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NO.90 FRIDAY, 11 SEPTEMBER 2015	NO.90 VRYDAG, 11 SEPTEMBER 2015
<p style="text-align: center;"><b>GAZETTE NOTICE</b></p> <p>Matjhabeng Municipal Municipality: Appointment of Members to the Matjhabeng Municipal Planning Tribunal ..... <b>2</b></p> <p style="text-align: center;"><b>CO-OPERATIVE GOVERNANCE, TRADITIONAL AFFAIRS AND HUMAN SETTLEMENTS NOTICE</b></p> <p>Matjhabeng Municipal Municipality: Municipal Land Use Planning By-Laws..... <b>2</b></p>	

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**GAZETTE NOTICE**

**APPOINTMENT OF MEMBERS TO THE MATJHABENG MUNICIPAL PLANNING TRIBUNAL IN TERMS OF**

**SECTION 35 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, ACT 16 OF 2013**

I hereby appoint the following persons as members of the Matjhabeng Municipal Planning Tribunal in terms of Section 35 of the Spatial Planning and Land Use Management Act.

Mr T.J.A. Mongake (Chairperson)
Ms N.M. Mbhele (Deputy Chairperson)
Ms M.R. Nkhasi
Mr M. Radiopane
Mr K.P. van der Walt
Ms V.A. Mashiyane

**OFFICIALS**

Mr X. Msweli
Mrs H.B. Tlhabani
Mr J.A. Duvenage

The commencement date of the Matjhabeng Municipal Planning Tribunal will be the 4<sup>th</sup> of September 2015. The *domicilium citandi et executandi* for the purpose of accepting land development applications, legal proceedings and giving or sending notices are the following addresses:

Physical Address:

319 Stateway  
Welkom  
9460

Postal Address:

P.O.Box 708  
Welkom  
9460

**M LEPHEANA**  
**Municipal Manager**  
**MATJHABENG LOCAL MUNICIPALITY**

**CO-OPERATIVE GOVERNANCE, TRADITIONAL AFFAIRS AND HUMAN SETTLEMENTS NOTICE**

**MATJHABENG LOCAL MUNICIPALITY**  
**MUNICIPAL LAND USE PLANNING BY-LAWS**

Notice is hereby given in terms of the provisions of Section 13 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) that the Council of the Matjhabeng Local Municipality adopted the set of Municipal Land Use Planning By-laws. The By-laws are published for the purpose of general public notification. Copies of the By-laws are available at One Reinet Building, 1 Reinet Street, Central Business Area, Welkom.

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**M LEPHEANA**  
**Municipal Manager**

To provide for the regulation and control of activities on and in respect of spatial planning and land use management, and to provide for matters in connection therewith

**Preamble**

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

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

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

**WHEREAS** the Constitution authorizes and empowers municipalities to administer the local government matters listed in Part B of Schedules 4 and 5, which include hoardings and the display of advertisements in public places and any other matter assigned to it by national or provincial legislation, by making and administering By-laws for the effective administration of these matters;

**BE IT THEREFORE ENACTED** by the Municipal Council of the Matjhabeng Local Municipality as follows:

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## CHAPTER I – INTERPRETATION AND APPLICATION

### 1. DEFINITIONS AND INTERPRETATIONS

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

“**adopt**”, in relation to a spatial development framework, land use scheme, policy or strategy, means the approval thereof by the Council of Matjhabeng Municipality;

“**agent**” means a person authorised by the owner of land to make an application;

“**appeal**” means the process when a party is aggrieved by a decision, and includes the review of procedural aspects of an application or portion of an application;

“**appeal authority**” means the Committee of Council is the Appeal Authority is the Appeal Authority in respect of decisions contemplated in section 78(1)(a) and (b) and a failure to decide on an application as contemplated in section 75(1);

“**applicant**” means the owner of land or his agent who makes an application to the Municipality as contemplated in referred to in section 16(3);

“**application**” means an application to the Municipality referred to in section 16(3);

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

**“authorised official”** means an official who may consider and determine applications as contemplated in Section 35(2) of the Act;

**“commence”** means when read in section 16(1), the utilising of the land use or subdivision for the intended use, but excludes the preparatory activities needed to submit an application in terms of Section 16(3). A rehabilitation venture is exempted from this interpretation in so far as the commencement of a rehabilitation venture is complying with sections 35 to 49.

**“competent authority”** means the relevant municipal planning decision-making structures consisting of the Authorised official, the Municipal Planning Tribunal or the Appeal Authority, as defined in section 89.

**“conditional approval”** means, with regard to rehabilitation projects, approval by the competent authority after the change of land use application has been completed in terms of the current applicable legislation, but rehabilitation of the area has not been completed.

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

**“Council”** means the municipal council of the Municipality;

**“date of notification”** means the date on which a notice is served as contemplated in section 63(4) or published in the media or Provincial Gazette;

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

**“development charge”** means a development charge levied by the Municipality as contemplated in section 104;

**“developer”** means the party who enters into an agreement with the mining right holder to implement a rehabilitation venture and become the beneficiary of the property upon the sign-off of the rehabilitation process by the DMR.

**“DMR”** means the Department of Mineral Resources or similar department managing mining activities.

**“end land use”** means the zoning that will be applicable on the land after the rehabilitation venture has been completed and the change of land use application has been finally approved. It may include the creation of a new zoning with its applicable conditions.

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

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

**“land”** includes, for the purposes of rehabilitation projects, a farm portion, smallholding or erf, or combinations thereof that are affected by and form the subject of the approved rehabilitation plan and include servitudes, leases or surface right permits on parts of any such land.

**“local municipality”** means the municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category B municipality;

**“mine closure plan”** means the closure plan of the mine as defined in the applicable legislation controlling the mining right of the mining operation, applicable on the portion of land which forms part of an application or planning document.

**“Municipality”** means any employee or department acting in terms of delegated or sub-delegated authority of the Matjhabeng Local Municipality, established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

**“municipal spatial development framework”** means a spatial development framework adopted by the Council in terms of Chapter 5 of the Municipal Systems Act and Chapter 4 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

**“non-conforming use”** means the uninterrupted use of a proven lawful use right that does not comply with the existing or proposed zoning. The use right is limited to the area of the building or land on which the proven lawful use right was issued.

**“occasional use”** means a departure in respect of a right to use land for a purpose, granted on a temporary basis for a specific occasion or event;

**“overlay zone”** means an area in a land use scheme that is demarcated for the purpose of conserving natural resources or promoting certain types of development and that is subject to conditions, requirements or restrictions in addition to those of the land use scheme;

**“owners’ association”** means an owners’ association established in terms of section 30 and includes a body corporate created in terms of the Sectional Titles Act (Act 95/1986);

**“points-in-limine”** means, with regard to a hearing- or appeal- process, the introduction of technical legal points which are argued and decided before arguing the merits of the case.

**“pre-application consultation”** means a consultation between an owner or an agent and the Municipality contemplated in section 53;

**“principle approval”** means, with regard to rehabilitation projects, the approval by a competent authority or authorised official of the project, after a feasibility study has been completed, that authorises the municipality to register the project and interact with all role players during the transitional period.

**“proclamation”** means the publication in the provincial gazette of the notice indicating that the conditions, to which an approved application is subject to, and the actions in terms of this by-law, has been completed and complied with;

**“proclaimed township”** means a township that had a proclamation, in terms of Section 23, published in the Provincial Gazette.

“**public facilities**” means amenities that are—

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

“**rehabilitation plan**” means the localized site specific plan addressing the activities required to achieve the aims and objectives of the mine closure plan on that site.

“**rehabilitation project**” means a project listed in the Rehabilitation Plan of the Mining Right Holder, approved by the DMR, affecting the land and excludes, for the purpose of this bylaw, rehabilitation projects where no transfer of land is linked to the rehabilitation

“**review**” means the process when a party is aggrieved with the procedural aspects of an application or portion of an application and is, for the purposes of this by-law, the same as the appeal process;

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

“**services agreement**” means the agreement between the developer /owner of the land and the provider(s) of services to the land that is binding on future land owners, relating to at least: water, sewer and electricity provision;

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

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

“**social and labour plan**” means a social and labour plan as defined in the applicable mining laws and include the principles and objectives.

“**Spatial Development Framework Precinct Plan**” means a Spatial Development Framework Precinct Plan contemplated in section 10;

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

“**township**” means township as defined in the Spatial Land Use Management Act No. 16 of 2013, as amended.

“**tribunal**” means the Municipal Planning Tribunal established in terms of section 89.

“**transitional period**” means the time from the principle approval of a rehabilitation project, in terms of a Rehabilitation Plan of the Mining Right Holder approved by the DMR, to the sign off by the DMR that the rehabilitation of the surface area has been completed in terms of the Rehabilitation Plan.

Any reference to erf or rural land refers to the Land Survey Act, 1997, (Act No 8 of 1997).

Any reference to the male gender includes the female gender and any reference to the plural will include the singular and *vice versa*, as the context may require.

## 2. APPLICATION OF BY-LAW

- (1) This By-law applies to all land situated within the municipal area, including land owned by the state and by organs of state.
- (2) It is applicable on all land where mining activities has taken place, a mining right has been issued and or any land zoned in any town planning scheme as “mining”, or other similar zoning, allowing mining activities.

## CHAPTER II – SPATIAL PLANNING

### 3. SPATIAL PLANNING CATEGORIES

- (1) All Development Frameworks developed for areas in, or associated with, the Free State province must be represented spatially. In order to create a uniform system across the Province, the attribute data must be represented according to the following primary spatial planning categories:
  - (a) Core Conservation Areas that must be captured in the attribute data as a capital letter A including;
    - (i) Statutory Protected Areas that must be captured in the attribute data as a letter A.a or;
  - (b) Natural Buffer Areas that must be captured in the attribute data as a capital letter B including;
    - (i) Non-Statutory Conservation Areas that must be captured in the attribute data as a letter B.a;
    - (ii) Ecological Corridors that must be captured in the attribute data as a letter B.b;
    - (iii) Urban Green Areas that must be captured in the attribute data as a letter B.c or;
  - (c) Agricultural Areas that must be captured in the attribute data as a capital letter C including;
    - (i) Extensive agricultural areas that must be captured in the attribute data as a letter C.a;
    - (ii) Intensive agricultural areas that must be captured in the attribute data as a letter C.b or;
  - (d) Urban Related Areas that must be captured in the attribute data as a capital letter D including;
    - (i) Main Towns that must be captured in the attribute data as a letter D.a;
    - (ii) Local Towns that must be captured in the attribute data as a letter D.b;
    - (iii) Rural Settlements that must be captured in the attribute data as a letter D.c;
    - (iv) Tribal Authority Settlements that must be captured in the attribute data as a letter D.d;



- (v) Communal Settlements that must be captured in the attribute data as a letter D.e;
- (vi) Institutional Areas that must be captured in the attribute data as a letter D.f;
- (vii) Authority Areas that must be captured in the attribute data as a letter D.g;
- (viii) Residential Areas that must be captured in the attribute data as a letter D.h;
- (ix) Business Areas that must be captured in the attribute data as a letter D.i;
- (x) Service Related Business that must be captured in the attribute data as a letter D.j;
- (xi) Special Business that must be captured in the attribute data as a letter D.k;
- (xii) SMME Incubators that must be captured in the attribute data as a letter D.l;
- (xiii) Mixed Use Development Areas that must be captured in the attribute data as a letter D.m;
- (xiv) Cemeteries that must be captured in the attribute data as a letter D.n;
- (xv) Sports fields and Infrastructure that must be captured in the attribute data as a letter D.o;
- (xvi) Airports and Infrastructure that must be captured in the attribute data as a letter D.p;
- (xvii) Resorts and Tourism Related Areas that must be captured in the attribute data as a letter D.q;
- (xviii) Farmsteads and Outbuildings that must be captured in the attribute data as a letter D.r or;
- (e) Industrial Areas that must be captured in the attribute data as a capital letter E including;
  - (i) Agricultural industry that must be captured in the attribute data as a letter E.a;
  - (ii) Industrial Development Zone that must be captured in the attribute data as a letter E.b;
  - (iii) Light industry that must be captured in the attribute data as a letter E.c;
  - (iv) Heavy industry that must be captured in the attribute data as a letter E.d;
  - (v) Extractive industry that must be captured in the attribute data as a letter E.e or;
- (f) Surface Infrastructure that must be captured in the attribute data as a capital letter F including;
  - (i) National roads that must be captured in the attribute data as a letter F.a;
  - (ii) Main roads that must be captured in the attribute data as a letter F.b;
  - (iii) Minor roads that must be captured in the attribute data as a letter F.c;
  - (iv) Public Streets that must be captured in the attribute data as a letter F.d;
  - (v) Heavy Vehicle Overnight Facilities that must be captured in the attribute data as a letter F.e;
  - (vi) Railway lines that must be captured in the attribute data as a letter F.f;
  - (vii) Power lines that must be captured in the attribute data as a letter F.g;
  - (viii) Telecommunication Infrastructure that must be captured in the attribute data as a letter F.h;
  - (ix) Renewable Energy Structures that must be captured in the attribute data as a letter F.i;
  - (x) Dams and Reserves that must be captured in the attribute data as a letter F.j;
  - (xi) Canals that must be captured in the attribute data as a letter F.k;
  - (xii) Sewerage Plants and Refuse Areas that must be captured in the attribute data as a letter F.l;
- (2) All the main spatial planning categories must further be divided into sub-categories and more detailed categories as prescribed in the Land Use Scheme.

#### 4. COMPILATION, REVIEW OR AMENDMENT OF MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

- (1) When the Local Municipality compiles, reviews or amends its municipal spatial development framework in accordance with the Municipal Systems Act and the Spatial Planning and Land Use Management Act, the Local Municipality must—
  - (a) establish an intergovernmental steering committee to compile or amend its municipal spatial development framework; or
  - (b) refer its draft municipal spatial development framework or draft amendment of its municipal spatial development framework to National and Provincial Departments and contiguous municipalities for comment, in accordance with Section 7 (e) (ii) of the Spatial Planning and Land Use Management Act, 2013.
- (2) The Municipality must—
  - (a) publish a notice in two of the official languages of the Province most spoken in the area in two newspapers circulating in the area concerned of—
    - (i) the intention to compile, review or amend the municipal spatial development framework; and
    - (ii) the process it will follow, in accordance with section 30(3) of the Municipal Systems Act;
  - (b) in writing inform the National and Provincial Departments and contiguous municipalities of—
    - (i) the intention to compile, review or amend the municipal spatial development framework;
    - (ii) its decision in terms of subsections (1)(a) or (b); and
    - (iii) the process it will follow to compile, review or amend the municipal spatial development framework, including the process for public participation; and
  - (c) register relevant affected parties, including mining related parties, 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.

#### 5. ESTABLISHMENT OF PROJECT COMMITTEE

- (1) The Local Municipality must establish a project committee to compile review or amend its municipal spatial development framework.
- (2) The project committee must at least consist of—
  - (a) the Municipal Manager; and
  - (b) municipal employees from at least the following municipal departments:
    - (i) the integrated development planning office;

- (ii) the planning department;
- (iii) the engineering department;
- (iv) the local economic development department;
- (v) the housing department; and
- (vi) office of the chief financial officer.

#### 6. ESTABLISHMENT OF INTERGOVERNMENTAL STEERING COMMITTEE

- (1) If the Local Municipality establishes an intergovernmental steering committee, the Municipality must, in writing, invite written nominations for representatives to serve on the intergovernmental steering committee from—
  - (a) the delegated party of the national and provincial government department responsible for land use planning;
  - (b) the delegated party of the provincial government department responsible for environmental affairs;
  - (c) the delegated party of the provincial government department responsible for agriculture;
  - (d) relevant organs of state; and
  - (e) any other department deemed necessary by the municipality.

#### 7. PROCEDURE WITH INTERGOVERNMENTAL STEERING COMMITTEE

- (1) If the Local Municipality establishes an intergovernmental steering committee, the project committee must compile a draft *status quo* document setting out an assessment of the existing levels of development and development challenges in the local municipal area, and must submit it to the intergovernmental steering committee for comments.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the *status quo* document and submit it to the Council for adoption.
- (3) The project committee must compile a first draft of the municipal spatial development framework or first draft amendment of the municipal spatial development framework and submit it to the intergovernmental steering committee for comments.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the first draft of the municipal spatial development framework or first draft amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comments.
- (5) 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 of the municipal spatial development framework and submit it to the intergovernmental steering committee for comment.
- (6) After consideration of the comments of the intergovernmental steering committee contemplated in subsection (5), the project committee must complete the final draft of the municipal spatial development framework or final draft amendment of the municipal spatial development framework and submit it to the Council for adoption by the Council.
- (7) If the final municipal spatial development framework or final amendment of the municipal spatial development framework 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 in accordance with this section before the final municipal spatial development framework or final amendment of the municipal spatial development framework is adopted by the Council.
- (8) The Local Municipality or the project committee may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the spatial development framework request comments from the intergovernmental steering committee.
- (9) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must within 14 days of its decision give notice thereof in the media and the *Provincial Gazette*.

