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Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer:

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The following Provincial Notice is published for general information.

ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Legislature Building,  
Wale Street,  
Cape Town.

**PROVINSIALE KENNISGEWING**

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,  
Waalstraat,  
Kaapstad.

**ISAZISO SEPHONDO**

Esi saziso silandelayo sipapashelwe ukunika ulwazi ngokubanzi.

ADV. B. GERBER,  
UMLAWULI-JIKELELE

ISakhiwo sePhondo,  
Wale Street,  
eKapa.

P.N. 354/2015

20 October 2015

## **STELLENBOSCH MUNICIPALITY LAND USE PLANNING BY-LAW**

### **PREAMBLE**

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) confers on municipalities the executive authority and right to administer local government matters set out in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution;

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

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

WHEREAS Parliament has enacted the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and the Western Cape Provincial Legislature has enacted the Land Use Planning Act (Act 3 of 2014), which among other things set out development principles which apply to all organs of state responsible for the implementation of legislation regulating the use and development of land;

NOW THEREFORE Stellenbosch Municipality has adopted this By-Law.

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## CHAPTER I

### INTERPRETATION AND APPLICATION

#### Definitions

1. In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), has the meaning assigned to it in that Act and—

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

“**agent**” means a person authorised in terms of a power of attorney to make an application on behalf of the owner of land;

“**Appeal Authority**” means the Appeal Authority contemplated in section 79(1);

“**applicable period**”, referred to in sections 17(5) and (6), 18(2), 19(5), 22(1) and 32(1), means the period that may be determined by the Municipality in the conditions of approval subject to section 43(2)(b) of the Spatial Planning and Land Use Management Act or the period referred to in section 43(2)(a) of the Spatial Planning and Land Use Management Act;

“**applicant**” means a person referred to in section 15(2) who makes an application to the Municipality as contemplated in that section;

“**application**” means an application to the Municipality referred to in section 15(2);

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

“**base zoning**” means the zoning before the application of any overlay zone;

“**comments**”, in relation to comments submitted by the public, municipal departments and other organs of state and service providers on an application or appeal, includes objections, representations and petitions;

“**consolidation**” in relation to land, means the merging of two or more adjacent land units into a single land unit, and includes the physical preparation of land for consolidation;

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

“**date of notification**” means the date on which a notice is served as contemplated in section 35 or published in the media or *Provincial Gazette*;

“**development charge**” means a development charge contemplated in section 83 as levied by the Municipality;

“**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 outside the boundaries of a land area referred to in an application and that is necessary for the utilisation and development of the land;

“**Land Use Planning Act**” means the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014);

“**local spatial development framework**” means a local spatial development framework contemplated in section 9;

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

“**municipal spatial development framework**” means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act;

“**Municipality**” means the municipality of Stellenbosch established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), by Provincial Notice No. 479 dated 22 December 2000, and where the context so requires, includes—

- (a) the Council;
- (b) another political structure or a political office bearer of the Municipality, authorised or delegated to perform a function or exercise a power in terms of this By-law;
- (c) the Tribunal authorised or delegated to perform a function or exercise a power in terms of this By-law;
- (d) the Municipal Manager; and
- (e) an authorised employee.

“**non-conforming use**” means an existing land use that was lawful in terms of a previous zoning scheme but that does not comply with the zoning scheme in force;

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

“**overlay zone**” means a category of zoning that applies to land or a land unit in addition to the base zoning and that—

- (a) stipulates additional development parameters or use rights that may be more or less restrictive than the base zoning; and

(b) may include provisions and development parameters relating to—

- (i) primary or consent uses;
- (ii) base zoning;
- (iii) subdivision or subdivisational areas;
- (iv) development incentives;
- (v) density limitations;
- (vi) urban form or urban renewal;
- (vii) heritage or environmental protection;
- (viii) management of the urban edge;
- (ix) scenic drives or local areas;
- (x) coastal setbacks (where coastlines are involved); or
- (xi) any other purpose as set out in the zoning scheme;

**“owners’ association”** means an owners’ association contemplated in section 29;

**“pre-application consultation”** means a consultation contemplated in section 37;

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

**“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 drainage, and includes infrastructure, systems and processes related to the service;

**“site development plan”** means a dimensioned plan drawn to scale that indicates details of the proposed land development, including the site layout, positioning of buildings and structures, property access, building designs and landscaping;

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

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

**“Spatial Planning and Land Use Management Regulations”** means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 made under the Spatial Planning and Land Use Management Act published under Notice R239/2015 in *Government Gazette* 38594 of 23 March 2015;

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



“**Tribunal**” means the Municipal Planning Tribunal established in terms of section 70.

### **Application of By-law**

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

## **CHAPTER II**

### **SPATIAL PLANNING**

#### **Compilation or amendment of municipal spatial development framework**

3. (1) When the Council compiles or amends its municipal spatial development framework in accordance with the Municipal Systems Act, the Council must, as contemplated in section 11 of the Land Use Planning Act—
  - (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 the Provincial Minister for comment.
- (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 or amend the municipal spatial development framework; and
    - (ii) the process to be followed, in accordance with section 28(3) and 29 of the Municipal Systems Act;
  - (b) inform the Provincial Minister in writing of—
    - (i) the intention to compile or amend the municipal spatial development framework;
    - (ii) its decision in terms of subsection (1)(a) or (b); and
    - (iii) the process to be followed to compile or amend the municipal spatial development framework, including the process contemplated in subsection (2)(a)(ii); and

- (c) register relevant stakeholders, who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process contemplated in subsection (2)(a)(ii).

#### **Establishment of project committee**

4. (1) The Municipality must establish a project committee to compile or amend its municipal spatial development framework.
- (2) The project committee must consist of—
  - (a) the Municipal Manager or a municipal employee designated by the municipal manager; and
  - (b) municipal employees appointed by the Municipal Manager from at least the following municipal departments:
    - (i) the integrated development planning office;
    - (ii) the spatial planning department;
    - (iii) the engineering department;
    - (iv) the local economic development department; and
    - (v) the housing department.

#### **Establishment of intergovernmental steering committee**

5. If the Council establishes an intergovernmental steering committee, the Municipality must, in writing, invite written nominations for representatives to serve on the intergovernmental steering committee from the following persons or organs of state:
  - (a) the head of the provincial department responsible for land use planning;
  - (b) the head of the provincial department responsible for environmental affairs; and
  - (c) other relevant organs of state.

#### **Procedure with intergovernmental steering committee**

6. (1) If the Council establishes an intergovernmental steering committee, the project committee must compile a draft *status quo* report setting out an assessment of the existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.

- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the *status quo* report and submit it to the Council for adoption.
- (3) After finalising the *status quo* report the project committee must compile a first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework and submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment in accordance with the process adopted in terms of sections 28 and 29 of the Municipal Systems Act.
- (5) After consideration of the comments and representations received by virtue of the publication contemplated in subsection (4), the project committee must compile a final draft of the municipal spatial development framework or final draft of the 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 finalise the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework and submit it to the Council for adoption.
- (7) If the final draft of the municipal spatial development framework or final draft of the 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 in accordance with subsections (4), (5) and (6), read with the necessary changes, follow a further consultation and public participation process before the municipal spatial development framework or amendment of the municipal spatial development framework is adopted by the Council.
- (8) The Council or the project committee may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the municipal spatial development framework request comments from the intergovernmental steering committee.

- (9) The Council must adopt the final draft municipal spatial development framework or final draft amendment of the municipal spatial development framework, with or without amendments and must within 14 days of its decision give notice of its decision in the media and the Provincial Gazette.

#### **Procedure without intergovernmental steering committee**

7. (1) If the Council 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* report 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* report, compile a first draft of the municipal spatial development framework or first draft of the 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 first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework for publication contemplated in paragraph (b), submit the first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework to the Provincial Minister for comment in terms of section 13 of the Land Use Planning Act; and
  - (d) after consideration of the comments and representations received from the public and the Provincial Minister, submit the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework, with any further amendments, to the Council for adoption.
- (2) If the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework contemplated in subsection (1) is materially different to what was published in terms of subsection (1)(b), the Municipality must follow a further consultation and public participation process before the municipal spatial development framework or amendment of the municipal spatial development framework is adopted by the Council.

- (3) The Council must adopt the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework, with or without amendments, and must within 14 days of its decision give notice of its decision in the media and the *Provincial Gazette*.

### Functions and duties

8. (1) The members of the project committee must, in accordance with the directions of the [*executive committee/executive mayor/committee of councillors*]  
—
- (a) oversee the compilation of the municipal spatial development framework or drafting of an amendment of the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise to the Council;
  - (c) 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 process contemplated in section 3(2)(a)(ii);
  - (d) guide the public participation process and ensure that the registered stakeholders 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—
    - (i) a report in terms of section 14 of the Land Use Planning Act setting out the response of the Municipality to the provincial comments issued in terms of section 12(4) or 13(2) of that Act; and
    - (ii) a statement setting out—
      - (aa) whether the Municipality has implemented the policies and objectives issued by the national minister responsible for spatial planning and land use management and if so, how and to what extent the Municipality has implemented it; or

- (bb) if the Municipality has not implemented the policies and objectives, the reasons for not implementing it.
- (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; and
- (i) if the Council establishes an intergovernmental steering committee—
  - (i) assist the Council in establishing the intergovernmental steering committee and adhering to timeframes; 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 compile the municipal spatial development framework or draft an amendment thereof;
    - (iii) information on budgetary allocations;
    - (iv) information on and the locality of any current or planned projects that have an impact on the municipal area; and
    - (v) written comments in terms of section 6; and
  - (b) provide the project committee with written comments in terms of section 6.

### **Local spatial development frameworks**

- 9.
- (1) The Municipality may adopt a local spatial development framework for a specific geographical area in a part of the municipal area.
  - (2) The purpose of a local spatial development framework is to, for a specific geographical area—

- (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;
- (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; and
- (f) guide decision-making on land use applications.

#### **Compilation, adoption, amendment or review of local spatial development frameworks**

10. (1) If the Municipality compiles, amends or reviews a local spatial development framework, it must adopt a process plan, including the public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.
- (2) The Municipality must, within 21 days of adopting a local spatial development framework or an amendment of a local spatial development framework, publish a notice of the decision in the media and the *Provincial Gazette*.

#### **Status of local spatial development frameworks**

11. (1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 10(2).
- (2) A local spatial development framework guides and informs decisions made by the Municipality relating to land development, but it does not confer or take away rights.

#### **Structure plans**

12. (1) If the Municipality intends to convert a structure plan to a local spatial development framework, the Municipality must comply with sections 9 to 11 and must—
- (a) review that structure plan and make it consistent with the purpose of a local spatial development framework contemplated in section 9(2); and
  - (b) incorporate the provisions of the structure plan that are consistent with that purpose in the local spatial development framework.

- (2) The Municipality must, in terms of section 16(4) of the Land Use Planning Act, withdraw the relevant structure plan by notice in the *Provincial Gazette* when it adopts a local spatial development framework contemplated in subsection (1).

### CHAPTER III

#### DEVELOPMENT MANAGEMENT

##### Determination of zoning

13. (1) The owner of land or his or her agent may apply in terms of section 15(2) to the Municipality for the determination of a zoning for land referred to in section 34(1), (2) or (3) of the Land Use Planning Act.
- (2) When the Municipality considers an application in terms of subsection (1), it must have regard to the following:
  - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of the Land Use Planning Act if it can be determined;
  - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
  - (c) any departure or consent use that may be required in conjunction with that zoning;
  - (d) in the case of land that was vacant immediately before the commencement of the Land Use Planning Act, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the Municipality; and
  - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of the Land Use Planning Act cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and serve notice of its intention in terms of section 46.
- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, may not be considered to be lawful.



**Non-conforming uses**

14. (1) A non-conforming use does not constitute an offence in terms of this By-law.
- (2) A non-conforming use may continue as long as it remains otherwise lawful, subject to the following:
- (a) if the non-conforming use is ceased for any reason for a period of more than twenty-four consecutive months, any subsequent utilisation of the property must comply with this By-law and the zoning scheme, with or without departures;
  - (b) an appropriate application contemplated in section 15(2) 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 in respect of which the proven use right exists.
- (3) Subject to subsection (2)(a) and (b), if an existing building that 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.

**Land development requiring approval**

15. (1) No person may commence, continue, or cause the commencement or continuation of, land development, other than the subdivision or consolidation of land referred to in section 24, without the approval of the Municipality in terms of subsection (2).
- (2) The owner of land or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:
- (a) a rezoning of land;
  - (b) a permanent departure from the development parameters of the zoning scheme;
  - (c) a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;
  - (d) a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;

- (e) a consolidation of land that is not exempted in terms of section 24;
  - (f) a removal, suspension or amendment of restrictive conditions in respect of a land unit;
  - (g) a permission required in terms of the zoning scheme;
  - (h) an amendment, deletion or imposition of conditions in respect of an existing approval;
  - (i) an extension of the validity period of an approval;
  - (j) an approval of an overlay zone as contemplated in the zoning scheme;
  - (k) an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram ;
  - (l) a permission required in terms of a condition of approval;
  - (m) a determination of a zoning;
  - (n) a closure of a public place or part thereof;
  - (o) a consent use contemplated in the zoning scheme;
  - (p) an occasional use of land;
  - (q) to disestablish a home owner's association;
  - (r) to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;
  - (s) a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.
- (3) If section 53 of the Land Use Planning Act is applicable to the land development, the owner or agent must also apply for approval of the land development in terms of that Act.
- (4) 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 for approval of the land development in terms of that Act.
- (5) When an applicant or owner exercises a use right granted in terms of an approval, he or she must comply with the conditions of the approval and the applicable provisions of the zoning scheme.

- (6) When the Municipality on its own initiative intends to conduct land development or an activity contemplated in subsection (2), the decision on the application must be made by the Tribunal in accordance with this Chapter and Chapter IV and no official may be authorised to make such a decision.

### **Continuation of application after change of ownership**

16. 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.

### **Rezoning of land**

17. (1) The Municipality may, on its own initiative, 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 scheme or part thereof for a zoning scheme in terms of which the land is not zoned in accordance with the utilisation 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 15(2).
- (3) When the Municipality creates an overlay zone for land it must comply with sections 12 and 13 of the Municipal Systems Act.
- (4) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.
- (5) Subject to subsection (6), a rezoning approval contemplated in subsection (2) lapses after the applicable period from the date that the approval comes into operation if, within that period—
- (a) the zoning is not utilised in accordance with the approval; or
  - (b) the following requirements have not been met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
    - (ii) commencement of the construction of the building contemplated in subparagraph (i).
- (6) An approval of a rezoning to subdivisional area contemplated in subsection 20(2) lapses after the applicable period from the date that the approval comes into operation if, within that period—

- (a) a subdivision application is not submitted; and
  - (b) the conditions of approval are not complied with.
- (7) If a subdivision application is submitted in respect of land that is zoned as subdivisinal area, the zoning of subdivisinal area lapses on the later date of the following dates:
- (a) the date on which the subdivision is approved; or
  - (b) the date after the applicable period contemplated in subsection (6) including any extended period approved in terms of section 67.
- (8) The approval of a rezoning to subdivisinal area must include conditions that make provision for at least—
- (a) density requirements;
  - (b) main land uses and the extent thereof; and
  - (c) a detailed phasing plan or a framework including—
    - (i) main transport routes;
    - (ii) main land uses;
    - (iii) bulk infrastructure;
    - (iv) requirements of organs of state;
    - (v) public open space requirements; and
    - (vi) physical development constraints.
- (9) If a rezoning approval lapses, the zoning applicable to the land before the approval of the rezoning applies or, where no zoning existed before the approval of the rezoning, the Municipality must determine a zoning in terms of section 13.

### **Departures**

- 18.** (1) An applicant may apply to the Municipality in terms of section 15(2)—
- (a) for a departure from the development parameters of a zoning or an overlay zone; or
  - (b) to utilise land on a temporary basis for a purpose not permitted in terms of the primary rights of the zoning applicable to the land for a period not exceeding five years.

- (2) A departure contemplated in subsection (1)(a) lapses after the applicable period from the date that the approval comes into operation if, within that period—
- (a) the departure is not utilised in accordance with the approval; or
  - (b) the following requirements have not been met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved departure; and
    - (ii) commencement of the construction of the building contemplated in subparagraph (i).
- (3) The Municipality may approve a departure contemplated in subsection (1)(b) for a period shorter than five years but, if a shorter period is approved, the period together with any extension approved in accordance with section 67 may not exceed five years;
- (4) A temporary departure contemplated in subsection (1)(b) may not be approved more than once in respect of a particular use on a specific land unit.
- (5) A temporary departure contemplated in subsection (1)(b) may include an improvement of land only if—
- (a) the improvement is temporary in nature; and
  - (b) the land can, without further construction or demolition, revert to its previous lawful use upon the expiry of the use right.

### **Consent uses**

- 19.** (1) An applicant may apply to the Municipality in terms of section 15(2) for a consent use contemplated in the zoning scheme.
- (2) If the development parameters for the consent use that is being applied for are not defined in the zoning scheme, the Municipality must determine the development parameters that apply to the consent use in terms of conditions of approval imposed in terms of section 66.
- (3) A consent use may be approved permanently or for a period specified in the conditions of approval imposed in terms of section 66.
- (4) A consent use approved for a specified period must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.

- (5) A consent use contemplated in subsection (1) lapses after the applicable period from the date that the approval comes into operation if, within that period—
- (a) the consent use is not utilised in accordance with the approval; or
  - (b) the following requirements have not been met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved consent use; and
    - (ii) commencement of the construction of the building contemplated in subparagraph (i).

