 11;
- (g) in the case of the permanent closure of any public place, the documents contemplated in Schedule 12;
- (h) in the case of an application for consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme, the documents contemplated in Schedule 13;
- (i) in the case of an application for the permanent or temporary departure from the land use scheme, the documents contemplated in Schedule 14.

(4) The Municipality may make a determination or issue guidelines relating to the submission of additional information and procedural requirements.

91 Application fees

(1) An applicant must pay the application fees approved by the Council prior to submitting an application in terms of this By-law.

(2) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

92 Grounds for refusing to accept application

The Municipality may refuse to accept an application if—

- (a) the Municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 90.

93 Receipt of application and request for further documents

The Municipality must—

- (a) record the receipt of an application in writing or by affixing a stamp on the application on the day of receipt and issue proof of receipt to the applicant;
- (b) notify the applicant in writing of any outstanding or additional plans, documents, other information or additional fees that it may require within 30 days of receipt of the application or the further period as may be agreed upon, failing which it is regarded that there is no outstanding information or documents; and
- (c) if the application is complete, notify the applicant in writing that the application is complete within 30 days of receipt of the application.

94 Additional information

(1) The applicant must provide the Municipality with the information or documentation required for the completion of the application within 30 days of the request therefor or within the further period agreed to between the applicant and the Municipality.

(2) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in subsection (1).

(3) The Municipality must notify the applicant in writing of the refusal to consider the application and must close the application.

(4) An applicant has no right of appeal to the appeal authority in respect of a decision contemplated in subsection (3) to refuse to consider the application.

(5) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must submit a new application and pay the applicable application fees.

95 Confirmation of complete application

(1) The Municipality must notify the applicant in writing that the application is complete and that the notices may be placed as contemplated in this Chapter, within 21 days of receipt of the additional plans, documents or information required by it or if further information is required as a result of the furnishing of the additional information.

(2) The date of the notification that an application is complete is regarded as the date of submission of the application.

(3) If further information is required, section 94 applies to the further submission of information that may be required.

96 Withdrawal of application

(1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the Municipality.

(2) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney that authorised another person to make an application on his or her behalf.

97 Notice of applications in terms of integrated procedures

(1) The Municipality may, on prior written request and motivation by an applicant, determine that—

- (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
- (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of other legislation.

(2) If the Municipality determines that an application may be published as contemplated in subsection (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.

(3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—

- (a) cause public notice of the application to be given in terms of section 98(1); and
- (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application,

unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subsection (1), is considered to be public notice in terms of this By-law.

(4) The Municipality may require the applicant to give the required notice of an application in the media.

(5) Where an applicant has published a notice in the media at the request of the Municipality, the applicant must provide proof that the notice has been published as required.

98 Notification of application in media

(1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:

- (a) an application for township establishment;
- (b) an application for a rezoning or a rezoning on the initiative of the Municipality;

- (c) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (d) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (e) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the urban edge, including existing urban land use approvals, of the existing urban area;
 - (f) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the urban edge, including existing urban land use approvals, of the existing urban area;
 - (g) the closure of a public place;
 - (h) an application in respect of a restrictive condition;
 - (i) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Notice of the application in the media must be given by—
- (a) publishing a notice of the application, in one newspaper that is circulated in the municipal area in at least two of the official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act; or
 - (b) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.

99 Serving of notices

- (1) Notice of an application contemplated in section 98(1) and subsection (2) -
- (a) is considered as having been served when:
 - (i) it has been delivered to the relevant person personally;
 - (ii) it has been left at the relevant person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (iii) when it has been posted by registered or certified mail to the relevant person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (iv) if the relevant person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (i), (ii) or (iii); or

- (v) if the relevant person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.
 - (b) must be in at least two of the official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21A of the Municipal Systems Act;
 - (c) must be served on each owner of an abutting property, including a property separated from the property concerned by a road;
 - (d) must be served on any person who, in the opinion of the Municipality, has an interest in the matter or whose rights may be affected by the approval of the application.
- (2) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law.
- (3) The Municipality may require notice of its intention to consider all other applications not listed in subsection (2) to be given in terms of section 98.
- (4) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (5) Where an applicant has served a notice at the request of the Municipality, the applicant must provide proof that the notice has been served as required.

100 Contents of notice

When notice of an application must be given in terms of section 98 or served in terms of section 99, the notice must contain the following information:

- (a) the name, identity number, physical address and contact details of the applicant;
- (b) identify the land or land unit to which the application relates by giving the property description (erf number) and the physical address (street name and number);
- (c) state the intent and purpose of the application;
- (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- (e) state the contact details of the relevant municipal employee;
- (f) invite members of the public to submit written comments or objections together with the reasons therefor in respect of the application;
- (g) state in which manner comments or objections may be submitted;
- (h) state the date by when the comments or objections must be submitted which must not be less than 30 days from the date on which the notice was given;

- (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections or comments.

101 On-site notice

(1) The Municipality must cause additional notice to be given in accordance with this section if it considers notice in accordance with sections 98 or 99 to be ineffective or in the event of the following applications:

- (a) an application for township development;
- (b) an application for the extension of the boundaries of an approved township;
- (c) an application for rezoning;
- (d) an application for subdivision;
- (e) an application for consolidation.

(2) An on-site notice must be displayed and the notice must be of a size of at least 60 cm by 42 cm (A2 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—

- (a) the notice must be displayed for a minimum of 21 days during the period that the public may comment on the application;
- (b) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
 - (i) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (ii) at least two photos of the notice, one from nearby and one from across the street.

102 Additional methods of public notice

If the Municipality considers notice in accordance with sections 98, 99 or 101 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application:

- (a) to convene a meeting for the purpose of informing the affected members of the public of the application;
- (b) to broadcast information regarding the application on a local radio station in a specified language;
- (c) to hold an open day or public meeting to notify and inform the affected members of the public of the application;

- (d) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
- (e) to obtain letters of consent or objection to the application.

(2) Where an applicant has given additional public notice of an application on behalf of the Municipality, the applicant must provide proof that the additional public notice has been given as required.

(3) Where the Municipality requires an applicant to display a public notice as contemplated in paragraph (a), the Municipality must conduct an on-site inspection to verify whether the applicant has complied with the requirement to display that public notice.

103 Requirements for petitions

(1) All petitions must clearly state—

- (a) the contact details of the authorised representative of the signatories of the petition;
- (b) the full name and physical address of each signatory; and
- (c) the objection and reasons for the objection.

(2) Notice to the person contemplated in subsection (1)(a), constitutes notice to all the signatories to the petition.

104 Requirements for objections or comments

(1) A person may, in response to a notice received in terms of sections 98, 99 or 101, object or comment in accordance with this section.

(2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the municipal employee mentioned in the notice within the time period stated in the notice and in the manner set out in this section.

(3) The objection must state the following:

- (a) the name of the person or body concerned;
- (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
- (c) the interest of the body or person in the application;
- (d) the reason for the objection, comment or representation.

(4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—

- (a) indicate the facts and circumstances which explains the objection, comment or representation;
- (b) demonstrate the undesirable effect which the application will have on the area;

- (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.

(5) Any objection, comment or representation that is received after the closing date of the period referred to in subsection (2) is deemed not to be a valid objection and the Municipality must not accept any such objection, comment or representation.

105 Requirements for intervener status

(1) Where an application has been submitted to the Municipality, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the Municipal Planning Tribunal or the Land Development Officer in writing on the form approved by Council to be granted intervener status.

(2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –

- (a) does not collude with any of the parties; and
- (b) is willing to deal with or act in regard to the application as the Municipal Planning Tribunal or the Land Development Officer may direct.

(3) The Municipal Planning Tribunal or the Land Development Officer must determine whether the requirements of this section have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.

(4) The presiding officer of the Municipal Planning Tribunal or the Land Development Officer must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer or the Land Development Officer is final and must be communicated to the petitioner and the parties.

106 Amendments prior to approval

(1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof -

- (a) at the applicant's own initiative;
- (b) as a result of objections and comments made during the public notification process; or
- (c) at the request of the Municipality.

(2) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resent to municipal departments, organs of state and service providers.

107 Further public notice

(1) The Municipality may require that fresh notice of an application be given if more than 12 months has elapsed since the first public notice of the application and if the application has not been considered by the Municipality.

(2) The Municipality may, at any stage during the processing of the application -

- (a) require notice of an application to be republished or to be served again; and
- (b) an application to be resent to municipal departments for comment,

if new information comes to its attention which is material to the consideration of the application.

108 Cost of notice

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

109 Applicant's right to reply

(1) Copies of all objections or comments lodged with the Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.

(2) The applicant may, within a period of 30 days from the date of the provision of the objections or comments, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections or comments.

(3) The applicant may before the expiry of the 30 day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.

(4) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.

(5) If as a result of the objections or comments lodged with 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 information within the timeframes contemplated in subsection (5), section 94(2) to (5) with the necessary changes, applies.

110 Written assessment of application

(1) An employee authorised by the Municipality must in writing assess an application in accordance with section 53 and recommend to the decision-maker whether the application must be approved or refused.

(2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval contemplated in section 54.

111 Decision-making period

The Municipal Planning Tribunal and the Land Development Officer must, if no integrated process is being followed as contemplated in section 97 consider and decide on the application within the period referred to in regulation 16(4) and (5) of the Regulations.

112 Failure to act within time period

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of these By-Laws and the applicant or interested person may report the non-performance of the Municipal Planning Tribunal or Land Development Officer to the municipal manager, who must report it to the Council and mayor.

113 Powers to conduct routine inspections

(1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in section 110.

(2) When conducting an inspection, the authorised employee may—

- (a) request that any record, document or item be produced to assist in the inspection;
- (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
- (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
- (d) inspect any building or structure and make enquiries regarding that building or structure.

(3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).

(4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.

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

114 Determination of application

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

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

115 Notification of decision

(1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision of the decision and their right to appeal if applicable.

(2) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.

116 Extension of time for fulfilment of conditions of approval

(1) If an applicant wishes to request an extension of the time provided for in the approval in order to comply with the conditions of approval, this request must be in writing and submitted to the Municipality least 60 days in advance of the date on which the approval is due to lapse.

(2) Any request for an extension of time must be accompanied by the reasons for the request.

(3) The Municipality may not unreasonably withhold an approval for the extension of time.

(4) Following receipt of a request for an extension of time, the Municipality must issue a decision in writing to the applicant.

117 Duties of agent of applicant

(1) The agent must ensure that all information furnished to the Municipality is accurate.

(2) The agent must ensure that no misrepresentations are made.

(3) The provision of inaccurate, false or misleading information is an offence.

118 Errors and omissions

(1) The Municipality may at any time, with the written consent of the applicant or, if applicable, any party to the application, correct an error in the wording of its decision provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition of its approval.

(2) The Municipality may, of its own accord or on application by an applicant or interested party, upon good cause being shown, condone an error in the procedure provided that such condonation does not have material adverse impact on or unreasonably prejudice any party.

119 Withdrawal of approval

(1) The Municipality may withdraw an approval granted for a consent use or permanent or temporary departure if the applicant or owner fails to comply with a condition of approval.

(2) Prior to doing so, the Municipality must serve a notice on the owner—

(a) informing the owner of the alleged breach of the condition;

(b) instructing the owner to rectify the breach within a specified time period;

(c) allowing the owner to make representations on the notice within a specified time period.

120 Procedure to withdraw an approval

(1) The Municipality may withdraw an approval granted—

(a) after consideration of the representations made in terms of section 119(2)(c); and

(b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 119(2)(b).

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

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

121 Exemptions to facilitate expedited procedures

The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
 - (i) integrated procedures as contemplated in section 97;
 - (ii) the provision of housing with the assistance of a state subsidy; or
 - (iii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law

CHAPTER 7

ENGINEERING SERVICES AND DEVELOPMENT CHARGES

Part A: Provision and Installation of Engineering Services

122 Responsibility for providing engineering services

(1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.

(2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when an application is approved.

(3) The Municipality is responsible for the installation and provision of external engineering services, subject to the payment of development charges first being received, unless the engineering services agreement referred to in section 124 provides otherwise.

123 Installation of engineering services

(1) The applicant must provide and install the internal engineering services, including private internal engineering services, in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant must lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.

(2) The Municipality must have regard to such standards as the Minister or the Member of the Executive Council may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.

(3) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.

(4) The Municipality must, where any private roads, private open spaces or any other private facilities or engineering services are created or to be constructed with the approval of any application set the standards for the width and or any other matter required to provide sufficient access and engineering services; including but not limited to:

- (a) roadways for purposes of sectional title schemes to be created;
- (b) the purpose and time limit in which private roads, private engineering services and private facilities are to be completed;

124 Engineering services agreement

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

(2) The engineering services agreement must –

- (a) classify the services as internal engineering services, external engineering services or private engineering services;
- (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services, whether private engineering services or not, and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
- (c) provide for the inspection and handing over of internal engineering services to the Municipality or the inspection of private internal engineering services;
- (d) determine that the risk and ownership in respect of such services must pass to the Municipality or the owners' association as the case may be, when the Municipality is satisfied that the services are installed to its standards;
- (e) require the applicant to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
- (f) provide for the following responsibilities after the internal services have been handed over to the Municipality or the owners' association:
 - (i) when normal maintenance by the relevant authority or owners' association must commence;
 - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
 - (iii) the rights of the relevant authority or owners' association if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
- (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;

- (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
- (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
- (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water-pipe terminating at a water meter; and
 - (iii) an electricity house connection cable terminating on the relevant erf; and
- (k) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others –
 - (i) water reticulation;
 - (ii) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
 - (iii) roads and storm-water drainage;
 - (iv) electricity reticulation (high and low tension);
 - (v) street lighting.

(3) The engineering services agreement may require that performance guarantees be provided, or otherwise, with the provision that -

- (i) the obligations of the parties with regard to such guarantees are clearly stated;
- (ii) such guarantee is irrevocable during its period of validity; and
- (iii) such guarantee is transferable by the person to whom such guarantee is expressed to be payable.

(4) Where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading (if any) of services must be recorded in the engineering services agreement.

125 Abandonment or lapsing of application

Where an application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 124 lapses and if the owner had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she must have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

126 Internal and external engineering services

For the purpose of this Chapter:

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

Part B: Development Charges

127 Payment of development charge

(1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -

- (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme; and
- (b) open spaces or parks or other uses, such as social facilities and services, where the commencement of the amendment scheme will bring about a higher residential density.

(2) If an application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must be informed of the amount of the development charge and must, subject to section 124, pay the development charge to the Municipality.

(3) An owner who is required to pay a development charge in terms of this By-law must pay such development charge to the Municipality before:

- (a) any land use right is exercised;
- (b) any connection is made to the municipal bulk infrastructure;
- (c) a written statement contemplated in section 118 of the Municipal System Act is furnished in respect of the land;
- (d) a building plan is approved in respect of:
 - (i) the proposed alteration of or addition to an existing building on the land;

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

128 Offset of development charge

(1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services and, if applicable, the cost of internal infrastructure where additional capacity is required by the Municipality, against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.

(2) The owner must submit documentary proof of the estimated cost of the installation of the external engineering services.

(3) The amount to be offset against the applicable development charge must be determined by the Municipality.

(4) If the cost of the installation of the external engineering services exceeds the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.

(5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 124.

129 Payment of development charge in instalments

The Municipality may -

- (a) in the circumstances contemplated in section 128(1), allow payment of the development charge contemplated in section 127 in instalments agreed to in the engineering services agreement which must comply with the timeframes provided for in the Municipality's Credit Control and Debt Collection By-Law or policy, or if last-mentioned By-Law does not provide for such instalments, over a period not exceeding three years;
- (b) in any case, allow payment of the development charge contemplated in section 127 to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest.

130 Refund of development charge

No development charge paid to the Municipality in terms of section 127 or any portion thereof must be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 125 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

131 General matters relating to contribution charges

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

(2) The Municipality must annually prepare a report on the application fees and development charges paid to the Municipality together with a statement of the Municipality's infrastructure expenditure and must submit such report and statement to the Premier.

CHAPTER 8

APPEAL PROCEDURES

PART A: ESTABLISHMENT OF MUNICIPAL APPEAL TRIBUNAL

132 Establishment of Municipal Appeal Tribunal

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

(2) The Municipality may, if it is a member of a joint or district Municipal Planning Tribunal, in writing, agree with the other party to the joint or district Municipal Planning Tribunal agreement, to establish a joint or district Municipal Appeal Tribunal, provided that not all the parties to a joint or district Municipal Planning Tribunal have to be a party to a joint or district Municipal Appeal Tribunal.

(3) If a joint or district Municipal Appeal Tribunal is established that joint or district Municipal Appeal Tribunal is hereby authorised to assume the obligations of the appeal authority.

(4) An agreement to establish a joint or district Municipal Appeal Tribunal must describe the rights, obligations and responsibilities of the participating municipalities and must provide for -

- (a) the name and demarcation code of each of the participating municipalities;
- (b) the budgetary, funding and administrative arrangements for the joint or district Municipal Appeal Tribunal;
- (c) the manner of appointment of members to the joint or district Municipal Appeal Tribunal, the filling of vacancies and the replacement and recall of the officials;

- (d) the appointment of a chief presiding officer;
- (e) the appointment of a nominee to inspect, at any time during normal business hours, the records, operations and facilities of the joint or district Municipal Appeal Tribunal on behalf of the participating municipalities;
- (f) determine the conditions for, and consequences of the withdrawal from the agreement of a participating municipality;
- (g) determine the conditions for, and consequences of, the termination of the agreement, including the method and schedule for winding-up the operations of the joint or district Municipal Appeal Tribunal; and
- (h) any other matter relating to the proper functioning of the joint or district Municipal Appeal Tribunal.

(5) The Municipality must, within 30 days after signing of the agreement contemplated in this section, authorise the joint or district Municipal Appeal Tribunal to assume the obligations of the appeal authority.

(6) The Municipality must, within 30 days after the authorisation referred to in subsection (2) publish a notice of the agreement in the *Provincial Gazette* and one newspaper that is circulated in the municipal area in two official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act.

(7) If a joint or district Municipal Appeal Tribunal is established in terms of this Part, a person who wants to appeal a decision taken by the joint or district Municipal Planning Tribunal must appeal against that decision to the joint or district Municipal Appeal Tribunal, as the case may be.

(8) Any reference in this Part to the Municipal Appeal Tribunal is, unless the context indicates otherwise, a reference to the joint or district Municipal Appeal Tribunal and the Municipality may, when the publication of a notice is required in this Part, jointly issue such notice together with the other participating Municipalities.

133 Institutional requirements for establishment of Municipal Appeal Tribunal

(1) The Municipality, in establishing a Municipal Appeal Tribunal in terms of section 132, must, amongst others –

- (a) determine the terms and conditions of service of the members of the Municipal Appeal Tribunal;
- (b) identify any additional criteria that a person who is appointed as a member of the Municipal Appeal Tribunal must comply with;
- (c) consider the qualifications and experience of the persons it is considering for appointment to the Municipal Planning Tribunal, make the appropriate appointments and designate the chief presiding officer;
- (f) inform the members in writing of their appointment;
- (g) publish the names of the members of the Municipal Appeal Tribunal and their term of office in the *Provincial Gazette*;

- (h) determine the location of the office where the Municipal Appeal Tribunal must be situated; and
 - (i) develop and approve operational procedures for the Municipal Appeal Tribunal.
- (2) The Municipality may not appoint any person to the Municipal Appeal Tribunal if that person -
- (a) is disqualified from appointment as contemplated in section 135; or
 - (b) if he or she does not possess the knowledge or experience required in terms of section 134 or the additional criteria determined by the Municipality in terms of subsection (1)(b).
- (3) The Council must –
- (a) remunerate members of the Municipal Appeal Tribunal for each hearing of the Municipal Appeal Tribunal in accordance with the rates determined by Treasury; and
 - (b) designate an employee of the Municipality or appoint a person as secretary to the Municipal Appeal Tribunal.

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

(1) The Municipal Appeal Tribunal must consist of between 3 and 5 members which must include at least:

- (a) one member who is a professional planner and who has appropriate experience;
- (b) one member who is qualified in law and who has appropriate experience; and
- (c) one member who is registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000.

(2) The chief presiding officer must designate at least three members of the Municipal Appeal Tribunal to hear, consider and decide a matter which comes before it and must designate one member as the presiding officer.

(3) No Member of Parliament, the Provincial Legislator or a House of Traditional Leaders, a councillor or employee of the Municipality may be appointed as a member of the Municipal Appeal Tribunal.

(4) No member of the Municipal Planning Tribunal or joint Municipal Planning Tribunal may serve on the Municipal Appeal Tribunal.

(5) If a person referred to in subsection (3) or (4) is a member of the Municipal Appeal Tribunal hearing the appeal, his or her membership renders the decision of the Municipal Appeal Tribunal on that matter void.

(6) The term of office of the members of the Municipal Appeal Tribunal is five years.

(7) After the first terms of office of five years referred to in subsection (6) has expired the appointment of members of the Municipal Appeal Tribunal for the second and subsequent terms of office must be in accordance with the provisions of this Part.

(8) A member whose term of office has expired may be re-appointed as a member of the Municipal Appeal Tribunal.

(9) Members of the Municipal Appeal Tribunal must sign and uphold the code of conduct contemplated in Schedule 16.

135 Disqualification from membership of Municipal Appeal Tribunal

(1) A person may not be appointed or continue to serve as a member of the Municipal Appeal Tribunal, if that person –

- (a) is not a citizen of the Republic, and resident in the province;
- (b) is a member of Parliament, a provincial legislature, House of Traditional Leaders or the Council or is an employee of the Municipality;
- (c) is an un-rehabilitated insolvent;
- (d) is of unsound mind, as declared by a court;
- (e) has at any time been convicted of an offence involving dishonesty;
- (f) has at any time been removed from an office of trust on account of misconduct; or
- (g) has previously been removed from a Municipal Planning Tribunal or Municipal Appeal Tribunal for a breach of any provision of this Act.

(2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).

136 Termination of membership of Municipal Appeal Tribunal

(1) A person's membership of the Municipal Appeal Tribunal may be terminated by a decision of the Municipalities if there are good reasons for doing so after giving such member an opportunity to be heard.

(2) The reasons for removal referred to in subsection (1) may include, but are not limited to –

- (a) misconduct, incapacity or incompetence; and
- (b) failure to comply with any provisions of the Act or this By-Law.

(3) If a member's appointment is terminated or a member resigns, the Municipality must publish the name of a person selected by the Municipality to fill the vacancy for the unexpired portion of the vacating member's term of office.

(4) The functions of the Municipal Appeal Tribunal must not be affected if any member resigns or his or her appointment is terminated.

137 Status of decision of joint Municipal Appeal Tribunal

A decision of a joint Municipal Appeal Tribunal relating to land located in the municipal area of the Municipality is binding on the parties to the appeal and the Municipality.

PART B: MANAGEMENT OF AN APPEAL AUTHORITY

138 Presiding officer of appeal authority

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

139 Bias and disclosure of interest

(1) No presiding officer or member of the appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the Land Development Officer and he or she made the decision that is the subject of the appeal.