#### 8. PROCEDURE WITHOUT INTERGOVERNMENTAL STEERING COMMITTEE

- (1) If the Local Municipality does not establish an intergovernmental steering committee to compile or amend its municipal spatial development framework, the project committee must—
  - (a) compile a draft *status quo* document setting out an assessment of the existing levels of development and development challenges in the municipal area and submit it to the Council for adoption;
  - (b) after adoption of the *status quo* document, compile a draft municipal spatial development framework or draft amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment;
  - (c) after approval of the draft municipal spatial development framework or draft amendment of the municipal spatial development framework for publication contemplated in subsection (b), submit the draft municipal spatial development framework or draft amendment of the municipal spatial development framework to the MEC for comment in; and
  - (d) after consideration of the comments received from the public and the MEC, submit a final municipal spatial development framework or final amendment of the municipal spatial development framework, with any further amendments, to the Council for adoption.
- (2) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must within 14 days of its decision give notice thereof in the media and the *Provincial Gazette*.

#### 9. FUNCTIONS AND DUTIES

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- (1) The members of the project committee must, in accordance with the directions of [the executive authority/executive mayor/committee of councillors]—
  - (a) compile a municipal spatial development framework or draft an amendment of the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise to the Local Municipality;
  - (c) monitor progress and ensure that the compilation of the municipal spatial development framework or drafting of the amendment of the municipal spatial development framework is progressing according to the approved process contemplated in section 4(2)(a)(ii);
  - (d) guide the public participation process and ensure that the registered affected parties remain informed;
  - (e) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment of the municipal spatial development framework based on the consideration of the comments received during the process of drafting thereof;
  - (f) oversee the drafting of a report setting out the response of the Local Municipality to the provincial comments issued;
  - (g) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and other organs of state as contemplated in section 24(1) of the Municipal Systems Act;
  - (h) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (i) if the Local Municipality decides to establish an intergovernmental steering committee—
    - (i) assist the Local 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.
- (2) The members of the intergovernmental steering committee must—
  - (a) provide the intergovernmental steering committee with the following:
    - (i) technical knowledge and expertise;
    - (ii) input on outstanding information that is required to draft the municipal spatial development framework or an amendment thereof;
    - (iii) information on the locality of projects and budgetary allocations; and
    - (iv) written comments in terms of section 7.
  - (b) communicate to the intergovernmental steering committee any current or planned projects that have an influence on the municipal area; and
  - (c) provide the project committee with written comments in terms of section 7.

#### **10. SPATIAL DEVELOPMENT FRAMEWORK PRECINCT PLANS**

- (1) The Local Municipality may adopt a Spatial Development Framework Precinct Plan for a specific geographical area in a portion of the municipal area.
- (2) The purpose of a Spatial Development Framework Precinct Plan in a specific geographical area is to:
  - (a) provide detailed spatial planning guidelines;
  - (b) provide more detail in respect of a proposal provided for in the municipal spatial development framework;
  - (c) meet specific land use planning needs and priorities;
  - (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 use applications; and
  - (g) identify a funding source and budget for prioritized projects.

#### **11. COMPILATION, AMENDMENT OR REVIEW OF SPATIAL DEVELOPMENT FRAMEWORK PRECINCT PLANS**

- (1) If the Municipality compiles amends or reviews a Spatial Development Framework Precinct Plan, it must draft and approve a process plan, including the public participation processes to be followed for the compilation, amendment, review or adoption of a Spatial Development Framework Precinct Plan.
- (2) When the Local Municipality drafts or amends its Spatial Development Framework Precinct Plan it must refer its draft Spatial Development Framework Precinct Plan or draft amendment to its Spatial Development Framework Precinct Plan to National and Provincial Departments for comment.
- (3) The Council must, within 21 days of adopting a Spatial Development Framework Precinct Plan or an amendment of Spatial Development Framework Precinct Plan, cause a notice of the decision to be published in the media and the *Provincial Gazette*.

#### **12. STATUS OF SPATIAL DEVELOPMENT FRAMEWORK PRECINCT PLANS**

- (1) A Spatial Development Framework Precinct Plan or an amendment thereof comes into operation on the date of publication of the notice contemplated in Section 11.
  - (2) A Spatial Development Framework Precinct Plan guides and informs decisions made by the Municipality and the Competent Authority relating to land development, but it does not confer or take away rights.
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### 13. STRUCTURE PLANS

- (1) When the Local Municipality intends to convert a structure plan to a Spatial Development Framework Precinct Plan it must comply with sections 10 to 12 and must—
  - (a) review that structure plan and make it consistent with the purpose of a municipal spatial development framework;
  - (b) incorporate the provisions of the structure plan that are consistent with that purpose in a municipal spatial development framework.
- (2) The Council must cause a notice of the withdrawal of the relevant structure plan to be published by notice in the *Provincial Gazette*, when it adopts a Spatial Development Framework Precinct Plan contemplated in subsection (1).

## CHAPTER III – DEVELOPMENT MANAGEMENT

### 14. DETERMINATION OF ZONING

- (1) The owner of land or his agent may apply in terms of section 16(2) to the Municipality for the determination of a zoning for land within its municipal jurisdiction.
- (2) When the Competent Authority considers an application in terms of subsection (1) it must have regard to the following:
  - (a) the lawful use of the land, or the purpose for which it could lawfully be used immediately prior to the commencement of this By-law if it can be determined;
  - (b) the zoning, if any, that is most compatible with that use or purpose and any applicable title deed condition;
  - (c) any temporary use or consent use that may be required in conjunction with that land use scheme;
  - (d) in the case of land that was vacant immediately before the commencement of this By-law, the use 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 use of the land and the purpose for which it could lawfully be used 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 Competent Authority must determine a zoning and serve notice of its intention in terms of section 63.
- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, may not be considered to be lawful.

### 15. NON-CONFORMING USES

- (1) A non-conforming use provides that land that is being used lawfully in terms of an existing zoning for a purpose that does not comply with a proposed zoning, may continue to be used for that purpose when the new zoning comes into operation.
- (2) A non-conforming use does not constitute an offence in terms of this By-law.
- (3) A non-conforming use may continue as long as it remains otherwise lawful, subject to the following:
  - (a) if the non-conforming use ceases for any reason for a period of more than twenty-four consecutive months, any subsequent use of the property must conform to the requirements of this By-law, with or without temporary uses;
  - (b) a land use application must be made for the alteration or extension of buildings or structures in respect of the non-conforming use;
  - (c) the owner bears the onus of proving that the non-conforming use right exists; and
  - (d) the use right is limited to the area of the building or land on which the proven use right is in existence.
- (4) If an existing building, which constitutes a non-conforming use, is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the Municipality may grant permission for the reconstruction of such building subject to conditions.

### 16. LAND DEVELOPMENT REQUIRING APPROVAL

- (1) No person may commence, continue, or cause the commencement or continuation of, land development, without the approval of the Competent Authority in terms of subsection (3).
- (2) The Local Municipality has categorized their applications, as contemplated in section 35(3) of the Spatial Planning and Land Use Management Act, into two categories:
  - (a) Category 1 applications consist of:
    - (i) The establishment of a township or the extension of the boundaries of a township;
    - (ii) The amendment of an existing scheme or land use scheme by the rezoning of land, except where the zoning is done in terms of an overlay zone applicable on the land.
    - (iii) The removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
    - (iv) The amendment or cancellation in whole or in part of a general plan of a township;
    - (v) The subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
    - (vi) Permanent closure of any public place

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- (vii) Any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
  - (viii) The change of land use process of rehabilitation projects as contemplated in sections 35 to 49
  - (ix) The recognition of a rehabilitation venture as complying with the principles of a social and labour plan project in terms of Section 37(1)(b).
  - (x) Where no town planning scheme or land use scheme applies to a piece of land, the application for the change of land use:
    - a. if there is a town planning scheme, for an incorporation of the land in the town planning scheme; or
    - b. if there is no town planning scheme or land use scheme, for a change of the land use.
- (b) Category 2 applications consist of:
- (i) The subdivision of any land where such subdivision is provided for in a land use scheme and includes, subject to section 35, subdivisions for the purpose of creating land entities for mining or rehabilitation purposes;
  - (ii) The creation of any servitude or long term lease and the consolidation of any land;
  - (iii) The simultaneous subdivision, as contemplated in subsection (b)(i) and consolidation of land;
  - (iv) The rezoning of any land that is allowed in terms of the Land Use Scheme in terms of an overlay zoning, subject to the condition that the creation of an overlay zone complied with the procedures applicable at that time.
  - (v) The consent of the municipality for any land use purpose or temporary use or deviation in terms of a land use scheme, which does not constitute a land development application;
  - (vi) The removal, amendment or suspension of a restrictive title condition relating to the density of development on a specific erf where the density is regulated by a land use scheme in operation.
  - (vii) An application for the extension of a validity period, subject to section 87(5).
- (3) The owner of land or his agent may apply to the Municipality in terms of this Chapter and Chapter V for the approval of the following in relation to the development of the land concerned:
- (a) a rezoning of land;
  - (b) a departure to use land for a purpose not provided for in the land use scheme granted on a temporary basis;
  - (c) a Township establishment;
  - (d) a consolidation of land and or a subdivision of land, including the registration of a servitude or lease agreement
  - (e) an amendment, suspension or removal of restrictive conditions in respect of a land parcel;
  - (f) a permission required in terms of the land use scheme;
  - (g) an amendment, removal or imposition of conditions in respect of an existing approval;
  - (h) an extension of the validity period of an approval in terms of section 87(3);
  - (i) an approval of an overlay zone as provided for in the land use scheme;
  - (j) a phasing, amendment or cancellation of a general plan or a part thereof;
  - (k) a permission required in terms of a condition of approval;
  - (l) a determination of a zoning;
  - (m) a closure of a public place or part thereof;
  - (n) a consent use provided for in the land use scheme;
  - (o) an occasional use of land.
  - (p) an application to have a land development dealt with as a rehabilitation project.
- (4) If the land development is of provincial interest the provincial department responsible for land use planning must be approached.
- (5) If the land development is of national interest the national and provincial department responsible for land use planning must be approached.
- (6) If section 52 of the Spatial Planning and Land Use Management Act is applicable to the land development, the owner or agent must also apply in terms of that Act.
- (7) When an applicant or owner exercises a use right granted in terms of an approval, he must comply with the conditions of the approval and the applicable provisions of the land use scheme.
- (8) When the Local Municipality on its own initiative develops land as contemplated in subsection (3), it must apply to the Municipal Planning Tribunal in accordance with this Chapter and Chapter V.
- (9) If the land is to be dealt with as a rehabilitation venture then chapter IV is also applicable.
- (10) If the land development is to be dealt with in terms of an emergency situation due to a disaster, the land development is exempted from section 16 (1) until such time that the emergency situation has stabilised.
- (a) After the emergency situation has stabilised, the Council must decide within 90 days on the permanency of the land development.
  - (b) If the decision is that the land development is permanent, an application must be submitted within a further 90 days of such a decision, and such an application will be dealt with as a normal application, taking into account the extent and impact of the disaster.
  - (c) If the decision is that the land development is not permanent but the land development has not been reversed or mitigated back to the situation as it was before the emergency situation, within 180 days, subsection (b) will be applicable as if the decision of permanency was made at the end of the 180 day period.
- (11) Exemptions:
- (a) The following land developments does not require the approval of the Municipality in the following cases:
    - (i) if the subdivision or consolidation arises from the implementation of a court ruling;
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- (ii) if the subdivision or consolidation arises from an expropriation;
  - (iii) The consolidation of two erven with the same zoning where no existing services will fall outside of the building lines of the proposed consolidated erf.
  - (iv) a minor amendment to 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% and where no existing services will fall outside of the building lines of the proposed erven.
  - (v) the registration of a servitude or lease agreement for the provision or installation of—
    - a. 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;
    - b. telecommunication lines by or on behalf of a licensed telecommunications operator;
    - c. line servitudes of 15m width and less.
    - d. area servitudes of 225m<sup>2</sup> and less.
  - (vi) the exclusive utilisation of land for agricultural purposes, if the utilisation—
    - a. requires approval in terms of legislation regulating the subdivision of agricultural land; and
    - b. does not lead to urban expansion;
  - (vii) the granting of a right of habitation, usufruct or right of way associated with the right of habitation or usufruct.
- (b) An applicant must obtain a certificate from the Municipality that certifies in writing that the subdivision or consolidation is exempted from the application of section 16 and sections 21 to 24 in the case of a subdivision, or section 16 and sections 32 to 33 in the case of a consolidation.

#### 17. CONTINUATION OF APPLICATION AFTER CHANGE OF OWNERSHIP

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

#### 18. REZONING OF LAND

- (1) The Local Municipality may, on its own initiative, subject to the commencement of the acquisition of the land by the municipality, rezone land of which it is not the owner to—
- (a) provide a public service or to provide a public recreational space; or
  - (b) substitute a zoning or part thereof for a zoning in terms of which the land is not necessarily zoned in accordance with the use thereof or existing use rights.
- (2) An applicant, who wishes land to be rezoned, must submit an application to the Municipality in terms of Section 16(2).
- (3) The Local Municipality may, on its own initiative or on application, create an overlay zone for land by an application in terms of Section 16(3)(i).
- (4) A land use scheme may be made applicable to a land parcel or part thereof, and an overlay zoning need not follow cadastral boundaries, subject to the delineation of the defined area if it falls outside of a general plan.
- (5) A zoning comes into effect on the expiry of the period contemplated in section 99(1) **Error! Reference source not found.** after the publication of the notification of the approval in terms of section 78(2).

#### 19. ESTABLISHMENT OF TOWNSHIP

- (1) No person shall establish a township except with the approval of the Municipal Planning Tribunal.
- (2) The township establishment process and approval includes any combination of the following activities required to create the township:
- (a) Subdivision,
  - (b) Consolidation,
  - (c) Cancellation,
  - (d) Incorporation into a General Plan,
  - (e) Incorporation into a Town Planning Scheme,
  - (f) Incorporation into a Land Use Scheme
- (3) Legal effect of a township establishment.
- (a) The township establishment approval may specify each activity as contemplated in subsection (2).
  - (b) If the Township establishment approval does not specify the individual activities, the applicant together with the professional registered persons taking responsibility for the activities in sections 21 and 22, together with the Surveyor-General and the Registrar of Deeds may agree in writing to the activities required.
  - (c) The agreement in subsection (b) is, upon signature by all the parties mentioned in subsection (b), then deemed to be an integral part of the township establishment approval and is lodged with the appropriate documents in the offices of the Surveyor-General and the Registrar of Deeds.
  - (d) The agreement in subsection (b) must be submitted to the Municipal Manager for incorporation into the approval of the township establishment in terms of section 80.
  - (e) The agreement in subsection (b) having complied with subsection (c) then gives legal effect to the execution of Section 21 and 22, as if the approval has already been amended in terms of Section 80.

**20. APPLICATION FOR ESTABLISHMENT OF TOWNSHIP**

- (1) The owner of land or his agent, who proposes to establish a township on such land, shall submit an application in terms of Section 16 for approval to the Municipality.
- (2) If the land upon which the township is to be established is subject to a mortgage bond, the applicant shall lodge with such application the written consent of the mortgagee.
- (3) After an owner of land has submitted an application in terms of subsection (1) to establish a township thereon, no person shall,-
  - (a) subject to section 17, enter into any contract whereby any land in such township is sold exchanged, leased or disposed of in any other manner; or
  - (b) erect a building on such land in accordance with the conditions imposed by the Municipal Planning Tribunal when granting such approval, until-
    - (i) the application for approval for the establishment of such township shall have been refused by the Municipal Planning Tribunal; or
    - (ii) the applicant shall have withdrawn the application;
    - (iii) the approval of the application shall have lapsed.
    - (iv) the authorised official shall have declared the township an approved township and, in the case of such an owner who is not a Local Municipality, the Municipal Planning Tribunal shall have satisfied itself that the services and amenities that have to be provided in connection with such land in terms of the conditions subject to which the establishment of such township was approved, are available and the director Engineering services or a person with such delegated authority shall have issued a certificate to that effect.
- (4) Any contract entered into in conflict as contemplated in subsection (3) shall be of no force or effect.
- (5) The zonings created in a township establishment process comes into effect on the publication of the notice referred to in section 23(1)

**21. APPLICANT TO LODGE GENERAL PLAN AND DIAGRAMS WITH SURVEYOR –GENERAL.**

- (1) A professional land surveyor shall, on behalf of the applicant / owner, shall, within a period of five years from the date of the notification of the approval or within such further period as the Municipal Planning Tribunal may in each case determine, lodge for approval with the Surveyor-General the general plan and such diagrams as may be necessary for the establishment of a township.
- (2) If an applicant fails to lodge the general plan and diagrams with the Surveyor –General within the period or further period, the approval of the application shall lapse unless the Municipal Planning Tribunal after consultation with the Authorised official condones such failure.
- (3) When such general plan and diagrams have been approved by the Surveyor-General the professional land surveyor shall notify the municipality of such approval.

**22. LODGING OF GENERAL PLAN, DIAGRAMS AND TITLE DEEDS WITH REGISTRAR OF DEEDS**

- (1) An applicant shall, within a period of five years from the date of the notification of an approval or within such further period as the Municipal Planning Tribunal may in each case determine, lodge the general plan and diagrams in question together with the title deeds of the land to which it relates with the Registrar of Deeds for registration, and the Registrar of Deeds shall notify the Municipality of the registration.
- (2) If an applicant fails to lodge such documents with the Registrar of Deeds or to obtain registration thereof within the period or further period contemplated in subsection (1) the approval of the application shall lapse unless the Municipal Planning Tribunal after consultation with the Authorised official condones such failure.