### **Subdivision**

- 20.**
- (1) No person may subdivide land without the approval of the Municipality in terms of section 15(2) unless the subdivision is exempted in terms of section 24.
  - (2) No application for subdivision involving a change of zoning may be considered by the Municipality unless the land concerned is zoned as a subdivisational area.
  - (3) An applicant may submit a subdivision application simultaneously with an application for rezoning.
  - (4) The Municipality must impose appropriate conditions in terms of section 66 relating to engineering services for an approval of a subdivision.
  - (5) If the Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
    - (a) the Municipality's decision to approve the subdivision;
    - (b) the conditions of approval imposed in terms of section 66; and
    - (c) the approved subdivision plan.
  - (6) The Municipality must issue a certificate to the applicant or any other person on his or her written request to confirm that all the conditions of approval contemplated in subsection 21(1)(c) have been met, if the applicant has submitted the proof contemplated in that section.
  - (7) If the Municipality issues a certificate referred to in subsection (6) in error, the owner is not absolved from complying with the obligations imposed in terms of the conditions.

### **Confirmation of subdivision**

- 21.** (1) A subdivision or part thereof is confirmed and cannot lapse when the following requirements are met within the period contemplated in section 22(1):
- (a) approval by the Surveyor-General of the general plan or diagram contemplated in section 20(5);
  - (b) completion of the installation of engineering services in accordance with the conditions contemplated in section 20(4) and other applicable legislation;
  - (c) proof to the satisfaction of the Municipality that all the conditions of the approved subdivision that must be complied with before compliance with paragraph (d) have been met in respect of the area shown on the general plan or diagram; and
  - (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (2) Upon confirmation of a subdivision or part thereof in terms of subsection (1), zonings indicated on an approved subdivision plan are confirmed and cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or any other person on his or her written request that a subdivision or part of a subdivision is confirmed if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements referred to in subsection (1)(a) to (d) for the subdivision or part thereof.
- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in subsection (1) or the Municipality approved the construction before the confirmation of the subdivision.

### **Lapsing of subdivision**

- 22.** (1) An approved subdivision lapses after the applicable period from the date that the approval comes into operation if the requirements contemplated in section 21(1)(a) to (d) have not been met within that period.
- (2) If an applicant complies with section 21(1)(b) and (c) only in respect of a part of the land reflected on the general plan contemplated in section 21(1)(a), the applicant must withdraw the general plan and submit a new general plan to the Surveyor-General.

- (3) If an approval of a subdivision or part thereof lapses in terms of subsection (1)—
  - (a) the Municipality must—
    - (i) amend the zoning map and, where applicable, the register accordingly; and
    - (ii) notify the Surveyor-General accordingly; and
  - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

#### **Amendment or cancellation of subdivision plan**

- 23.**
- (1) The Municipality may in terms of section 15(2) approve the amendment or cancellation of a subdivision plan, including conditions of approval, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
  - (2) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed in terms of section 26.
  - (3) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1) and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
  - (4) An amended subdivision approval contemplated in subsection (1) is valid for the remainder of the period applicable to the initial approval of the subdivision before it was amended, reckoned from the date of approval of the amendment or cancellation in terms of subsection (1).

#### **Exemption of certain subdivisions and consolidations**

- 24.**
- (1) The subdivision or consolidation of land does not require the approval of the Municipality in the following cases:
    - (a) a subdivision or consolidation that arises from the implementation of a court ruling;
    - (b) a subdivision or consolidation that arises from an expropriation;
    - (c) 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 does not exceed 10 per cent;
    - (d) the consolidation of a closed public place with an abutting erf;
    - (e) the construction or alteration of a public or proclaimed street;



- (f) the registration of a servitude or lease agreement for—
    - (i) the provision or installation of water pipelines, electricity transmission lines, sewer pipelines, storm water pipes and canals, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
    - (ii) the provision or installation of telecommunication lines by or on behalf of a licensed telecommunications operator;
    - (iii) the imposition of height restrictions; or
    - (iv) the granting of a right of habitation, private right of way or usufruct;
  - (g) the exclusive utilisation of land for agricultural purposes if the utilisation—
    - (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
    - (ii) does not lead to urban expansion.
- (2) An owner of land or his or her agent must obtain a certificate from the Municipality that certifies in writing that the subdivision or consolidation is exempted from the application of section 15, and sections 20 to 23 in the case of a subdivision, or sections 15, 31 and 32 in the case of a consolidation.
- (3) The Municipality must indicate on the subdivision plan, or on the diagram in respect of the consolidation, that the subdivision or consolidation is exempted from the application of the sections referred to in subsection (2).

#### **Ownership of public places and land for engineering services and social facilities**

25. (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vests in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed in terms of section 66 determine that land designated for the provision of municipal service infrastructure and amenities on an approved subdivision plan be transferred to the Municipality upon confirmation of the subdivision or a part thereof.

#### **Closure of public places**

26. (1) The Municipality may, on own initiative or on application, permanently close a public place or any part thereof in accordance with Chapter IV.

- (2) An applicant who requires the closure of a public place, whether permanently or temporarily, must apply in terms of section 15(2) to the Municipality.
- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered due to wrongdoing on the part of the Municipality when it permanently closed a public place, the authorised employee must—
  - (a) require proof of negligence or any other wrongdoing on the part of the 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 Municipality.
- (4) The Municipality may pay a claim if—
  - (a) the circumstances of the loss or damage reveal that the Municipality acted wrongfully;
  - (b) the claimant has proved his or her loss or damage;
  - (c) the claimant has provided proof of a fair and reasonable quantum;
  - (d) no claim has been paid by personal insurance covering the same loss; and
  - (e) any relevant information as requested by the authorised employee has been received.
- (5) The ownership of the land comprising any public place, or a part thereof, that is permanently closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (6) The Municipal Manager may, without complying with Chapter IV, temporarily close a public place—
  - (a) for the purpose of, or pending, the construction, reconstruction or maintenance of the public place;
  - (b) for the purpose of, or pending, the construction, extension, maintenance or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
  - (c) if the public 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 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) and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

### **Services arising from subdivision**

- 27.** Subsequent to the approval of an application for subdivision in terms of this By-law, the owner of any land unit originating from the subdivision must—
- (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units originating from the subdivision:
    - (i) gas mains;
    - (ii) electricity cables;
    - (iii) telephone cables;
    - (iv) television cables;
    - (v) other electronic infrastructure;
    - (vi) main and other water pipes;
    - (vii) foul sewers;
    - (viii) storm-water pipes; and
    - (ix) ditches and channels;
  - (b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:
    - (i) surface installations such as mini-substations;
    - (ii) meter kiosks; and
    - (iii) service pillars;
  - (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraph (a) or (b); and
  - (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and to provide a safe and proper slope to its bank where necessitated by differences between the level of the street as finally constructed and the level of the land unit unless he or she elects to build retaining

walls to the satisfaction of and within a period to be determined by the Municipality.

### **Certification by Municipality**

- 28.**
- (1) A person may apply to the Registrar of Deeds to register the transfer of a land unit in the instances referred to in subsection (3)(a) to (c) only if the Municipality has issued a certificate in terms of this section.
  - (2) The Registrar of Deeds may register the transfer of a land unit in the instances referred to in subsection (3)(a) to (c) only if the Municipality has issued a certificate in terms of this section.
  - (3) The Municipality must issue a certificate to transfer a land unit contemplated in subsections (1) and (2) if the owner provides the Municipality with the following:
    - (a) where an owners' association has been established in respect of that land unit, a conveyancer's certificate confirming that money due by the transferor of the land unit to that owners' association 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 existing contravention penalty due by the transferor of the land unit or proof of compliance with an instruction in a compliance notice issued to the transferor in terms of Chapter IX;
    - (c) in the case of the first transfer of a land unit arising from a subdivision, proof that—
      - (i) all common property arising from the subdivision has been transferred to the owners' association as contemplated in section 29(3)(e) or will be transferred to the owners' association simultaneously with the registration of the transfer of that land unit;
      - (ii) land needed for public purposes or other municipal infrastructure as contemplated in terms of a condition imposed under section 66 has been transferred to the Municipality or will be transferred to the Municipality simultaneously with the registration of the transfer of that land unit;
      - (iii) the engineering services and amenities that must be provided in connection with the subdivision are available; and
      - (iv) a certificate contemplated in section 20(6) has been issued by the Municipality.

**Owners' associations**

29. (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 unit and must make provision 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 annual 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; and
    - (iii) 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; and
  - (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 objectives as set by the association but may not contain provisions that are in conflict with any law.
- (5) The constitution of the owners' association takes effect on the registration of the first land unit.

- (6) An owners' association may amend its constitution when necessary, but if an amendment affects the Municipality or a provision referred to in subsection (3), the amendment must also be approved by the Municipality.
- (7) An owners' association that comes into being by virtue of subsection (1)—
  - (a) has as its members all the owners of the land units arising from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
  - (b) is upon registration of the first land unit automatically established.
- (8) The design guidelines contemplated in subsection (3)(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.

#### **Owners' associations that cease to function**

- 30.** (1) If an owners' association ceases to function or carry out its obligations, the Municipality or any affected person, including a member of the association, may apply—
- (a) in terms of section 15(2)(q) to disestablish the owners' association subject to—
    - (i) the amendment of the conditions of approval to remove the obligation to establish an owners' association; and
    - (ii) the amendment of title conditions pertaining to the owners' association, to remove any obligation in respect of an owners' association;
  - (b) in terms of section 15(2)(r) for appropriate action by the Municipality to rectify a failure of the owners' association to meet any of its obligations in respect of the control over or maintenance of services contemplated in subsection 29(3)(b); or
  - (c) to the High Court to appoint an administrator who must exercise the powers of the owners' association to the exclusion of the owners' association.
- (2) In considering an application contemplated in subsection (1)(a)(i), the Municipality must have regard to—
- (a) the purpose of the owners' association;
  - (b) who will take over the control over and maintenance of services for which the owners' association is responsible; and

- (c) the impact of the disestablishment of the owners' association on the members of the owners' association and the community concerned.
- (3) The Municipality or the affected person may recover from the members of the owners' association the amount of any expenditure incurred by the Municipality or that affected person, as the case may be, in respect of any action taken in terms of subsection (1).
- (4) The amount of any expenditure so recovered is, for the purposes of section 29(7)(a), considered to be expenditure incurred in connection with the owners' association.

### **Consolidation of land units**

- 31.**
- (1) No person may consolidate land without the approval of the Municipality in terms of section 15(2) unless the consolidation is exempted in terms of section 24.
  - (2) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
    - (a) the Municipality's decision to approve the consolidation;
    - (b) the conditions of approval imposed in terms of section 66; and
    - (c) the approved consolidation plan.
  - (3) If the Municipality approves a consolidation, the Municipality must amend the zoning map and where applicable the register, accordingly.

### **Lapsing of consolidation**

- 32.**
- (1) An approved consolidation of land units lapses if the consolidation is not registered in terms of the Deeds Registries Act within the applicable period from the date that the approval comes into operation.
  - (2) If an approval of a consolidation lapses in terms of subsection (1)—
    - (a) the Municipality must—
      - (i) amend the zoning map, and where applicable the register, accordingly; and
      - (ii) notify the Surveyor-General accordingly; and
    - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the consolidation has lapsed.

**Removal, suspension or amendment of restrictive conditions**

- 33.** (1) The Municipality may, on its own initiative or on application in terms of section 15(2), remove, suspend or amend a restrictive condition.
- (2) The Municipality may remove, suspend or amend a restrictive condition—
- (a) permanently;
  - (b) for a period specified in the approval; or
  - (c) subject to conditions of approval.
- (3) In addition to the procedures set out in Chapter IV, the owner must—
- (a) submit a copy of the relevant title deed to the Municipality; 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 restrictive condition;
  - (b) a person whose rights or legitimate expectations will be affected by the approval of the application; and
  - (c) 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, suspension or amendment 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 removal, suspension or amendment of the restrictive condition; and
  - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.
- (6) An approval to remove, suspend or amend a restrictive condition comes into operation—
  - (a) if no appeal has been lodged, after the expiry of the period contemplated in section 79(2) within which an appeal must be lodged; or
  - (b) if an appeal has been lodged, when the Appeal Authority has decided on the appeal.
- (7) The Municipality must cause a notice of the decision to remove, suspend or amend a restrictive condition to be published in the *Provincial Gazette* after the decision comes into operation as contemplated in subsection (6) and notify the Registrar of the decision.

**Endorsements in connection with removal, suspension or amendment of restrictive conditions**

- 34.**
- (1) An applicant at whose instance a restrictive condition is removed, suspended or amended must, after the publication of a notice contemplated in section 33(7) in the *Provincial Gazette*, apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal suspension or amendment of the restrictive condition.
  - (2) The Registrar of Deeds may require proof of the removal, suspension or amendment of a restrictive condition from the applicant including the submission of the following to the Registrar of Deeds:
    - (a) a copy of the approval;
    - (b) the original title deed; and
    - (c) a copy of the notice contemplated in section 33(7) as published in the *Provincial Gazette*.

## CHAPTER IV

### APPLICATION PROCEDURES

#### Manner and date of notification

- 35.** (1) Any serving of a notice or notification or acknowledgement given in terms of this By-law must be in writing and may be issued to a person—
- (a) by delivering it by hand to the person;
  - (b) by sending it by registered mail—
    - (i) to that person's business or residential address; or
    - (ii) in the case of a juristic person, to its registered address or principal place of business;
  - (c) by means of data messages contemplated in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), by sending a copy of the notice to the person, if the person has an email address or other electronic address; or
  - (d) where an address is unknown despite reasonable enquiry, by publishing it once in the *Provincial Gazette* and once in a local newspaper circulating in the area of that person's last known residential or business address.
- (2) The date of notification in respect of a notice served or given to a person in terms of this By-law—
- (a) when it was served by certified or registered post, is the date of registration of the notice;
  - (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, work 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;
  - (d) when it was displayed in a conspicuous place on the property or premises to which it pertains, is the date that it is posted on that place; or
  - (e) when it was e-mailed or sent to an electronic address, is the date that it was received by that person as contemplated in the Electronic Communications and Transactions Act, 2002.

- (3) The Municipality may determine specific methods of service and notification in respect of applications and appeals including—
- (a) information specifications relating to matters such as size, scale, colour, hard copy, number of copies, electronic format and file format;
  - (b) the manner of submission and communication with the Municipality;
  - (c) the method by which a person may be notified;
  - (d) other information requirements; and
  - (e) other procedural requirements.

### **Procedures for applications**

- 36.** (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) An applicant may apply simultaneously for different types of applications for land development in terms of section 15(2).

### **Pre-application consultation**

- 37.** (1) The Municipality may require an owner of land who intends to submit an application or his or her agent to meet with the authorised employee and, where applicable, with employees of other relevant organs of state for a pre-application consultation before he or she submits an application to the Municipality in order to determine the information and documents that must be submitted with the application.
- (2) The Municipality may issue guidelines regarding—
- (a) applications that require a pre-application consultation;
  - (b) the nature of the information and documents that must be submitted with an application;
  - (c) the attendance of employees from the Municipality or other organs of state at a pre-application consultation; and
  - (d) the procedures at a pre-application consultation.
- (3) The Municipality must keep minutes of the proceedings of a pre-application consultation.

**Information required**

- 38.** (1) Subject to subsection (2), an application must be accompanied by the following information and documents:
- (a) an application form provided by the Municipality, 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, closed corporation, trust, body corporate or owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or owners' association;
  - (d) proof of registered ownership or any other relevant right held in the land concerned;
  - (e) the relevant bondholder's consent if any;
  - (f) a written motivation for the application based on the criteria referred to in section 65;
  - (g) a copy of the Surveyor-General's diagram of the property concerned or, if it does not exist, an extract from the relevant general plan;
  - (h) a locality plan and site development plan, if required, or a plan showing the proposed land development in its cadastral context;
  - (i) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following:
    - (i) the location of the proposed land units;
    - (ii) the proposed zonings in respect of the proposed land units;
    - (iii) all existing structures on the property;
    - (iv) the proposed public places and the land needed for public purposes;
    - (v) the existing access points;
    - (vi) all servitudes;
    - (vii) contours with at least a one-meter interval or such other interval as may be approved by the Municipality;
    - (viii) the street furniture;

- (ix) the lamp, electricity and telephone posts;
  - (x) the electricity transformers and mini-substations;
  - (xi) the storm-water channels and catchpits;
  - (xii) the sewerage lines and connection points;
  - (xiii) any significant natural features; and
  - (xiv) all distances and areas to scale;
- (j) proof of an agreement or permission if the proposed land development requires a servitude over land or access to a provincial or national road;
  - (k) any other documents or information that the Municipality may require;
  - (l) proof of payment of application fees;
  - (m) a copy of the title deed of the land concerned;
  - (n) a conveyancer's certificate indicating that the application is not restricted by any condition contained in the title deed pertaining to the application property or a copy of all historical title deeds; and
  - (o) where applicable, the minutes of a pre-application consultation in respect of the application.
- (2) The Municipality may at a pre-application consultation add or remove any information or documents contemplated in subsection (1) for a particular application.
  - (3) The Municipality may issue guidelines regarding the submission of information, documents or procedural requirements.

#### **Application fees**

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

#### **Grounds for refusing to accept application**

- 40. The Municipality may refuse to accept an application if—
  - (a) there is no proof of payment of the applicable fees; or
  - (b) the application is not in the form or does not contain the information or documents referred to in section 38.