(2) A member of the appeal authority-

- (a) must make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider;
- (b) may not attend, participate or vote in any proceedings of the appeal authority in relation to any matter in respect of which the member has a conflict of interest.

(3) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in this section must recuse himself or herself from the appeal hearing.

(4) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.

(5) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.

(6) For the purpose of this Chapter "conflict of interest" means any factor that may impair or reasonable give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.

(7) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following:

- (a) A person with whom the presiding officer or member has a personal, familiar or professional relationship;
- (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
- (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer's or member's participation in the adjudication of the matter would be inappropriate.

140 Registrar of appeal authority

(1) The municipal manager of the Municipality is the registrar of the appeal authority.

(2) Notwithstanding the provisions of subsection (1), the Council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority.

(3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the Council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.

(4) Any person appointed or designated under subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

141 Powers and duties of registrar

(1) The registrar is responsible for managing the administrative affairs of the appeal authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the appeal authority and to ensure accessibility and maintenance of the dignity of the appeal authority.

(2) The duties of the registrar include –

- (a) the determination of the sitting schedules of the appeal authority;
- (b) assignment of appeals to the appeal authority;
- (c) management of procedures to be adhered to in respect of case flow management and the finalisation of any matter before the appeal authority;
- (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
- (e) the establishment of a master registry file for each case which must record –
 - (i) the reference number of each appeal;
 - (ii) the names of the parties;
 - (iii) all actions taken in connection with the preparation of the appeal for hearing;
 - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
 - (v) the date of the hearing of the appeal;
 - (vi) the decision of the appeal authority;
 - (vii) whether the decision was unanimous or by majority vote; and
 - (viii) any other relevant information.

(3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.

(4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

PART C: APPEAL PROCESS

142 Commencing of appeal

An appellant must commence an appeal by delivering a Notice of Appeal on a form approved by the Council to the municipal manager and the parties to the original application within 21 days as contemplated in section 51 of the Act.

143 Notice of appeal

(1) A Notice of Appeal must clearly indicate:

- (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;

- (b) where applicable, whether the appeal is against any conditions of approval contemplated in section 54 of an application and which conditions;
- (c) the grounds of appeal including any findings of fact or conclusions of law;
- (d) a clear statement of the relief sought on appeal;
- (e) any issues that the appellant wants the appeal authority to consider in making its decision; and
- (f) a motivation of an award for costs.

(2) An appellant may, within seven days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

144 Notice to oppose an appeal

A notice to oppose an appeal must be delivered to the municipal manager within 21 days from delivery of the notice of appeal referred to in section 143 and it must clearly indicate:

- (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
- (b) whether any conditions of approval contemplated in section 54 of an application are opposed and which conditions;
- (c) whether the relief sought by the appellant is opposed;
- (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute;
- (e) a clear statement of relief sought on appeal.

145 Screening of appeal

(1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:

- (a) It complies with the form approved by the Council;
- (b) it is submitted within the required time limit; and,
- (c) the appeal authority has jurisdiction over the appeal.

(2) If a Notice of Appeal does not comply with the form approved by the Council, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.

(3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.

(4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.

(5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.

(6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.

(7) The provisions of this section apply, with the necessary changes, to a notice to oppose an appeal contemplated in section 144.

PART D: PARTIES TO AN APPEAL

146 Parties to appeal

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

147 Intervention by interested person

(1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or Land Development Officer and might therefore be affected by the judgement of the appeal authority.

(2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –

- (a) does not collude with any of the appellants; and
- (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.

(3) The registrar must determine whether the requirements of this section have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.

(4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.

PART E: JURISDICTION OF APPEAL AUTHORITY

148 Jurisdiction of appeal authority

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

- (a) the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
- (b) the merits of the application.

149 Written or oral appeal hearing by appeal authority

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

150 Representation before appeal authority

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

151 Opportunity to make submissions concerning evidence

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

PART F: HEARINGS OF APPEAL AUTHORITY**152 Notification of date, time and place of hearing**

(1) The appeal authority must notify the parties of the date, time and place of a hearing no later than 14 days after the municipal manager submitted the appeal to the appeal authority as contemplated in regulation 25(1) of the Regulations.

(2) The appeal authority will provide notification of the hearing to the appellant at the appellant's address for delivery.

153 Hearing date

(1) A hearing will commence on a date determined by the registrar, which hearing may not take place later than 60 days from the date on which the municipal manager submitted the appeal to the appeal authority as contemplated in regulation 25(1) of the Regulations.

(2) The parties and the presiding officer may agree to an extension of the date referred to in subsection (1).

154 Adjournment

(1) If a party requests an adjournment more than one day prior to the hearing, the party must obtain the written consent of the other party and the presiding officer of the appeal authority.

(2) The party requesting an adjournment must deliver to the appeal authority a completed form including reasons for the request.

(3) The appeal authority will notify the parties in writing of the decision of the presiding officer of the appeal authority.

(4) If the presiding officer of the appeal authority or the other party does not consent to the request for an adjournment, the hearing will not be adjourned.

(5) If a party requests an adjournment within one day prior to the hearing, the request must be made to the appeal authority at the hearing and may be made notwithstanding that a prior request was not consented to.

155 Urgency and condonation

(1) The registrar may –

- (a) on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
- (b) on good cause shown, condone any failure by any party to an appeal to comply with this By-Law or any directions given in terms hereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person;

(2) Every application for condonation made in terms of this section must be –

- (a) served on the registrar;
- (b) accompanied by a memorandum setting forth the reasons for the failure concerned; and
- (c) determined by the presiding officer in such manner as he or she considers proper.

(3) Where a failure is condoned in terms of subsection(1)(b), the applicant for condonation must comply with the directions given by the registrar when granting the condonation concerned.

156 Withdrawal of appeal

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

PART G: ORAL HEARING PROCEDURE

157 Location of oral hearing

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

158 Presentation of each party's case

(1) Each party has the right to present evidence and make arguments in support of that party's case.

(2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Land Development Officer.

159 Witnesses

(1) Each party may call witnesses to give evidence before the panel.

(2) A witness may not be present at the hearing before giving evidence unless the witness is:

- (a) an expert witness in the proceedings;
- (b) a party to the appeal; or
- (c) a representative of a party to the appeal.

160 Proceeding in absence of party

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

161 Recording

Hearings of the appeal authority must be recorded in hard copy and electronic format.

162 Oaths

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

163 Additional documentation

- (1) Any party wishing to provide the appeal authority with additional documentation not included in the appeal record should provide it to the appeal authority at least three days before the hearing date.
- (2) The registrar must distribute the documentation to the other party and the members of the appeal authority.
- (3) If the party is unable to provide the additional documentation to the appeal authority at least 3 days prior to the hearing, the party may provide it to the appeal authority at the hearing.
- (4) The party must bring copies of the additional documentation for the members of the appeal authority and the other party.
- (5) If the additional documentation brought to the hearing is substantive or voluminous, the other party may request an adjournment from the appeal authority.

PART G: WRITTEN HEARING PROCEDURE**164 Commencement of written hearing**

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

165 Presentation of each party's case in written hearing

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given 21 days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Land Development Officer.
- (4) The Municipal Planning Tribunal or the Land Development Officer has 21 days in which to provide a submission in response.
- (5) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

166 Extension of time to provide a written submission

(1) If a party wishes to request an extension of the time established to provide a written submission, this request must be in writing to the appeal authority in advance of the date on which the submission is due.

(2) Any request for an extension must be accompanied by the reasons for the request.

(3) Following receipt of a request for an extension of time, the appeal authority will issue a decision in writing to the parties.

167 Adjudication of written submissions

(1) Following receipt of any written submissions from the parties, the municipal manager must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.

(2) If no written submissions are received from the parties, the municipal manager will forward the existing appeal record to the appeal authority for adjudication.

(3) Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.

(4) The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given seven days to provide a written submission in response.

PART I: DECISION OF APPEAL AUTHORITY**168 Further information or advice**

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

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

169 Decision of appeal authority

(1) The appeal authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or Land Development Officer and may include an award of costs.

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

170 Notification of decision

The registrar must notify the parties of the decision of the appeal authority in terms of section 169, together with the reasons therefor within seven days after the appeal authority handed down its decision.

171 Directives to Municipality

The appeal authority must, in its decision, give directives to the Municipality concerned as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the Municipality as far as implementation of the decision is concerned.

PART I: GENERAL

172 Expenditure

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

CHAPTER 9 COMPLIANCE AND ENFORCEMENT

173 Enforcement

The Municipality must comply and enforce compliance with—

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

174 Offences and penalties

(1) Any person who—

- (a) contravenes or fails to comply with sections 58 and 65 and subsection (2);
- (b) fails to comply with a compliance notice served in terms of section 175;
- (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
- (d) supplies particulars, information or answers in an application or in an appeal to a decision on an application, knowing it to be false, incorrect or misleading or not believing them to be correct;
- (e) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
- (f) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee;
- (g) upon registration of the first land unit arising from a township establishment or a subdivision, fails to transfer all common property, including private roads and private places origination from the subdivision, to the owners' association,

is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.

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

(3) A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.

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

175 Service of compliance notice

(1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 174.

(2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—

- (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or
- (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.

(3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).

(4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.

(5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised work.

(6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the compliance notice.

176 Content of compliance notices

(1) A compliance notice must—

- (a) identify the person to whom it is addressed;
- (b) describe the activity concerned and the land on which it is being carried out;

- (c) state that the activity is illegal and inform the person of the particular offence contemplated in section 174 which that person allegedly has committed or is committing through the carrying on of that activity;
- (d) the steps that the person must take and the period within which those steps must be taken;
- (e) anything which the person may not do, and the period during which the person may not do it;
- (f) provide for an opportunity for a person to lodge representations contemplated in terms of section 177 with the contact person stated in the notice;
- (g) issue a warning to the effect that—
 - (i) the person could be prosecuted for and convicted of an offence contemplated in section 174;
 - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
 - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
 - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
 - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;

(2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 177.

177 Objections to compliance notice

(1) Any person or owner who receives a compliance notice in terms of section 175 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.

(2) Subject to the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—

- (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
- (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

178 Failure to comply with compliance notice

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

- (a) lay a criminal charge against the person;

- (b) apply to an applicable court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
- (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and then act in terms of section 175.

179 Urgent matters

(1) In cases where an activity must be stopped urgently, the Municipality may dispense with the procedures set out above and issue a compliance notice calling upon the person or owner to cease immediately.

(2) If the person or owner fails to cease the activity immediately, the Municipality may apply to any applicable court for an urgent interdict or any other relief necessary.

180 Subsequent application for authorisation of activity

(1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 175 to demolish the building work.

(2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

181 Power of entry for enforcement purposes

(1) An authorised employee may, with the permission of the occupier or owner of land, at any reasonable time, and without a warrant, and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.

(2) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of this By-law.

(3) An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

182 Power and functions of authorised employee

(1) In ascertaining compliance with this By-law as contemplated in section 173, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.

(2) An authorised employee must not have a direct or indirect personal or private interest in the matter to be investigated.

183 Warrant of entry for enforcement purposes

(1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—

- (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
- (b) purpose of the inspection would be frustrated by the prior knowledge thereof.

(2) A warrant referred to in subsection (1) may be issued by a judge of any applicable court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—

- (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
- (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
- (c) there are reasonable grounds for suspecting that a contravention contemplated in section 174 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
- (d) the inspection is reasonably necessary for the purposes of this By-law.

(3) A warrant must specify which of the acts mentioned in section 182 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in section 182 as specified in the warrant on one occasion only, and that entry must occur -

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

184 Regard to decency and order

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include a person's right to respect for and protection of his or her dignity.

185 Court order

Whether or not the Municipality has instituted proceedings against a person for an offence contemplated in section 174, the Municipality may apply to an applicable court for an order compelling that person to—

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

CHAPTER 10 TRANSITIONAL PROVISIONS

186 Transitional provisions

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

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

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

in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection;

(4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (2)(a), such allegation is deemed to be correct until the contrary is proved.

(5) Where any land use provisions are contained in any title deed, deed of grant or 99 year leasehold, which did not form part of a town planning scheme, such land use provisions apply as contemplated in subsection (2).

(6) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the land use scheme or town planning scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

187 Determination of zoning

(1) Notwithstanding the provisions of section 186(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act.

(2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:

- (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
- (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
- (c) any departure or consent use that may be required in conjunction with that zoning;
- (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the Municipality; and
- (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any 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 give notice of its intention to do so in terms of section 98.

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

CHAPTER 11
GENERAL PROVISIONS

188 Delegations

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

189 Repeal of by-laws

The (*insert the name of the applicable by-laws*) are hereby repealed.

190 Fees payable

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

191 Policy, procedure, determination, standard, requirement and guidelines

(1) The Municipality may adopt a policy, procedure, determination, standard, requirement or guidelines, not inconsistent with the provisions of the Act and this By-Law, for the effective administration of this By-Law.

(2) Unless the power to determine is entrusted to the Council, another person or body, the Municipal Manager may determine anything which may be determined by the Municipality in terms of the Act, the Regulations or this By-Law.

(3) The Municipality must make available any policy, procedure, determination, standard, requirement or guidelines.

(4) An applicable policy, procedure, determination, standard, requirement and guidelines apply to an application submitted and decided in terms of this By-Law.

192 Short title and commencement

(1) This By-law is called the Blouberg By-law on Spatial Planning and Land Use Management.

(2) This By-law comes into operation on the date of publication in the *Provincial Gazette*.

SCHEDULE 1

INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE BLOUBERG MUNICIPAL PLANNING TRIBUNAL OR THE JOINT OR DISTRICT MUNICIPAL PLANNING TRIBUNAL*

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

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

Nominees must be persons registered with the professional bodies contemplated in section 34(1)(a) – (f) of the Blouberg By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

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

Nominations must be sent to:

The Municipal Manager
Blouberg Local Municipality

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),

ID No (of nominee),

hereby declare that –

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

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

No nominations submitted after the closing date will be considered.

CLOSING DATE: _____

Signature of Nominee

Full Names of Nominee

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

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

* Delete the option that is not applicable.

SCHEDULE 2**CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE BLOUBERGMUNICIPAL PLANNING TRIBUNAL OR THE JOINT OR DISTRICT MUNICIPAL PLANNING TRIBUNAL*****CLOSING DATE:** _____

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Blouberg Local Municipality hereby call for nominations for members of the public to be appointed to the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* for its term of office.

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

Nominees must be persons registered with the professional bodies contemplated in section 34(1)(a) – (f) of the Blouberg By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

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

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

Nominations must be sent to:

The Municipal Manager

Blouberg Local Municipality

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),

ID No (of nominee),

hereby declare that –

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

No nominations submitted after the closing date will be considered.

Signature of Nominee

Full Names of Nominee

* Delete the option that is not applicable.

**SCHEDULE 3
DISCLOSURE OF INTERESTS FORM**

I, the undersigned,

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

do hereby declare that -

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

CONFLICTING INTERESTS	

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

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

2. REMUNERATIVE WORK, CONSULTANCY & RETAINERSHIPS			
Name of Company & Occupation	Type of Business	Rand amount per month	Period
1.			
2.			
3.			
4.			
5.			

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

- (e) I am South African citizen or a permanent resident in the Republic
- (f) I am not a member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a court of law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a tribunal for a breach of any provision of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the BloubergBy-Law on Spatial Planning and Land Use Management, 2015 enacted by the Blouberg Local Municipality.;
- (l) I have not been found guilty of misconduct, incapacity or incompetence; or
- (m) I have not failed to comply with the provisions of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the BloubergBy-Law on Spatial Planning and Land Use Management, 2015 enacted by the BloubergLocal Municipality.

Signature of Nominee: _____

Full Names: _____

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

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

COMMISSIONER OF OATHS

FULL NAMES: _____

DESIGNATION: _____

ADDRESS: _____

* Delete the option that is not applicable

SCHEDULE 4
CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL OR THE JOINT OR
DISTRICT MUNICIPAL PLANNING TRIBUNAL*

I, the undersigned,

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

do hereby declare that I will uphold the Code of Conduct of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* contained hereunder:

General conduct

1. I, as a member of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* will at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose my personal interests in any decision to be made in the planning process in which I have been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which I have a personal interest and I will leave any chamber in which such matter is under deliberation unless my personal interest has been made a matter of public record and the Blouberg Local Municipality has given me written approval and has expressly authorised my participation.

2. I will not, as a member of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* -
 - (a) use the position or privileges of my membership of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* or use confidential information obtained as a member of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* for my personal gain or to improperly benefit another person; and
 - (b) participate in a decision concerning a matter in which I, my spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

Gifts

3. I will not, as a member of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence my objectivity as an advisor or decision-maker in the planning process.

Undue influence

4. I will not, as a member of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* -
- (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 my duties to further a personal interest;
 - (c) disclose confidential information acquired in the course of my 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 Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal*, the Blouberg Local Municipality, the government or the planning profession by seeking business by stating or implying that I am prepared, willing or able to influence decisions of the Blouberg Municipal Planning Tribunal or the joint or district Municipal Planning Tribunal* by improper means.

Signature of Nominee: _____

Full Names: _____

Date: _____

* Delete the option that is not applicable

SCHEDULE 5 OWNERS' ASSOCIATIONS

General

1. The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
2. An owners' association that comes into being by virtue of subitem 1 is a juristic person and must have a constitution.
3. The constitution of an owners' association must be approved by the Municipality before the transfer of the first land unit and must provide for—
 - (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (c) the regulation of at least one yearly meeting with its members;
 - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
 - (f) enforcement of conditions of approval contemplated in section 54 or management plans;
 - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
 - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
4. The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
5. The constitution of an owners' association may be amended when necessary provided that an amendment that affects the Municipality or a provision referred to in sub item 3 is approved by the Municipality.
6. An owners' association which comes into being by virtue of sub item 1 -
 - (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
 - (b) is upon registration of the first land unit, automatically constituted.
7. The design guidelines contemplated in sub item 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
8. If an owners' association fails to meet any of its obligations contemplated in sub item 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subitem 6(a), the amount of any expenditure incurred by it in respect of those actions.

9. The amount of any expenditure so recovered is, for the purposes of subitem 8, considered to be expenditure incurred by the owners' association.

Owners' association ceases to function

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

SCHEDULE 6
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE ESTABLISHMENT OF A TOWNSHIP OR THE EXTENSION OF THE BOUNDARIES OF A TOWNSHIP

1. An application for the amendment of an existing scheme or land use scheme by the rezoning of land must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (c) a locality plan on an appropriate scale;
 - (d) a layout plan in the scale approved by the Council and containing the information as considered necessary by the Municipality;
 - (g) draft conditions of establishment for the proposed township in the format approved by the Council;
 - (h) a copy of the appropriate zoning of the applicable land;
 - (i) an engineering geological investigation and report compiled by a suitably qualified professional;
 - (j) an undermining stability report, where applicable, compiled by a suitably qualified professional;
 - (k) if the land is encumbered by a bond, the consent of the bondholder;
 - (l) confirmation whether or not a mining or prospecting right or permit over the land is held or is being applied for in terms of the Mineral and Petroleum Resources Development Act, 2002;
 - (m) other limited real rights on the property;
 - (n) confirmation and details of any land claims on the property;
 - (o) a conveyancer's certificate;
 - (p) in the case of the extension of the boundaries of a township, the consent from the Surveyor-General to the proposed extension of boundaries.
2. An application contemplated in Part H of Chapter 5 does not have to be accompanied by a certified copy of the title deed of the relevant land or the consent of the bondholder.
3. The motivation contemplated in section 90(2)(d) must contain at least the following information:
 - (a) The development intentions of the Municipality on the application property; as contained in the spatial development framework and other municipal policies;
 - (b) compliance with applicable norms and standards and development principles in the Municipality;
 - (c) the existing land use rights on the property;
 - (d) the need and desirability of the proposed land development;

- (e) the effect of the development on the use or development of other land which has a common means of drainage;
- (f) any environmental implications of the proposed land development;
- (g) an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act (Act 107 of 1998);
- (h) the density of the proposed development
- (i) the area and dimensions of each erf in the proposed township;
- (j) the layout of roads having regard to their function and relationship to existing roads;
- (k) the provision and location of public open space and other community facilities;
- (l) any phased developments;
- (m) if the land is not serviced and no provision has been made for a waterborne sewer system, the capacity of the land to treat and retain all sewage and sullage within the boundaries of each erf or subdivided land parcel; and
- (n) the applicable regulations as contained in the land use scheme.

SCHEDULE 7
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE AMENDMENT OF AN
EXISTING SCHEME OR LAND USE SCHEME BY THE REZONING OF LAND

1. An application for the amendment of an existing scheme or land use scheme by the rezoning of land must, in addition to the documentation referred to in section90(2), be accompanied by –
 - (a) a certified copy of the title deed of relevant land;
 - (b) a copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
 - (c) a locality plan on an appropriate scale;
 - (d) a zoning plan or land use rights plan, in colour and on an appropriate scale, of the application surrounding properties;
 - (e) the amendment scheme map and schedule approved by the Council;
 - (f) if the land is encumbered by a bond, the consent of the bondholder,
2. An application contemplated in Part H of Chapter 5 does not have to be accompanied by a certified copy of the title deed of the relevant land or the consent of the bondholder.
3. The motivation contemplated in section90(2)(d) must contain at least the following information:
 - (a) An indication of the persons, communities and institutions likely to be affected by the amendment and the likely impact on them;
 - (b) the interest of the applicant in bringing the application;
 - (c) a discussion on the content of the scheme prior to the proposed amendment and the need for the amendment;
 - (d) a discussion on the proposed amendment;
 - (e) the expected impact on the current, adopted municipal spatial development framework and integrated development plan;
 - (f) the possible impact of the amendment on the environment and probable mitigating elements;
 - (g) an indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act, 1998;
 - (h) an indication of the persons, communities and institutions likely to be affected by the amendment and the likely impact on them.

SCHEDULE 8
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE REMOVAL, AMENDMENT
OR SUSPENSION OF A RESTRICTIVE OR OBSOLETE CONDITION, SERVITUDE OR RESERVATION
REGISTERED AGAINST THE TITLE OF THE LAND

1. An application for the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a certified copy of the notarial deed of servitude;
 - (c) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (d) a copy of the servitude diagram approved by the Surveyor-General;
 - (e) a locality plan on an appropriate scale;
 - (f) a description of all existing and proposed servitudes and services on the land; and
 - (g) if the land is encumbered by a bond, the consent of the bondholder.
2. The motivation contemplated in section 90(2)(d) must make specific reference to the applicable condition or servitude, as well as a motivation on the necessity and desirability of the application.