**23. PROCLAMATION OF APPROVED TOWNSHIP**

- (1) After the provisions of section 22 have been complied with and subject to section 20(3)(b)(iv) the Municipality shall by proclamation declare the township to be an approved township.
- (2) The conditions upon which the application for the establishment of the township has been approved shall be set out in a schedule to such proclamation.
- (3) The Municipality may by proclamation rectify any error or omission in a proclamation or the schedule thereto issued in terms of subsections (1) and (2).

**24. AMENDMENT OR CANCELLATION OF A GENERAL PLAN**

- (1) When the Municipal Planning Tribunal is satisfied that it is desirable to amend or cancel a general plan in the interest of the development of a township, or public interest it may, on application grant approval for the alteration, amendment or total or partial cancellation of the general plan representing the layout of such township, either unconditionally or subject to such conditions as it may determine.
  - (2) Any person may make application for the Municipal Planning Tribunal's approval and such application shall be submitted to the municipality in duplicate in such form as may be described or determined by the municipality and shall be accompanied by such plans, documents, information and fees as may be prescribed or determined by the municipality.
  - (3) When a general plan of a township is totally or partially cancelled by the Surveyor-General, in terms of the Land Survey Act, 1997, (Act No 8 of 1997), the land uses and conditions of title of the affected area, is simultaneously cancelled and the land use and zoning revert to undetermined.
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- (4) When a general plan of a township is totally or partially amended by the Surveyor-General, in terms of the Land Survey Act, 1997, (Act No 8 of 1997), the land uses and conditions of title of the affected area, is simultaneously cancelled and the land use and zoning changes simultaneously to the land uses and zonings as approved on the re-layout plan.

**25. 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 general plan vest in the Local Municipality upon the registration of the general plan in terms of section 23(1) or registration of the subdivision or a part thereof in terms of section 22.
- (2) The Local Municipality may in terms of conditions imposed under section 85 determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved general plan, be transferred to the Local Municipality upon the registration of the general plan in terms of section 23(1) or registration of the subdivision or a part thereof in terms of section 22

**26. CLOSURE OF PUBLIC PLACES**

- (1) The Local Municipality may, on own initiative or on application, permanently close a public place or any portion thereof in accordance with Chapter V by an application in terms of Section 16(3).
- (2) An applicant, who requires the closure of a public place, whether permanently or temporarily, must apply in terms of section 16(2) to the Municipality.
- (3) If any person lodges a claim against the Local Municipality for loss or damage that he has allegedly suffered due to wrongdoing on the part of the Local Municipality when it permanently closed a public place, the authorised official must—
- (a) require proof of negligence or any other wrongdoing on the part of the Local Municipality which resulted in the loss or damage; and
- (b) before any claim is paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Local Municipality.
- (4) The Local Municipality may pay a claim if—
- (a) the circumstances of loss or damage reveal that the Local Municipality acted wrongfully;
- (b) the claimant has proved his loss or damage;
- (c) the claimant has provided proof of a fair and reasonable quantum;
- (d) no claim has been made and paid by personal insurance covering the same loss; and
- (e) any other relevant additional information as requested by the authorised official has been received.
- (5) The ownership of land comprising any public place or portion thereof that is permanently closed in terms of this section continues to vest in the Local Municipality, unless the Local Municipality determines otherwise.
- (6) The Municipal Manager may, without complying with Chapter V, 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 a state that is dangerous to the public;
- (d) by reason of an emergency or public event that requires special measures for the control of traffic or special provision for the accommodation of crowds; or
- (e) for any other reason that renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1).
- (8) Upon closure of a public place the right of the public to the place is removed, but the zoning is not affected.

**27. SERVICES ARISING FROM TOWNSHIP ESTABLISHMENT**

- (1) Subsequent to the approval of an application for township establishment in terms of this By-law, the owner of any land parcel originating from the township establishment must—
- (a) allow without compensation that the following be conveyed across his land parcel in respect of other land parcels originating from the township establishment:
- (i) gas mains;
- (ii) electricity cables;
- (iii) telephone cables;
- (iv) television cables;
- (v) other electronic infrastructure;
- (vi) main and other water pipes;
- (vii) foul sewers;
- (viii) storm water pipes; and
- (ix) ditches and channels;



- (b) allow the following on his land parcel if considered necessary and in the manner and position as may be reasonably required by the Local Municipality:
    - (i) surface installations such as mini-substations;
    - (ii) meter kiosks; and
    - (iii) service pillars;
  - (c) allow access to the land parcel at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in subsections (a) or (b); and
  - (d) receive material or permit excavation on the land parcel as may be required to allow use of the full width of an abutting street and to provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land parcel, unless he elects to build retaining walls to the satisfaction of, and within a period to be determined by, the Local Municipality.
- (2) The rights created in subsection (1)(a) and (b) must be secured by a servitude registered in the Deeds Office if the services are not conveyed within the building lines applicable to the land parcels.

## 28. CERTIFICATION BY MUNICIPALITY

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land parcel, unless the Municipality has issued a certificate in terms of this section.
- (2) The Municipality may not issue a certificate to transfer a land parcel in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
- (a) a conveyancer's certificate confirming that money due by the transferor of land to an owners' association established in respect of that land has been paid, or that provision has been made to the satisfaction of the owners' association for the payment thereof;
  - (b) proof of payment of any contravention penalty or proof of compliance with an instruction in a compliance notice issued in terms of Chapter IX;
  - (c) proof that the land use and buildings constructed on the land parcel comply with the requirements of the land use scheme;
  - (d) proof that all common property, arising from the subdivision has been transferred to the owners' association as contemplated in section 0(3)(e); and
  - (e) proof that the conditions of approval that must be complied with before the transfer of erven may take place, have been complied with in all respects.

## 29. OWNERS' ASSOCIATIONS

- (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 subsection (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 parcel 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 all common property arising from the subdivision, including—
    - (i) private open spaces;
    - (ii) private roads;
    - (iii) private places; and
    - (iv) land required for services provided by the owners' association;
  - (f) enforcement of conditions of approval or management plans;
  - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
  - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
- (4) The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
- (5) An owners' association may amend its constitution when necessary, but if an amendment affects the Local Municipality or a provision referred to in subsection (3), the amendment must also be approved by the Local Municipality.
- (6) An owners' association that comes into being by virtue of subsection (1)—
- (a) has as its members all the owners of land parcels originating from the subdivision or township establishment 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 parcel automatically constituted.
- (7) The design guidelines contemplated in subsection (3)(d) may introduce more restrictive development rules than the rules provided for in the land use scheme.
- (8) If an owners' association fails to meet any of its obligations contemplated in subsection (3) and any person is, in the opinion of the Local Municipality, adversely affected by that failure, the Local Municipality may take appropriate action to rectify the
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failure and recover from the members referred to in subsection (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 subsection (8), considered to be expenditure incurred by the owners' association.

### 30. OWNERS' ASSOCIATION CEASES TO FUNCTION

- (1) If an owners' association ceases to function or carry out its obligations, the Local 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 the 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 Local Municipality must have regard to—
- (a) the purpose of the owners' association;
  - (b) who will take over the maintenance of infrastructure for which the owners' association is responsible; and
  - (c) the effect of the dissolution of the owners' association on the members and the community concerned.

### 31. SUBDIVISION OR CONSOLIDATION OF LAND

- (1) No person may subdivide or consolidate land without the approval of the Competent Authority in terms of section 16.
- (2) A copy of the approval must accompany the diagram that is submitted to the Surveyor-General's office.
- (3) If a Municipality approves a subdivision or consolidation, the Municipality must amend the land use scheme in terms of Chapter V and, where applicable, the register accordingly.

### 32. EXTENSION OF VALIDITY PERIODS FOR SUBDIVISION AND CONSOLIDATION

- (1) Sections 21 and 22 are mutatis mutandis applicable to approvals for subdivision and consolidation.
- (2) If the Municipality approves an extension contemplated in section 22(2), the extended period together with the period contemplated in section 22(1) may not exceed ten years.

### 33. REQUIREMENTS FOR AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS OF TITLE

- (1) The Municipality may, subject to section 16, on its own initiative or on application in terms of section 16(2), by notice in the *Provincial Gazette* amend, suspend or remove a restrictive condition.
- (2) The Municipality may amend, suspend or remove a restrictive condition—
- (a) permanently;
  - (b) for a period specified in the notice; or
  - (c) subject to conditions specified in the notice.
- (3) In addition to the procedures set out in Chapter V, the owner must—
- (a) submit the original title deed to the Municipality or a certified copy thereof; and
  - (b) where applicable, submit the bondholder's consent to the application.
- (4) The Municipality must cause a notice of an application in terms of subsection (1) to be served on—
- (a) 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 materially and adversely be affected by the approval of the application; and
  - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
  - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
  - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is amended, suspended or removed;
  - (d) the social benefit of the restrictive condition remaining in place in its existing form;
  - (e) the social benefit of the amendment, suspension or removal of the restrictive condition; and
  - (f) whether the amendment, suspension or removal of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

### 34. ENDORSEMENTS IN CONNECTION WITH THE 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 33(1), submit the following to the Registrar of Deeds:
- (a) the original title deed;
  - (b) the original letter of approval; and
  - (c) a copy of the notification of the approval.
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- (2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition, make the appropriate entries in, and endorsements on, any relevant register, title deed, diagram or plan in their respective offices or submitted to them, to reflect the amendment, suspension or removal of the restrictive condition.

#### CHAPTER IV – INTEGRATED LAND AND MINING REHABILITATION DEVELOPMENT MANAGEMENT

##### 35. SUBDIVISIONS FOR MINING OR REHABILITATION PURPOSES

- (1) When a subdivision of land is approved for mining or rehabilitation purposes in terms of section 16(2)(b)(i) the municipality must inform the Registrar of Deeds that a restriction is placed on the transfer of the land to a non-mining company unless an approval in terms of section 16 is accompanied by the document referred to section 44(1)(a) accompanies the transfer documentation.

##### 36. REHABILITATION PROCESS

- (1) The integration of mining rehabilitation into the spatial planning process broadly follows the following sequence:
  - (a) The Municipal Spatial Development Framework (SDF) integrating the Mine Closure Plan (MCP), of the mining right holder, into the SDF proposals and documentation.
  - (b) The development of the rehabilitation plan aligned with both the MCP, SDF and, where applicable, the SDF Precinct Plan, with specific milestones for sign off by the DMR.
  - (c) The approval of the Rehabilitation Plan by the DMR.
  - (d) The implementation of the rehabilitation plan with the milestones being signed off by the DMR as they are reached.
  - (e) The signoff of the rehabilitation plan on completion by the DMR.
- (2) The main activities and their sequence that effect and constitute the implementation of a rehabilitation venture in terms of this By-Law are:
  - (a) Agreement signed between the mining right holder and the developer.
  - (b) The Feasibility Study performed by the developer.
  - (c) Approval of the Rehabilitation Plan, by the DMR, of the area affected by the rehabilitation project, including the sign off by the DMR, on specific milestones, as stipulated in the approved rehabilitation plan. Rehabilitation commences with the Radiation scanning of the area and identification of no-go areas.
  - (d) The Transitional Period commences with and covers the following activities:
    - (i) Principle Project approval by the Tribunal and registration of the project.
    - (ii) Project implementation, consisting of:
      - a. Submission of Change of Land Use application;
      - b. Submission of Building plans;
      - c. Physical development in terms of the rehabilitation plan with temporary services connections;
      - d. Submission and finalisation of Services Agreement;
      - e. Conditional approval of change of land use application;
      - f. Signing of services agreement;
      - g. Incorporation into the Land use Scheme (when applicable);
      - h. Amendment of services licence areas (when applicable);
    - (iii) Letter of completion of Rehabilitation Plan signed off by DMR.
  - (e) Approval of change of land use application
  - (f) Transfer of land to the developer.
  - (g) Switch over to permanent services connections.
  - (h) Proclamation of land after sign off by the Municipality of compliance with the services agreement. (When applicable)

##### 37. RECOGNITION OF REHABILITATION VENTURES

- (1) A rehabilitation venture is recognised to qualify to be implemented in terms of sections 35 to 49 of this By-law, only when it complies with the following conditions:
  - (a) It is unambiguously described in the rehabilitation plan of the mining right holder and approved by the DMR, or
  - (b) It is approved in principle by the Tribunal as complying with the principles, intent and general definition of a social and labour plan project, and
  - (c) The proposed "end land use" is either stated, in terms of the applicable land use scheme, or clearly described in either of the documents mentioned in subsection (a) and (b). This may include the creation of a new zoning, and
  - (d) Clearly identifies the land, affected by the applicable rehabilitation plan, either via a sketch plan, prepared by a professional mine surveyor or land surveyor, or servitude, lease area or subdivision diagram, approved by the Surveyor-General, forming part of the approved rehabilitation plan.
- (2) Written proof of the above, with regard to an activity on an area of land, is made available to the municipality within 30 days of a written request being delivered to the registered address of the mining right holder.
- (3) The recognition is subject to compliance with the conditions of sections 35 to 49 and any other law governing aspects other than municipal planning matters, as identified in the constitution of South Africa.
- (4) The recognition of a rehabilitation venture in terms of subsection (1) will be terminated if:
  - (a) It is not registered with the municipality.
  - (b) The length of the transitional period is longer than 10 years.

- (c) The project is incompatible with the Spatial development Framework, Spatial Development Framework Precinct Plan or Land Use Scheme and no mitigating or amending actions can be agreed on between the municipality, the mining right holder and the developer of the rehabilitation project.

### **38. REGISTRATION OF REHABILITATION VENTURES WITH THE MUNICIPALITY**

- (1) Any recognised rehabilitation venture, that are to be implemented in terms of Sections 35 to 49, must be registered with the municipality as such, on or before any building plans are submitted or construction on any portion of the project commences. (The erection of a fence on the proposed boundary is excluded. The normal maintenance and renovation of existing mining assets are excluded.)
- (2) The Municipality will accept any application for registration of a rehabilitation venture recognised in terms of section 37.
- (3) A recognised rehabilitation venture must be registered within 30 days after the Municipality have accepted the application referred to in subsection (2), subject to the submission of the following documentation by the mining right holder:
- (a) A copy of the approved Plan(s) as described in section 37(1)(a), clearly showing the Rehabilitation project, or the approval as contemplated in section 37(1)(b).
- (b) The extract from the plans described in section 37(1)(c), clearly describing the "end land use".
- (c) An extract or summary of the Feasibility Study of the rehabilitation projects indicating:
- (i) The compatibility or not of the project with the Spatial Development Framework and Spatial Development Framework Precinct Plans;
- (ii) The compatibility or not with the Land Use Scheme;
- (iii) The sustainability of the project;
- (iv) The benefit of the project to the greater community;
- (v) The interim services agreement between the mining right holder and the developer of the Rehabilitation project;
- (vi) A list of the Municipal services to be negotiated with the Municipality and or other service providers;
- (vii) The project implementation program indicating the timeframes of the transitional period as well as the critical timeframes of suspensive activities that will cancel the project in terms of the agreement as described in section 36(2)(a).
- (viii) A copy of the signed agreement between the Mining right holder and the developer of the Rehabilitation venture as described in section 36(2)(a).
- (4) The registration of recognised rehabilitation Projects must be entered into a separate register that forms part of the Land Use Scheme documentation and records.

### **39. IMPLEMENTATION OF REHABILITATION VENTURES IN TERMS OF SECTIONS 35 TO 49**

- (1) A registered rehabilitation venture may be implemented on land as a mining activity and the registered rehabilitation venture is accepted and recognised as an allowed land use on the land during the transitional period as contemplated in section 40.
- (2) The municipality will accept, approve and execute its building and land use control functions as if the land has already been zoned to the "end land use" as identified in section 37(1)(c).
- (3) The Mining Right Holder together with the Developer of the rehabilitation venture must comply with the building and land use control measures as if the land has already been zoned to the "end land use" as identified.

### **40. TRANSITIONAL PERIOD FOR REHABILITATION VENTURES**

- (1) The transitional period may not exceed 5 years, but may be extended, upon application, by the Municipality for a single 5 year period.
- (2) The transitional period will commence on the date of registration by the Municipality as described in section 38(3).

### **41. COMPATIBILITY OF A REHABILITATION VENTURE WITH THE SPATIAL DEVELOPMENT FRAMEWORK, SPATIAL DEVELOPMENT FRAMEWORK PRECINCT PLAN, LAND USE SCHEME AND ZONING**

- (1) If the "end land use" is not compatible with the Spatial Development Framework, Spatial Development Framework Precinct Plan, Land Use Scheme or Zoning, the Developer, Mining Right Holder and the Municipality must jointly developed mitigating and amending actions and proposals that must be included in the change of land use application and may include:
- (a) Amendment of the Spatial Development Framework,
- (b) Amendment of the Spatial Development Framework Precinct Plan(s)
- (c) Amendment of the Land Use Scheme by the creation of a new zoning category with its applicable conditions or
- (d) the amendment of an existing zoning category by the addition or deletion of allowable land uses, consent uses or conditions applicable to it.