### **Receipt of application and commencement of application process**

- 41.** (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;
  - (b) verify whether the application complies with section 38; and
  - (c) notify the applicant in writing within fourteen days of receipt of the application—
    - (i) that the application is complete and complies with section 38 and that the application process commences; or
    - (ii) of any information, documents or fees referred to in section 38 that are outstanding and that the applicant must provide to the Municipality within 14 days of the date of notification.
- (2) The Municipality must within fourteen days of receipt of the outstanding information, documents or fees referred to in subsection (1)(c)(ii) notify the applicant in writing that the application is complete and that the application process commences.
- (3) The Municipality may refuse to consider the application if the applicant fails to provide the information or documents or pay the fees within the period contemplated in subsection (1)(c)(ii).
- (4) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (3) and must close the application.
- (5) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (3) to refuse to consider an application.
- (6) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must apply again and pay the applicable application fees.
- (7) The municipality must cause notice of the application to be given within 21 days from date on which the application process commences as contemplated in subsection (1)(c)(i) or (2).

**Provision of additional information or documents**

42. (1) The Municipality must, within 30 days of receipt of an application that complies with section 38, notify the applicant in writing of any information or documents it requires in addition to the requirements contemplated in section 38.
- (2) The applicant must provide the Municipality with the additional information or documents contemplated in subsection (1) within 30 days of the date of notification or within the further period agreed to between the applicant and the Municipality.
- (3) If the applicant fails to provide the additional information or documents within the period contemplated in subsection (2), the Municipality must consider the application without the information or documents and notify the applicant accordingly.
- (4) The Municipality must, within 21 days of receipt of the additional information or documents, if the applicant provided all the required information or documents, acknowledge receipt thereof and notify the applicant in writing that the application process proceeds or that further information, documents or fees are required as a result of the information or documents received.
- (5) If the Municipality notified the applicant that further information or documents are required as contemplated in subsection (4), subsections (2) and (3) apply to the further submission of information or documents.

**Withdrawal of application or power of attorney**

43. (1) An applicant may, at any time before the Municipality makes a decision on an application submitted by the applicant, withdraw the application by giving written notice of the withdrawal to the Municipality.
- (2) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney given to his or her former agent and confirm whether he or she will personally proceed with the application.

**Public notice in accordance with other laws and integrated procedures**

44. (1) The Municipality may, on written request and motivation by an applicant, before notice is given of an application in terms of section 45 or 46, 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 the application given 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 the 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.

### **Publication of notices**

- 45.** (1) Subject to section 44, the Municipality must, in accordance with subsection (2), cause public notice to be given of the following applications:
- (a) an application for a rezoning or a rezoning on the initiative of the Municipality;
  - (b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in the municipal spatial development framework;
  - (c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in the municipal spatial development framework;
  - (d) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
  - (e) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
  - (f) the closure of a public place;
  - (g) an application in respect of a restrictive condition;
  - (h) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Public notice of an application referred to in subsection (1) must be given by—
- (a) publishing a notice with the contents contemplated in section 47 in newspapers with a general circulation in the area concerned in at least two of the official languages of the Province most spoken in the area concerned;



- (b) if there is no newspaper with a general circulation in the area, posting a notice with the contents contemplated in section 47, 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; and
  - (c) publishing a notice with the contents contemplated in section 47 on the Municipality's website.
- (3) The Municipality may require the applicant to attend to the publication as contemplated in subsection (2) of the public notice of an application.
- (4) An applicant who publishes a notice in terms of this section must within the period determined by the Municipality of publication of the notice provide the Municipality with proof, as determined by the Municipality that the notice was published in accordance with this section.
- (5) When the Municipality intends to conduct development or an activity contemplated in subsection (1)(a) to (h) it must cause a notice contemplated in subsection (2) to be published.

### **Serving of notices**

- 46.** (1) The Municipality must cause a notice with the contents contemplated in section 47 to be served of at least the following applications:
- (a) an application referred to in section 45(1);
  - (b) a determination of a zoning contemplated in section 13;
  - (c) an application for subdivision, amendment or cancellation of a subdivision contemplated in section 15(2)(d) and (k) respectively;
  - (d) an application for consolidation contemplated in section 15(2)(e);
  - (e) the amendment, deletion or imposition of a condition contemplated in section 15(2)(h).
- (2) A notice contemplated in subsection (1) must be served—
- (a) in accordance with section 35;
  - (b) in at least two of the official languages of the Province most spoken in the area concerned;

- (c) on each person whose rights or legitimate expectations may be affected by the approval of the application; and
  - (d) on every owner of land adjoining the land concerned.
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law and that is not listed in subsection (1).
- (4) The Municipality may require the applicant to attend to the serving of a notice as contemplated in subsection (2).
- (5) An applicant who serves a notice in terms of this section must within the period determined by the Municipality of the service of that notice provide the Municipality with proof, as determined by the Municipality, of the service of the notice in accordance with subsection (2).
- (6) The Municipality may require the applicant to make the application available for inspection by members of the public at a public place determined by the Municipality.
- (7) When the municipality intends to conduct development or an activity contemplated in subsection (1)(a) to (e) it must cause a notice to be served as contemplated in subsection (2).

#### **Contents of notice**

- 47.** When notice of an application must be published or served in terms of this By-law, the notice must—
- (a) provide the name and contact details of the applicant and the owner;
  - (b) identify the land or land unit to which the application relates by giving the property description and the physical address;
  - (c) state the intent and purpose of the application;
  - (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
  - (e) state the name and contact details of the person to whom comments must be addressed;
  - (f) invite members of the public to submit written comments, together with the reasons therefor, in respect of the application;
  - (g) state in which manner comments may be submitted;

- (h) state the date by which the comments must be submitted, which date may not be less than 30 days from the date on which the notice was given; and
- (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 comments.

#### **Other methods of public notice**

- 48.** (1) The Municipality may, cause public notice to be given by one or more of the methods referred to in subsection (2)—
- (a) to ensure additional public notice of applications listed in sections 45(1) if the Municipality considers notice in accordance with sections 45 or 46 to be ineffective or expects that the notice would be ineffective; or
  - (b) to give public notice of any other application in terms of this By-law.
- (2) Public notice contemplated in subsection (1) may be given by—
- (a) displaying a notice contemplated in section 47 of a size of at least 60 centimetres by 42 centimetres on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
    - (i) the notice is displayed for a minimum of 30 days during any period that the public may comment on the application; and
    - (ii) the applicant, within 30 days from the last day of display of the notice, submits to the Municipality—
      - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
      - (bb) at least two photos of the notice, one from close up and one from across the street;
  - (b) convening a meeting for the purpose of informing 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 affected members of the public of the application;
  - (e) publishing the application on the Municipality's website for the duration of the period within which the public may comment on the application; or
  - (f) obtaining letters of consent or objection to the application, provided that the letters are accompanied by acceptable evidence that the person signing the letter has been provided with correct and adequate information about the application.
- (3) Additional public notice can be given simultaneously with notice given in accordance with sections 45 or 46 or thereafter.
  - (4) The Municipality may require the applicant to attend to the publication of a notice as contemplated in subsection (2).
  - (5) An applicant who gives notice in terms of this section must within the period determined by the Municipality of giving notice provide the Municipality with proof, as determined by the Municipality that notice has been given in accordance with subsection (2).

#### **Requirements for petitions**

- 49. (1) Comments in respect of an application submitted by the public in the form of a petition 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 comments and reasons therefor.
- (2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

#### **Requirements for the submission of comments**

- 50. (1) A person may respond to a notice contemplated in section 44, 45, 46 or 48 by commenting in writing in accordance with this section.
- (2) Any comment made 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 period stated in the notice and in the manner set out in this section.

- (3) The comments must state the following:
  - (a) the name of the person concerned;
  - (b) the address or contact details at which the person or body concerned will receive notice or service of documents;
  - (c) the interest of the person in the application; and
  - (d) the reason for the comments.
- (4) The reasons for any comment must be set out in sufficient detail in order to—
  - (a) indicate the facts and circumstances that explain the comments;
  - (b) where relevant demonstrate the undesirable effect the application will have if approved;
  - (c) where relevant demonstrate any aspect of the application that is not considered consistent with applicable policy; and
  - (d) enable the applicant to respond to the comments.
- (5) The Municipality may refuse to accept comments submitted after the closing date.

#### **Intergovernmental participation process**

- 51.** (1) Subject to section 44, the Municipality must, simultaneously with the notification to the applicant that an application is complete as contemplated in section 41(1)(c)(i) or (2) cause notice of the application together with a copy of the application concerned to be given to every municipal department and organ of state that has an interest in the application and request their comment on the application.
- (2) An organ of state must submit written comment on an application to the Municipal manager within 60 days of receiving a request therefor.

#### **Amendments before approval**

- 52.** (1) An applicant may amend his or her application at any time before the approval of the application—
- (a) at the applicant's own initiative;

- (b) as a result of a comment submitted during the notice process;  
or
  - (c) at the request of the Municipality.
- (2) If an amendment to an application is material, the Municipality must give notice of the amendment of an application to all municipal departments and other organs of state and service providers who commented on the application and request them to submit comments on the amended application within 21 days of the date of notification.
- (3) If an amendment to an application is material, the Municipality may require that further notice of the application be published or served in terms of section 44, 45, 46 or 48.

#### **Further public notice**

- 53.
- (1) The Municipality may require that notice of an application be given again if more than 18 months have 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 if new information comes to its attention that is material to the consideration of the application, require—
    - (a) notice of an application to be given or served again in terms of section 44, 45, 46 or 48; and
    - (b) an application to be re-sent to municipal departments, other organs of state or service providers for comment.

#### **Liability for cost of notice**

54. The applicant is liable for the costs of publishing and serving notice of an application in terms of section 44, 45, 46, 48, 52 or 53.

#### **Right of applicant to reply**

- 55.
- (1) Copies of all comments and other information 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 his or her rights in terms of this section.
  - (2) The applicant may, within 30 days from the date on which he or she received the comments, submit a written reply thereto to the Municipality.

- (3) The applicant may, before the expiry of the period of 30 days referred to in subsection (2), apply to the Municipality for an extension of the period to submit a written reply, to an additional period not exceeding 14 days.
- (4) If the applicant does not submit a reply within the period of 30 days or within an additional period contemplated in subsection (3) if granted, the applicant is considered to have no comment.
- (5) If the Municipality requires additional information from the applicant as a result of the comments received, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the additional information within the period contemplated in subsection (5), section 42(3), read with the necessary changes, applies.

#### **Written assessment of application**

- 56.
- (1) An authorised employee must in writing assess an application in accordance with section 65 and make a recommendation to the decision-maker regarding the approval or refusal of the application.
  - (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

#### **Decision-making period**

- 57.
- (1) If the power to make a decision in respect of an application is delegated to an authorised employee and no integrated process in terms of another law is being followed, the authorised employee must decide on the application within 60 days, reckoned from—
    - (a) the last day for the submission of comments as contemplated in section 50(2) if no comments were submitted;
    - (b) the last day for the submission of the applicant's reply to comments submitted as contemplated in section 55(2) or (3); or
    - (c) the last day for the submission of additional information as contemplated in section 55(5).
  - (2) If the power to make a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Tribunal must decide on the application within 120 days, reckoned from the applicable date contemplated in subsection (1)(a) to (c).

- (3) The authorised employee or Tribunal, as the case may be, may extend the period contemplated in subsection (1) or (2) in exceptional circumstances including the following:
- (a) if an interested person has submitted a petition for intervener status;
  - (b) in the case of the Tribunal, if an oral hearing is to be held.

#### **Failure to act within period**

58. Subject to section 41(5), an applicant may lodge an appeal with the Appeal Authority if the authorised employee or the Tribunal fails to decide on an application within the period referred to in section 57(1) or (2).

#### **Powers to conduct routine inspections**

59. (1) An authorised employee or the Tribunal may, in accordance with the requirements of this section, enter land or a building to conduct an inspection for the purpose of obtaining information to assess an application in terms of this By-law and to prepare a written assessment contemplated in section 56.
- (2) When conducting an inspection, the authorised employee may—
- (a) request that any record, document or item be produced to assist in the inspection;
  - (b) make copies of or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
  - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
  - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with a person referred to in subsection (1) who is conducting an inspection as contemplated in subsection (1).
- (4) The authorised employee or member of the Tribunal must, on request, produce identification showing that he or she is authorised to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.



### **Decisions on applications**

- 60.** An employee authorised by virtue of section 69, or the Tribunal, as the case may be, may in respect of an application contemplated in section 15(2)—
- (a) approve, in whole or in part, or refuse that application;
  - (b) upon the approval of that application, impose conditions in terms of section 66;
  - (c) conduct any necessary inspection to assess an application in terms of section 59;
  - (d) in the case of the Tribunal, appoint a technical adviser to advise or assist in the performance of the Tribunal's functions in terms of this By-law.

### **Notification and coming into operation of decision**

- 61.**
- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision of the decision, the reasons for the decision and their right to appeal, if applicable.
  - (2) A notice contemplated in subsection (1) must inform an applicant when an approval comes into operation.
  - (3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.
  - (4) An approval comes into operation only after the expiry of the period contemplated in section 79(2) within which an appeal must be lodged if no appeal has been lodged.
  - (5) Subject to subsection (6), the operation of the approval of an application that is the subject of an appeal is suspended pending the decision of the Appeal Authority on the appeal.
  - (6) If an appeal is lodged only against conditions imposed in terms of section 66, the Tribunal or the authorised employee who imposed the conditions may determine that the approval of the application is not suspended.

**Duties of agent**

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

**Errors and omissions**

63. (1) The Municipality may at any time correct an error in the wording of its decision if the correction does not change the decision or result in an alteration, insertion, 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, if the condonation does not have a material adverse effect on, or unreasonably prejudice, any party.

**Exemptions to facilitate expedited procedures**

64. (1) The Municipality may in writing and subject to section 60 of the Land Use Planning Act—
- (a) exempt a development from compliance with a provision of this By-law to reduce the financial or administrative burden of—
- (i) integrated application processes contemplated in section 44;
- (ii) the provision of housing with the assistance of a state subsidy; or
- (iii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law.
- (2) If the Provincial Minister grants an exemption or authorisation to deviate from a provision of the Land Use Planning Act to the Municipality in terms of section 60 of the Land Use Planning Act, the Municipality is exempted from or authorised to deviate from any provision in this By-law that corresponds to the provision of the Land Use Planning Act in respect of which an exemption was granted or deviation was authorised.

## CHAPTER V

### CRITERIA FOR DECISION-MAKING

#### General criteria for consideration of applications

65. (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 utilisation of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;
  - (d) the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;
  - (e) the response by the applicant, if any, to the comments 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 registered planner's written assessment in respect of an application for—
    - (i) a rezoning;
    - (ii) a subdivision of more than 20 cadastral units;
    - (iii) a removal, suspension or amendment of a restrictive condition if it relates to a change of land use;
    - (iv) an amendment, deletion or imposition of additional conditions in respect of an existing use right;
    - (v) an approval of an overlay zone contemplated in the zoning scheme;
    - (vi) a phasing, amendment or cancellation of a subdivision plan or part thereof;
    - (vii) a determination of a zoning;
    - (viii) a closure of a public place or part thereof;
  - (h) the impact of the proposed land development on municipal engineering services;

- (i) the integrated development plan, including the municipal spatial development framework;
  - (j) the integrated development plan and spatial development framework of the district municipality, where applicable;
  - (k) the applicable local spatial development frameworks adopted by the Municipality;
  - (l) the applicable structure plans;
  - (m) the applicable policies of the Municipality that guide decision-making;
  - (n) the provincial spatial development framework;
  - (o) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act or provincial regional spatial development framework;
  - (p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;
  - (q) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
  - (r) the principles referred to in Chapter VI of the Land Use Planning Act; and
  - (s) the applicable provisions of the zoning scheme.
- (2) Where required in terms of applicable development parameters or conditions of approval, the Municipality must approve a site development plan if the site development plan—
- (a) is consistent with the development rules of the zoning;
  - (b) is consistent with the development rules of an overlay zone, if applicable;
  - (c) complies with the conditions of approval; and
  - (d) complies with this By-law.

### **Conditions of approval**

66. (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.

- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) the provision of engineering services and infrastructure;
  - (b) requirements relating to engineering services as contemplated in sections 82 and 83;
  - (c) the cession of land or the payment of money;
  - (d) settlement restructuring;
  - (e) agricultural or heritage resource conservation;
  - (f) biodiversity conservation and management;
  - (g) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
  - (h) energy efficiency;
  - (i) requirements aimed at addressing climate change;
  - (j) the establishment of an owners' association in respect of the approval of a subdivision;
  - (k) the provision of land needed by other organs of state;
  - (l) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the Municipality;
  - (m) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
  - (n) 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;
  - (o) the registration of public places in the name of the Municipality;
  - (p) the transfer of ownership to the Municipality of land needed for other public purposes;
  - (q) the implementation of a subdivision in phases;
  - (r) requirements of other organs of state;
  - (s) the submission of a construction management plan to manage the impact of the construction of a new building on the surrounding properties or on the environment;
  - (t) agreements to be entered into in respect of certain conditions;

- (u) the phasing of a development, including lapsing clauses relating to such phasing;
  - (v) the delimitation of development parameters or land uses that are set for a particular zoning;
  - (w) the setting of a validity period and any extensions thereto;
  - (x) the setting of a period within which a particular condition must be met;
  - (y) requirements for an occasional use, which must include—
    - (i) parking and the number of ablution facilities required;
    - (ii) the maximum duration or occurrence of the occasional use; and
    - (iii) parameters relating to a consent use in terms of the zoning scheme;
  - (z) the payment of a contravention levy in respect of the unlawful utilisation of land.
- (3) If the Municipality imposes a condition contemplated in subsection (2)(a) or (b), 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)(c) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the Municipality in accordance with section 83(7) and any other applicable provincial norms and standards.
- (5) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
  - (b) nature conservation;
  - (c) energy conservation;
  - (d) climate change; or
  - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be

acquired subject to the 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 Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), and that exists immediately before the commencement of this By-law is regarded as an owners' association that came into being by virtue of a condition imposed by the Municipality in accordance with this By-law.
- (8) The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.
- (9) Conditions requiring a standard to be met must specifically refer to an approved or published standard.
- (10) No conditions may be imposed that rely on a third party for fulfilment.
- (11) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (12) The Municipality may, on its own initiative in terms of section 15(6) or on application in terms of section 15(2), amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.