SCHEDULE 9
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION OF THE AMENDMENT OR
CANCELLATION IN WHOLE OR IN PART OF A GENERAL PLAN OF A TOWNSHIP

1. An application for the amendment or cancellation in whole or in part of a general plan must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) copies of the relevant sheet of the general plan which may be reduced copies of the original;
 - (b) copies of a plan of the township showing the posed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
 - (c) copy of the title deed which is registered in the Deeds Office at the time when the application is submitted of the land affected by the alteration, amendment or total or partial cancellation;
 - (d) if the land is encumbered by a bond, the bondholder's consent;

2. The motivation contemplated in section 90(2)(d) must state the reasons for the posed alteration or amendment.

CONTINUES ON PAGE 258 - PART 3



LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
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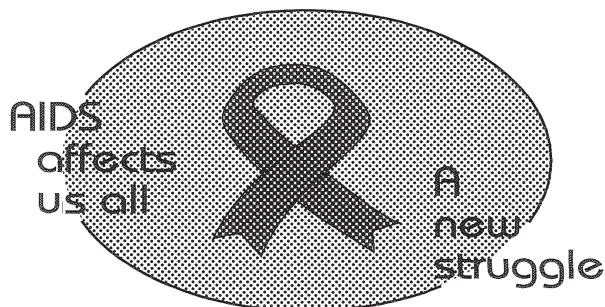
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POLOKWANE,
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SCHEDULE 10
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE SUBDIVISION OF ANY LAND

1. An application for the subdivision of land must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (c) the appropriate consent where required in terms of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970);
 - (d) a locality plan on an appropriate scale;
 - (f) a layout plan in the scale approved by the Council and containing the information as considered necessary by the Municipality;
 - (g) draft conditions of establishment for the proposed subdivision;
 - (h) a copy of the appropriate zoning of the applicable land;
 - (i) if the land is encumbered by a bond, the consent of the bondholder.

2. The motivation contemplated in section 90(2)(d) must contain at least the following information:
 - (a) The development intentions of the Municipality on the application property, as contained in the spatial development framework and other municipal policies;
 - (b) the need and desirability of the proposed subdivision;
 - (c) a justification on the suitability of the land for subdivision;
 - (d) a traffic impact assessment of the proposed development;
 - (e) an assessment of the social impact of the proposed land development;
 - (f) the impact of the proposed land development on the future use of land in the locality;
 - (g) the impact of the proposed subdivision on the future use of land in the locality;
 - (h) the availability of subdivided land in the area and the need for the creation of further erven or subdivisions;
 - (i) the effect of the development on the use or development of other land which has a common means of drainage;
 - (j) the subdivision pattern having regard to the physical characteristics of the land including existing vegetation;
 - (k) the density of the proposed development;
 - (l) the area and dimensions of each erf;

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

SCHEDULE 11
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE CONSOLIDATION OF ANY LAND

1. An application for the consolidation of land must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a certified copy of the title deed of the land;
 - (b) a copy of the diagram of every property concerned or, where such diagram is not available, a plot diagram to every piece of land concerned;
 - (c) a locality plan on an appropriate scale;
 - (d) a layout plan in the scale approved by the Council;
 - (e) draft conditions of establishment for the proposed consolidation;
 - (f) a copy of the appropriate zoning of the applicable land;
 - (g) if the land is encumbered by a bond, the consent of the bondholder.

2. The motivation contemplated in section 90(2)(d) must explain and motivate the application.

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

1. An application for the permanent closure of a public place must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a copy of the relevant general plan;
 - (b) a copy of the approved conditions of establishment of the existing township;
 - (c) a locality plan on an appropriate scale;
 - (d) a layout plan in the scale approved by the Council;

2. The motivation contemplated in section 90(2)(d) must explain and motivate the application.

SCHEDULE 13
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR CONSENT OR APPROVAL
REQUIRED IN TERMS OF A CONDITION OF TITLE, A CONDITION OF ESTABLISHMENT OF A
TOWNSHIP OR CONDITION OF AN EXISTING SCHEME OR LAND USE SCHEME

1. An application for the consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a certified copy of the title deed of relevant land;
 - (b) a copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
 - (c) a locality plan on an appropriate scale;
 - (d) a description of all existing and proposed servitudes and/or services on the applicable land;
 - (e) the copy of the land use rights certificate on the applicable land;
 - (f) if the land is encumbered by a bond, the consent of the bondholder;
 - (g) a zoning plan or land use rights plan; and
 - (h) a land use plan.

2. The motivation contemplated in section 90(2)(d) must make specific reference to the zoning and other regulations in terms of the land use scheme.

SCHEDULE 14
ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR TEMPORARY USE

1. An application for temporary use must, in addition to the documentation referred to in section 90(2), be accompanied by –
 - (a) a power of attorney from the registered owner of the land if the applicant is not the registered owner;
 - (b) if the land is encumbered by a bond, the bondholder's consent'
 - (c) a locality plan;
 - (d) a copy of the title deed which is registered in the Deeds Office at the time when the application is submitted;
 - (e) a copy of the zoning certificate, including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable.
2. The motivation contemplated in section 90(2)(d) must contain at least the following information:
 - (a) reference to the objective and principles contained in this By-law;
 - (b) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or deviated from it;
 - (c) The need and desirability of the application;
 - (d) Discuss the application in terms of the Development Principles, norms and standards as referred to in Chapter 2 of the Act.

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

I, the undersigned,

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

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

General conduct

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

3. I will not, as a member of the Municipal Appeal Tribunal -
 - (a) use the position or privileges as a member of the Municipal Appeal Tribunal or confidential information obtained as a member of the Municipal Appeal Tribunal for personal gain or to improperly benefit another person; and
 - (b) participate in a decision concerning a matter in which I or my spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

Gifts

3. I will not, as a member of the Municipal Appeal Tribunal receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence my objectivity as a member of the Municipal Appeal Tribunal.

Undue influence

4. I will not, as a member of the Municipal Appeal Tribunal -
 - (e) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;

- (f) use confidential information acquired in the course of my to further a personal interest;
- (g) disclose confidential information acquired in the course of my duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
- (h) Commit a deliberately wrongful act that reflects adversely on the Municipal Appeal Tribunal, the Municipality, the government or the planning profession by seeking business by stating or implying that I am prepared, willing or able to influence decisions of the Municipal Appeal Tribunal by improper means.

Signature of Member: _____

Full Names: _____

Date: _____

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS**LOCAL AUTHORITY NOTICE 104 OF 2017****POLOKWANE / PERSKEBULT AMENDMENT SCHEME 610**

The Polokwane Municipality hereby gives notice in terms of Section 28(1)(a) of the Town Planning and Townships Ordinance, 1986, (Ord. No. 15 of 1986) read together with the Spatial Planning and Land Use Management Act, 2013, that an amendment scheme to be known as Polokwane / Perskebult Amendment Scheme 610, has been prepared by it. This amendment scheme contains the following proposal:

The rezoning of a part (3383m² in extent also known as Lease areas 1 and 2) of Erf 26977, Polokwane Extension 124, situated at the main entrance from Munnik Avenue to Baobab Boulevard from "Special" for a Vehicle Sales Lot (motor dealership) with subordinate and ancillary offices, including a kiosk, and the carrying on of the business servicing, repairing, washing, cleaning, polishing of vehicles and related purposes, that include the parking or storage of vehicles, as well as the sale of spare parts, accessories and lubricants for vehicles to "Special" for a Vehicle Sales Lot (motor dealership) with subordinate and ancillary offices, including a kiosk, and the carrying on of the business servicing, repairing, washing, cleaning, polishing of vehicles and related purposes, that include the parking or storage of vehicles, as well as the sale of spare parts, accessories and lubricants for vehicles, as well as additional rights for a fast food restaurant and/or restaurant, subject to specific development conditions as described in Annexure 228.

Particulars of the application will lie for inspection during normal office hours at the office of the Manager: City Planning and Property Management, Directorate: Planning and Economic Development, Civic Centre, Cnr Landdros Maré & Bodenstein Streets, Second Floor, West Wing, Polokwane, for a period of 28 days from 18 August 2017 (thus before, but not later than 15 September 2017).

Objections to or representations in respect of the application must be lodged with or made in writing to the Manager: City Planning and Property Management at the above address or at P.O. Box 111, Polokwane, 0700, within a period of 28 days from 18 August 2017.

MUNICIPAL MANAGER. POLOKWANE MUNICIPALITY.

All correspondence also to be forwarded to: Natura Professional Planners (Pty) Ltd, P.O. Box 3501, Nylstroom, 0510, Tel: 0824467338, Email: theo@profplanners.co.za

18-25

PLAASLIKE OWERHEID KENNISGEWING 104 VAN 2017**POLOKWANE / PERSKEBULT WYSINGINGSKEMA 610**

Die Polokwane Munisipaliteit gee hiermee kennis ingevolge Artikel 28(1)(a) van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986 (Ord. No. 15 van 1986) saam gelees met die Ruimtelike Beplanning en Grondgebruiksbestuur Wet, 2013, dat 'n wysigingskema bekend as die Polokwane / Perskebult Wysigingskema 610, deur hom opgestel is. Hierdie wysigingskema bevat die volgende voorstel:

Die hersonering van n deel (3383m² groot ook bekend as Verhuringsareas 1 en 2) van Erf 26977, Polokwane Uitbreiding 124 geleë by die hoofingang vanaf Munnik Laan tot Baobab Boulevard, van "Spesiaal": vir 'n Motor verkoop perseel (motor handelaar) met 'n bylae om ondergeskikte en aanverwante kantore, insluitende 'n kiosk en die diens, herstel, was, skoonmaak, polering van voertuie en aanverwante doeleindes, wat insluit parkering en storing van voertuie, asook die verkoop van spaar onderdele, toebehore en smeermiddels vir voertuie toe te laat na "Spesiaal" vir 'n Motor verkoop perseel (motor handelaar) met 'n bylae om ondergeskikte en aanverwante kantore, insluitende 'n kiosk en die diens, herstel, was, skoonmaak, polering van voertuie en aanverwante doeleindes, wat insluit parkering en storing van voertuie, asook die verkoop van spaar onderdele, toebehore en smeermiddels vir voertuie toe te laat, asook n bykomende gebruiksreg vir n kitskos restaurant en/of restaurant, onderworpe aan spesifieke voorwaardes soos uiteengesit in Bylae 228.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor van die Bestuurder: Stadsbeplanning en Eiendomsbestuur, Direktoraat: Beplanning en Ekonomiese Ontwikkeling, Burgersentrum, H/v Landdros Maré en Bodensteinstraat, Tweede Vloer, Wesvleuel, Polokwane, vir 'n tydperk van 28 dae vanaf 18 Augustus 2017 (dus voor, maar nie later as 15 September 2017 nie).

Besware teen of verhoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf 18 Augustus 2017 skriftelik by of tot die Bestuurder: Stadsbeplanning en Eiendomsbestuur by bovermelde adres of by Posbus 111, Polokwane, 0700, ingedien of gerig word.

MUNISIPALE BESTUURDER. POLOKWANE MUNISIPALITEIT.

Alle korrespondensie moet ook aangestuur word na: Natura Professional Planners (Pty) Ltd, Posbus 3501, Nylstroom, 0510, Tel: 0824467338, Epos: theo@profplanners.co.za

18-25

LOCAL AUTHORITY NOTICE 105 OF 2017**POLOKWANE / PERSKEBULT AMENDMENT SCHEME 619****NOTICE OF APPLICATION FOR THE AMENDMENT OF THE POLOKWANE / PERSKEBULT TOWN PLANNING SCHEME, 2007, IN TERMS OF SECTION 56(1) (B) (I) OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE NO 15 OF 1986)**

Rirothe Planning Consulting, being the authorised agent of the owner of the Erf mentioned below, hereby give notice in terms of Section 56(1)(b)(i) of the Town Planning and Townships Ordinance, 1986 (Ordinance No 15 of 1986) read together with the Spatial Planning and Land Use Management Act 16 of 2013 that we have applied to the Polokwane Municipality for the amendment of the Town Planning Scheme known as the Polokwane / Perskebult Town Planning Scheme, 2007 by the rezoning of Erf 471, Seshego Zone D situated at Seshego Zone 4 from "Residential 1" to "Residential 3" for the purpose of Residential Buildings.

Particulars of the application will lie for inspection during normal office hours at the Office of the Manager: Spatial Planning and Land Use Management, first floor, Civic Centre, Landros Mare Street, Polokwane for a period of 28 days from 18 August 2017. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or P.O. Box 111, Polokwane 0700 within a period of 28 days from 18 August 2017.

Address of Agent:
662 Seshego Zone 8,
Polokwane 0699
PO Box 5
Tshidimbini 0972
Tel: 0842870467

POLOKWANE / PERSKEBULT WYSIGINGSKEMA 619

18-25

PLAASLIKE OWERHEID KENNISGEWING 105 VAN 2017**KENNISGEWING VAN AANSOEK OM WYSIGING VAN DIE POLOKWANE / PERSKEBULT DORPSBEPLANNINGSKEMA, 2007, INGEVOLGE ARTIKEL 56 (1) (B) (I) VAN DIE ORDONNANSIE OP DORPSBEPLANNING EN DORPE, 1986 (ORDONNANSIE NO 15 VAN 1986)**

Rirothe Planning Consulting, synde die gemagtigde agent van die eienaar van die Erf hieronder genoem, gee hiermee ingevolge artikel 56 (1) (b) (i) van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986 (Ordonnansie 15 van 1986) Saamgelees met die Wet op Ruimtelike Beplanning en Grondgebruikbestuur 16 van 2013 dat ons by die Polokwane Munisipaliteit aansoek gedoen het om die wysiging van die dorpsbeplanningskema bekend as die Polokwane / Perskebult Dorpsbeplanningskema, 2007, deur die hersonering van Erf 471, Seshego Zone D gelee te Seshego Sone 4 vanaf "Residensieel 1" na "Residensieel 3" vir die doeleindes van Residensiele Geboue.

Besonderhede van die aansoek le ter insae gedurende gewone kantoorure by die Kantoor van die Bestuurder: Ruimtelike Beplanning en Grondgebruikbestuur, Eerste Vloer, Burgersentrum, Landros Marestraat, Polokwane, vir 'n tydperk van 28 dae vanaf 18 Augustus 2017. Besware teen Of vertoe ten opsigte van die aansoek moet skriftelik by die Munisipale Bestuurder, by bovermelde adres of by Posbus 30, Pretoria, ingedien of gerig word Posbus 111, Polokwane 0700, binne n tydperk van 28 dae vanaf 18 Augustus 2017.

Adres van agent:
662 Seshego Sone 8,
Polokwane 0699
Posbus 5
Tshidimbini 0972
Tel: 0842870467

18-25

LOCAL AUTHORITY NOTICE 107 OF 2017

Notice is hereby given in terms of the MAKHADO MUNICIPALITY SPATIAL PLANNING, LAND DEVELOPMENT AND LAND USEMANAGEMENT BY-LAW 2016 (Part C, Section 63) that the under-mentioned applications have been received by the Makhado Local municipality and are open for inspection during normal office hours at the office of the Director, Municipal Secretariat, 1st floor, Civic centre, Makhado (Louis Trichardt), (128 Krogh street), for a period of 30 days from 25 August 2017. Any objections/representations must be lodged with or made in writing, or verbally if unable to write, to the Municipal Manager, at the above-mentioned address or posted to Private bag x2596, Makhado, 0920 on or before the closing date for the submission of objections/representations, quoting the below mentioned application description and/or amendment scheme number, the objector's interest in the matter, the ground(s) of the objection/representation, the objector's erf number and phone numbers and address. CLOSING DATE FOR SUBMISSION OF OBJECTIONS/REPRESENTATIONS: 25 September 2017. A) NATURE OF APPLICATION: MAKHADO AMENDMENT SCHEME 269: Rezoning of Erf 165 Louis Trichardt from "Residential 1" to "Business 1" (for the erection of offices). After rezoning of the erf, the normal conditions as contained in the Makhado Land Use Scheme, 2009 pertaining to a "Business 1" zoning shall apply to the erf. OWNER: ESM FOURIE. Address: 119 President street. Address of authorized agent: DEVELOPLAN TOWN PLANNERS, BOX 1883 POLOKWANE 0700, Tel. 015-2914177 Fax: 0862183267.

25-1

PLAASLIKE OWERHEID KENNISGEWING 107 VAN 2017

Kennis geskied hiermee in terme van die MAKHADO MUNISIPALITEIT RUIMTELIKE BEPLANNING, GRONDONTWIKKELING EN GRONDGEBRUIKBESTUURSBEWET 2016 (Gedeelte C, Afdeling 63) dat ondergemelde aansoeke deur die Makhado plaaslike munisipaliteit ontvang is en ter insae beskikbaar is, gedurende gewone kantoorure, by die Direkteur, Munisipale sekretariaat, 1 ste vloer, Burgersentrum, Makhado (Louis Trichardt), (128 Kroghstraat), vir 'n tydperk van 30 dae vanaf 25 Augustus 2017. Enige beswaar/vertoë moet hetsy skriftelik of mondelings (indien u nie kan skryf nie), by of tot die Munisipale Bestuurder voor die sluitingsdatum vir die indiening van sodanige besware/vertoë by bovermelde adres of by Privaatsak x2596, Louis Trichardt, 0920 ingedien of gerig word, tesame met vermelding van ondergenoemde beskrywing van die aansoek en/of wysigingskemanommer, die beswaarmaker se belang in die saak, die grond(e) van die beswaar/vertoë, die beswaarmaker se erfnummer en telefoonnummer(s) en adres. SLUITINGSDATUM VIR DIE INDIENING VAN BESWARE/VERTOË: 25 September 2017. A) AARD VAN AANSOEK: MAKHADO WYSIGINGSKEMA 269 Hersonerig van Erf 165 Louis Trichardt van "Residensieel 1" na "Besigheid 1". Die doel van die aansoek is om kantore op die perseel op te rig. Na hersonerig van die erf sal die normale voorwaardes van die Makhado Grondgebruikskema, 2009 soos dit betrekking het op 'n "Besigheid 1" sonering van toepassing wees op die erf. EIENAAR: ESM FOURIE. Adres: 119 Presidentstraat. AGENT: DEVELOPLAN TOWN PLANNERS, BUS 1883 POLOKWANE 0700, TEL. 015-2914177 FAKS: 0862183267.

25-1

LOCAL AUTHORITY NOTICE 108 OF 2017**MUSINA AMENDMENT SCHEME 365**

I, Rian Gerhard Beukes of the firm Rian Beukes Town & Regional Planners and Property Consultants being the authorized agent of the registered owner of the property mentioned below, hereby gives notice in terms of Section 56 1(b)(i) of Ordinance 15 of 1986, that I have applied to the Musina Local Municipality for the amendment of the Musina Land Use Scheme, 2010 by the rezoning of a portion \pm 8ha in extent of the Farm Semple 155MS, located approximately 55km north west of Musina east of the Weipe Road and adjacent to the Limpopo River, from "Agricultural" to "Agriculture" with Annexure 134 to permit a 3MW Solar Power Plant, subject to certain conditions.

Particulars of the application will lie for inspection during normal office hours at the office of the Department Economic Development and Planning, Town Planning Unit, Manager Town Planning, 21 Irwin Street Musina for the period of 28 days from 25 August 2017.

Objections to or representations in respect of the application must be lodged with or made in writing to the Manager Town Planning, attention Mr. MS Mphephu at the above mentioned address or at Musina Municipality P Bag X 611 Musina, 0900, within a period of 28 days from 25 August 2017.

Address of applicant: Rian Beukes Town & Regional Planners and Property Consultants. PO Box 12417 BENDOR, 0713 (Tel. 015 230 0010), e-mail: rian.beukes@telkomsa.net.

25-01

PLAASLIKE OWERHEID KENNISGEWING 108 VAN 2017**MUSINA WYSIGINGSKEMA 365**

Ek, Rian Gerhard Beukes van die firma Rian Beukes Stads en Streekbeplanners en Eiendomskonsultante synde die gemagtigde agent van die eienaar van ondergenoemde eiendom gee hiermee ingevolge Artikel 56 1 (b) (i) van die Ordonnansie op Dorpsbeplanning en Dorpe (Ordonnansie 15 van 1986) kennis dat ek by die Musina Plaaslike Munisipaliteit aansoek gedoen het om die wysiging van die dorpsbeplanningsskema bekend as die Musina Grondgebruik skema, 2010 deur die hersonerig van 'n gedeelte \pm 8ha groot, van die die plaas Semple 155MS, geleë ongeveer 55km noordwes van Musina, oos van die Wiepe pad en aanliggend aan die Limpoporivier, vanaf "Landbou" na "Landbou" met Bylae 134 ten einde 'n 3MW solar krag opwekkingseenheid, onderhewig aan sekere voorwaardes, toe te laat.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor die Departement Ekonomiese Ontwikkeling en Beplanning, Stadsbeplanningseenheid, Bestuurder Stadsbeplanning, Irwinstraat 21, Musina, vir 'n tydperk van 28 dae vanaf 25 Augustus 2017.

Besware en of vertoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf 25 Augustus 2017 skriftelik by of tot die Bestuurder Stadsbeplanning, vir aandag Mnr. MS Mphephu by bovermelde adres of Musina Munisipaliteit Privaatsak X 611, Musina 0900 ingedien of gerig word.

Adres van applikant: Rian Beukes Stads en Streekbeplanners en Eiendomskonsultante, Posbus 12417 Bendor, 0713 (Tel 015 230 0010), e-pos: rian.beukes@telkomsa.net.

25-01

LOCAL AUTHORITY NOTICE 109 OF 2017

ERRATUM

**POLOKWANE MUNICIPAL TARIFFS PUBLISHED IN PROVINCIAL GAZETTE NO. 2821
DATED 16 JUNE 2017 IS HEREBY UPDATED BY AMENDING SCHEDULE 1 AND
SCHEDULE 5 AS FOLLOWS:**

SCHEDULE 1:

**PROPERTY RATES ON THE MARKET VALUE OF RATEABLE PROPERTY RECORDED
IN THE VALUATION ROLL AND FIXED DATES FOR PAYMENT IN RESPECT OF THE
FINANCIAL YEAR 1 JULY 2017 TO 30 JUNE 2018**

The Polokwane Municipality will levy from **1 July 2017** the following property rates in respect of the different categories of rateable property recorded in the valuation roll.