### **42. APPLICATION FOR CHANGE OF LAND USE OF A REGISTERED REHABILITATION VENTURE**

- (1) The application for the change of land use must be submitted simultaneous with or within 60 days of the registration the rehabilitation venture in terms of section 38(3).
- (2) The change of land use application must include, where applicable, the details developed in terms of section 41.
- (3) The change of land use application must include, as part of the application documentation, the comments of the following authorities with regard to the change of land use to the "end land use":
- (a) Department of Agriculture
- (b) Department of Health, with specific reference to Municipal Health Services
- (c) Department of Water Affairs and Forestry
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- (d) Department of Minerals and Energy
  - (e) Department of Transport through their appropriate agencies
  - (f) Department of Environmental Affairs
  - (g) Information Communication Technology companies active in the area
  - (h) ESKOM
  - (i) The applicable bulk services providers, where the municipality is not the provider of the bulk services.
  - (j) Any other as agreed with the Municipality
- (4) The change of land use application is subject to the laws, processes and procedures applicable to such a change of land use application as contemplated in this Bylaw.
- (5) The change of land use application must be referred to the DMR for their comments, but may not be delayed due to their lack of comment on or approval of the application.
- 43. AMENDMENTS TO THE CHANGE OF LAND USE APPLICATION OF A REGISTERED REHABILITATION VENTURE.**
- (1) The change of Land use application must follow due process and the application for the change of land use must be amended, if necessary, to incorporate the mitigating and amending conditions emanating from the comments or objections received during the process referred to in section 42(4).
- (2) Neither the Local Municipality nor any other government institution is liable for costs or losses emanating from such changes required for the approval of such a change of land use application.
- 44. APPROVAL OF CHANGE OF LAND USE OF A REGISTERED REHABILITATION VENTURE.**
- (1) The change of Land use must follow due process but may not be finally approved and signed off by the competent authority, designated for such final signature as contemplated in Section 16(1), unless:
- (a) A letter from the DMR is attached to the final change of land use proposal and conditions recommended for approval. The letter from the DMR must state that the land, which is the subject of the application, has been rehabilitated to their satisfaction and that the mining right holder does not have any more rehabilitation responsibilities towards the surface of the area.
  - (b) If the description of the land or the sketch plans accompanying the DMR letter and the change of land use differs substantially, a certificate, issued by a professional land or mine surveyor, stating that the land use application area falls within the area as described in the DMR letter, will be sufficient to clarify such difference. This certificate must be included into the approval documentation and it will form an integral part of the change of land use approval documentation.
- (2) Once the change of land use application has followed due process and qualifies for approval except for the document referred to in subsection (1)(a), the competent authority, designated for such final signature, must approve the change of land use conditionally.
- (3) The document referred to in subsection (1)(a) must be submitted within the transitional period as referred to in section 40 and then the competent authority, designated for such final signature, must approve the change of land use application.
- (4) The legal effect of the conditional approval is:
- (a) That the change of land use vests in the land,
  - (b) The necessary diagrams depicting the land forming part of the change of land use application may be approved by the Surveyor-General.
  - (c) No transfer of the land depicted on the diagrams referred to in subsection (b) may be registered, subject to section 35, in the name of the developer or any other third party, except to another mining company. Long term leases or servitudes, in favour of the developer, may be registered as well as bonds encumbering the land, depicted on the diagrams referred to in subsection (b).
- 45. SERVICES AGREEMENT APPLICABLE TO A REGISTERED REHABILITATION VENTURE.**
- (1) The process of negotiating the bulk and internal services agreement must commence not later than 90 days after submission of the change of land use application to the municipality as referred to in Section 42(1).
- (2) Upon approval of the change of land use the signed services agreement will form part of the approval documentation.
- (3) If required, any changes to the boundaries of service delivery areas between service providers must be addressed as part of these negotiations but must be coordinated to coincide, as far as possible, with the physical change over of the delivery of services in terms of the interim services agreement referred to in section 38(3)(c)(v) and the approved bulk and internal services agreement referred to in subsection (2).
- (4) The interim services agreement must be terminated and the implementation of the approved bulk and internal services agreement(s) must be completed within 12 months of the date of final approval of the change of land use application or such longer period as stipulated in the services agreement.
- (5) Upon the completion of the actions in subsection(4) the municipality must issue a certificate to the developer that the conditions of the services agreement has been complied with and that the municipality consents to the cancellation of the caveat registered in terms of section 46(2).
- 46. TRANSFER OF LAND AFFECTED BY A REGISTERED REHABILITATION VENTURE.**
- (1) The Transfer of the land to the developer is authorised after the final approval contemplated in Section 44(3) has been signed.
- (2) A caveat against further transfer of the land must be registered if the certificate described in Section 45(5) is not submitted together with the registration documentation to the Registrar of Deeds.
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- (3) The caveat described in (2) may be cancelled by the Registrar of Deeds upon application and submission of the certificate described in section 45(5).

**47. SUBMISSION OF BUILDING PLANS OF A REGISTERED REHABILITATION VENTURE.**

- (1) Building plans may only be submitted simultaneous or after submission of the change of land use application.
- (2) The Municipality will accept, process and approve the submitted building plans only if they comply with the National Building Act and Regulations and the end land use conditions.
- (3) The approved building plans must, in addition, refer to the registration of the project in terms of section 38.
- (4) If the conditions of the change of land use differ from the time of application to the time of conditional approval, the appropriate changes must be made to the buildings and building plans.

**48. LIABILITY OF CHANGES TO A REGISTERED REHABILITATION VENTURE.**

- (1) The developer accepts liability for any losses following from the use of sections 35 to 49 of this By-law, due to changes in the conditions of approval during the transitional period, or the change of land use not being conditionally approved due to circumstances outside of the control of the Local Municipality.

**49. REGULATIONS AFFECTING A REGISTERED REHABILITATION VENTURE.**

- (1) The Local Municipality may approve rules and regulations concerning the required documentation, plans and procedures, that are not inconsistent with the requirements as prescribed in the relevant land use planning legislation applicable in the Municipal area.

**CHAPTER V – APPLICATION PROCEDURES**

**50. PROCEDURES FOR APPLICATIONS**

- (1) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter III of this By-law, all applications must be consistent and give effect to Chapter 2 of the Spatial Planning and Land Use Management Act.
- (2) The application procedures are distinctive to the different types of applications referred to in section 16.
- (3) Category 1 and 2 applications as contemplated in section 16(2) must be submitted to the Municipality via a hardcopy, as well as the e-lodgement process where possible, as contemplated in section 51.
- (4) Category 1 applications must be submitted with a comprehensive application.
- (5) Category 2 applications must be submitted with an abridged application.
- (6) The tables in Annexure A and B indicate the process relevant to each type of applications referred to in section 16.

**51. PROCEDURES FOR E-LODGE MENT APPLICATIONS**

- (1) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter III of this By-law.
- (2) The application procedures are distinctive to the different types of applications referred to in section 16.
- (3) An application will not be considered a complete application unless all documents, as contemplated in section 53, are uploaded to the e-lodgement site.
- (4) Proof of payment of the application fee as contemplated in section 55, should be uploaded to the e-lodgement site.
- (5) After a full application and proof of payment has been uploaded to the e-lodgement site, the municipality must confirm the complete application in terms of section 57 and issue a notice indicating all the documents received.
- (6) After the applicant has received the notification, as referred in subsection (5):
  - (a) the serving of notices must take place in accordance with sections 61, 62, 63, 64 and 65 of this By-law.
  - (b) an original copy, with 5 copies of all documentation, referred to in subsection (3) and (4) and the notice, referred to in subsection (5) must be sent to the municipality within 7 days after e-lodgement for the consideration of an application and an additional 2 copies for administrative use.
  - (c) an additional 7 copies of documentation as contemplated in subsection (6)(b) that is larger than an A3 size must be submitted to the municipality within 7 days for the consideration of an application.
- (7) If the applicant does not comply with subsection (5) and (6), the municipality will not consider the application.
- (8) The municipality must notify the applicant of its decision in accordance with section 78.

**52. PRE-APPLICATION CONSULTATION**

- (1) The Local Municipality may require an owner of land who intends to submit an application or his agent to meet with the authorised official for a pre-application consultation before he submits an application to the Municipality in order to determine the information to be submitted with the application.
  - (2) The Local Municipality may make guidelines for determining whether an application requires a pre-application consultation, the nature of the information that is required, the employees from the Local Municipality or other organs of state that must attend the meeting and the procedures to be followed.
  - (3) The Municipality must keep minutes of the proceedings of a pre-application consultation.
  - (4) The Municipality must also allow consultation on the behest of the applicant or his agent with regards to subsection (1), (2) and (3).
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### 53. INFORMATION REQUIRED

- (1) An application contemplated in section 16, must be accompanied by the following documents:
  - (a) a comprehensive or abridged application form, as contemplated in Annexure A and B, completed and signed by the applicant;
  - (b) if the applicant is an agent, a power of attorney authorising the applicant to make the application on behalf of the owner;
  - (c) if the owner of the land is a company, close corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, close corporation, trust, body corporate or a home owners' association;
  - (d) the relevant bondholder's consent, in cases where the property is bonded;
  - (e) a comprehensive motivation for all applications, based on the criteria for consideration of the application referred to in section 84;
  - (f) proof of payment of application fees;
  - (g) a full copy of the title deeds indicating all existing title conditions;
  - (h) if required by the Municipality, a Deeds Report, indicating that no restrictive condition in respect of the application is contained in the title deeds;
  - (i) where applicable, the minutes of any pre-application consultations and
  - (j) should any other legislation or authority require any other actions, proof of compliance to such prerequisites must be attached to the application.
- (2) Additional to the application form as contemplated in subsection (1)(a) the following plans and maps must form part of a comprehensive application, unless the Municipality has, in writing, indicated differently:
  - (a) Orientation locality map;
  - (b) Land Use Scheme Zoning extract;
  - (c) Land use map;
  - (d) Detail layout map;
  - (e) Site development plan;
  - (f) ortho-rectified imagery;
  - (g) Extract of Approved Spatial Development Frameworks.
- (3) Additional to the application form as contemplated in subsection (1)(a) the following plans and maps must form part of an abridged application, unless the Municipality has, in writing, indicated differently:
  - (a) Orientation locality map;
  - (b) Basic layout map
  - (c) Land Use Scheme Zoning extract;
  - (d) Extract of Approved Spatial Development Frameworks.
- (4) The Municipality may add or remove any information requirements for a particular application as recorded in the pre-application consultation contemplated in section 52.
- (5) The Local Municipality may make guidelines regarding the submission of additional information and procedural requirements.

### 54. APPLICATION STANDARDS

- (1) Applications that do not comply with the provisions of this section are deemed to be incomplete, and must be handled in terms of section 58.
  - (2) An orientation locality map should be at least clearly readable A3 sized map or as agreed in writing with the municipality, indicating the application area in relation to the surrounding properties and must include the following basic details:
    - (a) True north, scale, key and heading "Orientation Locality Map";
    - (b) The approximate location of the land parcel involved in the application, relative to the nearest town for farming areas and the immediate residential neighbourhoods for urban areas;
    - (c) Boundary of the Local Municipality, including the names of adjacent Local Municipality for applications near the border of the aforementioned;
    - (d) Roads, indicated whether they are main roads, highways, national roads or provincial roads if near or adjacent to the application area;
    - (e) Size and location of the particular portion applicable to the application and;
    - (f) Any other applicable particulars to give more clarity to the application.
  - (3) A basic layout map of at least 1:2000 in scale or as agreed in writing with the municipality, must include the following details:
    - (a) True north, scale, key and heading "Basic Layout Map";
    - (b) Erf boundaries, street names (if applicable), including neighbouring erf or farm numbers.
    - (c) The location of existing buildings on the application area and surrounding properties, if the application has an influence on them.
    - (d) Detail regarding the proposed development, including proposed subdivision and consolidation boundaries.
    - (e) Detail regarding relevant internal engineering services.
    - (f) Any physical restrictions on the land parcel or neighbouring land parcels that might influence the application (if applicable).
    - (g) The maximum, minimum, ruling and average erf sizes of the proposed erven.
    - (h) Any other applicable particulars to give more clarity to the application.
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- (4) A Land Use Scheme zoning map extract of at least 1:2000 in scale or as agreed in writing with the municipality, must include an extract of the municipality's official land use scheme map with the following detail:
  - (a) The scale, true north, key and heading "Land Use Scheme Zoning Map Extract";
  - (b) All land parcels and existing zonings thereof within a radius of 500m or as agreed in writing with the municipality, from the outside boundary of the application area, as well as of all undeveloped land parcels for applications within Urban Areas and;
  - (c) All land parcels and existing zonings of adjacent farms for applications within Rural Areas.
- (5) A land use map of at least 1:2000 in scale or as agreed in writing with the municipality, must be included where the existing land uses differ from the relative zonings of the application area, or if it is requested by the municipality. A land use map must include the following:
  - (a) The scale, true north, key and heading "Land Use Map";
  - (b) All existing land uses found within a radius of 500m from the outside boundary of the application area, as well as all undeveloped land parcels for applications within Urban Areas and;
  - (c) All land parcels and existing land uses of adjacent farms for applications within Rural Areas.
- (6) A detail layout map must be included for any application that necessitates such detail for consideration. A detailed map must be at least on a 1:2000 scale, and must indicate at least the following details or as agreed in writing with the municipality:
  - (a) The scale, true north, key and heading "Detail Layout Map";
  - (b) The Detail Layout plan must indicate the map number and all amendments shall have consecutive numbers;
  - (c) Contours with 1m or 2m height differences up to the outside of the Layout boundary.
  - (d) A slope analysis in accordance with civil engineering regulations in terms of roads and buildings.
  - (e) If the property / development is subject to a flood line the 1:50 and 1:100 year flood lines should be indicated and signed on the plan by a practising registered professional engineer. Should the property not be subject to a flood line the following wording should be indicated 'It is hereby confirmed that the subject property is not affected by a flood line' and a practising registered professional engineer should sign it.
  - (f) Other physical restrictions that might influence the layout (e.g. hills, valleys, wetlands, rivers, rocky outcrops).
  - (g) All existing services within and surrounding the application area.
  - (h) All existing surrounding social amenities with their catchment areas in accordance with the minimum standards for social amenities.
  - (i) Road layout on adjacent land parcels.
  - (j) The proposed erven.
  - (k) The maximum, minimum, ruling and average erf sizes of the proposed erven.
  - (l) Sufficient measurements to indicate the sizes of the proposed erven.
  - (m) The erven numbered consecutively.
  - (n) The name of the person or firm that prepared the layout and must include a Professional Registration number.
  - (o) If contours, indicated on the map, were prepared by another person or firm, the particular registered professional person should also be mentioned.
  - (p) Co-coordinates together with grid references if requested.
  - (q) The proposed new streets names for new township establishments.
  - (r) A list of the proposed zonings distinguished by means of different colours, the colour code shall be in accordance with the scheme regulations, indicating the different uses, amount of erven for each use, surfaces per use and surfaces expressed as a percentage of the total area of the subdivision. The surface area shall be expressed in m<sup>2</sup> or hectares.
- (7) A site development plan must be included for any application that can have an influence on interested and affected parties or as agreed in writing with the municipality, and must include the following:
  - (a) The scale, true north, key and heading "Site Development Plan";
  - (b) Existing buildings on the land parcel and on directly adjacent land parcels.
  - (c) All existing services within and surrounding the application area.
  - (d) All proposed buildings, building lines, building restrictions, access, formal and informal thoroughfares, parking bays, landscaped areas and any other detail that can give more clarity to the application.
- (8) An ortho-rectified imagery should accompany a detailed layout plan on the same scale, with the layout over-lay on it.
- (9) All maps should be compiled using the Hartbeesthoek 1994 coordinate system WG 27.
- (10) All maps and plans must be printed in colour with a minimum dot per inch (dpi) of 300.
- (11) All maps and plans for e-lodgement must be uploaded in pdf format with a minimum dot per inch (dpi) of 300.
- (12) All text documents for e-lodgement must be uploaded in pdf format with a minimum dot per inch (dpi) of 150.
- (13) All maps and plans should be signed by the professional, registered in terms of the applicable legislation, responsible for the information depicted on the map.
- (14) The municipality can at any time insist on adding details to application standards if the application necessitates such detail for consideration, in accordance with section 58.

**55. APPLICATION FEES**

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



**56. GROUNDS FOR REFUSING TO ACCEPT APPLICATION**

- (1) The Municipality may refuse to accept an application if—
  - (a) the Municipality has already decided on the application;
  - (b) there is no proof of payment of the applicable fees;

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

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

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

- (1) The applicant must provide the Municipality with the requested information, documentation or plans or payment of the requested additional fees contemplated in section 57(1)(b) for the completion of the application within 14 days of the request there for or within the further period agreed to in writing between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the requested information, documentation or plans or pay the additional fees within the periods contemplated in subsection (1).
- (3) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (2) and must close the application.
- (4) The applicant may appeal a refusal in terms of subsection (2) as well as the failure of notification in terms of Subsection (3).

**59. CONFIRMATION OF COMPLETE APPLICATION**

- (1) The Municipality must notify the applicant in writing that the application is complete within 7 days of receipt of the requested information, documentation or plans or additional fees required by it under section 57(1) or if further information is required as a result of the additional information received.
- (2) If the Municipality fails to notify the applicant as contemplated in subsection (1) the applicant may appeal against failure to confirm that the application is complete.
- (3) If the Municipality notified the applicant that further information is required as contemplated in subsection (1), section 58 applies to the further submission of the information required.