## **CHAPTER VI**

### **EXTENSION OF VALIDITY PERIOD OF APPROVALS**

#### **Applications for extension of validity period**

- 67.**
- (1) Subject to section 43(2) of the Spatial Planning and Land Use Management Act, the Municipality may approve an application for the extension of a validity period imposed in terms of a condition of approval, 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;
    - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval have materially changed; and

- (c) whether there is a pending review application in court which may have an effect on the date of implementation of the approval.
- (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 15(2)(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 reckoned from the expiry date of the validity period applicable to the original approval or from the expiry date of the previously extended validity period approved in terms of this By-law.

## **CHAPTER VII**

### **MUNICIPAL PLANNING DECISION-MAKING STRUCTURES**

#### **Municipal planning decision-making structures**

- 68.** Applications are decided by—
- (a) an authorised employee who has been authorised by the Municipality to consider and determine the applications contemplated in subsection 69(1);
  - (b) the Tribunal, where the powers and duties to consider and determine an application have not been delegated to an authorised employee contemplated in section 69(2); or
  - (c) the Appeal Authority where an appeal has been lodged against a decision of the authorised employee or the Tribunal.

#### **Consideration of applications**

- 69.**
- (1) The Municipality may categorise applications for consideration and determination by an authorised employee and must delegate the powers and duties to decide on those applications to that authorised employee.
  - (2) The Tribunal considers and determines all applications, other than those in respect of which the powers and duties to consider and determine them have been assigned and delegated to an authorised employee in terms of subsection (1).



### **Establishment of Tribunal**

- 70.** (1) The Municipality must—
- (a) establish a Municipal Planning Tribunal for its municipal area;
  - (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 provide for—
- (a) the composition of the Tribunal;
  - (b) the terms and conditions of appointment of members of the Tribunal;
  - (c) the determination of rules and procedures at meetings of the Tribunal; and
  - (d) other matters as may be prescribed in terms of the Spatial Planning and Land Use Management Act.

### **Composition of Tribunal for municipal area**

- 71.** (1) A Tribunal established in terms of subsection 70(1)(a) must consist of at least the following members appointed by the Council:
- (a) three employees in the full-time service of the Municipality; and
  - (b) two persons who are not employees of the Municipality or councillors.
- (2) The members of the Tribunal must have knowledge and experience of land use planning or the law related thereto and be representative of a broad range of appropriate experience and expertise.
- (3) A member of the Tribunal appointed in terms of subsection (1)(b) may be-
- (a) an official or employee of-
    - (i) any department of state or administration in the national or provincial sphere of government;
    - (ii) a government business enterprise;
    - (iii) a public entity;

- (iv) organised local government as envisaged in the Constitution;
  - (v) an organisation created by government to provide municipal support;
  - (vi) a non-governmental organisation; and
  - (vii) any other organ of state not provided for in subparagraph (i) to (iv); or
- (b) an individual in his or her own capacity.

### **Process for appointment of members for Tribunal for municipal area**

- 72.** (1) The members of the Tribunal referred to in section 71(1)(b) may be appointed by the Council only after the Municipality has—
- (a) in the case of an official or employee contemplated in section 71(3)(a), extended a written invitation to nominate an official or employee to serve on the Tribunal to the departments in the national and provincial spheres of government, other organs of state and organisations referred to in section 71(3)(a); and
  - (b) in the case of member contemplated in 71(3)(b), by notice in a newspaper in circulation in the municipal area, invited interested parties to submit, within the period stated in the notice, names of persons who meet the requirements to be so appointed.
- (2) An invitation for nominations must—
- (a) request sufficient information to enable the Municipality to evaluate the knowledge and experience of the nominee;
  - (b) request a written nomination in the form that the Municipality determines that complies with subsection (3).
- (3) A nomination in response to an invitation must—
- (a) permit self-nomination or provide for acceptance of the nomination by the nominee;
  - (b) include confirmation by the nominee that he or she is not disqualified from serving as a member in terms of section 74;
  - (c) include agreement by the nominee that the Municipality may verify all the information provided by the nominee;

- (d) include a statement that the nominee will be obliged to commit to and uphold a code of conduct if her or she is appointed; and
  - (e) provide for a closing date for nominations which date may be no less than 14 days from the date of publication of the invitation in terms of subsection(1)(b) or the written invitation in terms of subsection (1)(a) and no nominations submitted after that date may be considered by the Municipality.
- (4) If no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and skills or comply with any additional criteria which may have been determined by the Municipality, the Municipality must invite nominations for a second time and follow the process required for the invitation for nominations referred to in this section.
- (5) If after the second invitation for nominations, no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and skills or comply with any additional criteria which may have been determined by the Municipality, the executive authority of the Municipality must designate persons who possess the requisite knowledge and skills and comply with any additional criteria which may have been determined by the Municipality and appoint the persons.
- (6) Nominations submitted to the Municipality by virtue of subsection (1) must be submitted in writing in the form determined by the Municipality and must contain the contents referred to in subsection. (3).
- (7) The Municipality must convene an evaluation panel consisting of officials in the employ of the Municipality to evaluate nominations that comply with this section as received by the Municipality and must determine the terms of reference of that evaluation panel.
- (8) The Council must appoint the members of the Tribunal after having regard to—
  - (a) the recommendations of the evaluation panel;
  - (b) the knowledge and experience of candidates in respect of land use planning or the law related thereto;
  - (c) the requirement that the members of the Tribunal must be representative of a broad range of appropriate experience and expertise;
  - (d) the powers and duties of the Tribunal; and

- (e) the policy of the Municipality in respect of the promotion of persons previously disadvantaged by unfair discrimination.
- (9) The Council may not appoint a person to the Tribunal if that person—
  - (a) was not nominated in accordance with the provisions of this section;
  - (b) is disqualified from appointment as contemplated in section 74; or
  - (c) if he or she does not possess the knowledge or experience required in terms of section 71(2).
- (10) The Council must designate from among the members of the Tribunal—
  - (a) the chairperson of the Tribunal; and
  - (b) another member as deputy chairperson, to act as chairperson of the Tribunal when the chairperson is absent or unable to perform his or her duties.
- (11) The Municipal Manager must—
  - (a) inform the members in writing of their appointment;
  - (b) obtain written confirmation from the Council that the Council is satisfied that the Tribunal is in a position to commence its operations; and
  - (c) after receipt of the confirmation referred to in paragraph (a), publish a notice in the *Provincial Gazette* of the following:
    - (i) the name of each member of the Tribunal;
    - (ii) the date on which the appointment of each member takes effect;
    - (iii) the term of office of each member; and
    - (iv) the date that the Tribunal will commence its operation.
- (12) The Tribunal may commence its operations only after publication of the notice contemplated in subsection (11)(c).

**Term of office and conditions of service of members of Tribunal for municipal area**

- 73.** (1) A member of a Tribunal contemplated in section 70(1)(a)—
- (a) is appointed for five years or a shorter period as the Municipality may determine; and
  - (b) may be appointed for further terms, subject to section 37(1) of the Spatial Planning and Land Use Management Act.
- (2) The office of a member becomes vacant if—
- (a) the member is absent from two consecutive meetings of the Tribunal without the leave of the chairperson of the Tribunal;
  - (b) the member tenders his or her resignation in writing to the chairperson of the Tribunal;
  - (c) the member is removed from the 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 Tribunal if—
- (a) sufficient grounds exist for his or her removal;
  - (b) the member contravenes the code of conduct referred to in section 76;
  - (c) the member becomes subject to a disqualification from membership of the Tribunal as referred to in section 74.
- (4) A vacancy on the Tribunal must be filled by the Council in terms of section 71 and 72.
- (5) A member who is appointed by virtue of subsection (4) holds office for the unexpired part of the period for which the member he or she replaces was appointed.
- (6) Members of the Tribunal referred to in section 71(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 Council.
- (7) An official of the Municipality appointed in terms of section 71(1)(a) as a member of the Tribunal—
- (a) may only serve as member of the 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 Tribunal.
- (8) A person appointed in terms of section 71(1)(b) as a member of the Tribunal-
  - (a) is not an employee on the staff establishment of the Municipality;
  - (b) in the case of a person referred to in section 71(3)(a), 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 of the Tribunal;
  - (c) performs the specific tasks in respect of the consideration of an application allocated to him or her by the chairperson of the Tribunal;
  - (d) sits at such meetings of the Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Tribunal;
  - (e) in the case of a person referred to in section 71(3)(b), is entitled to a seating and travel allowance as determined by the Municipality for each meeting of the Tribunal that he or she is required to attend; and
  - (f) in the case of a person referred to in section 71(3)(b), is not entitled to overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, a performance bonus, medical scheme contribution, pension, motor vehicle or any other benefit to which a municipal employee is entitled to.
- (9) The allowances referred to in subsection (8)(e) are subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Service.

#### **Disqualification from membership of Tribunal**

- 74.** (1) A person may not be appointed or continue to serve as a member of the Tribunal if that person—
- (a) is not a citizen or permanent resident of the Republic of South Africa;

- (b) is a member of Parliament, a provincial legislature, a municipal Council or a House of Traditional Leaders;
  - (c) is an unrehabilitated insolvent;
  - (d) has been declared by a court of law to be mentally incompetent or has been detained under the Mental Health Care Act, 2002 (Act 17 of 2002);
  - (e) has at any time been convicted of an offence involving dishonesty;
  - (f) has at any time been removed from an office of trust on account of misconduct;
  - (g) has previously been removed from a tribunal for a breach of the Spatial Planning and Land Use Management Act or this By-law;
  - (h) has been found guilty of misconduct, incapacity or incompetence; or
  - (i) fails to comply with the Spatial Planning and Land Use Management Act or this By-law.
- (2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).
- (3) A member of a Tribunal—
- (a) must make full disclosure of any conflict of interest, including any potential conflict; and
  - (b) may not attend, participate or vote in any proceedings of the Tribunal in relation to any matter in respect of which the member has a conflict of interest.
- (4) For the purposes of this section, a member has a conflict of interest if-
- (a) the member, a family member, partner or business associate of the member is the applicant or has a pecuniary or other interest in the matter before the Tribunal;
  - (b) the member has any other interest that may preclude or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner;

- (c) the member is an official in the employ of national, provincial or local government, if the department by which such an official is employed, has a direct or substantial interest in the outcome of the matter.
- (5) The Council may at any time remove any member of the Tribunal from office-
  - (a) if there are reasonable grounds justifying the removal; or
  - (b) where a member has been disqualified in terms of subsection (1), after giving such a member an opportunity to be heard.
- (6) If a member's appointment is terminated or the member resigns, the Council may appoint a person to fill the vacancy for the unexpired portion of the vacating member's term of office, in accordance with sections 71 and 72.

#### **Meetings of Tribunal for municipal area**

- 75.**
- (1) Subject to section 78, the Tribunal contemplated in section 70(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) the procedure at meetings; and
    - (c) the frequency of meetings.
  - (2) The Tribunal may constitute itself to comprise one or more panels to determine—
    - (a) applications in specific geographical areas;
    - (b) applications in specific areas within the Municipality; or
    - (c) a particular application or type or category of application.
  - (3) In this section, unless the context indicates otherwise, 'the Tribunal' includes a panel of the Tribunal contemplated in subsection (2).
  - (4) The Tribunal must meet at the time and place determined by the chairperson or in the case of a panel, the presiding officer provided that it must meet at least once per month if there is an application to consider.
  - (5) If the Tribunal constitutes itself to comprise a panel, the Tribunal must designate at least three members of the Tribunal to be members of that panel, of whom one must at least be a member contemplated in section 71(1)(b).



- (6) A quorum for a meeting of the Tribunal is the simple majority of its appointed members.
- (7) A quorum for a meeting of a panel of the Tribunal is—
  - (a) the greater of a simple majority of its designated members or
  - (b) three, if the panel consist of only three members.
- (8) Meetings of the Tribunal or a panel of the Tribunal must be held as contemplated in this section and section 78 in accordance with the rules of the Tribunal.

#### **Code of conduct for members of Tribunal for municipal area**

- 76.**
- (1) The code of conduct in Schedule 1 applies to every member of a Tribunal contemplated in section 71(1).
  - (2) If a member contravenes the code of conduct, the Council may—
    - (a) in the case of member contemplated in section 71(1)(a), institute disciplinary proceedings against the member;
    - (b) remove the member from office.

#### **Administrator for Tribunal for municipal area**

- 77.**
- (1) The Municipal Manager must appoint or designate an employee as the Administrator and other staff for the Tribunal contemplated in section 70(1)(a) in terms of the Municipal Systems Act.
  - (2) The Administrator must—
    - (a) liaise with the relevant Tribunal members and the parties concerned regarding any application filed with, or other proceedings of, the Tribunal;
    - (b) maintain a diary of meetings of the Tribunal;
    - (c) allocate a meeting date for, and application number to, an application;
    - (d) arrange the attendance of members of the Tribunal at meetings;
    - (e) arrange venues for Tribunal meetings;
    - (f) perform the administrative functions in connection with the proceedings of the Tribunal;

- (g) ensure that the proceedings of the Tribunal are conducted efficiently and in accordance with the directions of the chairperson of the Tribunal;
- (h) arrange the affairs of the Tribunal so as to ensure that time is available to liaise with other organs of state regarding the alignment of integrated applications and authorisations;
- (i) notify the parties concerned of decisions and procedural directives given by the Tribunal;
- (j) keep a record of all applications submitted to the Tribunal as well as the outcome of each, including—
  - (i) decisions of the Tribunal;
  - (ii) on-site inspections and any matter recorded as a result thereof;
  - (iii) reasons for decisions; and
  - (iv) proceedings of the Tribunal; and
- (k) keep records by any means as the Tribunal may deem expedient.

#### **Functioning of Tribunal for municipal area**

- 78.**
- (1) The meetings of the Tribunal contemplated in section 75(1)(a) must be held at the times and places as the chairperson may determine.
  - (2) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application, requests to make a verbal representation at a meeting of the Tribunal, he or she must submit a written request to the Administrator at least 14 days before that meeting.
  - (3) The Chairperson may approve a request contemplated in subsection (2), subject to reasonable conditions.
  - (4) An application may be considered by the Tribunal by means of—
    - (a) the consideration of the written application and comments; or
    - (b) an oral hearing.
  - (5) The application may be considered in terms of subsection (4)(a) if it appears to the Tribunal that the issues for determination of the application can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.

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

### **Appeals**

- 79.** (1) The executive authority (*executive committee/executive mayor of the municipality/ if the municipality does not have an executive committee or executive mayor, a committee of councillors*) is the Appeal Authority in respect of decisions of the Tribunal or an authorised employee contemplated in section 68(a) or (b) and a failure to decide on an application as contemplated in section 58.
- (2) A person whose rights are affected by a decision contemplated in subsection (1) may appeal in writing to the Appeal Authority within 21 days of notification of the decision.
- (3) An applicant may appeal in writing to the Appeal Authority in respect of the failure of the Tribunal or an authorised employee to make a decision within the period contemplated in section 57(1) or (2), any time after the expiry of the period contemplated in that section.
- (4) An appeal is lodged by serving the appeal on the Municipal Manager in the form determined by the Municipality and, in the case of an appeal contemplated in subsection(2), within the period contemplated in subsection (2).
- (5) When the Appeal Authority considers an appeal, it must have regard to-
- (a) the provisions of section 65(1), read with the necessary changes; and
  - (b) the comments of the Provincial Minister contemplated in section 52 of the Land Use Planning Act.

### **Procedure for appeal**

- 80.** (1) An appeal is invalid if-
- (a) in the case of an appeal contemplated in in section 79(2), it is not lodged within the period referred to in that section; and

- (b) it does not comply with this section.
- (2) An appeal must set out the following—
- (a) the grounds for the appeal, which may include the following grounds:
- (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
- (ii) grounds relating to the merits of the land development or land use application on which the appellant believes the Tribunal or authorised employee erred in coming to the conclusion that the Tribunal or authorised employee did, as the case may be.
- (b) whether the appeal is lodged against the whole decision or a part of the decision;
- (c) if the appeal is lodged against a part of the decision, a description of the part;
- (d) if the appeal is lodged against a condition of approval, a description of the condition;
- (e) the factual or legal findings that the appellant relies on;
- (f) the relief sought by the appellant;
- (g) any issue that the appellant wishes the Appeal Authority to consider in making its decision; and
- (h) in the case of an appeal in respect of the failure of a decision-maker to make a decision, the facts that prove the failure.
- (3) An applicant who lodges an appeal must submit proof of payment of appeal fees as may be determined by the Municipality to the Municipal Manager.
- (4) An applicant who lodges an appeal must simultaneously serve notice of the appeal on any person who commented on the application concerned and any other person as the Municipality may determine.
- (5) The notice must be served in accordance with section 35.
- (6) The notice contemplated in subsection (5) must invite persons to comment on the appeal within 21 days of being notified of the appeal.