Code	Category	Approved tariff from 1/07/2016	Approved tariff from 1/07/2017
AI	Residential Property, low and high density	.0050	0.00543
All	Residential Property, sectional title	.0050	0.00543
AIII	Residential Property consent use - clause 20 (old) & 21(new)	.0100	0.01085
AIIIA	Residential Property consent use - clause 21 (old) & 22 (new)	.0100	0.01085
AV	Residential impermissible use or illegal use	.0400	0.0434
AVI	Residential privately owned towns - services by owner	.0050	0.00543
AVII	Vacant land	.0100	0.01085
B	Industrial properties	.0100	0.01085
BI	Industrial properties, sectional title	.0100	0.01085
C	Business & commercial properties	.0100	0.01085
CI	Business & commercial properties, sectional title	.0100	0.01085
DI	Farm properties used for agricultural purposes	.001246	0.00135
DII	Farm properties used for business and commercial purposes	.0100	0.01085
DIII	Farm properties used for residential purposes	.0050	0.00543
DIV	Farm properties used for other purposes (remainder of property)	.001246	0.00135
FI	Small holdings used for agricultural purposes	.001246	0.00135
FII	Small holdings used for residential purposes	.0050	0.00543
FIII	Farm or Small holdings used for industrial purposes	.0100	0.01085
FIV	Small holdings used for business and	.0100	0.01085

	commercial purposes		
GI	State owned properties – schools	.0100	0.01085
GII	State owned properties - private commercial activities	.0100	0.01085
GIII	State owned properties for residential properties	.0050	0.00543
GIV	State owned properties-vacant land	.02242	0.02433
GV	State owned properties for public benefit organizations	.001246	0.00135
GVI	State owned properties for agricultural purposes	.001246	0.00135
GVII	State owned properties for business purposes	.0100	0.01085
GVIII	State owned properties for industrial purposes	.0100	0.01085
H	Municipal properties	Exempted	Exempted
HI	Municipal properties - private commercial activities	.0100	0.01085
HII	Municipal properties - residential occupied dwellings	Exempted	Exempted
I	Public service infrastructure	.001246	0.00135
J	Privately owned towns serviced by the owner	.0050	0.00543
M	State trust land	.001246	0.00135
NI	Properties acquired through the Provision of Land and Assistance Act, 1993 or the Restitution of Land Rights Act, 1994	.001246	0.00135
P	Properties on which national monuments are proclaimed	Exempted	Exempted
Q	Properties owned by public benefit organizations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act	.001246	0.00135
QI	Private schools	.0100	0.01085
QII	Private sport/social clubs & section 21 companies	.0100	0.01085
R	Penalty for illegal use on all other properties	.0400	0.0434
POW	Places of worship	Exempted	Exempted

SECTION 78, MUNICIPAL PROPERTY RATES ACT:

	Per sect 78 application/request	300.00	330.00
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SECTION 50, MUNICIPAL PROPERTY RATES ACT:

	Objection fee – Upon successful objection; the fee is refundable		500.00
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INDIGENT FEE: VAT INCLUSIVE

	INDIGENT BASIC LEVY		100.00
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The following exemptions/rebates/reductions will come into operation from **1 July 2017**:

1. In terms of the property Rates Act, the first R15 000 of the property's market value of owners of residential premises and sectional titles which are used exclusively for residential purposes are excluded from the levying of property rates.

Market Value	R0 - R15 000	Exempted
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2. All residential premises and sectional titles who are used exclusively for residential purposes (guest house excluded) are further granted a reduction of R85 000 from the payment of property rates.

Market Value	R15 001- R100 000	Reduction
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3. A further rebate of 80% will be granted to owners of residential premises and sectional titles who are depended on government pensions or social grants or other revenue and whose average income does not exceed R8 300.00 per month on application.

Subject to the following conditions

- 3.1 An applicant must on 2017-07-01 be at least 60 years of age and or disabled except in the case of owners depended on social grants.
- 3.2 An applicant or his/her wife/husband must be the registered owner as well as the occupant of the property concerned.
- 3.3 The total average monthly income from all resources of an applicant and his/her wife/husband may not be in excess of R8 300.00 per month and should the total average monthly income be in excess of the amount of R8 300.00 during the financial year in respect of which the rebate is allowed, such rebate will lapse as from the date on which the income is exceeded.
- 3.4 An application for rebate on the prescribed application form should reach the office of the Chief Financial Officer during the financial year, or when invitation is done by the municipality for registration or renewal.
- 3.5 Should any incorrect information be furnished in the application form, property rates will be levied at the normal tariff as from 2017-07-01.
- 3.6 A rebate will only be granted in respect of a property on which only one dwelling is erected and such dwelling be occupied by the applicant and his/her dependants.
- 3.7 The rebate will only be granted if the applicant and his/her wife/husband are not the registered owner of other premises, irrespective where such premises is situated, than the premises occupied by him/her.

- 3.8 The required information must be confirmed by a sworn affidavit.
- 3.9 The said further rebate of 80% shall not be applicable on any applicant who is registered as an indigent and who receives an indigent subsidy from the Polokwane Municipality.

4. Owners of business or industrial property’s whose improved property’s market value is R50 000 000 or above will receive the following rebate (Only limited to one rebate each property not on the sliding scale i.e. 5% or 10% or 20% based on market value):

Market Value	R 50 000 000 – R 99 999 999	5% rebate
Market Value	R100 000 000 - R 499 999 999	10% Rebate
Market Value	R500 000 000 and above	20% Rebate

- 5. Properties on Agricultural or Rural Land used for Resort Purposes and the improved market value is above R30 000 000 - 20% rebate, excluding eco-tourism.
- 6. Farm properties and smallholdings used for agricultural purposes -rebate as per ratio.
- 7. Private Townships and Sectional Title Schemes of which some or all of the internal municipal services are maintained by the owners – 5% rebate.
- 8. In terms of the property Rates Act, the first 30% of the property’s market value of Public service infrastructure is exempted from the levying of property rates.
- 9. Properties owned by public benefit organizations and used for any specific public benefit activities listed in Part 1 of the Ninth Schedule to the Income Tax Act are exempted subject to the following criteria;
 - 9.1 On a property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of the church which is occupied by an office-bearer of that church who officiates at services at that place of worship in terms of section 17(1) (i) of the Act. The exemption is applicable also on a property registered in the name of and used primarily as a place of public worship by a religious community that does not erect buildings.
 - 9.2 State properties that provide local a service are exempted from rating for example clinics, police stations etc.
 - 9.3 Any schools registered in terms of any law, whether private or state subsidized, operated without the aim of making a profit and which are exempted from payment of income tax in terms of the provisions of the Income tax Act, Act no. 58 of 1962.
- 10. Property rates will be levied in twelve more or less equal monthly instalments, the first of which is payable on 2017-08-25 and thereafter on the twenty fifth day (25th) of every month towards 2018-07-25.
- 11. 0% VAT is charged on property rates.

SCHEDULE 5:**ELECTRICITY SUPPLY CHARGES: 2017/2018****PART 1****ELECTRICITY CHARGES ARE APPROVED BY NERSA****1. DOMESTIC SUPPLY (CONVENTIONAL AND PREPAID)**

1.1 This tariff shall apply to electricity supplied to an erf, stand, premises or any other area/property zoned as residential 1, 2, 3 or 4 and used for residential purposes.

1.2 BASIC CHARGE:

This charge will apply to all residential properties, with or without improvements, which is, or in the opinion of the Council can be, connected to the supply mains, whether electricity is consumed or not, and shall be payable on such property, and shall be levied on the property owner's account.

		Approved tariff from 1/07/2016	Approved tariff from 1/07/2017
1.2.	Basic charge, per month:	R75.00	R80.00

1.3. For electricity consumed per kWh.

		Approved tariff from 1/07/2016	Approved tariff from 1/07/2017
1.3.1	Block 1 (0-50)	81.00c	83.00c
1.3.2	Block 2 (51-350)	100.00c	104.00c
1.3.3	Block 3 (351-600)	147.00c	153.00c
1.3.4	Block 4 (>600)	177.00c	184.00c

2. NON-DOMESTIC AND COMMERCIAL SUPPLY (CONVENTIONAL AND PREPAID)

2.1. This tariff shall apply to electricity supplied to an erf, stand, premises or any other area irrespective whether it is served through a separate meter or a communal meter and is applicable to:

- a) Any building with a maximum demand of not exceeding 100 amperes per phase on a three phase supply; and
- (b) Any other consumer not provided for under any other item of these tariffs.

2.2	Basic charge, per month:	R422.00	R447.00
2.3	Energy charge per kWh:	150.90c	157.00c

3. INDUSTRIES <100 AMPS

- 3.1. This tariff shall apply to industries with a maximum demand of not exceeding 100 amperes per phase on a three phase supply as well as consumers for agricultural purposes that cannot be classified under item 1.

3.2	Basic charge, per month:	R988.00	R1 047.00
3.3	Energy charge per kWh:	151.00c	157.00c

4. BULK SUPPLY AND INDUSTRIAL >100 AMPS

- 4.1. This tariff shall apply to any consumer who applies for it and shall be applicable to all consumers with demand in excess of 100 amperes per phase on a three-phase supply.

4.2	Basic charge, per month:	R1 189.00	R1 261.00
4.3	Demand charge, per KVA, per month:	R182.00	R189.00
4.4	Energy charge per kwh	65.00c	68.00c
4.5	Minimum charge, per month: (13 000 kWh)	R8 450.00	R9 107.00

THE ERRATUM DATED 30 JUNE 2017 PUBLISHED ON THE PROVINCIAL GAZETTE NO 2829 IS ACCORDINGLY RESCINDED AND REPLACED BY THIS GAZETTE.

All charges exclude VAT and where indicated otherwise.

Mr. D H MAKOBÉ

MUNICIPAL MANAGER

Polokwane Municipality
Civic Center
Co/Landdros Marè and Bodenstein Streets
POLOKWANE

LOCAL AUTHORITY NOTICE 110 OF 2017

**THE SPATIAL
PLANNING AND
LAND USE
MANAGEMENT BY-
LAW OF GREATER
TZANEEN
MUNICIPALITY**

Promulgated on 25 August 2017 Provincial Gazette Notice No: PD 17/2017

Draft 15 - 1 August 2017

GREATER TZANEEN MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2016

The Municipal Manager of Greater Tzaneen Municipality hereby, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) read together with Section 162 of the Constitution of the Republic of South Africa, publishes the Spatial Planning and Land Use Management By-law in line with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) for Greater Tzaneen Municipality, as approved by its Council, as set out hereunder.

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CHAPTER 1 DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

1. DEFINITIONS

In these By-Law, unless the context indicates otherwise, a word or expression defined in the Act or Provincial Legislation has the same meaning as in these By-Law and -

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

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

“approved township” means a township declared an approved township in terms of section 56;

“By-Law” means the Spatial Planning and Land Use Management By-Law of Greater Tzaneen Municipality and includes the schedules and forms attached hereto or referred to herein;

“communal land” means land under the jurisdiction of a Traditional Council determined in terms of section 6 of the Limpopo Traditional Leadership and Governance Act, 2003 (Act No. 41 of 2003) and which was at any time vested in-

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

“Conditions of Establishment” means conditions imposed by the Municipality in the process of approval of a township establishment;

“consent” means a land use right that may be obtained by way of consent from the Municipality and is specified as such in the Land Use Scheme;

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

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

“contact details” means information on how to contact a persona, typically including a telephone number, address;

“departure” is a land development or land use application submitted to the Municipality that seek to effect change of a land use, may be similar to a rezoning application;

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

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

“filing of documents” means the lodgement of a document with the appeal authority of the Municipality;

“high impact development” refers to all Category 1 and opposed applications of Category 2 and 3;

“Intergovernmental Steering Committee” it is the Committee established in terms of the provisions of section 7 of this By-Law;

“land” means -

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

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

“Land Development Officer” means an official who may consider and determine applications as contemplated in section 35(2) of the Act;

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

“Layout Plan” is a plan defining the appropriate portions of land, submitted in terms of the township establishment process, and a layout plan may also include a subdivision and consolidation plan;

“Member of the Executive Council (MEC)” means the Member of the Executive Council responsible for Local Government in the Province;

“municipal area” means the area of jurisdiction of Greater Tzaneen Municipality delineated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

“Municipal Council” means the Municipal Council in terms of the Municipal Structures Act, 1998 (Act No 117 of 1998);

“Municipal Manager” means the person appointed as Accounting Officer of Greater Tzaneen Municipality in terms of section 54A of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended and includes any person acting in that position or to whom authority has been delegated;

“Municipal Planning Tribunal” means the Greater Tzaneen Municipal Planning Tribunal established in terms of Section 35 of the Act as resolved in terms of Greater Tzaneen Council Resolutions No. B29 dated 25 April 2017.

“Municipality” means the Greater Tzaneen Municipality or its successor in title as envisaged in section 155(1) of the Constitution, established in terms of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-Law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended;

“objector” means a person who has lodged an objection with the Municipality to a Draft Municipal Spatial Development Framework, Draft Land Use Scheme or a land development and land use application, including a person holding intervener status.

“Premier” means the Premier of the Province of Limpopo;

“Presiding officer” means the person appointed in terms of this By-Law to preside over appeal procedures;

“previous planning legislation” means any planning legislation that is repealed by the Act or the Provincial legislation;

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

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

“Registrar” means the person appointed in terms of this By-Law to administer all administrative affairs of the Municipal Planning Tribunal and the Appeal Authority;

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

“security” means the cost associated with the appeal process;

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

“Site Development Plan” is a plan which shows the proposed development of a property and any salient natural features thereof;

“Spatial Development Framework” means the Greater Tzaneen Municipality’s Spatial Development Framework, referred to in Chapter 4 of the Act.

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

“the Act” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 and any subsidiary legislation or other legal instruments issued in terms thereof, including the Provincial legislation;

“township register” means an approved subdivision register of a township in terms of the Deeds Registries Act, 1973 (Act No 47 of 1937);

“traditional communities” means communities recognised in terms of section 3 of the Limpopo Traditional Leadership and Governance Act, 2003 (Act 41 of 2003);

2. Application of By-Law

- (1) This By-Law applies to all land within the geographical area of the Municipality, including land owned by the State.
- (2) This By-Law binds every owner and their successor-in-title and every user of land, including the State.

3. Conflict of laws

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

CHAPTER 2

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

4. Municipal Spatial Development Framework

- (1) The Municipality must draft a Municipal Spatial Development Framework in accordance with the provisions of sections 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act No 32 of 2000) as amended.
- (2) A Municipal Spatial Development Framework does not confer or take away land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a Municipal Spatial Development Framework.

5. Contents of Municipal Spatial Development Framework

- (1) A Municipal Spatial Development Framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Municipal Systems Act, 2000 (Act No 32 of 2000) as amended and Provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for Municipal planning.
- (2) Over and above the matters required in terms of subsection (1), the Municipality may determine any further plans, policies and instruments by virtue of which the Municipal Spatial Development Framework must be applied, interpreted and implemented.
- (3) A Municipal Spatial Development Framework must make provision for transitional arrangements with regard to the manner in which the Municipal Spatial Development Framework is to be implemented by the Municipality.

6. Intention to prepare, amend or review Municipal Spatial Development Framework

A Municipality which intends to prepare, amend or review its Municipal Spatial Development Framework:

- (1) may convene an Intergovernmental Steering Committee and a Project Committee in accordance with section 7 of this By-Law;
- (2) must publish a notice in the Provincial Gazette and a notice in English and any other official language most spoken in the area concerned, of its intention to prepare, amend or review the Municipal Spatial Development Framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act, 2000 (Act No 32 of 2000) as amended;
- (3) must inform the Member of the Executive Council (MEC) in writing of:
 - (a) its intention to prepare, amend or review the Municipal Spatial Development Framework;
 - (b) the process that will be followed in the drafting or amendment of the

Municipal Spatial Development Framework including the process for public participation; and

- (4) must register relevant stakeholders who must be invited to comment on the Draft Municipal Spatial Development Framework or draft amendment of the Municipal Spatial Development Framework as part of the process to be followed.

7. Institutional framework for preparation, amendment or review of Municipal Spatial Development Framework

- (1) The purpose of the Intergovernmental Steering Committee contemplated in section 6(1) is to co-ordinate the applicable contributions into the Municipal Spatial Development Framework and to-
 - (a) provide technical knowledge and expertise;
 - (b) provide input on outstanding information that is required to draft the Municipal Spatial Development Framework or an amendment or review thereof;
 - (c) communicate any current or planned projects that have an impact on the Municipal area;
 - (d) provide information on the locality of projects and budgetary allocations; and
 - (e) provide written comment to the Project Committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the Municipal Spatial Development Framework, in writing, invite nominations for representatives to serve on the Intergovernmental Steering Committee from:
 - (a) departments in the National, Provincial and Local sphere of Government, other organs of state, community representatives, engineering services providers, Traditional Councils; and
 - (b) any other body or person that may assist in providing information and technical advice on the content of the Municipal Spatial Development Framework.
- (3) The purpose of the Project Committee contemplated in section 6(1) is to :
 - (a) prepare, amend or review the Municipal Spatial Development Framework for adoption by the Municipal Council;
 - (b) provide technical knowledge and expertise;
 - (c) monitor progress and ensure that the Draft Municipal Spatial Development Framework or amendment of the Municipal Spatial Development Framework is progressing according to the approved process plan;

- (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
 - (e) ensure alignment of the Municipal Spatial Development Framework with the development plans and strategies of other affected Municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act, 2000 (Act No 32 of 2000) as amended.
 - (f) facilitate the integration of other sector plans into the Municipal Spatial Development Framework;
 - (g) oversee the incorporation of amendments to the Draft Municipal Spatial Development Framework or draft amendment or review of the Municipal Spatial Development Framework to address comments obtained during the process of drafting thereof;
 - (h) if the Municipality decides to establish an Intergovernmental Steering Committee:
 - (i) assist the Municipality in ensuring that the Intergovernmental Steering Committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the Project Committee and the Intergovernmental Steering Committee.
- (4) The Project Committee consists of:
- (a) the Municipal Manager;
 - (b) Municipal employees from at least the following Municipal departments:
 - (i) the Integrated Development Planning office;
 - (ii) the Planning department;
 - (iii) the Engineering department;
 - (iv) the Local Economic Development department; and
 - (v) the Human Settlement department.
 - (vi) and any other relevant department.

8. Preparation, amendment or review of Municipal Spatial Development Framework

- (1) The Project Committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the Municipal area and must submit it to the Intergovernmental Steering Committee for comment.
- (2) After consideration of the comments of the Intergovernmental Steering Committee, the Project Committee must finalise the status quo document and

submit it to the Municipal Council for adoption.

- (3) The Project Committee must prepare a first draft of the Municipal Spatial Development Framework or first draft amendment or review of the Municipal Spatial Development Framework and must submit it to the Intergovernmental Steering Committee for comment.
- (4) After consideration of the comments of the Intergovernmental Steering Committee, the Project Committee must finalise the first draft of the Municipal Spatial Development Framework or first draft amendment or review of the Municipal Spatial Development Framework and submit it to the Municipal Council, together with the report referred to in subsection (5), to approve the publication of a notice referred to in section 9(4) that the Draft Municipal Spatial Development Framework or an amendment or review thereof is available for public comment.
- (5) The Project Committee must submit a written report as contemplated in subsection (4) which must at least:
 - (a) indicate the rationale in the approach to the drafting of the Municipal Spatial Development Framework;
 - (b) summarise the process of drafting the Municipal Spatial Development Framework;
 - (c) summarise the consultation process to be followed with reference to section 9 of this By-Law;
 - (d) indicate the involvement of the Intergovernmental Steering Committee, if convened by the Municipality;
 - (e) indicate the departments that were engaged in the drafting of the Municipal Spatial Development Framework;
 - (f) the alignment with the National and Provincial Spatial Development Frameworks;
 - (g) any sector plans that may have an impact on the Municipal Spatial Development Framework;
 - (h) indicate how the Municipal Spatial Development Framework complies with the requirements of relevant National and Provincial legislation, and relevant provisions of strategies adopted by the Municipal Council; and
 - (i) recommend the adoption of the Municipal Spatial Development Framework for public participation as the Draft Municipal Spatial Development Framework for the Municipality, in terms of the relevant legislation and this By-Law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in section 9, the Project Committee must compile a final Municipal Spatial Development Framework or final amendment or review of the Municipal Spatial Development Framework for adoption by the Municipal Council.
- (7) If the final Municipal Spatial Development Framework or final amendment or review of the Municipal Spatial Development Framework, as contemplated in section 6, is materially different to what was published in terms of section 9(4), the Municipality must follow a further consultation and public participation process before it is adopted by the Municipal Council.
- (8) The Municipal Council must adopt the final Municipal Spatial Development Framework or final amendment or review of the Municipal Spatial Development Framework, with or without amendments, and must within

fourteen (14) calendar days of its decision give notice of its adoption in the media and the Provincial Gazette.

- (9) If no Intergovernmental Steering Committee is convened by the Municipality, the Project Committee submits the draft and final Municipal Spatial Development Framework or amendment or review thereof directly to the Municipal Council.

9. Public participation

- (1) Public participation undertaken by the Municipality must contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act, 2000 (Act No 32 of 2000) as amended.
- (2) In addition to the publication of notices in the *Provincial Gazette* and newspapers as required in terms of this Chapter, the Municipality may use any other method of communication it may deem appropriate
- (3) The Municipality may for purposes of public engagement on the content of the Draft Municipal Spatial Development Framework arrange:
- (a) specific consultations with professional bodies, ward communities or other groups; and
 - (b) public meetings.
- (4) The notice contemplated in section 9(2) must specifically state that any person or body wishing to provide comments shall-
- (a) do so within a period of sixty (60) calendar days from the first day of publication of the notice;
 - (b) provide written comments; and
 - (c) provide their contact details as specified in the definition of contact details.

10. Local Spatial Development Framework

- (1) The Municipality may adopt a Local Spatial Development Framework for a specific municipal geographical area.
- (2) The purpose of a Local Spatial Development Framework is to:
- (a) provide detailed spatial planning guidelines or further plans for a specific geographic area or parts of specific geographical areas and may include precinct plans;
 - (b) provide more detail in respect of a proposal provided for in the Municipal Spatial Development Framework or necessary to give effect to the Municipal Spatial Development Framework and or its Integrated Development Plan and other relevant sector plans;
- (c) address specific land use planning needs of a specified geographic area;

- (d) provide detailed policy and development parameters for land use planning;
- (e) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, biodiversity and environmental issues; or
- (f) guide decision making on land development applications;
- (g) or any other relevant provision that will give effect to its duty to manage municipal planning in the context of its constitutional obligations.

11. Compilation, amendment or review of Local Spatial Development Framework

- (1) If the Municipality prepares, amends or reviews a Local Spatial Development Framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a Local Spatial Development Framework.
- (2) The Municipality must, within twenty one (21) calendar days of adopting a Local Spatial Development Framework or an amendment of Local Spatial Development Framework, publish a notice of the decision in the media and the Provincial Gazette.

12. Effect of Local Spatial Development Framework

- (1) A Local Spatial Development Framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 11(2).
- (2) A Local Spatial Development Framework guides and informs decisions made by the Municipality relating to land development.

13. Record of and access to Municipal Spatial Development Framework

- (1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved Municipal or Local Spatial Development Framework and or any component thereof applicable within the jurisdiction of the Municipality.
- (2) Should anybody or person request a copy of the Municipal or Local Spatial Development Framework the Municipality must provide on payment by such body or person of the fee as determined by the tariffs, a copy to them of the approved Municipal Spatial Development Framework or any component thereof.

14. Deviation from Municipal Spatial Development Framework

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
 - (a) a deviation that does not materially change the Municipal Spatial Development Framework;

- (2) If the effect of an approval of an application will be a material change of the Municipal Spatial Development Framework, the Municipality may amend the Municipal Spatial Development Framework in terms of the provisions of this Chapter, prior to taking a decision which constitutes a deviation from the Municipal Spatial Development Framework.

CHAPTER 3

LAND USE SCHEME

15. Applicability of Act

Sections 24 to 30 of the Act apply to any Land Use Scheme developed, prepared, adopted and amended by the Municipality.