**60. WITHDRAWAL OF APPLICATION OR AUTHORIZATION**

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

**61. NOTICE OF APPLICATIONS IN TERMS OF INTEGRATED PROCEDURES**

- (1) The Municipality may, on written request and motivation by an applicant, before notice is given of an application, 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) public 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 another law.
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b), an agreement must be entered into between the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within 14 days of having notified the applicant that an application is complete, simultaneously—
  - (a) cause public notice of the application to be given in terms of section 63(1)); and
  - (b) forward a copy of the notice together with the application concerned to every municipal department, service provider and organ of state that has an interest in the application, unless the Municipality has determined that a procedure in terms of another law, as contemplated 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) If an applicant has published a notice in the media at the request of the Municipality, the applicant must furnish the Municipality with proof that the notice has been published as required.

**62. NOTIFICATION OF APPLICATION AND APPROVALS IN MEDIA**

- (1) The Municipality must, in accordance with this By-law, cause notice to be given for Category 1 applications as contemplated in section 16.
  - (2) Notification in terms of subsection (1) and Category 2 applications that will materially affect the public interest or the interests of the community if approved, in the opinion of the Municipality, must cause notice to be given, the objectors then receive 30 days to lodge and substantiate their objection.
  - (3) Notice of the application must be given by—
-

- (a) publishing a notice of the application, in two newspapers with a general circulation in the area concerned, in at least two of the official languages of the Province most spoken in the area concerned, in the legal notices section; 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.
- (4) Notice of approvals must be given by –
- (a) publishing a notice in the *Provincial Gazette*.

### 63. SERVING OF NOTICES

- (1) Notice of an application contemplated in section 62(1), 62(2) and subsection (2) must be served—
  - (a) in accordance with section 115 of the Municipal Systems Act;
  - (b) in at least two of the official languages of the Province most spoken in the area concerned; and
  - (c) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) The Municipality must at least cause a notice contemplated in section 62(1) and 62(2), complying with section 64, to be served of the following applications:
  - (a) a determination of a zoning contemplated in section 14;
  - (b) an application for subdivision or the phasing, amendment or cancellation of a subdivision contemplated in section 16(3)(c) and (k) respectively;
  - (c) an application for consolidation contemplated in section 16(3)(e); or
  - (d) the amendment, deletion or imposition of a condition contemplated in section 16(3)(g).
- (3) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (4) The date of notification in respect of a notice served in terms of this section—
  - (a) when it was served by certified or registered post, is the date of registration of the notice; and
  - (b) when it was delivered to that person personally, is the date of delivery to that person;
  - (c) when it was left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years, is the date on which it was left with that person; or
  - (d) when it was displayed in a conspicuous place on the property or premises to which it relates, is the date that it is posted in that place.

### 64. CONTENT OF NOTICE

- (1) When notice of an application must be given in terms of section 62 or served in terms of section 63 or 65, the notice must—
  - (a) provide the full names of the applicant, if authorised representative, the full names and organisation of the representative;
  - (b) identify the land or land parcel to which the application relates by giving the property description and the physical address;
  - (c) state the intent and purpose of the application;
  - (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
  - (e) state the name and contact details of the person or authorised official to whom comments, objections or representations must be addressed;
  - (f) invite members of the public to submit written comments, objections or representations, together with the reasons there for, in respect of the application;
  - (g) state in which manner comments, objections or representations may be submitted;
  - (h) state the date by which the comments, objections or representations must be submitted, which date may not be less than 30 days from the date on which the notice was given;
  - (i) state that any person who cannot write may during office hours come to an address stated in the notice where a named staff member of the Municipality will assist those persons by transcribing their objections, comments or representations.

### 65. ADDITIONAL METHODS OF PUBLIC NOTICE

- (1) The Municipality may, on its own initiative or on request, require the applicant to employ one or more of the following methods to give additional public notice of any application in terms of this By-law:
  - (a) displaying a notice complying with section 64 of a size not smaller than A3 per language, on the frontage of the erf or farm portion concerned or at any other conspicuous and easily accessible place on the erf or farm portion, provided that—
    - (i) the notice must be readable from all street or road boundaries and be displayed for a minimum of 30 days during the period that the public may comment on the application; and
    - (ii) the applicant must, within 7 days from the last day of display of the notice, submit to the Municipality—
      - 1) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
      - 2) at least two photos of the notice, one from close up and one where the notice and full extent of a boundary can be seen, where possible;
  - (b) convening a meeting for the purpose of informing the affected members of the public of the application;
  - (c) broadcasting information regarding the application on a local radio station in a specified language;
  - (d) holding an open day or public meeting to notify and inform the affected members of the public of the application;
  - (e) provide the municipality with the application in the required electronic format to be published on the Local Municipality's website for the duration of the period within which the public may comment on the application; or

- (f) obtaining letters of consent or objection to the application.
- (g) by serving a copy of the notice on every adjoining owner, provide that-
  - (i) the applicant must within 21 days of the last day of notice submit to the municipality a copy of the registered posting delivery
- (2) The Municipality must give additional public notice contemplated in subsection (1) if it considers notice in accordance with sections 61 or 62 to be ineffective or if it expects that the public notice would be ineffective.
- (3) Additional public notice can be given simultaneously with notice given in accordance with sections 61 or 62 or thereafter.
- (4) If an applicant has given additional public notice of an application on behalf of the Municipality, the applicant must provide proof that the additional public notice has been given as required.
- (5) Category 1 applications, as contemplated in section 16(2), subject to subsection (1), must give additional notice in terms of subsection (1)(a) and 1(g).
- (6) Category 2 applications, as contemplated in section 16(2), subject to subsection (1), must give notice in terms of subsection 1(a) and 1(g).

#### **66. 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 objections, comments or representations and reason therefore.
- (2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

#### **67. REQUIREMENTS FOR OBJECTIONS, COMMENTS OR REPRESENTATIONS**

- (1) Any person may in response to a notice received in terms of sections 61, 62 or 65, object, comment or make representations in accordance with this section.
- (2) Any objections, comments or representations received as a result of a notice process must be in writing and addressed to the person mentioned in the notice and must be submitted within the time period stated in the notice and in the manner set out in this section.
- (3) The objections, comments or representations must state the following:
  - (a) the name of the person or body concerned;
  - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
  - (c) the interest of the body or person in the application; and
  - (d) the reason for the objections, comments or representations.
- (4) The reasons for any objections, comments or representations must be set out in sufficient detail in order to—
  - (a) indicate the facts and circumstances that explain the objection, comment or representation;
  - (b) demonstrate the undesirable effect which the application will have; or
  - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must refuse to accept an objection, comment or representation received after the closing date.

#### **68. FURNISHING OF COMMENTS AND INFORMATION**

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

#### **69. AMENDMENTS PRIOR TO APPROVAL**

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

#### **70. FURTHER PUBLIC NOTICE**

- (1) The Municipality may require that notice of an application be given again if more than 18 months has elapsed since the first public notice of the application and if the Municipality has not considered the application.
- (2) The Municipality may, at any stage during the processing of the application—
  - (a) require notice of an application to be to be given or served again in terms of section 61, 62, 63 or 65.; and

- (b) an application to be re-sent to municipal departments for comment, if new information comes to its attention which is material to the consideration of the application.

#### 71. LIABILITY FOR COST OF NOTICE

The applicant is liable for the costs of giving and serving notice of an application in terms of sections 61, 62, 63 and 65.

#### 72. RIGHT OF AN APPLICANT TO REPLY

- (1) Copies of all objections, comments or representations submitted to the Municipality must be given to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 14 days from the date of the provision of the objections, comments or representations, as contemplated in subsection (1), submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.
- (3) The applicant may, before the expiry of the 14 day period referred to in subsection (2), apply to the Municipality for an extension of the period to submit a written reply.
- (4) If the applicant does not submit comments within the period of 30 days, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations submitted to the Municipality additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality in writing.
- (6) If the applicant does not provide the additional information within the period contemplated in subsection (5), section 58(2) to (4) **Error! Reference source not found.**, read with the necessary changes, applies.

#### 73. WRITTEN ASSESSMENT OF APPLICATION

- (1) An application must be assessed in writing in accordance with section 84 and a recommendation made to the competent authority regarding the approval or refusal of the application within 14 days from the date of the closing of objections and reply period.
- (2) The assessment in subsection (1) must be made by:
  - (a) An employee, other than the authorised official, who have appropriate knowledge and experience of spatial planning, or
  - (b) A registered professional, who have appropriate knowledge and experience of spatial planning, not in the employ of the Local Municipality, or,
  - (c) If the Local Municipality cannot afford to solicit the services of a private registered professional, who have appropriate knowledge and experience of spatial planning, the Local Municipality must make use of the Provincial or National Technical advisers employed as registered planners in the directorates responsible for Spatial Planning in these two spheres
- (3) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

#### 74. DECISION-MAKING PERIOD

- (1) If the power to take a decision in respect of an application is delegated to an authorised official and no integrated process in terms of another law is being followed, the authorised official must decide on the application within 60 days calculated from—
  - (a) the last day of submission of comments, objections or representations if no comments, objections or representations as contemplated in section 64(1)(h), were submitted;
  - (b) the last day of the submission of the applicant's reply to comments, objections or representations submitted as contemplated in sections 72(2) and (3);
  - (c) the last day of the submission of additional information as contemplated in section 72(5); or
  - (d) within such further period agreed to between the applicant and the Municipality.
- (2) If the power to take a decision is not delegated to an authorised official and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the application within 120 days calculated from the dates contemplated in subsections (1)(a) to (d).

#### 75. FAILURE TO ACT WITHIN TIME PERIOD

- (1) An applicant may lodge an appeal to the Appeal Authority if the authorised official or the Municipal Planning Tribunal fails to decide on an application within the period referred to in section 74(1) or (2).

#### 76. POWERS TO CONDUCT ROUTINE INSPECTIONS

- (1) An employee of the Municipality may, authorised in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a written assessment contemplated in section 73.
- (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.
- (4) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (5) The authorised employee must, upon request, produce identification showing that he is authorised by the Municipality to conduct the inspection.
- (6) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

#### **77. DETERMINATION OF APPLICATION**

- (1) The authorised official who have appropriate knowledge and experience of spatial planning, or a registered professional, who have appropriate knowledge and experience of spatial planning, not in the employ of the Local Municipality, or they cannot afford to solicit the services of a private registered professional who have appropriate knowledge and experience of spatial planning, the Local Municipality must make use of the Provincial or National Technical advisers employed as registered planners in the directorates responsible for Spatial Planning in these two spheres or the Municipal Planning Tribunal authorised in terms of section 88 may in respect of a Category 2 application contemplated in subsection 16 -
  - (a) approve, in whole or in part, or refuse that application;
  - (b) upon the approval of that application, impose conditions under section 85, including conditions related to the provision of engineering services and the payment of a development charge;
  - (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
  - (d) conduct any necessary investigation;
  - (e) give directions relevant to its functions to any person in the service of the Local Municipality or municipal entity;
  - (f) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law.
- (2) An approval comes into operation only after the expiry of the period contemplated in section 99(2) within which an appeal must be lodged.
- (3) If an appeal has been lodged, the Municipality must notify the applicant in writing whether or not the operation of the approval of the application is suspended as contemplated in section 100(14).

#### **78. NOTIFICATION OF DECISION**

- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the determination of the decision and their right to appeal if applicable.
- (2) A notice contemplated in subsection (1) must inform an applicant that an approval comes into operation only after the expiry of the period contemplated in Section 99(1) within which an appeal must be lodged if no appeal has been lodged.
- (3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him of the decision of the Municipality.

#### **79. DUTIES OF AGENT**

- (1) An agent must ensure that he has the contact details of the owner who authorised him to act on behalf of the owner.
- (2) An agent may not provide information or make a statement in support of an application which information or statement he knows or believes to be misleading, false or inaccurate.

#### **80. ERRORS AND OMISSIONS**

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

#### **81. 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) Before the withdrawal of a consent use approval, 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) inviting the owner to make representations on the notice within a specified time period.

#### **82. PROCEDURE TO WITHDRAW AN APPROVAL**

- (1) The Municipality may withdraw, in terms of section 81, an approval granted—
    - (a) after consideration of the representations made by virtue of section 81(2)(c); and
    - (b) if the condition is still being breached and not being complied with at the end of the time period specified in terms of section 81(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 unlawful use immediately.
  - (3) The approval is withdrawn from the date of notification of the owner.
-

### 83. EXEMPTIONS TO FACILITATE EXPEDITED PROCEDURES

- (1) The Local 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 contemplated in section 61;
    - (ii) the provision of housing with the assistance of a state subsidy; or
    - (iii) incremental upgrading of existing settlements;
  - (b) in an emergency situation authorize that a development may depart from any of the provisions of this By-law.

## CHAPTER VI – CRITERIA FOR DECISION-MAKING

### 84. GENERAL CRITERIA FOR CONSIDERATION OF APPLICATIONS

- (1) When the Municipality considers an application it must have regard to the following:
  - (a) the application submitted in terms of this By-law;
  - (b) the procedure followed in processing the application;
  - (c) the desirability of the proposed use of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;
  - (d) the objection, comment or representation in response to the notice of the application and the comment received from organs of state and municipal departments;
  - (e) the response by the applicant, if any, to the objection, comment or representation referred to in paragraph (d);
  - (f) investigations carried out in terms of other laws that are relevant to the consideration of the application;
  - (g) a written assessment by a registered professional, who have appropriate knowledge and experience of spatial planning, if a registered professional, who have appropriate knowledge and experience of spatial planning, is not in the employ of the Municipality or they cannot afford to solicit the services of a private registered professional who have appropriate knowledge and experience of spatial planning, the Municipality must make use of the Provincial or National Technical advisers employed as registered planners in the directorates responsible for Spatial Planning in these two spheres, in respect of an application for—
    - (i) a rezoning;
    - (ii) a subdivision and consolidation;
    - (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 use right;
    - (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;
    - (ix) a township establishment
  - (h) the integrated development plan and municipal spatial development framework;
  - (i) the integrated development plan and spatial development framework of the district municipality, where applicable;
  - (j) the applicable Spatial Development Framework Precinct Plans adopted by the Local Municipality;
  - (k) the applicable structure plans;
  - (l) the applicable policies of the Municipality that guide decision-making;
  - (m) the national spatial development framework and provincial spatial development framework;
  - (n) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act;
  - (o) the policies, principles, and the planning and development norms and criteria set by national and provincial government;
  - (p) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
  - (q) the development principles, norms and standards referred to in Chapter 2 of the Spatial Planning and Land Use Management Act;
  - (r) the applicable provisions of the land use scheme.
  - (s) public interest;
  - (t) the constitutional transformation imperatives and the related duties of the State;
  - (u) the facts and circumstances relevant to the application;
  - (v) the respective rights and obligations of all those affected;
  - (w) the state and effect of engineering services, social infrastructure and open space requirements; and
  - (x) any factors that may be prescribed, including timeframes for making decisions.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan—
  - (a) is consistent with the development rules of the land use scheme;
  - (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.

**85. CONDITIONS OF APPROVAL**

- (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed use of land.
  - (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
    - (a) the provision of engineering services and infrastructure as contemplated in section 103;
    - (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 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 township establishment in phases;
    - (o) requirements of other organs of state.
    - (p) the submission of a construction management plan to manage the influence of the construction 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 a validity period, if the Municipality determined a shorter validity period as contemplated in this By-law;
    - (u) the setting of a period within which a particular condition must be met;
    - (v) requirements for an occasional use, which must include—
      - (i) parking and the number of ablution facilities required;
      - (ii) the maximum duration or occurrence of the occasional use; and
      - (iii) parameters relating to a consent use in terms of the zoning.
    - (w) The rehabilitation of mining land.
  - (3) If the Municipality imposes a condition contemplated in subsection (2)(a) or (w), 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 Local Municipality public expenditure, according to the normal need there for, arising from the approval, as determined by the Municipality in accordance with provincial norms and standards.
  - (5) Local Municipality public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for Local Municipality 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 Local Municipality or other organs of state arising from an approved subdivision or township establishment must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
  - (7) An owners' association or home owners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this By-law is regarded as an owners' association that came into being by virtue of a condition imposed by the Municipality in accordance with this By-law.
  - (8) The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required, except in terms of a registered rehabilitation venture executed in terms of sections 35 to 49.
  - (9) Conditions requiring a standard to be met must specifically refer to an approved or published standard.
  - (10) No conditions may be imposed that rely on a third party for fulfilment, except in terms of a registered rehabilitation venture executed in terms of sections 35 to 49.
  - (11) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
  - (12) The Municipality may, on its own initiative, subject to this By-law, or on application, amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.
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#### **86. TECHNICAL AND OTHER ADVISERS**

- (1) The Local Municipality in terms of section 39 of Spatial Planning and Land Use Management Act may co-opt the Provincial Directorate of COGTA responsible for Spatial Planning as Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Planners
  - (b) Administrative Professionals
- (2) The Local Municipality in terms of section 39 of Spatial Planning and Land Use Management Act may co-opt the National Directorate of the Department of Rural Development and Land Reform responsible for Spatial Planning as a Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Planners
  - (b) Registered GISc Practitioners
- (3) The Local Municipality in terms of section 39 of Spatial Planning and Land Use Management Act may co-opt the National Directorate of the Department of Rural Development and Land Reform responsible for National Geomatic Management as a Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Land Surveyors
- (4) The Local Municipality in terms of section 39 of Spatial Planning and Land Use Management Act may co-opt the Municipal Infrastructure Support Agency of the National Department of Cooperative Governance as a Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Planners
  - (b) Registered Professional Engineers

#### **87. APPLICATIONS FOR EXTENSION OF VALIDITY PERIODS**

- (1) The Municipality may approve an application for the extension of a validity period imposed in terms of this By-law, on a date before or after the expiry of the validity period of an approval, if the application for the extension of the period was submitted before the expiry of the validity period.
- (2) When the Municipality considers an application in terms of subsection (1), it must have regard to the following:
  - (a) whether the circumstances prevailing at the time of the original approval have materially changed; and
  - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed.
- (3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 16(3)(h) must be submitted for consideration before or simultaneously with the application for the extension of a validity period.
- (4) The extended validity period takes effect on and is calculated from the expiry date of the validity period applicable to the original approval or from the expiry date of the previous extended validity period approved in terms of this By-law.
- (5) An application for the extension of a validity period are deemed to be a category 2 application except when subsection 3 is applicable, in which case the category is the same as the original application.