- (7) The appellant must submit proof of service of the notice as contemplated in subsection (5) to the Municipal Manager within 14 days of the date of notification.
- (8) If a person other than the applicant lodges an appeal, the Municipal Manager must give written notice of the appeal to the applicant within 14 days of receipt thereof.
- (9) An applicant who has received notice of an appeal in terms of subsection (8) may submit comment on the appeal to the Municipality within 21 days of being notified.
- (10) The Municipality may refuse to accept any comments on an appeal after the closing date for those comments.
- (11) The Municipal Manager-
  - (a) may request the Provincial Minister within 14 days of the receipt of an appeal to comment in writing on the appeal within 60 days of receipt of the request;
  - (b) must notify and request the Provincial Minister within 14 days of the receipt of an appeal to comment on the appeal within 60 days of receipt of the request in respect of appeals relating to the following applications:
    - (i) a development outside the Municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;
    - (ii) if the Municipality has no approved municipal spatial development framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area;
    - (iii) a rezoning of land zoned for agricultural or conservation purposes;
    - (iv) any category of land use applications as may be prescribed by the Provincial Minister; and
  - (c) must 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.
- (12) An authorised employee must draft a report assessing an appeal and must submit it to the Municipal Manager within-
  - (a) 30 days of the closing date for comment requested in terms of subsections (6) and (9), if no comment was requested in terms of subsection (11); or

- (b) 30 days of the closing date for comments requested in terms of subsection (11).
- (13) The Municipal Manager must within 14 days of receiving the report contemplated in subsection (12) submit the appeal to the Appeal Authority.
- (14) The Municipal Manager or an employee designated by him or her must-
  - (a) liaise with the Appeal Authority and the parties concerned regarding any appeal lodged with the Appeal Authority;
  - (b) maintain a diary of meetings of the Appeal Authority;
  - (c) allocate a meeting date for, and appeal number to, an appeal;
  - (d) arrange the attendance of members of the Appeal Authority at meetings;
  - (e) arrange venues for the Appeal Authority;
  - (f) perform the administrative functions in connection with the proceedings of the Appeal Authority;
  - (g) ensure that the proceedings of the Appeal Authority are conducted efficiently and in accordance with the directions of the Appeal Authority;
  - (h) arrange the affairs of the Appeal Authority so as to ensure that time is available to liaise with other organs of state regarding the alignment of integrated appeal procedures;
  - (i) notify the parties concerned of decisions and procedural directives given by the Appeal Authority;
  - (j) keep a record of all appeals lodged as well as the outcome of each, including-
    - (i) decisions of the Appeal Authority;
    - (ii) on-site inspections and any matter recorded as a result thereof;
    - (iii) reasons for decisions; and
    - (iv) proceedings of the Appeal Authority; and

- (v) keep records by any means as the Appeal Authority may deem expedient.
- (15) An appellant may, at any time before the Appeal Authority makes a decision on an appeal submitted by the appellant, withdraw the appeal by giving written notice of the withdrawal to the Municipal Manager.
- (16) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney given to his or her former agent and confirm whether he or she will personally proceed with the appeal.

### **Consideration by Appeal Authority**

- 81.** (1) An appeal may be considered by the Appeal Authority by means of-
- (c) the consideration of the written appeal and comments; or
  - (d) an oral hearing.
- (2) The appeal may be considered in terms of subsection (1)(a) if it appears to the Appeal Authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.
- (3) An oral hearing may be held-
- (c) if it appears to the Appeal Authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
  - (d) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (4) If appropriate in the circumstances, the oral hearing may be held by electronic means.
- (5) If the Appeal Authority decides to hold an oral hearing, any party to the appeal proceedings may appear in person or may be represented by another person.

- (6) The Appeal Authority must ensure that every party to a proceeding before the Appeal Authority is given an opportunity to present his or her case, whether in writing or orally as contemplated in subsections (2) and (3) and, in particular, to inspect any documents to which the Appeal Authority proposes to have regard in reaching a decision in the proceeding and to make submissions in relation to those documents.
- (7) The Appeal Authority must-
- (a) consider and determine all appeals lawfully submitted to it;
  - (b) confirm, vary or revoke the decision of the Tribunal or authorised employee;
  - (c) provide reasons for any decision made by it;
  - (d) give directions relevant to its functions to the Municipality;
  - (e) keep a record of all its proceedings; and
  - (f) determine whether the appeal falls within its jurisdiction.
- (8) Subject to subsection (12), the Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report contemplated in section 80(13)
- (9) If the Appeal Authority revokes a decision of the Tribunal or authorised employee it may-
- (a) remit the matter to the Tribunal or authorised employee—
    - (i) if there was an error in the process that was is unfair and thath cannot be corrected by the Appeal Authority; and
    - (ii) with instructions regarding the correction of the error; or
  - (b) replace the decision with any decision it regards necessary.
- (10) The Appeal Authority may appoint a technical adviser to advise or assist it with regard to a matter forming part of the appeal.
- (11) The Appeal Authority must within 21 days from the date of its decision notify the parties to an appeal in writing of-
- (a) the decision and the reasons therefor; and



- (b) if the decision on an appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.
- (12) The Appeal Authority may extend the period contemplated in subsection (8) in exceptional circumstances including the following:
  - (a) if an interested person has submitted a petition for intervener status;
  - (b) if an oral hearing is to be held.

## **CHAPTER VIII**

### **PROVISION OF ENGINEERING SERVICES**

#### **Responsibility for provision of engineering services**

- 82.**
- (1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development once an application is approved.
  - (2) The Municipality is responsible for the provision and installation of external engineering services.
  - (3) If the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.
  - (4) The Municipality may enter into a written agreement with an applicant to provide that—
    - (a) the applicant is responsible for the provision, installation and costs of external engineering;
    - (b) services and that the fair and reasonable costs of the external engineering services may be set off against the development charges payable by the applicant.

#### **Development charges**

- 83.**
- (1) The applicant must pay development charges to the Municipality in respect of the provision and installation of external engineering services.
  - (2) These external engineering services for which development charges are payable must be set out in a policy adopted and annually reviewed by the Municipality.
  - (3) The amount of the development charges payable by an applicant must be calculated in accordance with the policy adopted by the Municipality.

- (4) The date by which 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 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 section 66(4) and (5), the Municipality must have regard to provincial norms and standards as well as—
  - (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 section 66(4) paid in the past by the owner of the land concerned; and
  - (e) money in respect of contributions contemplated in section 66(4) to be paid in the future by the owner of the land concerned.

#### **Land for parks, open spaces and other uses**

- 84.**
- (1) When the Municipality approves an application for the use of land for residential purposes, the Municipality may require the applicant 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 adopted by the Municipality.
  - (3) The land required for parks or public open spaces must be provided within the land area of the application or may, with the consent of the Municipality, be provided elsewhere within the municipal area.
  - (4) When an application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay money to the Municipality in lieu of the provision of land.

## CHAPTER IX ENFORCEMENT

### Enforcement

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

### Offences and penalties

- 86.** (1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she—
- (a) contravenes or fails to comply with sections 15(1) and (5), 20(1), 21(4), 31(1), 59(3), 62(2) or 88(2);
  - (b) utilises land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;
  - (c) upon registration of the first land unit arising from a subdivision, fails to transfer all common property arising from the subdivision to the owners' association;
  - (d) supplies particulars, information or answers in an application, or in an appeal against a decision on an application, or in any documentation or representation related to an application or an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct;
  - (e) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
  - (f) hinders or interferes with an authorised employee in the exercise of any power or the performance of any duty of that employee.

- (2) An owner who permits his or her land to be used in a manner set out in subsection (1)(b) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to contravene the zoning scheme, is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment.
- (3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.
- (4) The Municipality must adopt fines and contravention penalties to be imposed in the enforcement of this By-law.

### **Serving of compliance notices**

- 87.**
- (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 86.
  - (2) A compliance notice must instruct the occupier and owner to cease the unlawful utilisation of land or construction activity or both, without delay or within the period determined by the Municipality, and may include an instruction to—
    - (a) demolish, remove or alter any building, structure or work unlawfully erected or constructed or to rehabilitate the land or restore the building concerned to its original form or to cease the activity, as the case may be, within the period determined by the Municipal Manager;
    - (b) submit an application for the approval of the utilisation of the land 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 within 30 days after approval of the utilisation; or
    - (c) rectify the contravention of or non-compliance with a condition of approval within a specified period.
  - (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, remove or alter the building, structure or work unlawfully erected or constructed and rehabilitate the land or restore the building.
- (6) A person who received a compliance notice in terms of this section may object to the notice by submitting written representations to the Municipality within 30 days of receipt of the notice.

### **Contents of compliance notice**

- 88.** (1) A compliance notice must-
- (a) identify the person to whom it is addressed;
  - (b) describe the alleged unlawful utilisation of land or construction activity concerned and the land on which it is occurring or has occurred;
  - (c) state that the utilisation of land or construction activity is unlawful and inform the person of the particular offence contemplated in section 86 which that person allegedly has committed or is committing by the continuation of that activity on the land;
  - (d) state the steps that the person must take and the period within which those steps must be taken;
  - (e) state anything which the person may not do and the period during which the person may not do it;
  - (f) make provision for the person to submit representations in terms of section 89 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 86;
    - (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 unlawfully erected or constructed or to rehabilitate the land or restore the building concerned or to cease the activity;
  - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval may be withdrawn;
  - (v) in the case of an application for authorisation of the activity or development parameter, the contravention penalty in the amount as stated in the notice, including any costs incurred by the Municipality, may be imposed.
- (2) Any person on whom a compliance notice is served must comply with that notice within the period stated in the notice unless the person has objected to the notice in terms of section 89 and the Municipality has not decided on the matter in terms of that section or the Municipality has agreed to suspend the operation of the compliance notice in terms of section 89(2).

#### **Objections to compliance notice**

- 89.** (1) Any person or owner who receives a compliance notice in terms of section 87 may object to the notice by making written representations to the Municipality within 30 days of the date of notification.
- (2) After consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipality—
- (a) may suspend, confirm, vary or withdraw a compliance notice or any part of the compliance notice; and
  - (b) must specify the period within which the person to whom the compliance notice is addressed must comply with any part of the compliance notice that is confirmed or varied.

#### **Failure to comply with compliance notice**

- 90.** 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 utilisation of the land;

- (ii) directing that person to, without the payment of compensation—
  - (aa) demolish, remove or alter any building, structure or work unlawfully erected or constructed; or
  - (bb) rehabilitate the land concerned;
- (c) in the case of consent use or a temporary departure, withdraw the approval granted and act in terms of section 87.

### **Compliance certificates**

- 91.** (1) An authorised employee who is satisfied that the owner or occupier of any land or premises has complied with a compliance notice may issue a certificate, in the manner and form determined by the Municipality, to confirm the compliance.
- (2) The authorised employee must submit a report to the Municipality regarding his or her findings contemplated in subsection (1) and the issuing of a compliance certificate.

### **Urgent matters**

- 92.** (1) The Municipality does not have to comply with sections 87(6), 88(1)(f) and 89 in a case where an unlawful utilisation of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful utilisation of land immediately.
- (2) If the person or owner fails to cease the unlawful utilisation of land immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.

### **General powers and functions of authorised employees**

- 93.** (1) An authorised employee may, with the permission of the occupier or owner of land without a warrant and without previous notice, enter upon land or premises or enter a building at any reasonable time for the purpose of ensuring compliance with this By-law.
- (2) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of 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.

**Powers of entry, search and seizure**

- 94.** (1) In ensuring compliance with this By-law in terms of section 87, an authorised employee may-
- (a) question any person on land or premises entered upon or in a building entered, who, in the opinion of the authorised employee, may be able to provide information on a matter that relates to the enforcement of this By-law;
  - (b) question any person on that land or those premises or in that building about any act or omission in respect of which there is a reasonable suspicion that it constitutes-
    - (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, 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, 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 thereof or extracts therefrom;
  - (e) require that person to produce or deliver to a place specified by the authorised employee any document, book, record, written or electronic information referred to in paragraph (c) for inspection;
  - (f) examine that document, book, record, written or electronic information or make a copy thereof or an extract therefrom;
  - (g) require from that person an explanation of any entry in that document, book, record, 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 relevant to the purposes of the investigation; or
  - (j) seize a book, record, written or electronic information referred to in paragraph (c) or article, substance, plant or machinery referred to in paragraph (h) or a part or sample thereof that in his or her 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 that 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 or she 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.

#### **Warrant of entry for enforcement purposes**

- 95.**
- (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 premises or building if-
    - (a) the prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
    - (b) the purpose of the inspection would be frustrated by the occupier or owner's prior knowledge thereof.
  - (2) A warrant may be issued only if it appears to the Judge or Magistrate from information on oath that there are reasonable grounds for believing that-
    - (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
    - (b) an authorised employee will be refused entry to land or a building that he or she is entitled to inspect;
    - (c) an offence contemplated in section 86 is occurring or has occurred and an inspection of the premises is likely to yield information pertaining to that offence; or

- (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must authorise the Municipality to enter upon the land or premises or to enter the building to take any of the measures referred to in section 94 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 time, except where the warrant was issued on grounds of urgency.

#### **Regard to decency and order**

- 96.** The entry upon land or premises or in a building under this Chapter must be conducted with strict regard to decency and order, which must include regard to—
- (a) a person's right to respect for and protection of his or her dignity;
  - (b) the right to freedom and security of the person; and
  - (c) a person's right to personal privacy.

#### **Enforcement litigation**

- 97.** Whether or not the Municipality lays criminal charges against a person for an offence contemplated in section 86, and despite section 87, 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 unlawfully erected or constructed;
  - (b) rehabilitate the land concerned; or
  - (c) cease the unlawful utilisation of land.

## **CHAPTER X MISCELLANEOUS**

### **Naming and numbering of streets**

- 98.** (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 streets and must allocate a street number to each of the erven or land units located in such street or road.
- (2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies regarding street naming and numbering.
- (4) The Municipality must notify the Surveyor-General of the approval of new streets as a result of the approval of an amendment or cancellation of a subdivision in terms of section 23 and the Surveyor-General must endorse the records of the Surveyor-General's Office to reflect the amendment or cancellation of the street names on an approved general plan.

### **Repeal**

- 99.** The by-laws listed in Schedule 2 are repealed.

### **Short title and commencement**

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

## SCHEDULE 1

### CODE OF CONDUCT FOR MEMBERS OF TRIBUNAL

#### General conduct

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

#### Gifts

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

#### Undue influence

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

- (b) use confidential information acquired in the course of his or her duties to further a personal interest;
- (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial prejudice or damage to another person; and

commit a deliberately wrongful act that reflects adversely on the Tribunal, the Municipality, the government or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions of the Tribunal by improper means.

## SCHEDULE 2

### BY-LAWS REPEALED BY SECTION 99


# **VERORDENING OP GRONDGEBRUIKBEPLANNING VAN STELLENBOSCH MUNISIPALITEIT**

## **VOORWOORD**

AANGESIEN artikel 156(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996), aan munisipaliteite die uitvoerende gesag en reg op administrasie verleen van plaaslike regeringsaangeleenthede soos in Deel B van Bylae 4 en Deel B van Bylae 5 van die Grondwet uiteengesit;

AANGESIEN Deel B van Bylae 4 van die Grondwet munisipale beplanning as 'n plaaslike regeringsfunksie lys;

AANGESIEN artikel 156(2) van die Grondwet munisipaliteite bemaagtig om wette te maak en toe te pas vir die doeltreffende administrasie van aangeleenthede waarop hy die reg op administrasie het;

AANGESIEN die Parlement die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013), geïmplementeer het en die Provinsiale Wetgewer van die Wes-Kaap die Wet op Grondgebruikbeplanning (Wet 3 van 2014) geïmplementeer het, wat, onder andere, ontwikkelingsbeginsels neerlê wat van toepassing is op alle staatsorgane in beheer van die implementering van wetgewing om grondgebruik en –ontwikkeling te reguleer;

HET Stellenbosch Munisipaliteit daarom die volgende verordening aanvaar.