16. Purpose of land use scheme

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

- (a) harmonious and compatible land use patterns;
- (b) aesthetic considerations;
- (c) sustainable development and densification; and
- (d) the accommodation of cultural customs and practices of traditional communities in land use management.

17. General matters pertaining to Land Use Scheme

- (1) In order to comply with section 24(1) of the Act, the Municipality must -
 - (a) develop a Draft Land Use Scheme as contemplated in section 18 of this By-Law;
 - (b) obtain Municipal Council approval for publication of the Draft Land Use Scheme as contemplated in section 20 of this By-Law;
 - (c) embark on the necessary public participation process as contemplated in section 21 of this By-Law;
 - (d) incorporate relevant comments received during the public participation process as contemplated in section 21 of this By-Law;
 - (e) prepare the Land Use Scheme as contemplated in section 23 of this By-Law;
 - (f) submit the Land Use Scheme to the Municipal Council for approval and adoption as contemplated in section 24 of this By-Law;
 - (g) publish a notice of the adoption and approval of the Land Use Scheme in the Provincial Gazette as contemplated in section 25 of this By-Law; and
 - (h) submit the Land Use Scheme to the Member of the Executive Council as contemplated in section 26 of this By-Law.

- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (3) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.
- (4) The Land Use Scheme of the Municipality must take into consideration:
 - (a) the Integrated Development Plan in terms of the Municipal Systems Act, 2000 (Act No 32 of 2000) as amended.
 - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-Law, and
 - (c) Provincial legislation.

18. Development of Draft Land Use Scheme

- (1) Before the Municipality commences with the development of a Draft Land Use Scheme, the Municipal Council must resolve to develop and prepare a Land Use Scheme, provided that in its resolution the Municipal Council must:
 - (a) adopt a process for drafting the Land Use Scheme which complies with the Act, Provincial legislation, this Chapter and any other applicable legislation;
 - (b) confirm over and above that which is contained in the applicable legislation, what public participation process will be followed;
 - (c) determine the form and content of the Land Use Scheme;
 - (d) determine the scale and whether it should be available in an electronic media;
 - (e) determine any other relevant issue that will impact on the drafting and final adoption of the Land Use Scheme which will allow for it to be interpreted and or implemented; and
 - (f) confirm the manner in which the Land Use Scheme shall inter alia set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or may not require a consent or permission from the Municipality for purposes of the use of land.
- (2) After the resolution is taken by the Municipal Council, the department responsible for Spatial Planning and Land Use Management in the Municipality must develop the Draft Land Use Scheme in accordance with the provisions of the Act, Provincial legislation and this Chapter.
- (3) The Municipality may convene an Interdepartmental Steering Committee in accordance with section 19.

19. Institutional Framework for preparation, amendment or review of the Land Use Scheme

The purpose of the Interdepartmental Steering Committee contemplated in section 18(3) is to co-ordinate the applicable contributions into the Land Use Scheme and to-

- (a) provide technical knowledge and expertise
- (b) provide input on outstanding information that is required to draft the Municipal Land Use Scheme or an amendment or review thereof.
- (c) communicate any current or planned projects that have an impact on the Municipal area;
- (d) provide written comment to the department responsible for development planning at each of various phases of the process.
- (e) identify discrepancies in the Draft Land Use Scheme prior to adoption thereof by the Municipal Council.

20. Municipal Council approval for publication of Draft Land Use Scheme

- (1) Upon completion of the Draft Land Use Scheme, the department responsible for development planning in the Municipality must submit it to the Municipal Council for approval as the Draft Land Use Scheme.
- (2) The submission of the Draft Land Use Scheme to the Municipal Council must be accompanied by a written report from the department responsible for development planning in the Municipality and the report must at least:
 - (a) indicate the rationale in the approach to the drafting of the Land Use Scheme;
 - (b) summarise the process of drafting the Draft Land Use Scheme;
 - (c) summarise the consultation process to be followed with reference to section 21 of this By-Law;
 - (d) indicate the National departments that were engaged in the drafting of the Draft Land Use Scheme;
 - (e) indicate how the Draft Land Use Scheme complies with the requirements of relevant National and Provincial legislation, and relevant mechanism controlling and managing land use rights by the Municipal Council;
 - (f) recommend the approval of the Draft Land Use Scheme for public participation in terms of the relevant legislation and this By-law.
- (3) The Municipal Council must approve the Draft Land Use Scheme and authorise the public participation thereof in terms of this By-Law and the relevant legislation referred to in section 15.

21. Public participation

- (1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-Law and in the event of an amendment of the Land Use Scheme, the matters contemplated in section 28 of the Act.

- (2) Without detracting from the provisions of subsection (1) above the Municipality must -
- (a) publish a notice in the Provincial Gazette once a week for two consecutive weeks; and
 - (b) publish a notice in two local newspapers that is circulated in the Municipal area in English and at least one other official language mostly spoken in the area concerned, once a week for two consecutive weeks; and
 - (c) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections shall:
 - (i) do so within a period of sixty (60) calendar days from the first day of publication of the notice; and
 - (ii) provide written comments; and
 - (iii) provide their contact details as specified in the definition of contact details.
- (3) The Municipality may for purposes of public engagement arrange -
- (a) specific consultations with professional bodies, ward communities or other groups; and
 - (b) public meetings.
- (4) The Municipality must inform the Member of the Executive Council in writing of the intention to draft a Land Use Scheme and provide him or her with a copy of the Draft Land Use Scheme after it has been approved by the Council as contemplated in section 20.

22. Incorporation of relevant comments

- (1) After the public participation process outlined in section 21 the department responsible for development planning in the Municipality must:
- (a) review and consider all submissions made in writing or during any engagements; and
 - (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
 - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
 - (ii) all persons and or bodies that made submissions shall be notified of the time, date and place of the hearing as may be determined by the Municipality not less than thirty (30) days

prior to the date determined for the hearing, by means of registered mail;

- (iii) for purposes of the consideration of the submissions made on the Land Use Scheme the Municipality may at any time prior to the submission of the Land Use Scheme to the Municipal Council, request further information or elaboration on the submissions made from any person or body.

- (2) The department responsible for development planning in the Municipality must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in section 20.

23. Preparation of Land Use Scheme

The department responsible for development planning in the Municipality must, where required and based on the submissions made during public participation, make final amendments to the Draft Land Use Scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section 21(2), the Municipality must follow a further consultation and public participation process in terms of section 21 of this By-law, before the Land Use Scheme is adopted by the Council.

24. Submission of Land Use Scheme to Municipal Council for approval and adoption

- (1) The department responsible for development planning in the Municipality must submit the proposed Land Use Scheme and all relevant supporting documentation to the Municipal Council with a recommendation for adoption.
- (2) The Municipal Council must consider and adopt the Land Use Scheme with or without amendments.

25. Publication of notice of adoption and approval of Land Use Scheme

- (1) The Council must, within sixty (60) calendar days of its decision referred to in section 24, give notice of its decision to all persons or bodies who gave submissions on the Land Use Scheme, and publish such notice in the media and the Provincial Gazette.
- (2) The date of publication of the notice referred to in subsection (1), in the Provincial Gazette, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

26. Submission to Member of Executive Council

After the Land Use Scheme is published in terms of section 25 the Municipality must submit the approved Land Use Scheme to the Member of the Executive Council for cognisance

27. Records

- 1) The Municipality may in hard copy and an electronic media and or data base

keep record of the land use rights in relation to each erf or portion of land and which information shall be regarded as part of its Land Use Scheme.

- 2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved Land Use Scheme and or any component thereof applicable within the Municipal area of the Municipality.
- 3) Should anybody or person request a copy of the approved Land Use Scheme, the Municipality must provide on payment by such body or person of the prescribed fee, a copy to them of the approved Land Use Scheme or any component thereof, provided that if the Municipality is of the opinion that in order to provide the said copy it will take officials unreasonably away from their substantive duties such request for a copy can be dealt with in terms of the Promotion of Access to Information Act, 2000.

28. Contents of Land Use Scheme

- (1) The contents of a Land Use Scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and Provincial legislation and must contain:
 - (a) a zoning for all properties within the geographic area of the Municipality in accordance with a category of zoning as contemplated in Annexure 1 of this By-Law;
 - (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved Land Use Scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
 - (c) provisions for public participation that may be required for purposes of any consent, permission, departure or relaxation in terms of an approved Land Use Scheme;
 - (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
 - (e) servitude for Municipal services and access arrangements for all properties;
 - (f) provisions applicable to all properties relating to storm water;
 - (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
 - (h) zoning maps as prescribed in schedule (1) that depicts the zoning of every property in the Municipality's geographical area as updated from

time to time in line with the land use rights approved or granted; and

(i) transitional arrangements with regard to the manner in which the Land Use Scheme is to be implemented.

(2) The Land Use Scheme may:

(a) determine the components of the Land Use Scheme for purposes of it being applied, interpreted and implemented; and

(b) include any matter which it deems necessary for Municipal Planning in terms of the constitutional powers, functions and duties of a Municipality; and

29. Land Use Scheme Register

The Municipality must keep and maintain a Land Use Scheme Register in a hard copy and electronic format as approved by the Municipal Council and may contain the following but is not limited to:

- (a) Date of application
- (b) Name and contact details of applicant
- (c) Type of Application
- (d) Township/Farm name
- (e) Erf or farm number
- (f) Portion / Remainder
- (g) Property Description
- (h) Existing zoning and proposed zoning
- (i) Square Metres granted
- (j) Density
- (k) FAR
- (l) Height (storeys/meters)
- (m) Coverage
- (n) Building Line
- (o) Parking requirements
- (p) Amendment Scheme no
- (q) Annexure Number

- (r) Item No
- (s) Item Date
- (t) Decision (Approved/Not Approved)
- (u) Decision Date

30. Replacement and consolidation of amendment scheme

- (1) The Municipality may of its own accord in order to replace or consolidate an amendment scheme or several amendment schemes, map(s), annexure(s) or schedule(s) of the approved Land Use Scheme, of more than one property, prepare a certified copy of documentation as the Municipality may require, for purposes of replacing or consolidating the said amendment scheme(s), which consolidated or replacement amendment scheme shall from the date of the signing thereof, be in operation; provided that:
 - (a) such replacement and consolidation shall not take away any land use rights granted in terms of an approved Land Use Scheme, for purposes of implementation of the land use rights and may include a provision for consolidation of property for purposes of consolidating Land Use Schemes; provided that if a consolidation is required, the Municipality only do so after consultation with the owner(s).
 - (b) after the Municipality has signed and certified a consolidation or replacement amendment scheme, it must publish it in the Provincial Gazette.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a Land Use Scheme; the Municipality may for purposes of including such land use rights into a Land Use Scheme prepare an amendment scheme and incorporate it into the Land Use Scheme.
- (3) The provisions of sections 15 to 29 apply, with the necessary changes, to the review or amendment of an existing Land Use Scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

CHAPTER 4**INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS****Part A: Division of Functions****31. Division of functions between Municipal Planning Tribunal and Land Development Officer**

- (1) For purposes of section 35(3) of the Act, the following Categories of applications as contemplated in section 49 must be considered and determined -
 - (a) by the Municipal Planning Tribunal:
 - (i) All Category 1 and 3(a) applications; and
 - (ii) all opposed Category 2, 3(b) and 4 applications;
 - (b) by the Land Development Officer:
 - (i) All Category 2, 3(b) and 4 applications that are not opposed;
- (2) No appeals for Category 4 applications shall be entertained.
- (3) For the purposes of subsection (1), an opposed application means an application on which negative comments or objections were received after the public participation process from persons, internal Municipal departments, ward councillors, service providers and organs of state.

Part B: Establishment of Municipal Planning Tribunal**32. Establishment of Municipal Planning Tribunal**

- (1) The establishment of the Municipal Planning Tribunal shall be done in terms of Section 35 of the Act.
- (2) The Greater Tzaneen Municipal Offices, Civic Centre, Agatha Street, Tzaneen, will be the official venue of the Municipal Planning Tribunal.

33. Agreement to establish Tzaneen Municipal Planning Tribunal

- (1) The Municipality previously formed part of the Mopani District Municipal Planning Tribunal but resolved to withdraw from the said Tribunal and to establish its own Tribunal in terms of Council resolution B29 dated 25 April 2017 and Provincial Gazette Notice PD9/2017 dated 2 June 2017.
- (2) The Mopani District Municipality and all Municipalities which previously participated were informed accordingly.

34. Status of decision of Municipal Planning Tribunal

A decision of a Municipal Planning Tribunal is binding on both the applicant and the Municipality in whose area of jurisdiction the land relating to the land development

application is located.

35. Composition of Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal consists of a minimum of five (5) members made up as follows
 - (a) At least **five (5)** officials in the full-time service of the Municipality; with at least one Town & Regional Planner.
 - (b) **One (1)** person registered as professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
 - (c) **One (1)** person registered as professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
 - (d) **One (1)** person with economic/financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
 - (e) **One (1)** persons either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
 - (f) **One (1)** Environmental Assessment practitioner registered with a voluntary association; and
 - (g) In addition to the five (5) members contemplated in 1(b) to 1(f) above, any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
 - (h) The above **ten (10)** persons will exclude administrative support.
 - (i) **No** Municipal Councillor of the Municipality may be appointed as a member of the Municipal Planning Tribunal.
 - (j) The Municipality shall appoint a Registrar which Registrar shall also be the Registrar for the Appeal Authority as contemplated in Section 119.
- (2) The officials referred to in subsection (1)(a) must have at least five years' experience in the field in which they are performing their services.
- (3) The persons referred to in subsection (1)(b) to (g) must –
 - (a) demonstrate knowledge of spatial planning, land use management and land development of the law related thereto;
 - (b) have at least five years' practical experience in the discipline within

which they are registered or in the case of a person referred to in subsection (1)(g) in the discipline in which he or she is practising;

- (c) demonstrate leadership in his or her profession or vocation or in community organisations.

36. Nomination procedure

- (1) The Municipality shall -
 - (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations to appoint members of the Municipal Planning Tribunal as contemplated in Part B of Chapter 2 of the Regulations ; and
 - (b) invite and call for nominations as contemplated in Part B of the Regulations ninety (90) days before the expiry of the term of office of members serving on the Municipal Planning Tribunal.
- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule (1) together with any other information deemed necessary by the Municipality.
- (3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations must be in the form contemplated in Schedule (2) and –
 - (a) must be published in one local newspaper that is circulated in the Municipal area in English and any other language most commonly spoken in the area concerned;
 - (b) may be submitted to the various professional bodies which registers persons referred to in section 35(1) with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
 - (c) may advertise the call for nominations on the municipal website; and
 - (d) utilise any other method and media it deems necessary to advertise the call for nominations.

37. Submission of nomination

- (1) The nomination must be in writing and be addressed to the Municipal Manager.
- (2) The nomination must consist of –
 - (a) the completed declaration contained in the form contemplated in Schedule (3) and all pertinent information must be provided within the space provided on the form
 - (b) the completed declaration of interest form contemplated in Schedule

- 3;
- (c) the motivation by the nominator contemplated in subsection (3)(a); and
 - (d) the summarised curriculum vitae of the nominee contemplated in subsection (3)(b).
- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –
- (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words and not more than 250 words;
 - (b) a summarised curriculum vitae of the nominee not exceeding two A4 pages.

38. Initial screening of nomination by Municipality

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of section 35.
- (2) The nominations that are incomplete or do not comply with the provisions of section 35 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 35 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
 - (a) was not duly nominated;
 - (b) is disqualified from appointment as contemplated in section 38 of the Act;
 - (c) does not possess the knowledge or experience as required in terms of section 35(2) and (3); or
 - (d) is not registered with the professional councils or voluntary bodies contemplated in section 35(1), if applicable, the nomination must be rejected and may not be considered by the evaluation panel contemplated in section 39.
- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 39.
- (6) The screening and verification process contained in this section must be completed within thirty (30) calendar days from the expiry date for nominations.

39. Evaluation panel

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

40. Appointment and Remuneration of members to Municipal Planning Tribunal by Municipal Council

- (1) Upon receipt of the report, the Municipal Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.
- (2) After appointment of the members to the Municipal Planning Tribunal, the Municipal Council must designate a Chairperson and a deputy Chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as Chairperson and deputy Chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 45, publish the names of the members of the Municipal Planning Tribunal and their term of office in the same notice.
- (5) The remuneration of the members of the Municipal Planning Tribunal shall be in accordance with the guidelines of National Treasury, as amended from time to time.

41. Term of office and conditions of service of members of Municipal Planning Tribunal

- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of five (5) years, or as determined by the Municipal Council.
 - (a) The office of a member becomes vacant if that member -
 - (i) is absent from two consecutive meetings of the Municipal Planning Tribunal without the approval of leave by the Chairperson of the Municipal Planning Tribunal;
 - (ii) tenders his or her resignation in writing to the Chairperson of the Municipal Planning Tribunal;
 - (iii) is removed from the Municipal Planning Tribunal under subsection (2); or

(iv) dies.

- (2) The Municipal Council may remove a member of the Municipal Planning Tribunal if -
- (a) sufficient reasons exist for his or her removal;
 - (b) a member contravenes the code of conduct contemplated in Schedule (4);
 - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act.
- after giving the member an opportunity to be heard.
- (3) An official of a Municipality contemplated in section 35(1)(a) who serves on the Municipal Planning Tribunal
- (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the Municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality shall immediately be disqualified from serving on the Municipal Planning Tribunal.
- (4) A person appointed by a Municipality in terms of section 35(1)(b) to (g) to the Municipal Planning Tribunal –
- (a) is not an employee on the staff establishment of that Municipality;
 - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the Chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
 - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the Municipality in accordance with the Act;

- (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by Municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (5) All members of the Municipal Planning Tribunal must complete and sign the Code of Conduct and Disclosure of Interest Form contained in Schedule 4 and 3 before taking up a seat on the Municipal Planning Tribunal.
- (6) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and shall conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (7) The members of the Municipal Planning Tribunal in the execution of their duties shall comply with the provisions of the Act, Provincial legislation, this By-Law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

42. Vacancy

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Municipal Council in terms of section 40.
- (2) A member who is appointed by virtue of subsection (1) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

43. Proceedings of Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal must operate in accordance with the operational procedures and Terms of Reference determined by the Municipality.
- (2) A quorum for a meeting of the Municipal Planning Tribunal is a majority (50% plus 1) constituted as follows:
 - (a) Three (3) Tribunal members as contemplated in Section 35(1)(b-f).
 - (b) Three (3) Officials as contemplated in Section 35(1)(a) of which one official should be the authorised official delegated in terms of Chapter 6, Section 35(2) of SPLUMA.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Municipal Planning Tribunal.
- (4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the Municipality in accordance with the schedule of meetings, operational procedures and Terms of Reference of the Municipal Planning Tribunal.

- (5) The Chairperson of the Tribunal shall ensure that the business of the day is concluded in that very same sitting by exhausting all items on the Agenda for that specific day, including adoption, confirmation and signing of Minutes of that specific sitting.
- (6) The costs resulting from the meeting of the Planning Tribunal shall be settled from moneys appropriate by the Municipality.

44. Tribunal of record

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

45. Commencement date of operations of Municipal Planning Tribunal

- (1) The Municipal Manager must within thirty (30) calendar days of the first appointment of members to the Municipal Planning Tribunal publish a notice in the Provincial Gazette of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in Section 40(4).
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

Part C: Decisions of Municipal Planning Tribunal

46. General criteria for consideration and determination of application by Municipal Planning Tribunal

- (1) When the Municipal Planning Tribunal considers an application it must have regard to the following:
 - (a) the application submitted in terms of this By-Law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by the member of the Executive Council (MEC) regarding proposed land uses;
 - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (e) the response by the applicant to the comments referred to in paragraph (d);
 - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;

- (g) a written assessment by a Professional Planner registered in terms of the Planning Profession Act, 2002, in respect of the following applications:
 - (i) a rezoning;
 - (ii) a subdivision of more than twenty (20) cadastral units;
 - (iii) a removal, suspension or amendment of a restrictive condition, if it relates to a change of land use.
 - (iv) an amendment, deletion or additional conditions in respect of an existing approval, listed in this paragraph;
 - (v) an approval of an overlay zone as provided in the Land Use Scheme;
 - (vi) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;
 - (vii) a determination of a zoning as contemplated in section 169;
 - (viii) a closure of a public place or part thereof;
 - (h) the Integrated Development Plan and Municipal Spatial Development Framework;
- (2) A Municipality's Land Development Officer may approve a Site Development Plan submitted to the Municipality for consideration in terms of applicable development parameters or conditions of approval as contemplated in subsection (1) above, if the Site Development Plan—
- (a) is consistent with the development rules of the zoning;
 - (b) is consistent with the development rules of the overlay zone;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-Law.
- (3) When a Site Development Plan is required in terms of development parameters or conditions of approval
- (a) the Municipality may not approve a building plan if the Site Development Plan has not been approved; and
 - (b) the Municipality may not approve a building plan that is inconsistent with the approved Site Development Plan.

47. Conditions of approval

- (1) When the Municipal Planning Tribunal approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.

- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;
 - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;
 - (j) requirements aimed at addressing climate change;
 - (k) the establishment of a Home Owners' Association in respect of the approval of a subdivision;
 - (l) the provision of land needed by other organs of state;
 - (m) the endorsement in terms of section 31 of the Deeds Registries Act, 1937 (Act No 47 of 1937) in respect of public places where the ownership thereof vests in the Municipality or the registration of public places in the name of the Municipality, and the transfer of ownership to the Municipality of land needed for other public purposes;
 - (n) the implementation of a subdivision in phases;
 - (o) requirements of other organs of state.
 - (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
 - (q) agreements to be entered into in respect of certain conditions;
 - (r) the phasing of a development, including lapsing clauses relating to such phasing;
 - (s) the delimitation of development parameters or land uses that are set for a particular zoning;

- (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-Law;
 - (u) the setting of dates by which particular conditions must be met;
 - (v) requirements relating to engineering services as contemplated in Chapter 7;
 - (w) requirements for an occasional use that must specifically include –
 - (i) parking and the number of ablution facilities required;
 - (ii) maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the Land Use Scheme;
- (3) If a Municipal Planning Tribunal imposes a condition contemplated in subsection (2)(a), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to Municipal public expenditure according to the normal need therefore arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
- (5) Municipal public expenditure contemplated in subsection (3) includes but is not limited to Municipal public expenditure for Municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
 - (b) conservation purposes;
 - (c) energy conservation;
 - (d) climate change; or
 - (e) Engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal may not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.
- (8) Conditions which require a standard to be met must specifically refer to an

approved or published standard.

- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (10) If the Municipal Planning Tribunal approves a land development or use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) The Municipal Planning Tribunal may, on its own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.