### **CHAPTER VII – MUNICIPAL PLANNING DECISION-MAKING STRUCTURES**

#### **88. LOCAL MUNICIPALITY PLANNING DECISION-MAKING STRUCTURES**

- (1) Applications are decided by—
  - (a) The authorised official, in the full time employ of the Municipality, with the necessary qualifications, skills and knowledge of spatial planning, land use management and land development, who has been authorised by the Local Municipality to consider and determine the applications contemplated in subsection 89(1);
  - (b) the Municipal Planning Tribunal, where the powers and duties to consider and determine an application has not been delegated to an authorised official contemplated in section 89(2);
  - (c) the Appeal Authority where an appeal has been lodged against a decision of the authorised official or the Municipal Planning Tribunal.

#### **89. CONSIDERATION OF APPLICATIONS**

- (1) Category 2 applications must be considered and determined by the authorised official and the Local Municipality must delegate the powers and duties to decide on those applications to an authorised official, as contemplated in Section 35(2) of the Spatial Planning and Land Use Management Act.
- (2) The Municipal Planning Tribunal considers and determines all applications, other than those in respect of which the powers and duties to consider and determine them have been delegated and assigned to an authorised official in terms of subsection (1).

#### **90. ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNAL**

- (1) The Local Municipality must—
    - (a) establish a Municipal Planning Tribunal for its municipal area; or
    - (b) by agreement with one or more municipalities establish a joint Municipal Planning Tribunal; or
    - (c) agree to the establishment of a district Municipal Planning Tribunal by the District Municipality.
  - (2) An agreement referred to in subsection (1)(b) or (c) must be published in the *Provincial Gazette* and must provide for—
    - (a) the composition of the Municipal Planning Tribunal;
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- (b) the terms and conditions of appointment of members of the Municipal Planning Tribunal; and
- (c) the determination of rules and proceedings of the Municipal Planning Tribunal.

**91. COMPOSITION OF MUNICIPAL PLANNING TRIBUNAL FOR MUNICIPAL AREA**

- (1) A Municipal Planning Tribunal established in terms of subsection 90(1)(a) must consist of the following members:
  - (a) Three (3) employees in the full-time service of the Local Municipality, appointed by the Local Municipality; and
  - (b) At least two members who are not Local Municipality employees or councillors and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto, appointed by the Local Municipality.
  - (c) The authorised official in the full time employ of the Local Municipality, with the necessary qualifications, skills and knowledge of spatial planning, land use management and land development.
- (2) The members of the Municipal Planning Tribunal referred to in subsection (1)(b) may be appointed only after the Council, by notice in the *Provincial Gazette* and in other media that the Council considers appropriate, has invited interested parties to submit within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed.
- (3) Nominations, in respect of the notice placed in terms of subsection (2), must be submitted within 30 days of the publication date, accompanied by the following:
  - (a) Personal details of the applicant or nominee;
  - (b) Particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 36(1)(b) of the Spatial Planning and Land Use Management Act;
  - (c) In the case of a nomination, a letter of acceptance of nomination by the nominee;
  - (d) A sworn declaration by the applicant or nominee that he is not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act;
  - (e) A disclosure of the information contemplated in section 38(3) and (4) of the Spatial Planning and Land Use Management Act;
  - (f) Permission from the applicant or nominee to verify the information provided by him.
- (4) The Council must appoint Municipal Planning Tribunal members within 30 days of the expiry date of the notice, as contemplated in subsection (2).
- (5) The Council may not appoint any person to the Municipal Planning Tribunal if that person -
  - (a) was not nominated in accordance with the provisions of this by-law;
  - (b) is disqualified from appointment as contemplated in section 38 of the Act; or
  - (c) if he or she does not possess the knowledge or experience required in terms of section 36(1)(b) of the Act or the additional criteria determined in terms of sub section (3).
- (6) The Council must designate from among the members contemplated in subsection (1)(a)—
  - (a) a chairperson; and
  - (b) another member as deputy chairperson, to act as chairperson of the Municipal Planning Tribunal when the chairperson is absent or unable to perform his duties.
- (7) The Municipal Manager must, within 30 days of the first appointment of members to a 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 its operation.
- (8) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (4).

**92. TERM OF OFFICE AND CONDITIONS OF SERVICE OF MEMBERS OF MUNICIPAL PLANNING TRIBUNAL FOR MUNICIPAL AREA**

- (1) A member of the Municipal Planning Tribunal is appointed for a term of five years or a shorter period as decided by council, which is renewable once.
  - (2) The office of a member becomes vacant if—
    - (a) the member is absent from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
    - (b) the member tenders his resignation in writing to the chairperson of the Municipal Planning Tribunal;
    - (c) the member is removed from the Municipal Planning Tribunal under subsection (3); or
    - (d) the member dies.
  - (3) The Council may, after having given the member an opportunity to be heard, remove a member of the Municipal Planning Tribunal if—
    - (a) sufficient grounds exist for his removal;
    - (b) a member contravenes the code of conduct referred to in section 94;
    - (c) a member becomes subject to a disqualification from membership of the Municipal Planning Tribunal as referred to in section 38(1) of the Spatial Planning and Land Use Management Act.
  - (4) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 91(1)(a) or, in the case of a member contemplated in section 91(1)(b), in terms of section 91(2).
  - (5) A member who is appointed by virtue of subsection (4) holds office for the unexpired portion of the period for which the member he replaces was appointed.
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- (6) Members of the Municipal Planning Tribunal referred to in section 91(1)(b) must be appointed on the terms and conditions, and must be paid the remuneration and allowances and be reimbursed for expenses as determined by the relevant legislation.
- (7) The council must publish a notice in terms of section 91(2), 90 days before the expiry of every term of office, as contemplated in subsection (1).

### 93. MEETINGS OF MUNICIPAL PLANNING TRIBUNAL FOR MUNICIPAL AREA

- (1) The Municipal Planning Tribunal contemplated in section 90(1)(a) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—
  - (a) the convening of meetings;
  - (b) preparation and distribution of agendas
  - (c) the procedure at meetings including
    - (i) formal meeting procedures
    - (ii) apologies
    - (iii) attendance, and
  - (d) the frequency of meetings
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of its members.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of the Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his deliberative vote as a member of the Municipal Planning Tribunal.
- (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 rules of the Municipal Planning Tribunal.

### 94. CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL FOR MUNICIPAL AREA

The code of conduct in Schedule 2 applies to every member of the Municipal Planning Tribunal.

### 95. LEGAL INDEMNIFICATION

- (1) Whenever a claim is made or legal proceedings are instituted against a member of the Municipal Planning Tribunal or appeal authority or an authorised official arising out of any act or any omission by a member or authorised official in the performance of his or her duties or the exercise of his or her powers, the municipality must, if it is of the opinion that the member or authorised official acted or omitted to act in good faith and without negligence -
  - (a) in the case of a civil claim or civil proceedings, indemnify the member or authorised official in respect of such claim or proceedings; and
  - (b) provide legal representation for such member or authorised official at the cost of the municipality or pay taxed party and party costs of legal representation.
- (2) If a criminal prosecution is instituted against a member of the Municipal Planning Tribunal or appeal authority or authorised official, the municipality must, if it is of the opinion that the member or authorised official acted or omitted to act in good faith and without negligence or it is in the interests of the municipality to do so, provide for legal representation for such member or authorised official at the cost of the municipality.
- (3) A member of a Municipal Planning Tribunal or appeal authority or an authorised official has no legal indemnification if he or she, with regard to the act or omission, is liable in law and -
  - (a) intentionally exceeded his or her powers;
  - (b) made use of alcohol or drugs;
  - (c) did not act in the course and scope of his or her employment, designation or appointment;
  - (d) acted recklessly or intentionally;
  - (e) made an admission that was detrimental to the municipality; or
  - (f) failed to comply with or ignored standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim.
- (4) The municipality may determine by means of a policy or by other means -
  - (a) the terms and conditions of such indemnity and legal representation; and
  - (b) in addition to the circumstances contemplated in subsection (3), other circumstances in which such indemnity or legal representation may be withdrawn by the municipality.
- (5) For the purposes of this regulation "indemnify" means an undertaking to pay any damages, claim or taxed costs awarded by a court against a member of the Municipal Planning Tribunal or agreed to by the municipality in terms of a formal settlement process.

### 96. ADMINISTRATOR FOR MUNICIPAL PLANNING TRIBUNAL FOR MUNICIPAL AREA

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

#### **97. FUNCTIONING OF MUNICIPAL PLANNING TRIBUNAL FOR MUNICIPAL AREA**

- (1) The meetings of the Municipal Planning Tribunal contemplated in section 93(1)(a) must be held at the times and places as the chairperson may determine.
- (2) The meetings of the Municipal Planning Tribunal must be held at least once per month if there are applications to consider.
- (3) If the chairperson and the deputy chairperson fail to attend a meeting of the Municipal Planning Tribunal, the members who are present at the meeting must elect one from among them to preside at that meeting.
- (4) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application wishes to make a verbal representation at a meeting of the Municipal Planning Tribunal, he must submit a written request to the Administrator, at least 14 days before that meeting.
- (5) The Chairperson may approve a request to make a verbal representation subject to reasonable conditions.

#### **98. POINTS-IN-LIMINE**

- (1) Where a party is of the intension to raise a point(s)-in-limine at the hearing of an application or an appeal, that party shall notify the Administrator of the Municipal Planning Tribunal as well as all the other parties to the application or appeal of the nature and the facts of the contemplated point(s)-in-limine, not later than 21 calendar days before the date set down for the hearing of the application or appeal, with exclusion of the day of the hearing.
- (2) The party so having given notice of its point(s)-in-limine shall not later than 14 calendar days before the date set down for hearing of the application or appeal with the exclusion of the day of the hearing, file its main Heads of Argument in relation to the point(s)-in-limine with the Administrator of the Municipal Planning Tribunal as well as all other parties to the application or appeal.
- (3) Opposing Heads of Argument must be filed not later than 7 calendar days before the date set down for the hearing of the application or appeal, with exclusion of the day of the hearing

#### **99. APPEALS**

- (1) A person whose rights are affected by a decision of the Municipal Planning Tribunal or the authorised official may appeal in writing, stating reasons, to the Municipal Manager within 21 days of notification of the decision, as contemplated in section 78(1) in the Spatial Planning and Land Use Management Act.
- (2) An applicant may appeal verbally or in writing to the Municipal Manager in respect of the failure of the Municipal Planning Tribunal or an authorised official to take a decision within the period contemplated in section 74(1) or (2), any time after the expiry of the applicable period contemplated in section 75.
- (3) In the case of a verbal appeal, the municipal manger must cause the verbal appeal to be noted in writing and certified by a commissioner of oaths to be a true reflection of the verbal appeal. The appellant must be furnished with a copy of the written appeal for his / her record.

#### **100. PROCEDURES FOR APPEAL**

- (1) An appeal that is not lodged within the applicable period contemplated in section 99 or that does not comply with this section, is invalid.
  - (2) An appeal must set out the grounds on which the appellant believes the decision-maker erred in coming to the conclusion it did or the decision-maker failed to take a decision.
  - (3) An applicant who lodges an appeal must simultaneously serve notice of the appeal on any person who commented or made representations on, or objected to, the application concerned.
  - (4) The notice in subsection (3) must be served in accordance with section 115 of the Municipal Systems Act and the additional requirements as may be determined by the Municipality.
  - (5) The notice in subsection (3) must invite the persons to comment or make a representation on the appeal within 21 days of being notified of the appeal.
  - (6) The appellant must submit proof of the notification contemplated in subsections (3) and (4) to the Municipality within 14 days of the date of notification.
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- (7) If a person other than the applicant lodges an appeal, the Municipality must give notice of the appeal to the applicant within 14 days of receipt thereof.
- (8) An applicant who has received notice of an appeal in terms of subsection (7) may comment on the appeal within 21 days of being notified.
- (9) The Municipality may refuse to accept any comments on an appeal after the closing date for those comments.
- (10) The Municipality—
  - (a) may request National and Provincial departments to comment in writing on an appeal within 60 days of receipt of the request; and
  - (b) must notify and request the National and Provincial departments to comment on an appeal in respect of the following applications within 60 days of receipt of the request:
    - (i) a development outside the Local Municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;
    - (ii) if the Local Municipality has no approved municipal spatial development framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area;
    - (iii) a rezoning of land zoned for agricultural or conservation purposes;
    - (iv) any development or category of land use applications as may be prescribed by legislation and national and provincial policies.
- (11) The authorised official, contemplated in Section 91(1)(c), must draft a report assessing an appeal and must submit it to the Municipal Manager within—
  - (a) 30 days of the closing date for comments requested in terms of subsection (8) if no comments were requested in terms of subsection (10); or
  - (b) within 30 days of the closing date for comments requested in terms of subsection (10).
- (12) The Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report contemplated in subsection (11).
- (13) The parties to an appeal must be notified in writing of the decision of the Appeal Authority within 21 days from the date of the decision.
- (14) The Municipality must—
  - (a) on receipt of an appeal in terms of this section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and
  - (b) if a decision on the appeal upholds an approval, notify the applicant in writing that he may act on the approval.
- (15) The operation of the approval of a land use application that is the subject of an appeal is suspended pending the decision of the appeal authority on the appeal, as contemplated in subsection 14.
- (16) If an appeal is lodged only against conditions imposed in terms of section 85, the Municipality may determine that the approval of the land use application is not suspended.
- (17) The appeal authority must designate a presiding officer and a registrar for a lodged appeal, a group of appeals or a time period to deal with appeals.
- (18) The presiding officer will act as the chairperson of the appeal process and the registrar as the secretariat of the appeal process.

#### **101. HEARING OF APPEAL AUTHORITY**

- (1) The appeal authority must notify the relevant parties of the date, time and place of the hearing, 14 days prior to the hearing.
- (2) A hearing must commence within 28 days after the completed notice of appeal has been delivered to the appeal authority, unless otherwise stated by the appeal authority.
- (3) An appellant of any respondent may at any time before the appeal hearing withdraw an appeal or opposition to an appeal and must give notice of such withdrawal to the registrar and all other parties to the appeal.
- (4) The hearing of the appeal authority may take place as an oral hearing or a written hearing.
- (5) Procedural arrangements for an oral hearing include that:
  - (a) An oral hearing must take place in an area within the jurisdiction of the municipality excluding the office of the Municipal Planning Tribunal or the official authorised in terms of section 88(1).
  - (b) The appellant will first present his case, followed by the Municipal Planning Tribunal or the official authorised in terms of section 88(1).
  - (c) Each party has the right to call witnesses to give evidence.
  - (d) If a party does not appear at an oral hearing, the appeal authority may proceed in the absence of the party, after it was determined if the absent party was notified. If the party was not notified the hearing cannot proceed and the presiding officer must reschedule the hearing.
  - (e) Hearings of the appeal authority may be recorded.
  - (f) Witnesses and parties are required to give evidence under oath or confirmation.
  - (g) Any additional documentation not included in the appeal record is deemed to be points –in-limine and must be provided in terms of section 98 before the hearing of the appeal authority.
  - (h) The registrar must distribute the documentation to all parties to the appeal authority and members of the appeal authority.
  - (i) If the additional documentation, as contemplated in subsection (g) is not provided at least 3 days prior to the hearing, it may be provided at the hearing, where the party must bring copies of the additional documentation for the members of the appeal authority.

- (j) If the additional documentation, as contemplated in subsection (g), is substantive or voluminous, the other party may request an adjournment.
- (6) Procedural arrangements for a written hearing include that:
  - (a) Each party must be provided an opportunity to provide written submissions to support their case.
  - (b) the appellant will be given seven days to provide a written submission.
  - (c) Upon receipt of the appellant's written submission the appeal authority must forward it to the Municipal Planning Tribunal or the authorised official in terms of section 88(1).
  - (d) The Municipal Planning Tribunal or the authorised official has seven days in which to provide the written response, if no written submission is received it will be deemed that the party has declined the opportunity.
  - (e) An extension of time maybe requested in writing in advance of the due date for submissions, accompanied by reasons for the request of extension.
  - (f) Following receipt of a request the appeal authority must issue a written decision to all parties.
  - (g) Following receipt of any written submissions the registrar must forward the appeal record to the appeal authority, including written submissions.
  - (h) If no written submissions are received from the parties the registrar will forward the existing appeal record to the appeal authority for adjudication.
  - (i) The presiding officer of the appeal authority will decide whether or not to accept the late written submissions.
  - (j) The appeal authority issues a decision in writing to all other parties, who have seven days to respond.