**Ten einde munisipale grondgebruikbeplanning te reguleer en te beheer.**

## **INDELING VAN ARTIKELS EN BYLAES**

### **HOOFSTUK I**

#### **UITLEG EN TOEPASSING**

1. Woordomskrywing
2. Toepassing van Verordening

### **HOOFSTUK II**

#### **RUIMTELIKE BEPLANNING**

3. Samestelling of wysiging van munisipale ruimtelike ontwikkelingsraamwerk
4. Instelling van projekomitee
5. Instelling van interregeringsloodskomitee
6. Prosedure met interregeringsloodskomitee

7. Prosedure sonder interregeringsloodskomitee
8. Werksaamhede en pligte
9. Plaaslike ruimtelike ontwikkelingsraamwerke
10. Samestelling, aanneming, wysiging of hersiening van plaaslike ruimtelike ontwikkelingsraamwerke
11. Status van plaaslike ruimtelike ontwikkelingsraamwerke
12. Struktuurplanne

### **HOOFSTUK III ONTWIKKELINGSBESTUUR**

13. Bepaling van sonering
14. Afwykende gebruike
15. Grondontwikkeling wat goedkeuring benodig
16. Voortsetting van aansoek na verandering van eienaarskap
17. Hersonering van grond
18. Afwykings
19. Vergunningsgebruike
20. Onderverdeling
21. Bevestiging van onderverdeling
22. Verval van onderverdeling
23. Wysiging of kansellering van onderverdelingsplan
24. Vrystelling van sekere onderverdelings en konsoliderings
25. Eienaarskap van openbare plekke en grond vir ingenieursdienste en maatskaplike fasiliteite
26. Sluiting van openbare plekke
27. Dienste wat uit onderverdelings voortspruit
28. Sertifisering deur Munisipaliteit
29. Eienaarsverenigings
30. Eienaarsverenigings wat ophou funksioneer
31. Konsolidering van grondeenhede
32. Verval van konsolidering
33. Opheffing, opskorting of wysiging van beperkende voorwaardes
34. Endossemente in verband met opheffing, opskorting of wysiging van beperkende voorwaardes

### **HOOFSTUK IV AANSOEKPROSEDURES**

35. Wyse en datum van kennisgewing
36. Prosedures vir aansoeke
37. Konsultasie voor aansoek
38. Vereiste inligting
39. Aansoekgelde
40. Gronde vir weiering om aansoek te aanvaar
41. Ontvangs van aansoek en begin van aansoekproses
42. Verskaffing van bykomende inligting of dokumente
43. Terugtrekking van aansoek of volmag
44. Openbare kennisgewing ooreenkomstig ander wette en geïntegreerde prosedures
45. Publisering van kennisgewings

46. Betekening van kennisgewings
47. Inhoud van kennisgewing
48. Ander metodes van openbare kennisgewing
49. Vereistes vir petisies
50. Vereistes vir indiening van kommentaar
51. Interregeringsdeelnameproses
52. Wysigings voor goedkeuring
53. Verdere openbare kennisgewing
54. Aanspreeklikheid vir koste van kennisgewing
55. Reg van aansoeker om te antwoord
56. Skriftelike evaluering van aansoek
57. Besluitnemingstydperk
58. Versuim om binne tydperk te handel
59. Bevoegdhede om roetine-ondersoeke uit te voer
60. Besluite oor aansoek
61. Kennisgewing en inwerkingtreding van besluit
62. Pligte van agent
63. Foute en weglatings
64. Vrytellings om bespoedigde prosedures te fasiliteer

#### **HOOFSTUK V**

##### **MAATSTAWWE VIR BESLUITNEMING**

65. Algemene maatstawwe vir oorweging van aansoeke
66. Voorwaardes van goedkeuring

#### **HOOFSTUK VI**

##### **VERLENGING VAN GELDIGHEIDSTYDPERK VAN GOEDKEURINGS**

67. Aansoeke om verlenging van geldigheidstydperk

#### **HOOFSTUK VII**

##### **BESLUITNEMINGSTRUKTURE VIR MUNISIPALE BEPLANNING**

68. Besluitnemingstrukture vir munisipale beplanning
69. Oorweging van aansoeke
70. Instelling van Tribunaal
71. Samestelling van Tribunaal vir munisipale gebied
72. Proses vir aanstelling van lede van Tribunaal vir munisipale gebied
73. Ampstermyn en diensvoorwaardes van lede van Tribunaal vir munisipale gebied
74. Diskwalifikasie van lidmaatskap van Tribunaal
75. Vergaderings van Tribunaal vir munisipale gebied
76. Gedragskode vir lede van Tribunaal vir munisipale gebied
77. Administrateur vir Tribunaal vir munisipale gebied
78. Funksionering van Tribunaal vir munisipale gebied
79. Appelle
80. Prosedures vir appèl
81. Oorweging deur Appèlgesag



**HOOFSTUK VIII****VERSKAFFING VAN INGENIEURSDIENSTE**

- 82. Verantwoordelikheid vir verskaffing van ingenieursdienste
- 83. Ontwikkelingsheffings
- 84. Grond vir parke, oop ruimtes en ander gebruike

**HOOFSTUK IX****AFDWINGING**

- 85. Afdwinging
- 86. Misdrywe en strawwe
- 87. Betekening van voldoeningskennisgewing
- 88. Inhoud van voldoeningskennisgewing
- 89. Besware teen voldoeningskennisgewing
- 90. Versuim om aan voldoeningskennisgewing te voldoen
- 91. Voldoeningsertifikaat
- 92. Dringende aangeleenthede
- 93. Algemene bevoegdhede en werksaamhede van gemagtigde werknemers
- 94. Bevoegdhede van betreding, deursoeking en beslaglegging
- 95. Lasbrief van betreding vir afdwingingsdoeleindes
- 96. Inagneming van behoorlikheid en orde
- 97. Afdwingingsgedingvoering

**HOOFSTUK X****DIVERSE BEPALINGS**

- 98. Naamgewing en nommering van strate
- 99. Herroeping
- 100. Kort titel en inwerkingtreding

**BYLAE 1****GEDRAGSKODE VIR LEDE VAN TRIBUNAAL****BYLAE 2****VERORDENINGE HERROEP BY ARTIKEL 99**

## HOOFSTUK I UITLEG EN TOEPASSING

### Woordomskrywing

1. In hierdie Verordening, tensy dit uit die samehang anders blyk, het enige woord of uitdrukking waaraan 'n betekenis geheg is in die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014), die betekenis daaraan geheg in daardie Wet en beteken—

“**aanneem**”, met betrekking tot 'n ruimtelike ontwikkelingsraamwerk, soneringskema, beleid of strategie, die goedkeuring daarvan deur 'n bevoegde gesag;

“**aansoek**” 'n aansoek by die Munisipaliteit bedoel in artikel 15(2);

“**aansoeker**” 'n persoon bedoel in artikel 15(2) wat aansoek doen by die Munisipaliteit soos beoog in daardie artikel;

“**afwykende gebruik**” 'n bestaande grondgebruik wat ingevolge 'n vorige soneringskema wettig was maar wat nie voldoen aan die soneringskema wat van krag is;

“**agent**” 'n persoon wat ingevolge 'n volmag gemagtig is om namens die eienaar van grond aansoek te doen;

“**Appèlgesag**” die Appèlgesag beoog in artikel 79(1);

“**basissonering**” die sonering voor die toepassing van enige oorlegsone;

“**beperkende voorwaarde**” enige voorwaarde geregistreer teen die titelakte van grond wat die gebruik, ontwikkeling of onderverdeling van die betrokke grond beperk;

“**datum van kennisgewing**” die datum waarop 'n kennisgewing beteken is soos beoog in artikel 35 of in die media of *Provinsiale Koerant* gepubliseer word;

“**diens**” 'n diens wat deur die Munisipaliteit, enige ander staatsorgaan of 'n diensverskaffer verskaf word, met inbegrip van dienste vir die verskaffing van water, riolering, elektrisiteit, afvalverwydering, paaie, stormwaterdreinerings, en beteken ook infrastruktuur, stelsels en prosesse wat met die diens verband hou;

“**eienaarsvereniging**” 'n eienaarsvereniging beoog in artikel 29;

“**eksterne ingenieursdiens**” 'n ingenieursdiens buite die grense van 'n grondgebied bedoel in 'n aansoek en wat nodig is vir die aanwending en ontwikkeling van die grond;

“**geleentheidsgebruik**”, met betrekking tot afwyking, ’n reg verleen op ’n tydelike grondslag om grond vir ’n doel aan te wend vir ’n bepaalde geleentheid of gebeurtenis;

“**gemagtigde werknemer**” ’n munisipale werknemer wat ingevolge gedelegeerde of gesubdelegeerde gesag deur die Munisipaliteit gemagtig is om ingevolge hierdie Verordening ’n bevoegdheid uit te oefen of ’n plig te verrig of om grond en geboue te ondersoek ten einde voldoening aan hierdie Verordening of die soneringskema af te dwing;

“**kommentaar**”, met betrekking tot kommentaar op ’n aansoek of appèl ingedien deur die publiek, munisipale departemente en ander staatsorgane en diensverskaffers, ook besware, verdoë en petisies;

“**konsolidering**”, met betrekking tot grond, die samesmelting van twee of meer aangrensende grondeenhede in ’n enkele grondeenheid, en beteken ook die fisiese voorbereiding van grond vir konsolidering;

“**konsultasie voor aansoek**” ’n konsultasie beoog in artikel 37;

“**maatskaplike infrastruktuur**” gemeenskapsfasiliteite, -dienste en -netwerke wat in maatskaplike behoeftes voorsien en gemeenskapswelstand verhoog;

“**Munisipale Bestuurder**” die munisipale bestuurder van die Munisipaliteit;

“**munisipale ruimtelike ontwikkelingsraamwerk**” ’n munisipale ruimtelike ontwikkelingsraamwerk aangeneem deur die Munisipaliteit ingevolge Hoofstuk 5 van die Munisipale Stelselwet;

“**Munisipaliteit**” die munisipaliteit van Stellenbosch wat ingestel is deur die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) by Instellingskennisgewing in die Provinsiale Koerant No. 479 gedateer 22 Desember 2000, uitgereik ingevolge, en waar die samehang aldus vereis, beteken ook—

- (a) die Raad;
- (b) ’n ander politieke struktuur of ’n politieke ampsbekleër van die Munisipaliteit, gemagtig of gedelegeer om ingevolge hierdie Verordening ’n werksaamheid te verrig of ’n bevoegdheid uit te oefen;
- (c) die Tribunaal, gemagtig of gedelegeer om ingevolge hierdie Verordening ’n werksaamheid te verrig of ’n bevoegdheid uit te oefen;
- (d) die Munisipale Bestuurder; en
- (e) ’n gemagtigde werknemer;

“**noodsituasie**” ook ’n situasie wat uit ’n vloed, sterk wind, hewige storm, brand, aardbewing of industriële ongeluk voortspruit en wat die verplasing van menslike nedersettings vereis;

**“onderverdelingsgebied”** ’n oorlegsone wat onderverdeling toelaat vir die doeleindes van ’n onderverdelingsaansoek waarby ’n verandering van sonering betrokke is;

**“ontwikkelingsheffing”** ’n ontwikkelingsheffing beoog in artikel 83 soos opgelê deur die Munisipaliteit;

**“oorlegsone”** ’n kategorie van sonering van toepassing op grond of ’n grondeenheid benewens die basissonering en wat—

- (a) bykomende ontwikkelingsparameters of gebruiksregte bepaal wat meer of minder beperkend as die basissonering is; en
- (b) bepalinge en ontwikkelingsparameters kan insluit wat verbandhou met—
  - (i) primêre of vergunningsgebruik;
  - (ii) basissonering;
  - (iii) onderverdeling of onderverdelingsgebiede;
  - (iv) ontwikkelingsaansporings;
  - (v) digtheidsbeperkings;
  - (vi) stedelike vorm of stedelike vernuwing;
  - (vii) erfenis- of omgewingsbeskerming;
  - (viii) bestuur van die buitenste grens van stedelike uitbreiding;
  - (ix) uitsigpaaie of plaaslike gebiede;
  - (x) kusbestuurlyn; of
  - (xi) enige ander doel soos uiteengesit in die soneringskema;

**“plaaslike ruimtelike ontwikkelingsraamwerk”** ’n plaaslike ruimtelike ontwikkelingsraamwerk beoog in artikel 9;

**“Raad”** die munisipale raad van die Munisipaliteit;

**“Regulasies vir Ruimtelike Beplanning en Grondgebruikbestuur”** die “Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015” gemaak kragtens die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, gepubliseer onder Kennisgewing R239/2015 in *Staatskoerant* 38594 van 23 Maart 2015;

**“terreinontwikkelingsplan”** ’n plan wat op skaal met afmetings geteken is wat besonderhede van die voorgestelde grondontwikkeling aandui, met inbegrip van die terreinuitleg, plasing van geboue en strukture, eiendomstoegang, gebou-ontwerpe en landskapuitleg;

**“Tribunaal”** die Munisipale Beplanningstribunaal wat ingevolge artikel 70 ingestel word;

**“toepaslike tydperk”**, bedoel in artikels 17(5) en (6), 18(2), 19(5), 22(1) en 32(1), die tydperk wat die Munisipaliteit kan bepaal in die voorwaardes van goedkeuring behoudens artikel 43(2)(b) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, of die tydperk bedoel in artikel 43(2)(a) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur;

“**Wet op Grondgebruikbeplanning**” die Wes-Kaapse Wet op Grondgebruikbeplanning, 2014 (Wet 3 van 2014);

“**Wet op Ruimtelike Beplanning en Grondgebruikbestuur**” die Wet op Ruimtelike Beplanning en Grondgebruikbestuur, 2013 (Wet 16 van 2013).

### **Toepassing van Verordening**

2. Hierdie verordening is van toepassing op alle grond wat geleë is binne die Stellenbosch Munisipale area, insluitend grond wat deur staatsorgane besit word.

## **HOOFSTUK II RUIMTELIKE BEPLANNING**

### **Samestelling of wysiging van munisipale ruimtelike ontwikkelingsraamwerk**

3. (1) Wanneer die Raad ’n munisipale ruimtelike ontwikkelingsraamwerk ooreenkomstig die Munisipale Stelselwet saamstel of wysig, moet die Raad, soos beoog in artikel 11 van die Wet op Grondgebruikbeplanning—
  - (a) ’n interregeringsloodskomitee instel om sy munisipale ruimtelike ontwikkelingsraamwerk saam te stel of te wysig; of
  - (b) sy konsep- munisipale ruimtelike ontwikkelingsraamwerk of konsepwysiging van sy munisipale ruimtelike ontwikkelingsraamwerk na die Provinsiale Minister vir kommentaar verwys.
- (2) Die Munisipaliteit moet—
  - (a) in twee koerante in omloop in die betrokke gebied in twee van die amptelike tale van die Provinsie wat die meeste in die gebied gepraat word ’n kennisgewing publiseer van—
    - (i) die voorneme om die munisipale ruimtelike ontwikkelingsraamwerk saam te stel of te wysig; en
    - (ii) die proses wat gevolg staan te word ooreenkomstig artikel 28(3) en 29 van die Munisipale Stelselwet;
  - (b) die Provinsiale Minister skriftelik in kennis stel van—
    - (i) die voorneme om die munisipale ruimtelike ontwikkelingsraamwerk saam te stel of te wysig;
    - (ii) sy besluit ingevolge subartikel (1)(a) of (b); en
    - (iii) die proses wat gevolg staan te word om die munisipale ruimtelike ontwikkelingsraamwerk saam te stel of te wysig, met inbegrip van die proses beoog in subartikel (2)(a)(ii); en

- (c) tersaaklike belanghebbendes registreer, wat uitgenooi moet word om kommentaar te lewer op die konsep- munisipale ruimtelike ontwikkelingsraamwerk of konsepwysiging van die munisipale ruimtelike ontwikkelingsraamwerk as 'n deel van die proses beoog in subartikel (2)(a)(ii).

#### **Instelling van projekkomitee**

4. (1) Die Munisipaliteit moet 'n projekkomitee instel om sy munisipale ruimtelike ontwikkelingsraamwerk saam te stel of te wysig.
- (2) Die projekkomitee moet bestaan uit—
- (a) die Munisipale Bestuurder of 'n munisipale werknemer aangewys deur die munisipale bestuurder; en
- (b) munisipale werknemers aangestel deur die Munisipale Bestuurder uit minstens die volgende munisipale departemente:
- (i) die kantoor vir geïntegreerde ontwikkelingsbeplanning;
- (ii) die departement vir ruimtelike beplanning;
- (iii) die ingenieursdepartement;
- (iv) die departement vir plaaslike ekonomiese ontwikkeling; en
- (v) die departement vir behuising.

#### **Instelling van interregeringsloodskomitee**

5. Indien die Raad 'n interregeringsloodskomitee instel, moet die Munisipaliteit skriftelike benoemings vir verteenwoordigers om in die interregeringsloodskomitee te dien, skriftelik aanvra van die volgende persone of staatsorgane:
- (a) die hoof van die provinsiale departement verantwoordelik vir grondgebruikbeplanning;
- (b) die hoof van die provinsiale departement verantwoordelik vir omgewingsake; en
- (c) ander tersaaklike staatsorgane.

#### **Prosedure met interregeringsloodskomitee**

6. (1) Indien die Raad 'n interregeringsloodskomitee instel, moet die projekkomitee 'n konsep- *status quo*-verslag saamstel wat 'n evaluering van die bestaande vlakke van ontwikkeling en ontwikkelingsuitdagings in die munisipale gebied uiteensit en dit by die interregeringsloodskomitee vir kommentaar indien.