Part D: Administrative Arrangements

48. Administrator for Municipal Planning Tribunal

- (1) The Municipal Manager must designate an employee as the Administrator for the Municipal Planning Tribunal.
- (2) The person referred to in subsection (1) must—
 - (a) liaise with the relevant Municipal Planning Tribunal members and the parties in relation to any application or other proceedings filed with the Municipal Planning Tribunal;
 - (b) maintain a diary of hearings of the Municipal Planning Tribunal;
 - (c) allocate meeting dates and application numbers to applications;
 - (d) arrange the attendance of meetings by members of the Municipal Planning Tribunal;
 - (e) arrange venues for Municipal Planning Tribunal meetings;
 - (f) administer the proceedings of the Municipal Planning Tribunal;
 - (g) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;
 - (h) ensure the efficient administration of the proceedings of the Municipal Planning Tribunal, in accordance with the directions of the chairperson of the Municipal Planning Tribunal;
 - (i) arrange the affairs of the Municipal Planning Tribunal so as to ensure that time is available to liaise with other authorities regarding the alignment of integrated applications and authorisations;
 - (j) notify parties of orders and directives given by the Municipal Planning Tribunal;
 - (k) keep a record of all applications submitted to the Municipal Planning Tribunal and the outcome of each, including—

- (i) decisions of the Municipal Planning Tribunal;
 - (ii) on-site inspections and any matter recorded as a result thereof;
 - (iii) reasons for decisions; and
 - (iv) proceedings of the Municipal Planning Tribunal; and
- (l) keep records by any means as the Municipal Planning Tribunal may deem expedient.

CHAPTER 5

DEVELOPMENT MANAGEMENT

Part A: Categories of Applications

49. Categories of Land Use and Land Development applications

The Categories of Land **Development** and Land **Use** Management for the Municipality, as contemplated in section 35(3) of the Act, are as follows -

- Category 1: Land Development Applications;
- Category 2: Land Use Applications;
- Category 3: Traditional Use Applications; and
- Category 4: Temporary Use Applications.

No appeals for Category 4 applications shall be entertained

(1) Land **Development** applications are applications for:

CATEGORY 1

- (a) the establishment of a township or the extension of the boundaries of a township;
- (b) the amendment of an existing scheme or land use scheme by the rezoning of land;
- (c) subject to subsection (2)(f), the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
- (d) the amendment or cancellation in whole or in part of a General Plan of a township;
- (e) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
- (f) permanent closure of any public place;
- (g) all applications for the restriction of access to a public road in terms of the Rationalization of Local Government Affairs Act, 1998 (Act No. 10 of 1998);
- (h) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or Land Use Scheme;
- (i) instances where the Municipality acting on its own accord wishes to remove, amend a restrictive or obsolete condition, servitude or

reservation registered against the title deed of a property or properties which may also arise out of a condition of establishment of a township or any other legislation;

(j) any consent or approval provided for in a Provincial law.

(2) Land **Use** applications are applications for:

CATEGORY 2

(a) the subdivision of any land where such subdivision is expressly provided for in a Land Use Scheme;

(b) the consolidation of any land;

(c) the simultaneous subdivision, under circumstances contemplated in paragraph (a) and consolidation of land;

(d) the consent use or special consent use provided for in terms of an existing scheme or Land Use Scheme i.e. Guest House, Place of Public Worship, Place of Instruction, Overnight Accommodation, Service Industry, Place of Amusement, Telecommunication Mast, etc.

(e) the consent of the Municipality for any land use purpose or departure or deviation in terms of a Land Use Scheme or existing scheme which does not constitute a land development application;

(f) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a Land Use Scheme in operation.

(3) Traditional use applications relate to communal land and are applications for:

CATEGORY 3

(a) the amendment of the use of land in instances where such amendment will have a high impact development on the community; and

(b) any other amendment of the traditional use of communal land i.e. Spaza Shop, Crèche, Cultural School for Boys, any other application that is related to cultural activities, etc;

(4) Temporary use applications are applications that do not result in an amendment of the Land Use Scheme and are:

CATEGORY 4

(a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

(b) any other application for temporary use submitted in accordance with the By-Law of the Municipality.

(5) The division of functions as contemplated in section 35(3) of the Act between a Land Development Officer and a Municipal Planning Tribunal is set out in section 31.

50. Land development application requirements

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality in terms of subsection (3).
- (2) No person may commence with, carry on or cause the commencement with or carrying on of a land use activity which is permitted in the Land Use Scheme but not exercised by the owner of the land.
- (3) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the Land Use Scheme.
- (4) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.

Part B: Establishment of Township or Extension of Township Boundaries**51. Application for Establishment of Township or Extension of Township Boundaries**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
 - (a) the conditions of establishment;
 - (b) the statement of conditions shall be known as conditions of establishment for the township;
 - (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-Law.
- (3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, containing the following:
 - (a) specific conditions that must be complied with prior to the opening of a township register with the Registrar of Deeds;
 - (b) the conditions of establishment relating to the township that must remain applicable to the township;
 - (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
 - (d) third party conditions as required by the Registrar of Deeds;
 - (e) the conditions to be incorporated into the Land Use Scheme by means of

an amendment scheme.

- (f) the condition that must apply if a non-profit or Section 21 Company is to be established for purposes of maintaining or transfer of erven within the township;
 - (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.
- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (3) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality may not exercise its powers hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application in accordance with section 86.
- (5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant amend the layout of the township approved as part of the township establishment; Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality may not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality in accordance with section 86.
- (6) Without detracting from the provisions of subsection (4) and (5) the Municipality may require the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

52. Division or phasing of township

- (1) An applicant who has been notified in terms of section 51(4) and (5) that his or her application has been approved may, within a period of eight (8) months from the date of the notice, or such further period as the Municipality may allow, apply to the Municipality for the division of the township into two or more separate townships.
- (2) On receipt of an application in terms of subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor General.
- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the applicant in writing thereof and of any conditions imposed.
- (4) The applicant shall, within a period of three (3) months from the date of the notice contemplated in subsection (3), submit to the Municipality such plans, diagrams or other documents and furnish such information as may be required in respect

of each separate township.

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

- (1) An applicant who has been notified in terms of section 51(4) and (5) that his or her application has been approved, shall, within a period of twelve (12) months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application shall lapse.
- (2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 51(2) and of the conditions of establishment together with a stamped approved layout plan, contemplated in section 53(1)
- (3) The Municipality may for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.

54. Compliance with pre-proclamation conditions

- (1) The applicant shall provide proof to the satisfaction of the Municipality within a period of twelve (12) months from date of approval of the General Plan by the Surveyor General that all conditions contained in the approval of a township establishment application have been complied with.
- (2) The Municipality may agree to an extension of time as contemplated in subsection (1), after receiving a written application from the applicant for an extension of time, provided that such application provides motivation for the extension of time.

55. Opening of Township Register

- (1) The applicant shall lodge with the Registrar of Deeds the plans and diagrams contemplated in section 53 as approved by the Surveyor-General together with the relevant title deeds for endorsement or registration, as the case may be.
- (2) For purposes of subsection (1) the Registrar shall not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 54
- (3) The plans, diagrams and title deeds contemplated in subsection (1) shall be lodged within a period of twelve (12) months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow in terms of section 54(2)
- (4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar shall notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar shall not register any further transactions in respect of any land situated in the township until such time as the

township is declared an approved township in terms of section 56, provided if the applicant wishes to withdraw the application, he/she shall do so by means of an appropriate application to be prescribed by the Municipality.

56. Proclamation of approved township.

After the provisions of sections 53, 54 and 55 have been complied with to the satisfaction of the Municipality that the township is in its area of jurisdiction, the applicant, if authorized in writing by the Municipality, shall, by notice in the *Provincial Gazette*, declare the township an approved township and it shall, in an Annexure to such notice, set out the conditions on which the township is declared an approved township.

Part C: Rezoning of land

57. Application for amendment of a Land Use Scheme by rezoning of land

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) If the following requirements are not met, a rezoning approval may lapse after a period of twelve (12) months, from the date of approval, or a further period as may be determined by the Municipality:
 - (a) the zoning is not utilised in accordance with the approval thereof; or
 - (b) if the land use right as approved is not implemented and exercised.
- (3) The Municipality may grant extension to the periods contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed ten (10) years.
- (4) If a rezoning approval lapses prior to proclamation, 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, a zoning of "Undetermined", be applicable.
- (5) If the provisions of subsection 2 is not adhered to and the rezoning has been proclaimed the Municipality shall have the sole right to de-proclaim the land use right which was approved, at the cost of the applicant and the applicant will have no claim against the Municipality for any costs incurred as a result of the rezoning application.
- (6) If land is to be used for a Quarry, an application for rezoning should be submitted for consideration.

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

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

- (1) The Municipality may, of its own accord or on application, publish a notice once on any working day in English and in at least one official language mostly spoken in the area, in a newspaper with a general circulation in the area concerned, of its intention to amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the Municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) In addition to the procedures set out in Chapter 6, the applicant must:
 - (a) submit a certified copy of the title deed to the Municipality ;
 - (b) submit the bondholder's consent to the Municipality, where applicable.
- (4) The applicant shall attend to the serving of a notice of the application contemplated in the subsection (2) to be served on:
 - (a) all organs of state that may have an interest in the title deed restriction;
 - (b) every holder of a bond encumbering the land;
 - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
 - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) The applicant shall submit a sworn affidavit to proof that the application was served on institutions/persons contemplated in subsection (4)
- (6) When the Municipality considers the application contemplated in terms of section 58, the Municipality must have regard to the following:
 - (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;

- (d) the social benefit of the restrictive condition remaining in place in its existing form;
 - (e) the social benefit of the removal or amendment of the restrictive condition; and
 - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.
- (7) After approval of the application for amendment suspension or removal of restrictive condition by the Municipality, the Municipality shall publish a notice in the Provincial Gazette to confirm the amendment, suspension or removal of restrictive condition.

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

- (1) The applicant shall, at own cost submit the following documents to the Registrar of Deeds, for endorsement of the relevant registers and title deed accordingly:
- (a) the original title deed;
 - (b) the original letter of approval of the Municipality; and.
 - (c) a copy of the notice as published in the Provincial Gazette as contemplated in section 58 (7).
- (2) The Registrar of Deeds must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in section 58(7), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition. The Registrar of Deeds must notify the Municipality in question of such endorsement.

Part E: Subdivision and Consolidation

60. Application for subdivision

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 63.
- (2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.
- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, unless the land concerned is zoned for such subdivision.
- (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 the approved subdivision sketch plan or layout plan to the Surveyor-General for approval,

including proof to the satisfaction of the Surveyor-General of:

- (a) the Municipality's decision to approve the subdivision;
 - (b) the conditions of approval and
 - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of twelve (12) months or the shorter period as the Municipality may determine, from the date of approval of the subdivision, comply with the following requirements:
- (a) the 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) the serving of notices to adjacent owners in terms of Section 87 of this By-Law;
 - (d) submit proof to the satisfaction of the Municipality that all relevant conditions contemplated in subsection (5) for the approved subdivision in respect of the area shown on the General Plan or diagram, have been complied with prior to compliance with paragraph (e)
 - (e) registration of the subdivision in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) of the land unit shown on the diagram or of at least one new land unit shown on the General Plan.
- (7) A confirmation from the Municipality in terms of subsection (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

61. Lapsing of subdivision and extension of validity periods

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with section 60(6), unless if the applicant has applied for a further extension of time as contemplated subsection (2).
- (2) An applicant may apply for an extension of the period to comply with section 60(6).
- (3) An extension contemplated in subsection (2) may be granted for a period not exceeding five (5) years and if after the expiry of the extended period the requirements of section 60(6) has not been complied with, the subdivision lapses and subsection (6) applies.
- (4) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed ten (10) years.
- (5) If an approval of a subdivision or part thereof lapses under subsection (1):

- (a) the Municipality must:
 - (i) amend where applicable, all registers and maps accordingly; and
 - (ii) notify the Surveyor-General accordingly; and
- (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

62. Amendment or cancellation of subdivision plan

- (1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval, the General Plan or diagram, in relation to land units shown on the General Plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937).
- (2) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed.
- (3) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
- (4) An approval of a subdivision in respect of which an amendment or cancellation is approved in terms of subsection (1), remains valid for the remainder of the period contemplated in section 60(6) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

63. Exemption of Municipal approval for subdivisions, consolidations, registration of servitudes or lease agreements, etc

- (1) The subdivision and or consolidation of land in the following circumstances do not require the approval of the Municipality:
 - (a) if the subdivision and or consolidation arises from the implementation of a court ruling;
 - (b) if the subdivision and or consolidation arises from an expropriation;
 - (c) a minor amendment of the common boundary between two or more land units if the resulting change in area of any of the land units is not more than 10 per cent;
 - (d) the registration of a servitude or lease agreement for the provision or installation of:
 - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
 - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;

- (iii) the imposition of height restrictions;
 - (e) the exclusive utilisation of land for agricultural purposes, if the utilisation—
 - (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
 - (ii) does not lead to urban expansion.
 - (f) the subdivision and or consolidation of a closed public place with an abutting erf; and
 - (g) the granting of a right of habitation or usufruct.
- (2) The Municipality must, in each case, certify in writing that the subdivision and or consolidation have been exempted from the provisions of this Chapter.
- (3) The Municipality must indicate on the plan of subdivision and or consolidation that the subdivision and or consolidation has been exempted from the provisions of section 60.

64. Services arising from subdivision

- (1) Subsequent to the granting of an application for subdivision in terms of this By-Law the owner of any land unit originating from the subdivision must:
- (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:
 - (i) gas mains;
 - (ii) electricity cables;
 - (iii) telephone cables;
 - (iv) television cables;
 - (v) other electronic infrastructure;
 - (vi) main and other water pipes;
 - (vii) foul sewers;
 - (viii) storm water pipes; and
 - (ix) ditches and channels;
 - (x) and any other services that the Municipality may deem necessary.
 - (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;
 - (iv) and any other services that the Municipality may deem necessary.
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs (a) and (b); and
- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.

65. Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 63.
- (2) An applicant who wishes to consolidate land must apply to the Municipality for the consolidation of land in the manner provided for in Chapter 6.
- (3) No application for consolidation involving a change of zoning may be considered by the Municipality, unless the land concerned is zoned for such consolidation, if applicable.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a consolidation, if applicable.
- (5) If a Municipality approves a consolidation, the applicant must submit the approved consolidation sketch plan or layout plan to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of:
- (a) the Municipality's decision to approve the consolidation;
 - (b) the conditions of approval and
 - (c) the approved consolidation plan.
- (6) If the Municipality approves an application for a consolidation, the applicant must within a period of 12 months or the shorter period as the Municipality may determine, from the date of approval of the consolidation, comply with the following requirements:
- (a) the 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, if applicable.
- (c) The serving of notices to adjacent owners in terms of Section 87 of this By-Law;
 - (d) submit proof to the satisfaction of the Municipality that all relevant conditions contemplated in subsection (5) for the approve consolidation in respect of the area shown on the General Plan or diagram, have been complied with prior to compliance with paragraph (e).
 - (e) registration of the consolidation in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) of the land unit shown on the diagram.
- (7) A confirmation from the Municipality in terms of subsection (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the consolidation.

66. Lapsing of consolidation and extension of validity periods

- 1) An approved consolidation lapses if the applicant does not comply with section 64(6), unless if the applicant has applied for a further extension of time as contemplated subsection (2).
- 2) An applicant may apply for an extension of the period to comply with section 64(2);
- 3) An extension contemplated in subsection (2) may be granted for a period not exceeding five (5) years and if after the expiry of the extended period the requirements of section 64(6) has not been complied with, the consolidation lapses and subsection (6) applies.
- 4) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed ten (10) years.
- 5) If an approval of a consolidation or part thereof lapses under subsection (1):
 - (a) the Municipality must:
 - (i) amend where applicable ,all registers and maps 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.

Part F: Permanent Closure of Public Places

67. Closure of public places

- (1) The Municipality may on its own initiative or on application close a public place or any portion thereof in accordance with the procedures in Chapter 6.

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

special provision for the accommodation of crowds, or

- (e) for any other reason which, in the opinion of the Municipal Manager, renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

Part G: Consent Use

68. Application for consent use

- (1) An applicant may apply to the Municipality for a consent use provided for in the Land Use Scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable Land Use Scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval;
- (3) A consent use may be granted permanently or for a specified period of time;
- (4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subsection (1) lapses after a period of twelve (12) months from date of approval, or the shorter period as the Municipality may determine if the applicant does not comply with the following conditions:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved consent use, if applicable and
 - (ii) commencement with the construction of the building in accordance with subparagraph(i), if applicable
- (6) The Municipality may grant extensions to the period contemplated in subsection (5), which period together with any extensions that the Municipality grants, may not exceed ten (10) years.

Part H: Traditional Use

69. Application for Traditional Use

- (1) An applicant who wishes to amend the use of communal land and if such an amendment will have a high impact on the community and will result in the development of land, must apply to the Municipality for the amendment of the land use in the manner provided for in Chapter 6.
- (2) The applicant who wishes to make a land development application on land held by the Traditional Council shall approach the relevant Traditional Council to apply for land to be developed by completing an appropriate form.

- (3) The applicant stated in subsection (2) must indicate the description of the property, location, extent, purpose of the intended use.
- (4) The Traditional Council shall upon receipt of the application contemplated in subsection 2, submit the application to the Municipality for comments before the applicant can be notified of the outcome of the land application, whether it is supported or not. The Municipality shall amongst others determine the extent of the land to be allocated.
- (5) The Municipality must within fourteen (14) calendar days of receipt of the land application mentioned in the subsection (2) recommend to the Traditional Council whether to continue or not with the allocation of the land as applied for by the applicant.
- (6) The applicant shall having been informed by the Traditional Council of the outcome submit a land development application to the Municipality in accordance with the provisions of Chapter 6.
- (7) Any person who causes any development of land on land held by a Traditional Council i.e. subdivision, consent use etc., without obtaining prior permission for such development from the Traditional Authority, in terms of subsection (2) shall be guilty of an offense and liable upon conviction of R10 000.00 or imprisonment for a period as determined by a Court of Law or to both a fine and such imprisonment;
- (8) The offense contemplated in subsection (7) derives from Greater Tzaneen Municipality Policy on Land Management, Administration Procedures, Prevention and Control of Informal Settlements.

Part I: Temporary Use

70. Application for temporary use

- (1) An applicant may apply to the Municipality-
 - (a) for a departure from the development parameters of a zoning; or
 - (b) to utilise land on a temporary basis for a purpose for which no provision is made in the Land Use Scheme in respect of a particular zone for a period to be determined by the Municipality in accordance with the period applied for by the applicant, in the manner provided for in Chapter 6.
- (2) A departure contemplated in subsection (1)(a) will automatically lapse if not utilised.
- (3) The Municipality may grant extension of time upon request by the applicant.
- (4) A temporary departure contemplated in subsection (1)(b) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert back to its previous lawful use upon the expiry of the period contemplated in subsection (1)(b).
- (5) A temporary departure or use can be regarded as the occasional use of land for inter alia the purpose of a Circus, Place of Public Worship, Place of Instruction,

Fresh Produce and Craft Markets, Sand Mining, Festivals, etc.

Part J: General Matters

71. Ownership of public places and land required for Municipal Engineering services and social facilities

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

72. Restriction of transfer and registration

- (1) Notwithstanding the provisions contained in this By-Law or any conditions imposed in the approval of any land development application, the owner shall, at his or her cost and to the satisfaction of the Municipality, survey and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.
- (2) No Erf/Erven and/or units in a land development area, may be alienated or transferred into the name of a purchaser nor shall a Certificate of Registered Title be registered in the name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:
 - (a) all engineering services have been designed and constructed to the satisfaction of the Municipality, including guarantees for services having been provided to the satisfaction of the Municipality as may be required; and
 - (b) all engineering services and development charges have been paid; and
 - (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
 - (d) all conditions of the approval of the land development application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance thereof within three (3) months of having certified to the Registrar in terms of this section that registration may take place; and
 - (e) that the Municipality is in a position to consider a final building plan; and
 - (f) that all the properties have either been transferred or shall be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme

73. First transfer

- (1) Where an owner of land to which a land development application relates is

required to transfer land to:

- (a) the Municipality or to
- (b) a non-profit company or Section 21 Company.

by virtue of a condition set out in the conditions to the approval of a land development application contemplated in section 51, the land shall be so transferred at the expense of the applicant, within a period of six (6) months from the date of the land use rights coming into operation in terms of section 56, or within such further period as the Municipality may allow, but in any event prior to any registration or transfer of any erf, portion, opening of a sectional title scheme or unit within the development.

74. Certification by Municipality

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.
- (2) The Municipality may not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-Law, unless the owner furnishes the Municipality with—
 - (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
 - (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
 - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the Land Use Scheme;
 - (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred; and
 - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

75. National and Provincial interest

- (1) In terms of section 52 of the Act an applicant shall refer any application which affects National or Provincial interest respectively to the Minister and the Member of the Executive Council for comments, which comments are to be provided within twenty one (21) calendar days as prescribed in subsection 52(5) of the Act.
- (2) Where any application in terms of this By-Law, which in the opinion of the Municipal Manager affects National or Provincial interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister or the Member of the Executive Council respectively and the provisions of subsections 52(5) to 52(7) of the Act, apply with the necessary changes.
- (3) The Municipal Planning Tribunal or Land Development Officer as the case may be, as contemplated in this By-Law and the Act, may direct that an application

before it, be referred to the Minister and the Member of the Executive Council, if such an application in their opinion affects National or Provincial interest and the provisions of subsections 52(5) to 52(7) of the Act apply with the necessary changes.

- (4) Subsections (1) to (3) shall be read with subsection 33(1) of the Act in that the National and or Provincial departments becomes parties to the application that affects National or Provincial interest, but the Municipality remains the decision maker of first instance.

CHAPTER 6

GENERAL APPLICATION PROCEDURES

76. Applicability of Chapter

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

77. Procedures for making application

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

78. Information required

- (1) An application must be accompanied by the following documents:
 - (a) an appropriate application form completed and signed by the applicant;
 - (b) if the applicant is not the owner of the land, a Power of Attorney authorising the applicant to make the application on behalf of the owner if the owner of the land is a Company, Closed Corporation, Trust, Body Corporate or Home Owners' Association, proof that the person is authorised to act on behalf of the Company, Closed Corporation, Trust, Body Corporate or a Home Owners' Association
 - (c) the relevant bondholder's consent, if required by the Municipality;
 - (d) a written motivation for the application based on the criteria for consideration of the application
 - (e) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant General Plan(3 COPIES);
 - (f) a locality plan and Site Development Plan, when required, or a plan showing the proposal in its cadastral context(3 COPIES);
 - (g) in the case of an application for the subdivision of land, copies of the subdivision plan showing inter alia the following(3 COPIES):
 - (i) the location of the proposed land units;
 - (ii) the proposed zonings in respect of the proposed land units;
 - (iii) all existing structures on the property and abutting properties;
 - (iv) the public places and the land needed for public purposes;
 - (v) the existing access points;
 - (vi) all servitudes;
 - (vii) contours with at least a one meter interval or such other interval

- as may be approved by the Municipality;
- (viii) the street furniture;
 - (ix) the light, electrical and telephone poles;
 - (x) the electrical transformers and mini substations;
 - (xi) the storm water channels and catch pits;
 - (xii) the sewerage lines and connection points;
 - (xiii) any significant natural features;
 - (xiv) the scale and all distances and areas (m²).
- (h) any other plans, diagrams, documents or information that the Municipality may require;
 - (i) the proof of payment of application fees;
 - (j) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds (or in case of traditional land a traditional land resolution);
 - (k) if required by the Municipality, a certificate of a conveyancer indicating that no restrictive condition in respect of the application is contained in such title deeds;
 - (l) in the case of a Category 3: Traditional Use application referred to in section 69, community approval granted as a result of a community participation process conducted in terms of Customary Law.
- (2) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

79. Application fees

An applicant must pay the application fees determined by the Municipality prior to submitting an application in terms of this By-Law.

Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

80. Grounds for refusing to accept application

The Municipality may refuse to accept an application if:

- (1) there is no proof of payment of fees;
- (2) the application is not in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 78.

81. Receipt of application and request for further documents

The Municipality must:

- (1) record the receipt of an application in writing or by affixing a stamp on the application on the day of receipt;
- (2) notify the applicant in writing of any outstanding or additional plans, documents, other information or additional fees that it may require within thirty (30) calendar days of receipt of the application or the further period as may be agreed upon, failing which it is regarded that there is no outstanding information or documents; and
- (3) if the application is complete, notify the applicant in writing that the application is complete within fourteen (14) calendar days of receipt of the application.

82. Additional information

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

83. Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete within fourteen (14) calendar days of receipt of the additional plans, documents or information required by it or if further information is required as a result of the furnishing of the additional information.
- (2) If further information is required, section 82 applies to the further submission of information that may be required.

84. Withdrawal of application

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

85. Notice of applications in terms of integrated procedures

- (1) The Municipality may, on prior written request with motivations by an applicant, determine that:
 - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-Law; or
 - (b) notice of an application made in terms of this By-Law may be published in accordance with the requirements for public notice applicable to a related application in terms other legislation;
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1) (b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within thirty (30) calendar days of having notified the applicant that the application is complete, simultaneously:
 - (a) cause public notice of the application to be given in terms of section 86 ; and
 - (b) forward a copy of the notice together with the relevant application to every Municipal department, service provider and organ of state that has an interest in the application, unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subsection (1), is considered to be public notice in terms of this By-Law.
- (4) The Municipality may require the applicant to give the required notice of an application in the media.

Where an applicant has published a notice in the media at the request of a Municipality, the applicant must provide proof that the notice has been published as required.

86. Notification of application in media

- (1) The Municipality may require the applicant to cause notice to be given in the media, in accordance with this By-Law, of the following applications, at the sole discretion of the Municipality:
 - (a) an application of establishment of a township or extension of township boundaries;
 - (b) an application for a rezoning or amendment of an existing scheme or Land Use Scheme, by an applicant or a rezoning on the initiative of the Municipality;
 - (c) the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of land;
 - (d) the removal, amendment or suspension of the restrictive title condition

- relating to the density of residential development on a specific erf where the residential density is regulated by a Land Use Scheme in operation;
- (e) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or Land Use Scheme;
 - (f) any application for consent use or special consent use provided for in terms of an existing scheme or Land Use Scheme i.e. Guest House, Place of Public Worship, Place of Instruction, Overnight Accommodation, Service Industry, Place of Amusement, Telecommunication Mast, etc.;
 - (g) the consent of the Municipality for any land use purpose or departure or deviation in terms of a Land Use Scheme or existing scheme which does not constitute a land development application;
 - (h) any consent or approval provided for in a Provincial law;
 - (i) Traditional land use applications relating to communal land as contemplated in section 49(3), if required by the Municipality,
 - (j) if the Municipality has no approved Municipal Spatial Development Framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (k) if the Municipality has no approved Municipal Spatial Development Framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (l) the closure of any public place;
 - (m) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Notice of the application in the media must be given **once** on any working day by—
- (a) publishing a notice in English and in at least one official language mostly spoken in the area in a newspaper with a general circulation in the area concerned
 - (b) posting a copy of the notice of application, for at least the duration of the notice period, i.e. the objection period, on the land concerned and on any other notice board as may be determined by the Municipality
 - (c) the objection period of thirty (30) calendar days shall apply to the notice referred to subsection (a) and (b)
 - (d) the notice contemplated in subsection (b) shall be in accordance with section 89(1)(a).

87. Serving of notices

- (1) Notice of an application contemplated in section 86(1) and (2) must be served
 - (a) in accordance with section 115 of the Municipal Systems Act; 2000 (Act No. 32 of 2000) as amended
 - (b) in English and at least one official language mostly spoken in the area concerned as determined by the Municipality, and
 - (c) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-Law.
- (3) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1)
- (4) Where an applicant has served a notice at the request of a Municipality, the applicant must provide proof that the notice has been served as required. The applicant shall submit a sworn affidavit as proof that the notice was served as contemplated in subsection (3)
- (5) The date of notification in respect of a notice served in terms of this section:
 - (a) when it has been served by certified or registered post is the date of registration of the notice; and
 - (b) when it has been delivered to that person personally is the date of delivery to that person;
 - (c) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years is the date on which it has been left with that person; or
 - (d) when it has been posted in a conspicuous place on the property or premises to which it relates is the date that it is posted in that place.

88. Content of notice

- (1) When notice of an application must be given in terms of section 86 or served in terms of section 87, the notice must contain the following information:
 - (a) the details of the applicant;
 - (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 contact details of the relevant Municipal employee;
- (f) invite members of the public to submit written comments, objections or representations together with the reasons thereof in respect of the application;
- (g) state in which manner comments, objections or representations may be submitted;
- (h) state the date by when the comments, objections or representations must be submitted which may not be less than thirty (30) calendar days from the date on which the notice was given;
- (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections, comments or representations.
- (j) objections and/or representations must be submitted to the Municipality only.

89. Additional methods of public notice

- (1) If the Municipality considers notice in accordance with sections 86 or 87 to be ineffective or the Municipality decides to give notice of any application in terms of this By-Law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application, of which subsection 1(a) is compulsory:
 - (a) to display a notice contemplated in section 86(2) of a size of at least 30 cm by 42 cm 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 thirty (30) calendar days during the period that the public may comment on the application i.e. the objection period;
 - (ii) the applicant must, within twenty one (21) calendar days from the last day of display of the notice, remove the notice from the property and submit the following to the Municipality:
 - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (bb) at least two photos of the notice, one from nearby and one from across the street.
 - (b) to convene a meeting for the purpose of informing the affected members of the public of the application;
 - (c) to broadcast information regarding the application on a local radio station in a specified language;
 - (d) to hold an open day or public meeting to notify and inform the affected members of the public of the application;

- (e) to publish the application on the Municipality's website for the duration of period of thirty (30) calendar days that the public may comment on the application; or
 - (f) to obtain letters of consent or objection to the application.
- (2) Where an applicant has given additional public notice of an application on behalf of a Municipality, the applicant must provide proof that the additional public notice has been adhered to or given as required.

90. Requirements for petitions

- (1) All petitions must clearly state:
- (a) the contact details of the authorised representative of the signatories of the petition;
 - (b) the full name and physical address of each signatory; and
 - (c) the objection and reasons for the objection.
- (2) Notice to the person contemplated in subsection (1)(a), constitutes notice to all the signatories to the petition.

91. Requirements for objections, comments or representations

- (1) A person may, in response to a notice received in terms of sections 86, 87 or 89, object, comment or make representations in accordance with this section.
- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice and in the manner set out in this section.
- (3) The objection must state the following:
- (a) the name of the person or body concerned;
 - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
 - (c) the interest of the body or person in the application;
 - (d) the reason for the objection, comment or representation.
- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to:
- (a) indicate the facts and circumstances which explains the objection, comment or representation;
 - (b) demonstrate the undesirable effect which the application will have on the area;

- (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality may refuse to accept an objection, comment or representation received after the closing date.
- (6) All internal Municipal Departmental comments on an application must be submitted in writing within fourteen (14) days from date of sending the document for comments.

92. Amendments prior to approval

- (1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-Law and prior to the approval thereof:
 - (a) at the applicant's own initiative;
 - (b) as a result of objections and comments made during the public notification process; or
 - (c) at the request of the Municipality.
- (2) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-Law and may require that the notice and the application be resent to municipal departments, organs of state and service providers.
- (3) In the event the land has no lawful zoning allocated, the Municipality may allocate a zoning of "UNDETERMINED" as contemplated in Section 168 , sub section (3)

93. Further public notice

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

94. Cost of notice

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

95. Applicant's right to reply

- (1) Copies of all objections, comments or representations lodged with a Municipality

must be provided to the applicant within fourteen (14) calendar days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.

- (2) The applicant may, within a period of thirty (30) calendar days from the date of the provision of the objections, comments or representations, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections, comments or representations.
- (3) The applicant may before the expiry of the thirty (30) calendar day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of fourteen (14) calendar days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of thirty (30) calendar days or within an additional period of fourteen (14) calendar days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations lodged with a Municipality, additional information regarding the application is required by the Municipal Planning Tribunal, the information must be supplied within thirty (30) calendar days to a maximum period of sixty (60) calendar days as required by the Tribunal.
- (6) If the applicant does not provide the information within the timeframes contemplated in subsection (5), and section 82(2) to (5) with the necessary changes, applies.

96. Written assessment of application

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

97. Decision-making period for opposed and unopposed applications

- (1) When the power to take a decision is delegated to an authorised employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the application within ninety(90) calendar days of the closing date for the submission of comments, objections or representations.
- (2) When the power to take a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the opposed applications within ninety (90) calendar days of the closing date for the submission of comments, objections or representations.
- (3) The Municipal Planning Tribunal shall consider all unopposed applications within one (1) sitting as per the operational guidelines and Terms of Reference adopted by the Municipal Council.

98. Failure to act within time period

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of this By-Law and the applicant or interested person may report the non-performance of the Municipal Planning Tribunal or Land Development Officer to the Municipal Manager, who must report it to the Municipal Council and Mayor.

99. Powers to conduct routine inspections

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-Law and to prepare a report contemplated in section 96.
- (2) When conducting an inspection, the authorised employee may:
 - (a) request that any record, document or item be produced to assist in the inspection;
 - (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
 - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
 - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (5) An inspection under subsection (1) must take place within normal working hours or otherwise arranged and prior notice of at least forty eight (48) hours must be given to the owner or occupier of the land or building.

100. Determination of application

- (1) The Municipality may recommend to the Municipal Planning Tribunal of any application submitted in terms of this Chapter to:
 - (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-Law;
 - (b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;

- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-Law and other related legislations;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of a Municipality;
- (f) decide any question concerning its own jurisdiction;
- (g) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-Law;

101. Notification of decision

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

102. Duties of agent of applicant

- (1) An applicant who is not the owner of the land concerned must ensure that he or she has the contact details of the owner of the property.
- (2) The agent must ensure that all information furnished to the Municipality is accurate.
- (3) The agent must ensure that no misrepresentations are made.
- (4) The provision of inaccurate, false or misleading information is an offence.

103. Errors and omissions

- (1) The Authorised Official may at any time correct an error in the wording of the decision of the Municipal Planning Tribunal provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition, provided that the correction if so material be rectified in a subsequent sitting of the Tribunal.
- (2) The Authorised Official may, of its own accord or on application by an applicant or interested party, upon good cause being shown, condone an error in the procedure provided that it does not have material adverse impact or unreasonably prejudice to any party, provided that the correction if so material be rectified in a subsequent sitting of the Tribunal.

104. Withdrawal of approval

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of

approval.

- (2) Prior to doing so, the Municipality must serve a notice on the owner or applicant
 - (a) informing the owner or applicant of the alleged breach of the condition;
 - (b) instructing the owner or applicant to rectify the breach within sixty (60) calendar days, failing where after a termination notice of fourteen (14) calendar days will be served on the owner or applicant;
 - (c) allowing the owner or applicant to make representations on the notice within a specified time period.

105. Procedure to withdraw an approval granted in terms of consent use and temporary departure

- (1) The Municipality may withdraw an approval granted:
 - (a) after consideration of the representations made in terms of section 104(2)(c); and
 - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 104(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner or applicant of the withdrawal of the approval and instruct the owner or applicant to cease the activity immediately.
- (3) The approval is withdrawn from date of notification of the owner.

106. Exemptions to facilitate expedited procedures

- (1) The Municipality may in writing:
 - (a) exempt a development from compliance with the provisions of this By-Law to reduce the financial or administrative burden of:
 - (i) integrated application processes as contemplated in section 85;
 - (ii) the provision of housing with the assistance of a state subsidy; or
 - (iii) incremental upgrading of existing settlements;
 - (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-Law

CHAPTER 7**ENGINEERING SERVICES AND DEVELOPMENT CHARGES****Part A: Provision and Installation of Engineering Services****107. Responsibility for providing engineering services**

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.
- (3) The Municipality is responsible for the installation and provision of external engineering services, unless the engineering services agreement referred to in section 109 provides otherwise.

108. Installation of engineering services

- (1) The applicant shall provide and install the internal engineering services in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant shall lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.
- (2) The Municipality shall have regard to such standards as the Minister/MEC may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.
- (3) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.

109. Engineering services agreement

- (1) An applicant of a land development application and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.
- (2) The engineering services agreement must –
 - (a) classify the services as internal engineering services or external engineering services.
 - (b) make provision for the delivery of guarantee/s equal to the estimated cost of the envisaged engineering services to be installed by applicant;

- (c) be clear when the applicant and the Municipality are to commence construction of internal engineering services and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
- (d) provide for the inspection and handing over of internal engineering services to the Municipality, if so required;
- (e) determine the date on which all risk and ownership in respect of such services shall pass to the Municipality;
- (f) require the applicant and the Municipality to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
- (g) provide for the following responsibilities after the internal services have been handed over to the Municipality:
 - (i) when normal maintenance by the relevant authority must commence;
 - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
 - (iii) the rights of the relevant authority if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
- (h) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
- (i) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
- (j) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
- (k) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
 - a water-borne sewerage pipe terminating at a sewer connection;
 - a water-pipe terminating at a water meter; and
 - an electricity house connection cable terminating on the relevant erf; and
- (l) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others –

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

110. Abandonment or lapsing of land development application

- (1) Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, Provincial legislation or conditions or this By-Law, the engineering services agreement referred to in section 109 lapses and if the applicant had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she shall have no claim against the Municipal Council with regard to the provision and installation of any engineering services of whatsoever nature.
- (2) in the event where guarantee/s in respect of internal engineering services were issued in favour of the Municipality, the Municipality shall complete the installation of the outstanding services by redeeming and utilising the proceeds from the guarantee/s.

111. Internal and external engineering services

For the purpose of this Chapter:

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

Part B: Development charges

112. Payment of development charges

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -
 - (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improves such services as a result of the commencement of the amendment scheme; and
 - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If a land development application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must, subject to section 113, pay the development charge to the Municipality.
- (3) An applicant or owner who is required to pay a development charges in terms of this By-Law shall pay such development charges to the Municipality before:
 - (a) a written statement contemplated in section 118 of the Municipal System Act, 2000 (Act No. 32 of 2000) as amended is furnished in respect of the land;
 - (b) a building plan is approved in respect of:
 - (i) the proposed alteration of or addition to an existing building on the land;
 - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme

in operation;

- (c) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

113. Offset of development charges

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.
- (2) The applicant or the owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) if the cost of the installation of the external engineering services exceed the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.
- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 109.

114. Payment of development charges in instalments

- (1) The Municipality may -
 - (a) in the circumstances contemplated in subsection (b) or (c), allow payment of the development charge contemplated in section 112 in instalments over a period not exceeding three (3) months;
 - (b) in any case, allow payment of the development charge contemplated in section 112 to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
 - (c) in exercising the power conferred by subsection (a) or (b), impose any condition, including a condition for the payment of interest.

115. Refund of development charges

No development charges paid to the Municipality in terms of section 112 or any portion thereof shall be refunded to an applicant or owner: Provided that where the owner paid the applicable charges prior to the land use rights coming into operation and the application is abandoned in terms of section 110 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

116. General matters relating to contribution charges

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

CHAPTER 8

APPEAL PROCEDURES

Part A: Management of an Appeal Authority

117. Presiding Officer of Appeal Authority

The Presiding Officer of the Appeal Authority is responsible for managing the judicial functions of that Appeal Authority.

- (1) The Appeal Authority shall consist of a minimum of three (3) members made up as follows:
 - (a) The Presiding Officer must be either admitted as an attorney in terms of the Attorney's Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964).
 - (b) One (1) person registered as professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002).
 - (c) One (1) person registered as professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000) **OR** one (1) environmental assessment practitioner registered with a voluntary association.
- (2) The Appeal Authority shall have the right to co-opt, appoint or employ the services of technical or other advisers in terms of Section 39 of the Act.

118. Bias and disclosure of interest

- (1) No Presiding Officer or member of an Appeal Authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the official contemplated in section 35(2) of the Act and he or she made the decision that is the subject of the appeal.
- (2) A Presiding Officer or member of an Appeal Authority who has or appears to have a conflict of interest as defined in subsection (5) and (6) must recuse himself or herself from the appeal hearing.
- (3) A party may in writing to the Appeal Authority request the recusal of the Presiding Officer or member of that Appeal Authority on the grounds of conflict of interest and the Presiding Officer must decide on the request and inform the party of the decision in writing.
- (4) A decision by a Presiding Officer or member to recuse himself or herself or a decision by the Appeal Authority to recuse a Presiding Officer or member, must be communicated to the parties concerned by the Registrar.
- (5) For the purpose of this Chapter "conflict of interest" means any factor that may

impair or reasonable give the appearance of impairing the ability of a member of an Appeal Authority to independently and impartially adjudicate an appeal assigned to the Appeal Authority.

- (6) A conflict of interest arises where an appeal assigned to an Appeal Authority involves any of the following:
 - (a) A person with whom the Presiding Officer or member has a personal, familiar or professional relationship;
 - (b) a matter in which the Presiding Officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
 - (c) any other circumstances that would make it appear to a reasonable and impartial observer that the Presiding Officer's or member's participation in the adjudication of the matter would be inappropriate.
- (7) The Municipal Manager has the authority to appoint any senior employee in the fulltime service of the Municipality to serve on the Appeal Authority, should the need arise.

119. Registrar of Appeal Authority

- (1) Whenever by reason of absence or incapacity the Registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the Municipal Manager may, after consultation with the Presiding Officer of the Appeal Authority, authorise any other competent official in the service of the Municipality in terms of delegated authority to act in the place of the absent or incapacitated Registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.

120. Powers and duties of Registrar

- (1) The Registrar is responsible for managing the administrative affairs of the Appeal Authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the Appeal Authority and to ensure accessibility and maintenance of the dignity of the Appeal Authority.
- (2) The duties of the Registrar include –
 - (a) the determination of the sitting schedules of the Appeal Authority;
 - (b) assignment of appeals to the Appeal Authority;
 - (c) management of procedures to be adhered to in respect of case flow management and the finalisation of any matter before the Appeal Authority;
 - (d) transmit all documents and make all notifications required by the procedures laid down in the Provincial Spatial Planning and Land Use Management legislation;

- (e) the establishment of a master registry file for each case which must record
 - (i) the reference number of each appeal;
 - (ii) the names of the parties;
 - (iii) all actions taken in connection with the preparation of the appeal for hearing;
 - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
 - (v) the date of the hearing of the appeal;
 - (vi) the decision of the Appeal Authority;
 - (vii) whether the decision was unanimous or by majority vote; and
 - (viii) any other relevant information.
- (3) The Presiding Officer of the Appeal Authority may give the Registrar directions regarding the exercise of his or her powers under this Chapter.
- (4) The Registrar must give written notice to the Presiding Officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

Part B: Appeal Process

121. Commencing of appeal

- (1) An appellant must commence an appeal by delivering a Notice of Appeal to the Registrar of the relevant Appeal Authority within twenty one (21) calendar days of the date of notification of the decision as contemplated in section 51 of the Act.
- (2) The Appeal Authority can only consider applications that have been adjudicated by the Municipal Planning Tribunal.
- (3) The Appeal Authority cannot consider any decision of an appeal taken in terms of section 62 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended.

122. Notice of appeal

- (1) A Notice of Appeal must clearly indicate (see schedule 5):
 - (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
 - (b) where applicable, whether the appeal is against any conditions of approval of an application and which conditions;

- (c) the grounds of appeal including any findings of fact or conclusions of law;
 - (d) a clear statement of the relief sought on appeal;
 - (e) any issues that the appellant wants the Appeal Authority to consider in making its decision; and
 - (f) a motivation of an award for costs.
- (2) An appellant may, within eleven (11) calendar days from receipt of a notice to oppose an appeal amend the Notice of Appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

123. Notice to oppose an appeal

- (1) A notice to oppose an appeal must clearly indicate (see schedule 6):
- (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
 - (b) whether any conditions of approval of an application are opposed and which conditions;
 - (c) whether the relief sought by the appellant is opposed; and
 - (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute;
 - (e) a clear statement of relief sought on appeal.

124. Screening of appeal

- (1) When the Appeal Authority receives a Notice of Appeal, it must screen such Notice to determine whether:
- (a) It complies with the form specified in schedule 5;
 - (b) it is submitted within the required time limit; and,
 - (c) the appeal authority has jurisdiction over the appeal.
- (2) If a Notice of Appeal does not comply with the form specified in schedule 5, the Appeal Authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within fourteen (14) calendar days.
- (3) If the Notice of Appeal is not provided and returned to the Appeal Authority with the requested information within the fourteen (14) calendar days, the appellant's appeal will be considered abandoned and the Appeal Authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the Appeal Authority after the required

time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the Appeal Authority will notify the parties in writing.

- (5) If the appeal relates to a matter that appears to be outside the jurisdiction of the Appeal Authority, it must notify the parties in writing.
- (6) The Appeal Authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.

Part C: Parties to an Appeal

125. Parties to appeal

- (1) The parties to an appeal before an Appeal Authority are:
 - (a) the appellant who has lodged the appeal with the Appeal Authority;
 - (b) the official authorised by the Municipality as contemplated in section 35(2) of the Act who made the decision;
 - (c) if the Minister or MEC intervenes in the proceeding under section 126, the Minister or the MEC, as the case may be; and
 - (d) any other person who has been made a party to the proceeding by the Appeal Authority after a petition to the Appeal Authority under section 45(2) of the Act to be granted intervener status.

126. Intervention by Minister or MEC

- (1) The Minister or the MEC may, on behalf of the National or Provincial sphere of Government, intervene in a proceeding before the Appeal Authority and must request to the Appeal Authority in writing to be added as a party to the appeal.
- (2) The Appeal Authority may after due consideration of the request contemplated in subsection (1), in its own discretion, make the Minister or the MEC a party to the appeal.
- (3) Where the Minister or the MEC intervenes under subsection (1) in an appeal proceeding, the Minister or the MEC may authorise the payment to a party to the proceeding by the department concerned of such costs as he or she considers were reasonably incurred by that party in relation to the proceeding as a result of that intervention.