#### **102. DECISION OF APPEAL AUTHORITY**

- (1) After hearing all parties the appeal authority:
  - (a) may request any further information from any party;
  - (b) may postpone the matter for a reasonable period;
  - (c) must within 21 days after the last day of the hearing, issue its decision with reasons
- (2) The appeal authority may confirm, amend or rescind the decision of the Municipal Planning Tribunal or official authorised in terms of section 88 and may include an award of costs.
- (3) The presiding officer must sign the decision of the appeal authority and any order made by it.
- (4) The registrar must notify the parties of the decision of the appeal authority within 7 days, together with reasons.
- (5) The appeal authority must, in its decision, give directives to the municipality as to how such a decision must be implemented.
- (6) Where an appeal is upheld the municipal manager must within 21 days of the decision publish the decision in the Provincial Gazette.

### **CHAPTER VIII – PROVISION OF ENGINEERING SERVICES**

#### **103. RESPONSIBILITY FOR PROVISION OF ENGINEERING SERVICES**

- (1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development when an application is approved, as contemplated in section 49(1) of the Spatial Planning and Land Use Management Act.
- (2) The Local Municipality is responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the Spatial Planning and Land Use Management Act.
- (3) When the Local Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Spatial Planning and Land Use Management Act.
- (4) The Local Municipality may enter into a written agreement with an applicant to provide that—
  - (a) the applicant will install the external engineering service instead of paying the applicable development charges; or
  - (b) the fair and reasonable cost of the external engineering service may be set off against the development charges payable by the applicant.

#### **104. DEVELOPMENT CHARGES**

- (1) The applicant must pay development charges to the Local Municipality in respect of the provision of an external engineering service.
- (2) The external engineering service for which development charges is payable must be set out in a policy adopted by the Local Municipality.
- (3) The amount of the development charges payable by an applicant must be calculated in accordance with the policy adopted by the Local Municipality.
- (4) The date by which development charges must be paid and the means of payment must be specified in the conditions of approval.
- (5) The development charges imposed are subject to escalation at the rate calculated in accordance with the policy on development charges.
- (6) The Municipality must annually submit a report to the Council on the amount of development charges paid to the Municipality, together with a statement of the expenditure of the amount and the purpose of the expenditure.
- (7) When determining the contribution contemplated in sections 85(4) and (5), the Local Municipality must have regard to provincial norms and standards and—
  - (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;

- (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
- (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
- (d) money in respect of contributions contemplated in subsection 85(4) paid in the past by the owner of the land concerned; and
- (e) money in respect of contributions contemplated in subsection 85(4) to be paid in the future by the owner of the land concerned.

**105. LAND FOR PARKS, OPEN SPACES AND OTHER USES**

- (1) When the Municipality approves a development application which provides for the use of land for residential purposes, the applicant may be required to provide land for parks or public open spaces.
- (2) The extent of land required for parks or public open spaces is determined by the Municipality in accordance with a policy approved by the Local Municipality.
- (3) The land required for parks or public open spaces must be provided within the land area of the development application or may, with the consent of the Local Municipality, be provided elsewhere within the municipal area, as contemplated in section 50(2) of the Spatial Planning and Land Use Management Act.
- (4) When a development application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay money to the Local Municipality in lieu of the provision of land.

**CHAPTER IX – ENFORCEMENT**

**106. ENFORCEMENT**

- (1) The Local 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) conditions of Deed of Title.
- (2) The Local Municipality may not do anything that is in conflict with subsection (1).

**107. OFFENCES AND PENALTIES**

- (1) Any person who—
  - (a) contravenes or fails to comply with sections 16(1) and (7), 78(2) and 104(3);
  - (b) fails to comply with a compliance notice served in terms of section 106;
  - (c) uses land in a manner other than prescribed by a land use scheme without the approval of the municipality;
  - (d) upon registration of the first land parcel arising from a subdivision, fails to transfer all common property arising from the subdivision to the owners' association, where applicable;
  - (e) supplies particulars, information or answers in an application, or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
  - (f) falsely professes to be an authorised official or the interpreter or assistant of an authorised official; or
  - (g) hinders or interferes with an authorised official in the exercise of any power, or the performance of any duty, of that employee,  
is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.
- (2) An owner who permits his land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of a land use scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 20 years or to both a fine and such imprisonment.
- (3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he 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 so continues or has continued with that act or omission.
- (4) A Local Municipality must adopt fines and contravention penalties to be imposed in the enforcement of this By-law.

**108. SERVING OF COMPLIANCE NOTICE**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence in terms of section 106.
- (2) A compliance notice must instruct the occupier and owner to cease the unlawful land use or construction activity or both without delay or within the time period determined by the Municipality, and may include an instruction to—
  - (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or another period determined by the Municipal Manager; or
  - (b) submit an application for land use or construction activity in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention penalty.

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

#### **109. CONTENT OF COMPLIANCE NOTICES**

- (1) A compliance notice must—
  - (a) identify the judicial person as registered owner to whom it is addressed;
  - (b) describe the alleged unlawful use of land or construction activity concerned and the land on which it occurs;
  - (c) state that the activity is unlawful and inform the person of the particular offence contemplated in section 106 which that person allegedly has committed or is committing through the continuation of that activity on the land;
  - (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 submit representations in terms of section 108(6) with the contact person stated in the notice; and
  - (g) issue a warning to the effect that—
    - (i) the person may be prosecuted for and convicted of an offence contemplated in section 106;
    - (ii) on conviction of an offence, the person will be liable for the penalty as provided for;
    - (iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
  - (h) in the case of a contravention relating to a consent use or temporary departure, the approval may be withdrawn;
  - (i) 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 on whom a compliance notice is served 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 108.

#### **110. OBJECTIONS TO COMPLIANCE NOTICE**

- (1) Any person or owner who receives a compliance notice in terms of section 108 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) After 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 compliance 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 varied.

#### **111. 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—
    - (i) restraining that person from continuing the unlawful use of the land,
    - (ii) directing that person to, without the payment of compensation,—
      - 1) demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation; or
      - 2) rehabilitate the land concerned.
  - (c) Levy a contravention penalty on the person at a rate of three times (3x) the rates of the rates category in which the unlawful land use(s) or construction falls.
  - (d) The contravention penalty shall only be imposed after section 110 has been complied with.
  - (e) The contravention penalty will cease to be levied upon the compliance of the person with—
    - (i) the compliance notice as contemplated in section 108 and or section 110,
    - (ii) the court decision contemplated in subsection 1(a) or
    - (iii) the court order contemplated in subsection 1(b)
  - (f) in the case of a temporary departure or consent use, withdraw the approval granted and act in terms of section 104.

#### **112. URGENT MATTERS**

- (1) The Municipality does not have to comply with sections 108(6), 109(1)(f) and 110 in a case where an unlawful use of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful use of land immediately.

- (2) If the person or owner fails to cease the unlawful use of land immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.

**113. SUBSEQUENT APPLICATION FOR AUTHORISATION OF ACTIVITY**

- (1) If instructed to rectify or cease an unlawful use of land, a person may apply to the Municipality for an appropriate land development contemplated in subsection 16(3), unless the person is instructed in terms of section 108(2)(a) 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.

**114. GENERAL POWERS AND FUNCTIONS OF EMPLOYEES SO AUTHORISED**

- (1) An authorised employee may, with the permission of the occupier or owner of land, at any reasonable time, 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 has been designated as an authorised official for the purposes of subsection (1).
- (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.

**115. POWERS OF ENTRY, SEARCH AND SEIZURE**

- (1) In ensuring compliance with this By-law in terms of section 106, an authorised employee may—
- (a) question any person on land entered upon, or in a building or on premises entered, who, in the opinion of the authorised official, may be able to furnish information on a matter that relates to the enforcement of this By-law;
  - (b) question any person on that land or premises or in that building 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 contravention of this By-law; or
    - (iii) a contravention of an approval or a term or condition of that approval;
  - (c) question that person about any structure, object, document, book, record or written or electronic information or inspect any structure, object, document, book or record which may be relevant for the purpose of this subsection;
  - (d) copy or make extracts from any document, book, record or written or electronic information referred to in paragraph (c), or remove that document, book, record or written or electronic information in order to make copies or extracts;
  - (e) require that person to produce or deliver to a place specified by the employee so authorised, any document, book, record or any written or electronic information referred to in paragraph (c) for inspection;
  - (f) examine that document, book, record or any written or electronic information or make a copy there of or an extract there from;
  - (g) require from that person an explanation of any entry in that document, book, record or any 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) take photographs or make audio-visual recordings of anything or any person on that land or those premises or in that building that is relevant to the purposes of the investigation; or
  - (j) seize that book, record or any written or electronic information or that article, substance, plant or machinery or a part or sample thereof that in his opinion may serve as evidence at the trial of the person to be charged with an offence under this By-law or the common law, provided that the user of the article, substance, plant or machinery on the land or premises or in the building concerned may make copies of such book, record or document before the seizure.
- (2) When an authorised employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this section, he must issue a receipt to the owner or person in control thereof.
- (3) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

**116. WARRANT OF ENTRY FOR ENFORCEMENT PURPOSES**

- (1) A judge of a High Court or 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 occupier or owner's prior knowledge thereof.
- (2) A warrant 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 is entitled to inspect;
  - (b) an authorised employee reasonably anticipates that entry to land or a building that he is entitled to inspect will be refused;
  - (c) there are reasonable grounds for suspecting that an offence contemplated in section 106 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 authorize the Municipality to enter upon the land or to enter the building or premises to take any of the measures referred to in section 115 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.

**117. 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 dignity;
- (b) the right to freedom and security of the person; and
- (c) the right to a person's personal privacy.

**118. ENFORCEMENT LITIGATION**

- (1) Whether or not a Municipality lays criminal charges against a person for an offence contemplated in section 107, the Municipality may apply to the High Court for an interdict or any other appropriate order including an order compelling that person to—
- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned; or
- (a) cease with the unlawful use of land.

**CHAPTER X - MISCELLANEOUS**

**119. NAMING OF STREETS AND NUMBERING OF PROPERTIES**

- (1) If as a result of the approval of a development application streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number to each of the erven or land parcels located in such street or road.
- (2) The proposed names of the streets and numbers of properties must be submitted as part of an application for subdivision or Township establishment.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies regarding street naming and numbering of properties.
- (4) The Municipality must notify the Surveyor-General of the approval of new streets as a result of the approval of an amendment or cancellation of a general plan

**120. REGULATIONS**

The Local Municipality may, after consultation in terms of section 62(3) and section 65(1)(b) to (e), make regulations consistent with this By-law that is not inconsistent with the Acts and regulations guiding this By-law.

**121. REPEAL**

The By-laws listed in Schedule 1 are repealed.

**122. SHORT TITLE AND COMMENCEMENT**

- (1) This By-law is called the By-law on Municipal Land Use Planning.
- (2) This By-law comes into operation on the date that the Spatial Planning and Land Use Management Act come into operation in the municipal area of the Municipality.

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SCHEDULE 1

**REPEAL OF BY-LAWS BY SECTION 100**

Each Municipality to insert relevant information here


## SCHEDULE 2

**CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL****General conduct**

1. A member of the Municipal Planning Tribunal must at all times—
  - (a) act in accordance with the principles of accountability and transparency;
  - (b) disclose his personal interests in any decision to be made in the planning process in which he serves or has been requested to serve;
  - (c) abstain completely from direct or indirect participation as an adviser or decision-maker in any matter in which he has a personal interest, and leave any chamber in which such matter is under deliberation, unless the personal interest has been made a matter of public record and the Council has given written approval and has expressly authorised his participation.
  
2. A member of the Municipal Planning Tribunal may not—
  - (a) use the position or privileges of a Municipal Planning Tribunal member or confidential information obtained as a Municipal Planning Tribunal member for private gain or to improperly benefit another person; and
  - (b) participate in a decision concerning a matter in which that Municipal Planning Tribunal member or that members spouse, partner or business associate, has a direct or indirect personal or private business interest.

**Gifts**

3. A member of the 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 were intended or expected to influence a participant's objectivity as an adviser or decision-maker in the planning process.

**Undue influence**

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

**Norms and standards for the terms and conditions of service of members of Municipal Planning Tribunal**

5. An official of a municipality authorised by the municipality in terms of section 36(1)(a) of the Act as a member of 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.
  
6. A person appointed by a municipality in terms of section 36(1)(b) of the Act as a member of the Municipal Planning Tribunal -
  - (a) is not an employee on the staff establishment of that municipality;
  - (b) in the case of a person referred to in regulation 3(2)(a) of the Act, 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 Act, is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on as determined by provincial legislation or the

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- municipality or, in the absence of such legislation or determination, the applicable treasury regulations and the rates as determined by the Department of Transport;
- (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.
7. The seating allowance referred to in sub clause (6)(e) of this schedule, is subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Service.
8. All the members of the Municipal Planning Tribunal must adhere to a code of conduct for members of a Municipal Planning Tribunal approved by the municipality and non-compliance thereof is grounds for or a disciplinary hearing by the municipality if the member is designated or removal from office of a member appointed in terms of regulation 3(1)(b) of the Act.

## SCHEDULE 3:

**NORMS AND STANDARDS FOR THE PROVISION OF LAND USES AND AMENITIES APPLICABLE TO LAND DEVELOPMENT.**

1. The purpose of the norms and standards is to ensure that sufficient land is made available to develop the amenities that are necessary for the normal functioning of a community.
2. The norms and standards in this schedule are individually and collectively applicable on land development applications.
3. The norms and standards must form the basis for the calculation of the moneys to be paid in terms of Section 104(4) where applicable.
4. The norms and standards must be used within areas where development will lead to an increase in the residential occupation densities.
5. The norms and standards for the provision of land uses, amenities and infrastructure are:
  - a. The provision of land uses:

<b>LAND USE:</b>	<b>Provide</b>			
<b>Industrial (Total)</b>	1ha	<b>for every</b>	<b>50</b>	<b>housing units</b>
- Industrial (light) provided at Local centres	1ha	for every	1200	housing units
- Industrial provided in Industrial areas	1ha	for every	52.175	housing units
<b>Business/ Commercial ( Total)</b>	120m <sup>2</sup>	<b>for every</b>	<b>100</b>	<b>person</b>
- Local Centre	30m <sup>2</sup>	for every	100	person
- Neighbourhood Centre	40m <sup>2</sup>	for every	100	person
- Community Centre	50m <sup>2</sup>	for every	100	person
<b>Parks / Recreation (Total)</b>	1200m <sup>2</sup>	<b>for every</b>	<b>100</b>	<b>person</b>
Local parks	300m <sup>2</sup>	for every	100	person
Parks/Recreation off site / bulk provision	900m <sup>2</sup>	for every	100	person

- b. The provision of land for facilities:

<b>TYPE OF FACILITY</b>	<b>AREA REQUIRED PER SINGLE FACILITY (ha):</b>	<b>Rate</b>	<b>Minimum (Family size: 3)</b>		<b>Maximum (Family size: 5)</b>	
			<b>PEOPLE</b>	<b>UNITS</b>	<b>PEOPLE</b>	<b>UNITS</b>
<b>Educational Facilities</b>						
Crèche	0.300	1 per	5 000	1 200	5 000	500
Primary School	4.800	1 per	4 000	1 200	3 000	750

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Secondary School	6.200	1 per	10 000	3 600	8 000	1 500
<b>Health Facilities</b>						
Clinic	0.250	1 per	10 000	3 000	15 000	3 000
Day Hospital	1.500	1 per	30 000	10 000	50 000	10 000
District Hospital	10.000	1 per	50 000	16 000	80 000	16 000
<b>Social Facilities</b>						
Service centre for the elderly	0.200	1 per	200 000	60 000	200 000	40 000
Orphanage	2.000	1 per	200 000	60 000	200 000	40 000
Place of safety	2.000	1 per	200 000	60 000	200 000	40 000
Frail care home	0.750	1 per	20 000	6 000	20 000	4 000
Library	0.080	1 per	8 000	2 400	8 000	1 600
Community Centre	0.500	1 per	10 000	3 000	10 000	2 500
Place of Worship	0.050	1 per	2 000	600	2 000	500
<b>Public Service Facilities</b>						
Post Office	0.025	1 per	20 000	6 000	20 000	4 000
Police Station	0.500	1 per	25 000	7 500	25 000	5 000
Fire Station	1.200	1 per	60 000	18 000	60 000	12 000
Local Government	0.300	1 per	50 000	15 000	50 000	10 000
Community Information Centre	0.010	1 per	22 000	6 500	22 000	4 400

## c. Movement networks:

- i. The Guidelines for Human Settlement and Design is applicable.
- ii. The TRH 26 South African Road Classification and Access Management Manual is applicable with the following amendments to Table E of the document with regard to the preferred road reserve widths in the Municipality:

Basic Function	Description		TYPICAL FEATURES (use appropriate context sensitive standards for design)	
	Class No (U_)	Class name	Roadway / lane width	Road reserve width
Access / Activity	4a	Collector street, commercial		25 - 40 m (25 m)
	4b	Collector street, residential	6 - 9m roadway, < 3.3 m lanes	22 - 30 m
	5a	Local street, commercial		16m
	5b	Local street, residential	3.0 - 5.5 m roadway (two way)	13m

**Annexure A –**

**Comprehensive Application Form Matjhabeng Local Municipality**

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

<b>SECTION 1</b> <b>Details of Applicant</b>	
Name: _____ Postal address: _____ _____ _____ <div style="text-align: right;">Code: _____</div> Tel no: _____ Fax no: _____ Professional Reg. No. and Organisation: _____ (Where applicable)	Contact person: _____ Physical address: _____ _____ _____ Cell no: _____ E-mail address: _____ _____
<b>SECTION 2</b> <b>Details of Land Owner (If different from Applicant)</b>	
Name: _____ Postal address: _____ _____ _____ <div style="text-align: right;">Code: _____</div> Tel no: _____ Fax no: _____	Contact person: _____ Physical address: _____ _____ _____ Cell no: _____ E-mail address: _____ _____

If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land parcel and if the land parcel is owned by a company or more than one person.