- (2) Na oorweging van die kommentaar van die interregeringsloodskomitee moet die projekkomitee die *status quo*-verslag afhandel en dit by die Raad indien vir aanneming.
- (3) Na afhandeling van die *status quo*-verslag, moet die projekkomitee 'n eerste konsep van die munisipale ruimtelike ontwikkelingsraamwerk of eerste konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk saamstel en dit by die interregeringsloodskomitee vir kommentaar indien.
- (4) Na oorweging van die kommentaar van die interregeringsloodskomitee moet die projekkomitee die eerste konsep van die munisipale ruimtelike ontwikkelingsraamwerk of eerste konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk afhandel en dit by die Raad indien vir goedkeuring van die publisering daarvan vir openbare kommentaar ooreenkomstig die proses aangeneem ingevolge artikels 28 en 29 van die Munisipale Stelselwet.
- (5) Na oorweging van die kommentaar en versoë ontvang uit hoofde van die publisering beoog in subartikel (4) moet die projekkomitee 'n finale konsep van die munisipale ruimtelike ontwikkelingsraamwerk of finale konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk saamstel en dit by die interregeringsloodskomitee vir kommentaar indien.
- (6) Na oorweging van die kommentaar van die interregeringsloodskomitee beoog in subartikel (5) moet die projekkomitee die finale konsep van die munisipale ruimtelike ontwikkelingsraamwerk of finale konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk afhandel en dit by die Raad vir aanneming indien.
- (7) Indien die finale konsep van die munisipale ruimtelike ontwikkelingsraamwerk of finale konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk beoog in subartikel (6) wesenlik verskil van wat ingevolge subartikel (4) gepubliseer is, moet die Munisipaliteit ooreenkomstig subartikels (4), (5) en (6), saamgelees met die nodige veranderinge, 'n verdere proses van oorlegpleging en openbare deelname volg voordat die ruimtelike ontwikkelingsraamwerk of wysiging van die munisipale ruimtelike ontwikkelingsraamwerk deur die Raad aangeneem word.
- (8) Die Raad of die projekkomitee kan te eniger tyd in die proses van die samestelling van 'n munisipale ruimtelike ontwikkelingsraamwerk of die opstel van 'n wysiging van die munisipale ruimtelike ontwikkelingsraamwerk kommentaar van die interregeringsloodskomitee versoek.
- (9) Die Raad moet die finale konsep- munisipale ruimtelike ontwikkelingsraamwerk of finale konsepwysiging van die munisipale ruimtelike ontwikkelingsraamwerk aanneem, met of sonder wysigings, en moet binne 14 dae vanaf sy besluit in die media en die *Provinsiale Koerant* kennis gee van sy besluit.

### Prosedure sonder interregeringsloodskomitee

7. (1) Indien die Raad nie 'n interregeringsloodskomitee instel om sy munisipale ruimtelike ontwikkelingsraamwerk saam te stel of te wysig nie moet die projektkomitee—
- (a) 'n konsep- *status quo*-verslag saamstel wat 'n evaluering van die bestaande vlakke van ontwikkeling en ontwikkelingsuitdagings in die munisipale gebied uiteensit en dit by die Raad vir aanneming indien;
  - (b) na aanneming van die *status quo*-verslag, 'n eerste konsep van die munisipale ruimtelike ontwikkelingsraamwerk of eerste konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk saamstel en dit by die Raad indien vir goedkeuring van die publisering daarvan vir openbare kommentaar;
  - (c) na goedkeuring van die eerste konsep van die munisipale ruimtelike ontwikkelingsraamwerk of eerste konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk vir publisering beoog in paragraaf (b), die eerste konsep van die munisipale ruimtelike ontwikkelingsraamwerk of eerste konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk ingevolge artikel 13 van die Wet op Grondgebruikbeplanning by die Provinsiale Minister vir kommentaar indien; en
  - (d) na oorweging van die kommentaar en verhoë ontvang van die publiek en die Provinsiale Minister, die finale konsep van die munisipale ruimtelike ontwikkelingsraamwerk of finale konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk, met enige verdere wysigings, by die Raad vir aanneming indien.
- (2) Indien die finale konsep van die munisipale ruimtelike ontwikkelingsraamwerk of finale konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk beoog in subartikel (1) wesenlik verskil van wat ingevolge subartikel (1)(b) gepubliseer is, moet die Munisipaliteit 'n verdere proses van oorlegpleging en openbare deelname volg voordat die munisipale ruimtelike ontwikkelingsraamwerk of wysiging van die munisipale ruimtelike ontwikkelingsraamwerk deur die Raad aangeneem word.
- (3) Die Raad moet die finale konsep van die munisipale ruimtelike ontwikkelingsraamwerk of finale konsep van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk aanneem, met of sonder wysigings, en moet binne 14 dae vanaf sy besluit in die media en die *Provinsiale Koerant* kennis gee van sy besluit.

### Werksaamhede en pligte

8. (1) Die lede van die projektkomitee moet, ooreenkomstig die opdragte van die [uitvoerende komitee/uitvoerende burgermeester/komitee van raadslede]—
- (a) toesig hou oor die samestelling van die munisipale ruimtelike ontwikkelingsraamwerk of opstel van 'n wysiging van die munisipale ruimtelike ontwikkelingsraamwerk vir aanneming deur die Raad;



- (b) tegniese kennis en kundigheid aan die Raad verskaf;
- (c) toesien dat die samestelling van die munisipale ruimtelike ontwikkelingsraamwerk of opstel van die wysiging van die munisipale ruimtelike ontwikkelingsraamwerk volgens die proses beoog in artikel 3(2)(a)(ii) vorder;
- (d) die proses van openbare deelname bestuur en toesien dat die geregistreerde belanghebbendes ingelig bly;
- (e) toesig hou oor die insluiting van wysigings aan die konsep- munisipale ruimtelike ontwikkelingsraamwerk of konsepwysiging van die munisipale ruimtelike ontwikkelingsraamwerk gegrond op die oorweging van die kommentaar ontvang gedurende die opstelproses daarvan;
- (f) toesig hou oor die opstel van—
  - (i) 'n verslag ingevolge artikel 14 van die Wet op Grondgebruikbeplanning wat die terugvoering uiteensit van die Munisipaliteit op die provinsiale kommentaar wat ingevolge artikel 12(4) of 13(2) van daardie Wet uitgereik is; en
  - (ii) 'n verklaring wat die volgende uiteensit:
    - (aa) of die Munisipaliteit uitvoering gegee het aan die beleid en doelwitte uitgereik deur die nasionale minister verantwoordelik vir ruimtelike beplanning en grondgebruikbestuur en indien wel, hoe en in watter mate die Munisipaliteit daaraan uitvoering gegee het; of
    - (bb) indien die munisipaliteit nie uitvoering gegee het aan die beleid en doelwitte nie, die redes waarom uitvoering nie daaraan gegee is nie.
- (g) ooreenstemming van die munisipale ruimtelike ontwikkelingsraamwerk met die ontwikkelingsplanne en strategieë van ander geraakte munisipaliteite en ander staatsorgane verseker soos beoog in artikel 24(1) van die Munisipale Stelselwet;
- (h) die integrering van ander sektorplanne in die munisipale ruimtelike ontwikkelingsraamwerk fasiliteer; en
- (i) indien die Raad 'n interregeringsloodskomitee instel—
  - (i) die Raad bystaan met die instelling van die interregeringsloodskomitee en die nakoming van tydsraamwerke; en
  - (ii) die vloei van inligting tussen die projektkomitee en die interregeringsloodskomitee verseker.

- (2) Die lede van die interregeringsloodskomitee moet—
- (a) die volgende aan die interregeringsloodskomitee verskaf of lewer:
    - (i) tegniese kennis en kundigheid;
    - (ii) insette oor uitstaande inligting wat benodig word om die munisipale ruimtelike ontwikkelingsraamwerk saam te stel of 'n wysiging daarvan op te stel;
    - (iii) inligting oor begrotingstoewysings;
    - (iv) inligting oor en die ligging van enige huidige of beplande projekte wat 'n impak op die munisipale gebied het; en
    - (v) skriftelike kommentaar ingevolge artikel 6; en
  - (b) skriftelike kommentaar ingevolge artikel 6 aan die projekkomitee verskaf.

#### **Plaaslike ruimtelike ontwikkelingsraamwerke**

9. (1) Die Munisipaliteit kan 'n plaaslike ruimtelike ontwikkelingsraamwerk vir 'n bepaalde geografiese gebied in 'n gedeelte van die munisipale gebied aanneem.
- (2) Die doel van 'n plaaslike ruimtelike ontwikkelingsraamwerk is om, vir 'n bepaalde geografiese gebied—
- (a) uitvoerige riglyne vir ruimtelike beplanning te verskaf;
  - (b) meer besonderhede te verskaf ten opsigte van 'n voorstel waarvoor daar in die munisipale ruimtelike ontwikkelingsraamwerk voorsiening gemaak word;
  - (c) in bepaalde grondgebruikbehoefte te voorsien;
  - (d) uitvoerige beleid en ontwikkelingsparameters vir grondgebruikbeplanning te verskaf;
  - (e) uitvoerige prioriteite met betrekking tot grondgebruikbeplanning en, vir sover dit by grondgebruikbeplanning inskakel, biodiversiteit en omgewingskwessies te verskaf; en
  - (f) besluitneming oor grondgebruikaansoeke te lei.

### **Samestelling, aanneming, wysiging of hersiening van plaaslike ruimtelike ontwikkelingsraamwerke**

10. (1) Indien die Munisipaliteit 'n plaaslike ruimtelike ontwikkelingsraamwerk saamstel, wysig of hersien, moet hy 'n prosesplan aanneem, met inbegrip van die prosesse vir openbare deelname wat gevolg staan te word vir die samestelling, wysiging, hersiening of aanneming van 'n plaaslike ruimtelike ontwikkelingsraamwerk.
- (2) Die Munisipaliteit moet binne 21 dae vanaf die aanneming van 'n plaaslike ruimtelike ontwikkelingsraamwerk of die wysiging van 'n plaaslike ruimtelike ontwikkelingsraamwerk 'n kennisgewing van die besluit in die media en die *Provinsiale Koerant* publiseer.

### **Status van plaaslike ruimtelike ontwikkelingsraamwerke**

11. (1) 'n Plaaslike ruimtelike ontwikkelingsraamwerk of 'n wysiging daarvan tree in werking op die datum van publikasie van die kennisgewing beoog in artikel 10(2).
- (2) 'n Plaaslike ruimtelike ontwikkelingsraamwerk lei en lê ten grondslag aan besluite wat deur die Munisipaliteit gemaak word in verband met grondontwikkeling, maar dit verleen nie regte of neem regte weg nie.

### **Strukturplanne**

12. (1) Indien die Munisipaliteit van voorneme is om 'n strukturplan in 'n plaaslike ruimtelike ontwikkelingsraamwerk te omskep, moet die Munisipaliteit aan artikels 9 tot 11 voldoen en—
  - (a) daardie strukturplan hersien en dit bestaanbaar maak met die doel van 'n plaaslike ruimtelike ontwikkelingsraamwerk beoog in artikel 9(2); en
  - (b) die bepalings van die strukturplan wat met daardie doel bestaanbaar is by die plaaslike ruimtelike ontwikkelingsraamwerk insluit.
- (2) Die Munisipaliteit moet ingevolge artikel 16(4) van die Wet op Grondgebruikbeplanning die tersaaklike strukturplan by kennisgewing in die *Provinsiale Koerant* intrek wanneer hy 'n plaaslike ruimtelike ontwikkelingsraamwerk beoog in subartikel (1) aanneem.

### HOOFSTUK III ONTWIKKELINGSBESTUUR

#### Bepaling van sonering

13. (1) Die eienaar van grond of sy of haar agent kan ingevolge artikel 15(2) by die Munisipaliteit aansoek doen vir die bepaling van 'n sonering vir grond bedoel in artikel 34(1), (2) of (3) van die Wet op Grondgebruikbeplanning.
- (2) Wanneer die Munisipaliteit 'n aansoek ingevolge subartikel (1) oorweeg, moet hy die volgende in ag neem:
- (a) die wettige aanwending van die grond, of die doel waarvoor dit wettiglik aangewend kon word onmiddellik voor die inwerkingtreding van die Wet op Grondgebruikbeplanning, indien dit vasgestel kan word;
  - (b) die sonering, indien enige, wat die versoenbaarste is met daardie aanwending of doel en enige toepaslike titelvoorwaarde;
  - (c) enige afwyking of vergunningsgebruik wat saam met daardie sonering benodig kan word;
  - (d) in die geval van grond wat onmiddellik voor die inwerkingtreding van die Wet op Grondgebruikbeplanning onbeboud is, die aanwending wat toegelaat word ingevolge die titelvoorwaardes of, waar meer as een grondgebruik aldus toegelaat word, een van sodanige grondgebruike bepaal deur die Munisipaliteit; en
  - (e) waar die wettige aanwending van die grond en die doel waarvoor dit onmiddellik voor die inwerkingtreding van die Wet op Grondgebruikbeplanning wettiglik aangewend kon word, nie vasgestel kan word nie, die sonering wat, tesame met enige afwyking of vergunningsgebruik wat benodig kan word, die wenslikste en versoenbaarste is met enige toepaslike titelvoorwaarde.
- (3) Indien die wettige sonering van grond beoog in subartikel (1) nie vasgestel kan word nie moet die Munisipaliteit 'n sonering bepaal en 'n kennisgewing van sy voorneme ingevolge artikel 46 beteken.
- (4) 'n Grondgebruik wat onwettiglik begin het, hetsy voor of na die inwerkingtreding van hierdie Verordening, mag nie geag word wettig te wees nie.

### **Afwykende gebruike**

14. (1) 'n Afwykende gebruik maak nie ingevolge hierdie Verordening 'n misdryf uit nie.
- (2) 'n Afwykende gebruik kan voortduur solank dit andersins wettig bly, behoudens die volgende:
- (a) indien die afwykende gebruik om enige rede vir 'n tydperk van meer as vier-en-twintig opeenvolgende maande gestaak word, moet enige daaropvolgende aanwending van die eiendom aan hierdie Verordening en die soneringskema voldoen, met of sonder afwykings;
  - (b) 'n toepaslike aansoek beoog in artikel 15(2) moet gedoen word vir die verbouing of uitbreiding van geboue of strukture ten opsigte van die afwykende gebruik;
  - (c) die bewyslas van die bestaan van die afwykende gebruiksreg rus op die eienaar; en
  - (d) die gebruiksreg is beperk tot die gebied van die gebou of grond ten opsigte waarvan die bewese gebruiksreg bestaan.
- (3) Behoudens subartikel (2)(a) en (b), indien 'n bestaande gebou wat 'n afwykende gebruik uitmaak, vernietig of beskadig word in die mate dat dit nodig is om 'n weselike gedeelte van die gebou te sloop, kan die Munisipaliteit behoudens voorwaardes toestemming vir die herbou van sodanige gebou verleen.

### **Grondontwikkeling wat goedkeuring benodig**

15. (1) Geen persoon mag sonder die goedkeuring van die Munisipaliteit ingevolge subartikel (2) grondontwikkeling begin, voortsit of die begin of voortsetting van grondontwikkeling veroorsaak nie, behalwe vir die onderverdeling of konsolidering van grond bedoel in artikel 24.
- (2) Die eienaar van grond of sy of haar agent kan ingevolge hierdie Hoofstuk en Hoofstuk IV by die Munisipaliteit aansoek doen om die volgende met betrekking tot die ontwikkeling van die betrokke grond:
- (a) 'n hersonering van grond;
  - (b) 'n permanente afwyking van die ontwikkelingsparameters van die soneringskema;
  - (c) 'n afwyking verleen op 'n tydelike grondslag om grond vir 'n doel aan te wend wat nie toegelaat word ingevolge die primêre regte van die sonering van toepassing op die grond nie;
  - (d) 'n onderverdeling van grond wat nie ingevolge artikel 24 vrygestel is nie, met inbegrip van die registrasie van 'n servituut of huurooreenkoms;

- (e) 'n konsolidering van grond wat nie ingevolge artikel 24 vrygestel is nie;
  - (f) 'n opheffing, opskorting of wysiging van beperkende voorwaardes ten opsigte van 'n grondeenheid;
  - (g) 'n toestemming wat ingevolge die soneringskema benodig word;
  - (h) 'n wysiging, skrapping of oplegging van voorwaardes ten opsigte van 'n bestaande goedkeuring;
  - (i) 'n verlenging van die geldigheidstydperk van 'n goedkeuring;
  - (j) 'n goedkeuring van 'n oorlegsone soos beoog in die soneringskema;
  - (k) 'n wysiging of kansellering van 'n goedgekeurde onderverdelingsplan of 'n gedeelte daarvan, met inbegrip van 'n algemene plan of diagram;
  - (l) 'n toestemming wat ingevolge 'n voorwaarde van goedkeuring vereis word;
  - (m) 'n bepaling van 'n sonering;
  - (n) 'n sluiting van 'n openbare plek of 'n gedeelte daarvan;
  - (o) 'n vergunningsgebruik beoog in die soneringskema;
  - (p) 'n geleentheidsgebruik van grond;
  - (q) om 'n huiseienaarsvereniging te ontbind;
  - (r) om 'n versuim van 'n huiseienaarsvereniging om sy verpligtinge ten opsigte van beheer oor of instandhouding van dienste na te kom, reg te stel;
  - (s) 'n toestemming wat vereis word vir die herbou van 'n bestaande gebou wat 'n afwykende gebruik uitmaak en in so 'n mate vernietig of beskadig is dat dit nodig is om 'n aansienlike gedeelte van die gebou te sloop.
- (3) Indien artikel 53 van die Wet op Grondgebruikbeplanning op die grondontwikkeling van toepassing is, moet die eienaar of agent ook om goedkeuring van die grondontwikkeling ingevolge daardie Wet aansoek doen.
- (4) Indien artikel 52 van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur op die grondontwikkeling van toepassing is, moet die eienaar of agent ook om goedkeuring van die grondontwikkeling ingevolge daardie Wet aansoek doen.
- (5) Wanneer 'n aansoeker of eienaar 'n gebruiksreg uitoefen wat ingevolge 'n goedkeuring verleen is, moet hy of sy aan die voorwaardes van die goedkeuring en die toepaslike bepalings van die soneringskema voldoen.

- (6) Wanneer die Munisipaliteit uit eie beweging van voorneme is om grondontwikkeling of 'n aktiwiteit beoog in subartikel (2) uit te voer, moet die besluit oor die aansoek deur die Tribunaal geneem word ooreenkomstig hierdie Hoofstuk en Hoofstuk IV en mag geen beampte gemagtig word om so 'n besluit te neem nie.