127. Intervention by interested person

- (1) Where an appeal has been lodged by an appellant to the Appeal Authority, an interested person referred to in Section 45(2) of the Act may, at any time during the proceedings, petition the Appeal Authority in writing to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or official referred to in Section 35(2) of the Act and might therefore be affected by the judgement of

the Appeal Authority.

- (2) The petitioner must within twenty one (21) calendar days from the date of approval by an authorised official submit in writing a sworn affidavit together with the petition to be granted intervener status stating that he or she
 - (a) does not collude with any of the appellants; and
 - (b) is willing to deal with or act in regard to the appeal as the Appeal Authority may direct.
- (3) The Registrar must determine whether the requirements of this section have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The Presiding Officer of the Appeal Authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the Presiding Officer is final and must be communicated to the petitioner and the parties by the Registrar.
- (5) The Presiding Officer may, in his or her discretion or on request of one of the parties to the appeal, require security for that party's costs of appeal from the petitioner, in the form and manner determined by him or her, by delivering a notice setting forth the grounds on which the security is claimed and the amount demanded.
- (6) If one of the parties request security for costs and only the amount of security is contested, the Registrar must determine the amount to be given and his or her decision is final.
- (7) If the person from whom security is demanded contests his or her liability to give security or if he or she fails or refuses to furnish security in the amount demanded or the amount fixed by the Registrar within ten (10) calendar days of the demand or the Registrar's decision, the other party may apply to the Appeal Authority for an order that such security be given and that the proceedings be stayed until such order is complied with.
- (8) The Appeal Authority may, if security is not given within the time determined in the order, dismiss any petition for intervener status.
- (9) An "interested person" for the purpose of this Part means a person who -
 - (a) does not have a direct or indirect pecuniary or proprietary interest in the land affected by the decision of the Municipal Planning Tribunal or Land Development Officer referred to in section 35(2) of the Act and might therefore be affected by the judgement of the Appeal Authority; and
 - (b) who submitted written comments or made oral representations during the decision-making process of the Municipal Planning Tribunal or Land Development Officer referred to in subsection 9(a).

Part D: Jurisdiction of Appeal Authority

128. Jurisdiction of Appeal Authority

- (1) An Appeal Authority may consider an appeal on one or more of the following:
 - (a) the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
 - (b) the merits of the land development or land use application.

129. Appeal hearing by Appeal Authority

- (1) An appeal may be heard by an Appeal Authority by means of -
 - (a) an oral hearing; or
 - (b) a written hearing.

130. Written hearing by Appeal Authority

A written hearing may be held if it appears to the Appeal Authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.

131. Oral hearing by Appeal Authority

- (1) An oral hearing may be held –
 - (a) if it appears to the Appeal Authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - (b) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (2) If appropriate in the circumstances, the oral hearing may be held by electronic means.

132. Representation before Appeal Authority

At the hearing of an appeal before an Appeal Authority, a party to the proceeding may appear in person or may be represented by another person if authorised accordingly by such party.

133. Opportunity to make submissions concerning evidence

The Appeal Authority must ensure that every party to a proceeding before the Appeal Authority is given a reasonable opportunity to present his or her case and, in

particular, to inspect any documents to which the Appeal Authority proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.

Part E: Procedures and Hearings of an Appeal

134. Notification of date, time and place of hearing

- (1) The Greater Tzaneen Municipal Offices Civic Centre, Agatha Street, Tzaneen will be the official venue of the Appeal Authority Hearings.
- (2) The Appeal Authority must notify the parties of the date, time and place of a hearing at least fourteen (14) calendar days before the hearing commences.
- (3) The Appeal Authority will provide notification of the hearing to the appellant at the appellant's address for delivery.

135. Hearing date

A hearing will commence within thirty (30) calendar days after the completed Notice of Appeal has been delivered to the Appeal Authority, unless the parties and the presiding officer of the Appeal Authority consent to a later date than thirty (30) calendar days.

136. Adjournment

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

137. Urgency and condoned applications

- (1) The Registrar may –
 - (a) on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
 - (b) on good cause shown, condone any failure by any party to an appeal to comply with this Part or any directions given in terms hereof, if he or

she is of the opinion that such failure has not unduly prejudiced any other person;

- (2) Every application condoned in terms of this Part must be –
 - (a) served on the Registrar;
 - (b) accompanied by a memorandum setting forth the reasons for the failure concerned; and
 - (c) determined by the Presiding Officer in such manner as he or she considers proper.
- (3) Where a failure is condoned in terms of subsection (1)(b), the applicant must comply with the directives of the Registrar in consultation with the Presiding Officer when condoning such applications.

138. Withdrawal of appeal

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

Part F: Oral Hearing Procedure

139. Location of oral hearing

An oral hearing must be held in a location within the area of jurisdiction of the Municipality where the land affected by the decision is located, but may not be held in the office of the Municipal Planning Tribunal or the Land Development Officer authorised in terms of section 35(2) of the Act whose decision is under appeal.

140. Presentation of each party's case

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

141. Witnesses

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

- (c) a representative of a party to the appeal.

142. Proceeding in absence of party

- (1) If a party does not appear at an oral hearing, the Appeal Authority may proceed in the absence of the party if the party was notified of the hearing.
- (2) Prior to proceeding, the Appeal Authority must first determine whether the absent party received notification of the date, time and place of the hearing.
- (3) If the notice requirement was not met, the hearing cannot proceed and the Presiding Officer of the Appeal Authority must reschedule the hearing.

143. Recording

Hearings of the Appeal Authority must be recorded and such recordings must be kept for a period of at least five (5) years

144. Oaths

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

145. Additional documentation

- (1) Any party wishing to provide the Appeal Authority with additional documentation not included in the appeal record should provide it to the Appeal Authority at least three working days before the hearing date.
- (2) The Registrar must distribute the documentation to the other party and the members of the Appeal Authority.
- (3) If the party is unable to provide the additional documentation to the Appeal Authority at least three working days prior to the hearing, the party may provide it to the Appeal Authority at the hearing.
- (4) The party must bring copies of the additional documentation as prescribed in the relevant section of this By-Law for the members of the Appeal Authority and the other party.
- (5) If the additional documentation brought to the hearing is substantive or voluminous, the other party may request an adjournment from the Appeal Authority. The Presiding Officer will make a determination regarding the additional costs pertaining to such postponement.

Part G: Written Hearing Procedure

146. Commencement of written hearing

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

147. Presentation of each party's case in written hearing

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given seven (7) calendar days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the Appeal Authority must forward the appellant's submission to the Municipal Planning Tribunal or the Land Development Officer.
- (4) The Municipal Planning Tribunal or the Land Development Officer has seven (7) calendar days in which to provide a submission in response.
- (5) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

148. Extension of time

- (1) If a party wishes to request an extension of the time established to provide a written submission, this request must be in writing to the Appeal Authority within ten (10) working days of the date on which the submission is due.
- (2) Any request for an extension must be accompanied by the reasons for the request.
- (3) Following receipt of a request for an extension of time, the Appeal Authority will issue a decision in writing to the parties.

149. Adjudication of written submissions

- (1) Following receipt of any written submissions from the parties, the Registrar must forward the appeal record, which includes the written submissions, to the Appeal Authority for adjudication.
- (2) If no written submissions are received from the parties, the Registrar will forward the existing appeal record to the Appeal Authority for adjudication.
- (3) Any submission received after the date it was due but before the Appeal Authority for adjudication has rendered its decision, will be forwarded to the Presiding Officer of the Appeal Authority to decide whether or not to accept the late submission.
- (4) The Appeal Authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given seven (7) calendar days to provide a written submission in response.

Part H: Decision of Appeal Authority**150. Further information or advice**

After hearing all parties on the day of the hearing, the Appeal Authority –

- (1) may in considering its decision request any further information from any party to the appeal hearing or conduct any investigation which it considers necessary;
- (2) may postpone the matter for a reasonable period to obtain further information or advice, in which case it must without delay make a decision as contemplated by subsection (3);
- (3) must within twenty one (21) calendar days after the last day of the hearing, issue its decision on the appeal together with the reasons therefore.

151. Decision of Appeal Authority

- (1) The Appeal Authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or Land Development Officer and may include an award of costs.
- (2) The Presiding Officer must sign the decision of the Appeal Authority and any order made by it.
- (3) The Presiding Officer shall ensure that the business of the day is concluded in that very same sitting by exhausting all items on the Agenda for that specific day, including adoption, confirmation and signing of Minutes of that specific sitting

152. Notification of decision

- (1) The registrar must notify the parties of the decision of the Appeal Authority in terms of Regulation 26, together with the reasons therefore within twenty one (21) calendar days after the Appeal Authority handed down its decision.
- (2) Where an Appeal Authority upholds a decision on a development application, the Municipal Manager or his/her delegate must, within twenty one (21) calendar days of the decision, inform all the affected parties of the decision.
- (3) The party's affected shall within thirty (30) calendar days inform the Municipality if intending to approach any Court of Law regarding the decision.
- (4) Should the Municipality not receive any notice contemplated in subsection 3, the matter shall be considered as final.

153. Directives to Municipality

The Appeal Authority must, in its decision, give directives to the Municipality as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the Municipality as far as implementation of the decision is concerned

Part I: General**154. Expenditure**

- (1) All costs resulting from the meetings of the Appeal Authority must be settled from moneys appropriated by Greater Tzaneen Municipality.
- (2) The remuneration of the members of the Appeal Authority shall be in accordance with the guidelines of National Treasury, as amended from time to time.

CHAPTER 9

COMPLIANCE AND ENFORCEMENT

155. Enforcement

- (1) The Municipality must adhere to and enforce compliance with—
 - (a) the provisions of this By-Law;
 - (b) the provisions of a Land Use Scheme;
 - (c) previous planning legislation or any other condition that might arise from the land development application;
 - (d) the title deed conditions

156. Offences and penalties

- (1) Any person who—
 - (a) contravenes or fails to comply with section 156;
 - (b) fails to comply with a compliance notice issued in terms of section 157;
 - (c) utilises land in a manner other than prescribed by the Land Use Scheme of the Municipality;
 - (d) upon registration of the first land unit arising from a township establishment or subdivision, fails to transfer all common property, including private roads and private places originating from a township establishment or subdivision to the Home Owners' Association or Section 21 Company;
 - (e) supply false, incorrect, or misleading or not believing them to be correct particulars, information or answers in an application or in an appeal to a decision on a land development application;
 - (f) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
 - (g) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of twenty (20) years or to both a fine and such imprisonment.
- (2) An owner who permits land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of the Land Use Scheme of the Municipality, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding twenty (20) years or to both a fine and such imprisonment.

- (3) A person convicted of an offence under this By-Law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.
- (4) Any person who causes any development of land on land held by a Traditional Council i.e. subdivision, consent use etc., without obtaining prior permission for such development from the Traditional Authority, in terms of section (69) shall be guilty of an offence and liable upon conviction of a fine or imprisonment for a period as determined by a Court of Law or to both a fine and such imprisonment.
- (5) A Municipality must adopt fines and contravention penalties to be imposed in the enforcement of this By-Law.

157. Service of compliance notice

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 156.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—
 - (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within thirty (30) calendar days or such other time period determined by the Municipal Manager; or
 - (b) submit an application in terms of this By-Law within thirty (30) calendar days of the service of the compliance notice and pay the contravention penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).
- (4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.
- (5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised work within the time period as prescribed by the Municipality.
- (6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within thirty (30) calendar days of receipt of the compliance notice.

158. Content of compliance notices

- (1) A compliance notice must—
 - (a) identify the person to whom it is addressed;
 - (b) describe the activity concerned and the land on which it is being carried out;
 - (c) state that the activity is illegal and inform the person of the particular offence contemplated in section 156 which that person allegedly has committed or is committing through the carrying on of that activity;
 - (d) the steps that the person must take and the period within which those steps must be taken;
 - (e) anything which the person may not do, and the period during which the person may not do it;
 - (f) provide for an opportunity for a person to lodge representations contemplated in terms of section 157 with the contact person stated in the notice;
 - (g) issue a warning to the effect that—
 - (i) the person could be prosecuted for and convicted of an offence contemplated in section 156;
 - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
 - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
 - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
 - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;
- (2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 159(2).

159. Objections to compliance notice

- (1) Any person or owner who receives a compliance notice in terms of

section 157 may object to the notice by making written representations to the Municipal Manager within thirty (30) calendar days of receipt of the notice.

- (2) Subject to the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
 - (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
 - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

160. Failure to comply with compliance notice

- (1) If a person fails to comply with a compliance notice the Municipality may—
 - (a) lay a criminal charge against the person;
 - (b) apply to the High Court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned and to request the High Court to make to ruling regarding legal costs to be recovered from the applicant, or
 - (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and then act in terms of section 157.

161. Urgent matters

- (1) In cases where an activity must be stopped urgently, the Municipality may dispense with the procedures set out above and issue a compliance notice calling upon the person or owner to cease immediately.
- (2) If the person or owner fails to cease the activity immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.
- (3) The costs resulting from subsection (2) will be claimed by the Municipality from the person or owner.

162. Subsequent application for authorisation of activity

- (1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 157(2)(a) to demolish the building work.

- (2) The applicant must, within thirty (30) calendar days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

163. Power of entry for enforcement purposes

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

164. Power and functions of authorised employee

- (1) In ascertaining compliance with this By-Law as contemplated in section 157, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.
- (2) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

165. Warrant of entry for enforcement purposes

- (1) A Magistrate for the District in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
 - (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
 - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in subsection (1) may be issued by a Judge of a High Court or by a Magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the Judge or Magistrate from information on oath that there are reasonable grounds for believing that—
 - (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
 - (c) there are reasonable grounds for suspecting that a contravention contemplated in section 157 has occurred and an inspection of the premises is likely to yield information pertaining to that

contravention; or

- (d) the inspection is reasonably necessary for the purposes of this By-Law.
- (3) A warrant must specify which of the acts mentioned in section 163 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in section 163 as specified in the warrant on one occasion only, and that entry must occur—
- (a) within one month of the date on which the warrant was issued; and
 - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

166. Regard to decency and order

- (1) The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—
- (a) a person's right to respect for and protection of his or her dignity;
 - (b) the right to freedom and security of the person; and
 - (c) the right to a person's personal privacy.

167. Court order

- (1) Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 155, the Municipality may apply to the High Court for an order compelling that person to—
- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
 - (b) rehabilitate the land concerned;
 - (c) compelling that person to cease with the unlawful activity; or
 - (d) any other appropriate order.

CHAPTER 10**TRANSITIONAL PROVISIONS****168. Transitional provisions**

- (1) Any land development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-Law, shall be dealt with in terms of that legislation or if repealed, in terms of its transitional arrangements or in the absence of any other provision, in terms of this By-Law, read with section 60 of the Act;
- (2) Where on the date of the coming into operation of an approved Land Use Scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a Land Use Scheme in terms of this By-Law read with section 27 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-Law, the use for that purpose may, subject to the provisions of this subsection (3), be continued after that date read with the provisions of a Town Planning Scheme or Land Use Scheme.
- (3) The right to continue using any land or building by virtue of the provisions of subsection (2) shall;
 - (a) where the right is not exercised in the opinion of the Municipality for a continuous period of fifteen (15) months, lapse at the expiry of that period;
 - (b) lapse at the expiry of a period of fifteen (15) years calculated from the date contemplated in subsection (2), in which case no compensation shall be payable;
 - (c) where on the date of the coming into operation of an approved Land Use Scheme -
 - (i) a building, erected in accordance with an approved building plan, exists on land to which the approved Land Use Scheme relates;
 - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved Land Use Scheme, the building shall for a period of fifteen (15) years from that date be deemed to comply with that provision.
 - (d) where a period of fifteen (15) years has, in terms of subsection (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard shall, for the purposes of those subsections, be given to an approved

scheme which comes into operation after that date.

- (e) within one (1) year from the date of the coming into operation of an approved Land Use Scheme-
 - (i) the holder of a right contemplated in subsection (2) may notify the Municipality in writing that he is prepared to forfeit that right;
 - (ii) the owner of a building contemplated in subsection (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection.
- (4) Where at any proceedings in terms of this By-Law it is alleged that a right has lapsed in terms of subsection (3)(b), such allegation shall be deemed to be correct until the contrary is proved.
- (5) Where any land use provisions are contained in any title deed, deed of grant or ninety nine 99 year leasehold, which did not form part of a Town Planning Scheme, such land use provisions shall apply as contemplated in subsection (2).
- (6) If the geographic area of the Municipality is demarcated to incorporate land from another Municipality then the Land Use Scheme or Town Planning Scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

169. Determination of zoning

- (1) Notwithstanding the provisions of section 168(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act
- (2) When the Municipality considers an application in terms of subsection(1) it must have regard to the following:
 - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-Law if it can be determined;
 - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
 - (c) any departure or consent use that may be required in conjunction with that zoning;
 - (d) in the case of land that was vacant immediately before the commencement of this By-Law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the Municipality; and

- (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-Law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any 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 give notice of its intention to do so.
- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-Law, may not be considered to be the lawful land use.

CHAPTER 11**GENERAL PROVISIONS****170. Delegations**

Any power conferred in this By-Law on the Municipality may be delegated by the Municipality subject to section 56 of the Act and section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended.

171. Short title and commencement

This By-Law is called The Spatial Planning and Land Use Management By-Law of Greater Tzaneen Municipality and will commence on date of promulgation thereof in the Provincial Gazette.

SCHEDULE 1**INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE GREATER TZANEEN MUNICIPAL PLANNING TRIBUNAL**

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

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

Nominees must be persons registered with the professional bodies contemplated in section 35(1)(b)–(f) of the By-Law on Municipal Land Use Planning, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto. Each nomination must be in writing and must contain the following information:

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

Nominations must be sent to:

The Municipal Manager

Greater Tzaneen Municipality
P.O. Box 24
TZANEEN
0850

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),
ID No (of nominee),

hereby declare that –

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

No nominations submitted after the closing date will be considered.

CLOSING DATE: (INSERT DATE)

Signature of Nominee

Full Names of Nominee

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

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

SCHEDULE 2**CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE GREATER TZANEEN MUNICIPAL PLANNING TRIBUNAL****CLOSING DATE: (INSERT DATE)**

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

The period of office of members will be __ years calculated from the date of appointment of such members by the Greater Tzaneen Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 35(1)(b) – (f) of the By-Law on Municipal Land Use Planning, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto. Each nomination must be in writing and must contain the following information:

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

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

Nominations must be sent to:

The Municipal Manager

Greater Tzaneen Municipality
P.O. Box 24
TZANEEN
0850

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),
ID No (of nominee),

hereby declare that –

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

No nominations submitted after the closing date will be considered.

Signature of Nominee

Full Names of Nominee

**SCHEDULE 3
DISCLOSURE OF INTERESTS FORM**

I, the undersigned,

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

do hereby declare that -

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

CONFLICTING INTERESTS	

- (d) the non-executive directorships previously or currently held and remunerative work, consultancy and retainer ship positions held as follows:

1. NON-EXECUTIVE DIRECTORSHIP	
Name of Company	Period

2. REMUNERATION WORK, CONSULTANCY & RETAINERSHIPS			
Name of Company	Type of Business	Rand amount per month	Period
1.			
2.			
3.			
4.			
5.			

3. CRIMINAL RECORD	
1.	
2.	

- (e) I am South African citizen or a permanent resident in the Republic
- (f) I am not a member of Parliament, a Provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a Court of Law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a tribunal for a breach of any provision of the Spatial Planning and Land Use Management Act, 2013 or Provincial legislation or the SPLUMA By-Law, 2017 enacted by the Greater Tzaneen Municipality;
- (l) I have not been found guilty of misconduct, incapacity or incompetence; or
- (m) I have not failed to comply with the provisions of the Spatial Planning and Land Use Management Act, 2013 or Provincial legislation or the Land Use Planning By-Law, 2016 enacted by the Greater Tzaneen Municipality.

Signature of Nominee: -----

Full Names: -----

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

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

COMMISSIONER OF OATHS

FULL NAMES: -----

DESIGNATION: -----

ADDRESS: -----

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

I, the undersigned,

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

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

General conduct

1. A member of the Greater Tzaneen Municipal Planning Tribunal must at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has given written approval and has expressly authorised his or her participation.
2. A member of the Greater Tzaneen Municipal Planning Tribunal may not—
 - (a) use the position or privileges of a member of the Greater Tzaneen Municipal Planning Tribunal or confidential information obtained as a member of the Greater Tzaneen Municipal Planning Tribunal for personal gain or to improperly benefit another person; and
 - (b) participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

Gifts

3. A member of the Greater Tzaneen Municipal Planning Tribunal 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 are intended or expected to influence a person's objectivity as an advisor or decision-maker in the planning process.

Undue influence

4. A member of the Greater Tzaneen Municipal Planning Tribunal 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 Municipal Planning Tribunal, the Greater Tzaneen 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 Greater Tzaneen Municipal Planning Tribunal by improper means.

Signature of Nominee: _____

Full Names: _____

Date: _____



**SCHEDULE 5
NOTICE OF APPEAL**



1. PROPERTY DESCRIPTION: _____
2. TYPE OF APPLICATION: _____
3. NAME OF APPLICANT: _____
4. DATE CONSIDERED BY MUNICIPAL PLANNING TRIBUNAL: _____
5. The Notice of Appeal must clearly indicate:
 - (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
 - (b) where applicable, whether the appeal is against any conditions of approval of an application and which conditions;
 - (c) the grounds of appeal including any findings of fact or conclusions of law;
 - (d) a clear statement of the relief sought on appeal;
 - (e) any issues that the appellant wants the Appeal Authority to consider in making its final decision; and
 - (f) a motivation of an award for costs.

Section 5 (a) – (f) above to be included as a separate attachment to this document.

6. Details of the Appellant:
 - a. Name: _____
 - b. Address: _____
 - c. Cell number: _____
 - d. Email address: _____

SIGNATURE OF APPELLANT

DATE

DATE OF RECEIPT OF NOTICE OF APPEAL BY GREATER TZANEEN MUNICIPALITY: _____



SCHEDULE 6 NOTICE TO OPPOSE AN APPEAL



1. PROPERTY DESCRIPTION: _____
2. TYPE OF APPLICATION: _____
3. NAME OF APPLICANT: _____
4. DATE CONSIDERED BY MUNICIPAL PLANNING TRIBUNAL: _____
5. NAME OF APPELLANT: _____
6. DATE OF RECEIPT OF NOTICE OF APPEAL BY GREATER TZANEEN MUNICIPALITY/REGISTRAR: _____
7. The notice to oppose an appeal must clearly indicate:
 - (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
 - (b) whether any conditions of approval of an application are opposed and which conditions;
 - (c) whether the relief sought by the appellant is opposed; and
 - (d) the grounds for opposing the appeal including any facts finding or conclusions of law in dispute;
 - (e) a clear statement of relief sought on the appeal.

Section 7 (a)-(e) above to be included as a separate attachment to this document

8. Name of opposing body: _____
9. Name of contact person: _____
10. Address: _____
11. Cell number: _____
12. Email address: _____

SIGNATURE OF OPPOSING BODY

DATE

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