<b>SECTION 3</b> <b>Details of Property (In accordance with Title deed)</b>	
Erf/ Farm No and portion description: _____ Physical address of erf/farm: _____ Location from nearest town: _____ Town/suburb: _____ Registration Division: _____	Area (m <sup>2</sup> or ha): _____ Existing zoning: _____ Existing land use: _____ Area applicable to application: _____ Title deed no: _____

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**SECTION 4****Type of Application being Submitted** (Mark with an X and give detail)**Application for:****(Please mark applicable block with a cross)**

Rezoning/ Zoning:	
Creation of an overlay zoning	
Removal, suspension or amendment of Title Deed Restrictions:	
Township Establishment	
Temporary use to allow the use of a building or land for a period of at most five years, for a purpose for which no specific zone has been provided for in these regulations:	
Consent use:	
Incorporation of an erf into a general plan;	
The subdivision of land:	
The removal, suspension or amendment of the original approval conditions as provided by the relevant authorities:	
General Plan Cancellation:	
Amendment of General Plan by Closure of Park or Public Road:	
Amendment of General Plan by Re-layout	
Consolidation of one or more properties:	
Mine Rehabilitation Venture: Recognition of project as complying with Social and Labour Plan principles	
The extension of the approval period:	
Any other application in terms of provincial legislation or municipal By-law:	
<b>Please give a short description of the scope of the project:</b>	
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	

**SECTION 5****Detail of application**(Mark with an X and give detail where applicable)

Is the land parcel currently developed (buildings etc.)?	YES	NO	If answered YES, what is the nature & condition of the developments/improvements?	
Is the current zoning of the land used?	YES	NO	If answered NO, what is the application / use of land?	
Is the property subjected to a bond?	YES	NO	If answered YES, attach the bondholder's consent to the application:	

Has any application on the property previously been considered?	YES	NO	If answered YES, when and provide particulars, including type of application, all authority reference numbers and decisions:	
Does the proposal apply to the entire land parcel?	YES	NO	If answered NO, indicate the size of the portion of the land parcel concerned, as well as what it will be used for, including the remaining extent:	
Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land parcel in terms of the deed of transfer that should be removed, as it might have an influence on this application?	YES	NO	If answered YES, please provide detail description:	
Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development?	YES	NO	If answered YES, name full particulars and state how the problem will be solved and submit detail layout plan:	
Is any portion of the land parcel in a flood plain of a river beneath the 1:50/1:100 year flood-line, or subject to any flooding?	YES	NO	If answered YES, please provide detail description:	
Is any other approval that falls outside of this By-Law, necessary for the implementing of the intended development?	YES	NO	If answered YES, please provide detail description:	
Is the proposed application in line with the approved spatial development frameworks?	YES	NO	If answered NO, please provide site specific circumstances in accordance with section 22(2) of the SPLUMA.	
What arrangements will be made regarding the following services for the development? (Full Engineering Reports must be supplied, where applicable)	Water supply:			
	Electricity supply:			
	Sewerage and waste-water			
	Storm-Water:			
	Road Network:			

**SECTION 5A**

**Application for the Recognition of the Mining Rehabilitation project as complying with the principles, intent and general definition of a social and labour plan project (Sec. 37(1)(b)) (mark with an X and give details where applicable)**

<b>Mining right holder</b>	
<b>Mining right number</b>	
<b>Developer</b>	
<b>Description of Project</b>	
<b>Motivation:</b> Project complying with Social and Labour Plan principles	
Compliance proof (Sec 37(1)(c)) <b>End Land Use description</b>	If answered YES attached the document.
• List of various activities	
• Applicable Current Zoning or	YES NO

• Proposed zoning	YES	NO	
Compliance proof (Sec. 37(1)(d)) <b>Identify land</b>	If answered YES attached the document.		
• Sketch plan	YES	NO	
○ Mine surveyor	YES	NO	
○ Land surveyor	YES	NO	
• Approved diagram	YES	NO	
○ Subdivision or	YES	NO	
○ Lease Area	YES	NO	
○ Servitude	YES	NO	

**SECTION 6**

**List of Attachments and supporting information required/ submitted with checklist for Municipal use (Mark with an X/ number annexure)**

Checklist (for the completion by the Applicant only)				Checklist (for the use of Responsible Authority only)		
YES	NO	ANNEXURE	DOCUMENT ATTACHED	YES	NO	N/A
			Completed Comprehensive Application form			
			Complete Motivation Report			
			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Certified copy of Title Deed(s)			
			Orientating Locality Map			
			Basic Layout Map			
			Land Use Scheme Zoning Map Extract			
			Land Use Map			
			Detail Layout Map			
			Ortophoto / Aerial survey map			
			Site Development Plan			
			Extract of Spatial Development Framework			
			Contour map			
			Surveyor-General diagrams (cadastral information)			
			Deeds Report			
			Bondholder's consent			
			Home Owners' Association consent / stamp of approval			
			Special endorsement/proxy			
			Mineral rights certificate (together with mineral holder's consent)			
			Prospecting contract			
			Registered servitudes (deed and map/plan)			
			Status report from Surveyor-General – street closure or state owned land			
			Detail Engineering Services plan (Bulk and internal)			
			Environmental Impact Study/Assessment (EIA – Environmental Authorisation)			
			Archaeological Impact Assessment (AIA) - approval from relevant Department			
			Heritage Impact Assessment - approval from relevant Department			
			Traffic impact study/assessment			



			Geotechnical report (NHBRC Standards)			
			Flood line certificate - certificate from relevant Dept			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			
			Public participation report and minutes of meetings			
			Other (specify):			
			<b>Seven (7)</b> sets of full colour documentation copies			

**SECTION 7**  
**Declaration**

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

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

Applicant's/ Owner's Signature:	_____	Date:							
Full name (print):	_____								
Professional capacity (Reg. No.):	_____								
Applicant's ref:	_____								

**SECTION 8**

**Prescribed Notice and advertisement procedures (for the completion and use of Responsible Authority only)**

Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		<b>Notice to be placed in the Local Newspaper</b>			<b>Proof of Notice in Local Newspaper</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)</b>			<b>Proof of Notice in the Provincial Gazette</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notices to neighbours</b> Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Responsible Authority. Alternatively (Option 2), the notices can be sent via registered post.			<b>Proof of Notice to neighbours</b> Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Responsible Authority, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Responsible Authority
		<b>Notice to be placed on the site</b> Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			<b>Proof of Notice in site</b> Two colour photos of the notice on site must be provided of which one is close up and the other one is taken from a distance in order to see the placing on the site itself.

	<b>Public Meeting</b> Note: The holding of a public meeting in order to inform the general public of the application.		<b>Proof of Public Meeting</b> The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Responsible Authority.
	<b>Any Additional components</b>		<b>Proof of additional components</b>

**SECTION 9**  
**Power of Attorney/Proxy**

I/We, the undersigned

\_\_\_\_\_  
(FULL NAMES, ID NO & PROFESSIONAL REGISTRATION NUMBER IF APPLICABLE)

Nominate, constitute and hereby appoint

\_\_\_\_\_  
(FULL NAMES AND ID NO, AS WELL AS NAME OF FIRM REPRESENTED)

With the power of substitution to be my lawful agent in my name, place and to handle all aspects in my stead, pertaining to the application(s) for

\_\_\_\_\_  
(FULL DETAILS OF THE APPLICATION LODGED)

with regards to

\_\_\_\_\_  
(DESCRIPTION OF PROPERTY)

and in general to realize the proposed goals and whatever may be necessary, in a fashion as complete and efficient as I/we would have done if I/we were personally representing this matter. I/we ratify, allow and confirm herewith, and promise to ratify, allow and confirm whatever my/our agent does lawfully within this matter.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
(TOWN) (DAY) (MONTH)(YEAR)

In the presence of the undersigned witnesses

\_\_\_\_\_  
Signature of Assigner/ Land Owner

\_\_\_\_\_  
Witness 1

\_\_\_\_\_  
Witness 2

**Annexure B –****Abridged Application Form Matjhabeng Local Municipality**

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

<b>SECTION 1</b>
<b>Details of Applicant</b>

Name: _____ Postal address: _____ _____ _____ Code: _____ Tel no: _____ Fax no: _____ Professional Reg. No. and Organisation: _____ (Where applicable)	Contact person: _____ Physical address: _____ _____ _____ Cell no: _____ E-mail address: _____ _____
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<b>SECTION 2</b>
<b>Details of Land Owner (If different from Applicant)</b>

Name: _____ Postal address: _____ _____ _____ Code: _____ Tel no: _____ Fax no: _____	Contact person: _____ Physical address: _____ _____ _____ Cell no: _____ E-mail address: _____ _____
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If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land parcel and if the land parcel is owned by a company or more than one person.

<b>SECTION 3</b>
<b>Details of Property (In accordance with Title deed)</b>

Erf/ Farm No and portion description: _____ Physical address of erf/farm: _____ Location from nearest town: _____ Town/suburb: _____ Registration Division: _____	Area (m <sup>2</sup> or ha): _____ Existing zoning: _____ Existing land use: _____ Area applicable to application: _____ Title deed no: _____
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<b>SECTION 4</b>
<b>Type of Application being Submitted (Mark with an X and give detail)</b>

**Application for: (Please mark applicable block with a cross)**

The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and subdivision by the Responsible Authority.	
Temporary departure to allow the use of a building or land for a period of at most five years, for a purpose for which no specific zone has been provided for in these regulations	
Application for Consent Use, including Occupational Practice, excluding Temporary Housing.	

Application for Subdivision in accordance with the LUS	
Application for subdivision requiring abridged processes.	
Application for subdivision for mining purposes	
Application for subdivision for mining rehabilitation purposes	
The amendment of cancellation of a general plan of a township.	
The permanent closure of a municipal road (public road) or a public open place.	
The consolidation of any land portion.	
Mine rehabilitation Venture	
Application for the extension of the approval period of an application before the lapsing thereof.	

**Please give a short description of the scope of the project:**

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### SECTION 5

**Detail of application**(Mark with an X and give detail where applicable)

Is the property subjected to a bond?	YES	NO	If answered YES, attach the bondholder's consent to the application:	
Has any application on the property previously been considered?	YES	NO	If answered YES, when and provide particulars, including type of application, all authority reference numbers and decisions:	
Does the proposal apply to the entire land parcel?	YES	NO	If answered NO, indicate the size of the portion of the land parcel concerned, as well as what it will be used for, including the remaining extend:	
Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land parcel in terms of the deed of transfer that should be removed, as it might have an influence on this application?	YES	NO	If answered YES, please provide detail description:	

Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development?	YES	NO	If answered YES, name full particulars and state how the problem will be solved and submit detail layout plan:	
Is any portion of the land parcel in a flood plain of a river beneath the 1:50/1:100 year flood-line, or subject to any flooding?	YES	NO	If answered YES, please provide detail description:	
Is any other approval that falls outside of this Act, necessary for the implementing of the intended development?	YES	NO	If answered YES, please provide detail description:	
What arrangements will be made regarding the following services for the development? (where applicable)	Water supply:			
	Electricity supply:			
	Sewerage and waste-water:			
	Storm-Water			
	Road Network			

**Section 5A**

**Application for Recognition (Sec. 37) and Registration (Sec. 38(3) of Mining Rehabilitation Venture**  
(For Sec. 37 fill in 1 to 7, for Sec. 38(3) fill in 1 to 12 mark with an X and give details where applicable)

Application in terms of		Sec. 37	Sec. 38(3)	
1	Mining Right Holder			
2	Mining Right Number			
3	Developer			
4	Description of Project			
5	Compliance proof (Sec.37(1)(a) or (b))		If answered YES attached the document.	
	• Approved rehabilitation plan or	YES	NO	
	• Tribunal Social and Labour Plan approval	YES	NO	
6	Compliance proof (Sec 37(1)(c)) <b>End Land Use description</b>		If answered YES attached the document.	
	• List of various activities			
	• Applicable Current Zoning or	YES	NO	
	• Proposed zoning	YES	NO	
7	Compliance proof(37(1)(d)) <b>Identify land</b>		If answered YES attached the document.	
	• Sketch plan	YES	NO	
	○ Mine surveyor	YES	NO	
	○ Land surveyor	YES	NO	
	• Approved diagram	YES	NO	
	○ Subdivision or	YES	NO	
	○ Lease Area	YES	NO	
	○ Servitude	YES	NO	
8	<b>Extract of feasibility study</b>		If answered YES attached the extract of the document.	

	• Compatibility with SDF / Precinct Plan	YES	NO	
	• Compatibility with LUS	YES	NO	
	• Sustainability of Project	YES	NO	
	• Benefit to the community	YES	NO	
	• Interim service agreement between Mining right holder and developer	YES	NO	
	• Municipal services to be negotiated with Municipality	YES	NO	
	o Water	YES	NO	
	o Sewer	YES	NO	
	o Electricity	YES	NO	
	o Road access	YES	NO	
	o Waste removal	YES	NO	
	o Emergency services	YES	NO	
	• Project implementation program	YES	NO	
	o Transitional time period	YES	NO	
9	<b>Developmental suspensive conditions</b> (from Mining right holder and developer Sec 36(2)(a)) and Time Frame	YES	NO	
10	Copy of agreement Sec 36(2)(a)	YES	NO	
11	Motivation	YES	NO	
12	<b>LUS Registration number</b> of registered rehabilitation venture (Sec 38(3))	YES	NO	

**SECTION 6**

**List of Attachments and supporting information required/ submitted with checklist for Municipal use**(Mark with an X/ number annexure)

Checklist (for the completion by the Applicant only)				Checklist (for the use of Responsible Authority only)		
YES	NO	ANNEXURE	DOCUMENT ATTACHED	YES	NO	N/A
			Completed Abridged Application form			
			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Certified copy of Title Deed(s)			
			Orientating Locality Map			
			Basic Layout Map			
			Bondholder's consent			
			Home Owners' Association consent / stamp of approval			
			Special endorsement/proxy			
			Registered servitudes (deed and map/plan)			
			Surveyor-General diagrams (cadastral information)			
			Status report from Surveyor General – street closure or state owned land			
			Flood line certificate / coastal setback report - certificate from relevant Department			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			

		Other (specify):			
		<b>Seven (7)</b> sets of full colour documentation copies			

**SECTION 7**  
**Declaration**

<b>Note:</b>	<i>If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees' resolution is compulsory</i>				
I hereby certify the information supplied in this application form to be complete and correct and that I am properly authorised to make this application.					
Applicant's/ Owner's Signature:	_____	Date:			
Full name (print):	_____				
Professional capacity:	_____				
Applicant's ref:	_____				

**SECTION 8**

**Prescribed Notice and advertisement procedures (for the completion and use of Responsible Authority only)**

Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		<b>Notice to be placed in the Local Newspaper</b>			<b>Proof of Notice in Local Newspaper</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)</b>			<b>Proof of Notice in the Provincial Gazette</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notices to neighbours</b> Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Responsible Authority. Alternatively (Option 2), the notices can be sent via registered post.			<b>Proof of Notice to neighbours</b> Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Responsible Authority, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Responsible Authority
		<b>Notice to be placed on the site</b> Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			<b>Proof of Notice in site</b> Two colour photos of the notice on site must be provided of which one is close up and the other one is taken from a distance in order to see the placing on the site itself.
		<b>Public Meeting</b> Note: The holding of a public meeting in order to inform the general public of the application.			<b>Proof of Public Meeting</b> The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Responsible Authority.
		<b>Any Additional components</b>			<b>Proof of additional components</b>

**SECTION 9**  
**Power of Attorney/Proxy**

\_\_\_\_\_  
I/We, the undersigned

\_\_\_\_\_  
*(FULL NAMES, ID NO AND PROFESSIONAL REGISTRATION NUMBER IF APPLICABLE)*

Nominate, constitute and hereby appoint

\_\_\_\_\_  
*(FULL NAMES AND ID NO, AS WELL AS NAME OF FIRM REPRESENTED)*

With the power of substitution to be my lawful agent in my name, place and to handle all aspects in my stead, pertaining to the application(s) for

\_\_\_\_\_  
*(FULL DETAILS OF THE APPLICATION LODGED)*

with regards to

\_\_\_\_\_  
*(DESCRIPTION OF PROPERTY)*

and in general to realize the proposed goals and whatever may be necessary, in a fashion as complete and efficient as I/we would have done if I/we were personally representing this matter. I/we ratify, allow and confirm herewith, and promise to ratify, allow and confirm whatever my/our agent does lawfully within this matter.

SIGNED at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
*(TOWN) (DAY) (MONTH) (YEAR)*

In the presence of the undersigned witnesses

\_\_\_\_\_  
Signature of Assigner/ Land Owner

\_\_\_\_\_  
Witness 1

\_\_\_\_\_  
Witness 2

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