### **Voortsetting van aansoek na verandering van eienaarskap**

16. Indien grond wat die onderwerp van 'n aansoek is na 'n nuwe eienaar oorgedra word, kan die nuwe eienaar met die aansoek voortgaan as die regsopvolger van die vorige eienaar en word die nuwe eienaar vir die doeleindes van hierdie Verordening as die aansoeker geag.

### **Hersonering van grond**

17. (1) Die Munisipaliteit kan uit eie beweging grond waarvan hy nie die eienaar is nie hersoneer ten einde—
- (a) 'n openbare diens of 'n openbare ontspanningsruimte te verskaf; of
  - (b) 'n soneringskema of 'n gedeelte daarvan te vervang deur 'n soneringskema ingevolge waarvan die grond nie ooreenkomstig die aanwending daarvan of bestaande gebruiksregte gesoneer is nie.
- (2) 'n Aansoeker wat die hersonering van grond verlang, moet 'n aansoek by die Munisipaliteit ingevolge artikel 15(2) indien.
- (3) Wanneer die Munisipaliteit 'n oorlegsone vir grond skep, moet dit aan artikels 12 en 13 van die Munisipale Stelselwet voldoen.
- (4) Sonering kan op 'n grondeenheid of 'n gedeelte daarvan van toepassing gemaak word en sonering hoef nie kadastrale grense te volg nie.
- (5) Behoudens subartikel (6) verval 'n hersoneringsgoedkeuring beoog in subartikel (2) na die toepaslike tydperk vanaf die datum waarop die goedkeuring in werking tree indien, binne daardie tydperk—
- (a) die sonering nie ooreenkomstig die goedkeuring aangewend word nie; of
  - (b) daar nie aan die volgende vereistes voldoen is nie:
    - (i) die goedkeuring deur die Munisipaliteit van 'n bouplan beoog vir die aanwending van die goedgekeurde gebruiksreg; en
    - (ii) die begin van die bouwerk van die gebou beoog in subparagraaf (i).

- (6) 'n Goedkeuring van 'n hersonering na onderverdelingsgebied beoog in subartikel 20(2) verval na die toepaslike tydperk vanaf die datum waarop die goedkeuring in werking tree indien, binne daardie tydperk—
- (a) 'n onderverdelingsaansoek nie ingedien is nie; en
  - (b) daar nie aan die voorwaardes van goedkeuring voldoen word nie.
- (7) Indien 'n onderverdelingsaansoek ingedien word ten opsigte van grond wat as onderverdelingsgebied gesoneer is, verval die sonering van onderverdelingsgebied op die latere datum van die volgende datums:
- (a) die datum waarop die onderverdeling goedgekeur word; of
  - (b) die datum na die toepaslike tydperk beoog in subartikel (6), met inbegrip van enige verlengde tydperk wat ingevolge artikel 67 goedgekeur is.
- (8) Die goedkeuring van 'n hersonering na onderverdelingsgebied moet voorwaardes insluit wat vir minstens die volgende voorsiening maak:
- (a) digtheidsvereistes;
  - (b) hoofgrondgebruike en die omvang daarvan; en
  - (c) 'n uitvoerige faseringsplan of raamwerk wat die volgende insluit:
    - (i) hoofvervoerroetes;
    - (ii) hoofgrondgebruike;
    - (iii) grootmaatinfrastruktuur;
    - (iv) vereistes van staatsorgane;
    - (v) vereistes ten opsigte van openbare oop ruimtes; en
    - (vi) fisiese ontwikkelingsbeperkings.
- (9) Indien 'n hersoneringsgoedkeuring verval, is die sonering wat op die grond van toepassing was voor die goedkeuring van die hersonering van toepassing of, waar geen sonering voor die goedkeuring van die hersonering bestaan het nie, moet die Munisipaliteit 'n sonering ingevolge artikel 13 bepaal.



## Afwykinge

18. (1) 'n Aansoeker kan ingevolge artikel 15(2) by die Munisipaliteit aansoek doen—
- (a) om 'n afwyking van die ontwikkelingsparameters van 'n sonering of 'n oorlegsone; of
  - (b) om grond op 'n tydelike grondslag vir 'n tydperk van hoogstens vyf jaar aan te wend vir 'n doel wat nie toegelaat word ingevolge die primêre regte van die sonering wat op die grond van toepassing is nie.
- (2) 'n Afwyking beoog in subartikel (1)(a) verval na die toepaslike tydperk vanaf die datum waarop die goedkeuring in werking tree indien, binne daardie tydperk—
- (a) die afwyking nie ooreenkomstig die goedkeuring aangewend word nie; of
  - (b) daar nie aan die volgende vereistes voldoen is nie:
    - (i) die goedkeuring deur die Munisipaliteit van 'n bouplan beoog vir die aanwending van die goedgekeurde afwyking; en
    - (ii) die begin van die bouwerk van die gebou beoog in subparagraaf (i).
- (3) Die Munisipaliteit kan 'n afwyking beoog in subartikel (1)(b) goedkeur vir 'n tydperk korter as vyf jaar maar, indien 'n korter tydperk goedgekeur word, mag die tydperk tesame met enige verlengings goedgekeur ooreenkomstig artikel 67 nie vyf jaar oorskry nie.
- (4) 'n Tydelike afwyking beoog in subartikel (1)(b) mag nie meer as een keer ten opsigte van 'n sekere gebruik op 'n bepaalde grondeenheid goedgekeur word nie.
- (5) 'n Tydelike afwyking beoog in subartikel (1)(b) kan 'n verbetering van grond insluit slegs indien—
- (a) die verbetering tydelik van aard is; en
  - (b) die grond by verstryking van die gebruiksreg sonder verdere bouwerk of sloping kan terugkeer na sy vorige wettige gebruik.

## Vergunningsgebruike

19. (1) 'n Aansoeker kan ingevolge artikel 15(2) by die Munisipaliteit aansoek doen om 'n vergunningsgebruik beoog in die soneringskema.
- (2) Indien die ontwikkelingsparameters vir die vergunningsgebruik waarvoor daar aansoek gedoen word nie in die soneringskema omskryf word nie moet die Munisipaliteit die ontwikkelingsparameters van toepassing op die vergunningsgebruik bepaal ingevolge die voorwaardes van goedkeuring wat ingevolge artikel 66 opgelê word.

- (3) 'n Vergunningsgebruik kan permanent goedgekeur word of vir 'n tydperk vermeld in die voorwaardes van goedkeuring wat ingevolge artikel 66 opgelê word.
- (4) 'n Vergunningsgebruik wat vir 'n vermelde tydperk goedgekeur word moet nie die uitwerking hê dat dit die toekomstige aanwending van die eiendom vir die primêre gebruike wat ingevolge die sonering van die grond toegelaat word, verhinder nie.
- (5) 'n Vergunningsgebruik beoog in subartikel (1) verval na die toepaslike tydperk vanaf die datum waarop die goedkeuring in werking tree indien, binne daardie tydperk—
  - (a) die vergunningsgebruik nie ooreenkomstig die goedkeuring aangewend word nie; of
  - (b) daar nie aan die volgende vereistes voldoen is nie:
    - (i) die goedkeuring deur die Munisipaliteit van 'n bouplan beoog vir die aanwending van die goedgekeurde gebruiksreg; en
    - (ii) die begin van die bouwerk van die gebou beoog in subparagraaf (i).

### Onderverdeling

- 20.** (1) Geen persoon mag grond onderverdeel sonder die goedkeuring van die Munisipaliteit ingevolge artikel 15(2) nie tensy die onderverdeling ingevolge artikel 24 vrygestel is.
- (2) Geen aansoek om onderverdeling waarby 'n verandering van sonering betrokke is, mag deur die Munisipaliteit oorweeg word nie tensy die betrokke grond as 'n onderverdelingsgebied gesoneer is.
  - (3) 'n Aansoeker kan 'n onderverdelingsaansoek gelyktydig met 'n aansoek om hersonering indien.
  - (4) Die Munisipaliteit moet vir 'n goedkeuring van 'n onderverdeling gepaste voorwaardes met betrekking tot ingenieursdienste ingevolge artikel 66 oplê.
  - (5) Indien die Munisipaliteit 'n onderverdeling goedkeur, moet die aansoeker 'n algemene plan of diagram by die Landmeter-generaal vir goedkeuring indien, met inbegrip van bewys tot die bevrediging van die Landmeter-generaal van—
    - (a) die Munisipaliteit se besluit om die onderverdeling goed te keur;
    - (b) die voorwaardes van goedkeuring wat ingevolge artikel 66 opgelê is; en
    - (c) die goedgekeurde onderverdelingsplan.

- (6) Die Munisipaliteit moet aan die aansoeker of enige ander persoon op sy of haar skriftelike versoek 'n sertifikaat uitreik om te bevestig dat daar aan alle voorwaardes van goedkeuring beoog in subartikel 21(1)(c) voldoen is indien die aansoeker die bewys beoog in daardie artikel ingedien het.
- (7) Indien die Munisipaliteit 'n sertifikaat bedoel in subartikel (6) foutiewelik uitreik, word die eenaar nie daarvan onthef om aan die verpligtinge te voldoen wat ingevolge die voorwaardes opgelê is nie.

### **Bevestiging van onderverdeling**

21. (1) 'n Onderverdeling of 'n gedeelte daarvan is bevestig en kan nie verval nie wanneer die volgende voorwaardes binne die tydperk beoog in artikel 22(1) nagekom is:
  - (a) goedkeuring deur die Landmeter-generaal van die algemene plan of diagram beoog in artikel 20(5);
  - (b) voltooiing van die installering van ingenieursdienste ooreenkomstig die voorwaardes beoog in artikel 20(4) en ander wetgewing wat van toepassing is;
  - (c) bewys tot die bevrediging van die Munisipaliteit dat daar ten opsigte van die gebied aangetoon op die algemene plan of diagram aan alle tersaaklike voorwaardes van die goedgekeurde onderverdeling waaraan daar voldoen moet word voor voldoening aan paragraaf (d) voldoen is; en
  - (d) registrasie ingevolge die Registrasie van Aktes Wet van die oordrag van eienaarskap van die grondeenheid aangetoon op die diagram of van minstens een nuwe grondeenheid aangetoon op die algemene plan.
- (2) By bevestiging van 'n onderverdeling of 'n gedeelte daarvan ingevolge subartikel (1) is sonerings aangedui op 'n goedgekeurde onderverdelingsplan bevestig en kan dit nie verval nie.
- (3) Die Munisipaliteit moet skriftelik aan die aansoeker of enige ander persoon op sy of haar skriftelike versoek bevestig dat 'n onderverdeling of 'n gedeelte van 'n onderverdeling bevestig is indien die aansoeker tot die bevrediging van die Munisipaliteit bewys van voldoening aan die vereistes bedoel in subartikel 1(a) tot (d) vir die onderverdeling of 'n gedeelte daarvan gelewer het.
- (4) Geen gebou of struktuur mag gebou word op 'n grondeenheid wat deel uitmaak van 'n goedgekeurde onderverdeling nie tensy die onderverdeling soos beoog in subartikel (1) bevestig is of die Munisipaliteit die bouwerk voor die bevestiging van die onderverdeling goedgekeur het.

### **Verval van onderverdeling**

22. (1) 'n Goedgekeurde onderverdeling verval na die toepaslike tydperk vanaf die datum waarop die goedkeuring in werking tree indien die vereistes beoog in artikel 21(1)(a) tot (d) nie binne daardie tydperk nagekom is nie.

- (2) Indien 'n aansoeker voldoen aan artikel 21(1)(b) en (c) slegs ten opsigte van 'n gedeelte van die grond wat op die algemene plan beoog in artikel 21(1)(a) weergegee word, moet die aansoeker die algemene plan intrek en 'n nuwe algemene plan by die Landmeter-generaal indien.
- (3) Indien 'n goedkeuring van 'n onderverdeling of 'n gedeelte daarvan ingevolge subartikel (1) verval—
  - (a) moet die Munisipaliteit—
    - (i) die soneringskaart, en waar van toepassing die register, dienooreenkomstig wysig; en
    - (ii) die Landmeter-generaal dienooreenkomstig in kennis stel; en
  - (b) moet die Landmeter-generaal die rekords van die Kantoor van die Landmeter-generaal endosseer om die kennisgewing dat die onderverdeling verval het, weer te gee.

### **Wysiging of kansellering van onderverdelingsplan**

23. (1) Die Munisipaliteit kan met betrekking tot grondeenhede aangetoon op die algemene plan of diagram waarvoor geen oordrag ingevolge die Registrasie van Aktes Wet geregistreer is nie die wysiging of kansellering van 'n onderverdelingsplan ingevolge artikel 15(2) goedkeur, met inbegrip van voorwaardes van goedkeuring, die algemene plan of diagram.
- (2) Wanneer die Munisipaliteit 'n aansoek ingevolge subartikel (1) goedkeur, moet enige openbare plek wat uit hoofde van die goedkeuring nie meer benodig word nie, ingevolge artikel 26 gesluit word.
- (3) Die Munisipaliteit moet die Landmeter-generaal van 'n goedkeuring ingevolge subartikel (1) in kennis stel en die Landmeter-generaal moet die rekords van die Kantoor van die Landmeter-generaal endosseer om die wysiging of kansellering van die onderverdeling weer te gee.
- (4) 'n Gewysigde onderverdelingsgoedkeuring beoog in subartikel (1) is geldig vir die oorblywende gedeelte van die tydperk wat op die aanvanklike goedkeuring van die onderverdeling van toepassing was voordat dit gewysig is, gereken vanaf die datum van goedkeuring van die wysiging of kansellering ingevolge subartikel (1).

### **Vrystelling van sekere onderverdelings en konsoliderings**

24. (1) Die onderverdeling of konsolidering van grond benodig in die volgende gevalle nie die goedkeuring van die Munisipaliteit nie:
  - (a) 'n onderverdeling of konsolidering wat uit die implementering van 'n hofbevel voortspuit;

- (b) 'n onderverdeling of konsolidering wat uit 'n onteiening voortspruit;
  - (c) 'n mindere wysiging van die gemeenskaplike grens tussen twee of meer grondeenhede indien die gevolglike verandering in gebied van enige van die grondeenhede nie 10 persent oorskry nie;
  - (d) die konsolidering van 'n geslote openbare plek met 'n aangrensende erf;
  - (e) die bou of verandering van 'n openbare of geproklameerde straat;
  - (f) die registrasie van 'n serwituut of huurooreenkoms vir—
    - (i) die verskaffing of installing van waterpyplyne, elektrisiteitstoevoerlyne, rioolpyplyne, stormwaterpyplyne en -kanale, gaspyplyne of olie- en petroleumprodukpyplyne deur of namens 'n staatsorgaan of diensverskaffer;
    - (ii) die verskaffing of installing van telekommunikasielyne deur of namens 'n gelisensieerde telekommunikasie-operateur;
    - (iii) die oplegging van hoogtebeperkings; of
    - (iv) die verlening van 'n reg van bewoning, privaat reg van weg of vruggebruik;
  - (g) die uitsluitlike aanwending van grond vir landboudoeleindes indien die aanwending—
    - (i) goedkeuring benodig ingevolge wetgewing wat die onderverdeling van landbougrond reguleer; en
    - (ii) nie tot stedelike uitbreiding aanleiding gee nie.
- (2) 'n Eienaar van grond of sy of haar agent moet 'n sertifikaat van die Munisipaliteit bekom wat skriftelik sertifiseer dat die onderverdeling of konsolidering vrygestel is van die toepassing van artikel 15, en artikels 20 tot 23 in die geval van 'n onderverdeling of artikels 15, 31 en 32 in die geval van 'n konsolidering.
- (3) Die Munisipaliteit moet op die onderverdelingsplan, of op die diagram ten opsigte van die konsolidering, aandui dat die onderverdeling of konsolidering van die toepassing van die artikels bedoel in subartikel (2) vrygestel is.

### **Eienaarskap van openbare plekke en grond vir ingenieursdienste en maatskaplike fasiliteite**

25. (1) Die eienaarskap van grond wat vir 'n openbare plek bestem is soos aangetoon op 'n goedgekeurde onderverdelingsplan vestig in die Munisipaliteit by bevestiging van die onderverdeling of 'n gedeelte daarvan.
- (2) Die Munisipaliteit kan ingevolge voorwaardes opgelê ingevolge artikel 66 bepaal dat grond wat op 'n goedgekeurde onderverdelingsplan aangewys is vir die verskaffing van munisipale dienste-infrastruktuur en geriewe oorgedra word na die Munisipaliteit by bevestiging van die onderverdeling of 'n gedeelte daarvan.

### **Sluiting van openbare plekke**

26. (1) Die Munisipaliteit kan, uit eie beweging of by aansoek, 'n openbare plek of enige gedeelte daarvan ooreenkomstig Hoofstuk IV permanent sluit.
- (2) 'n Aansoeker wat die sluiting van 'n openbare plek benodig, hetsy permanent of tydelik, moet ingevolge artikel 15(2) by die Munisipaliteit aansoek doen.
- (3) Indien 'n persoon 'n eis teen die Munisipaliteit instel vir verlies of skade wat hy of sy na bewering gely het weens die wanoptrede deur die Munisipaliteit toe die Munisipaliteit 'n openbare plek permanent gesluit het, moet die gemagtigde werknemer—
- (a) bewys vereis van nalatigheid of enige ander wanoptrede deur die Munisipaliteit wat tot die verlies of skade gelei het; en
- (b) voordat enige eis betaal of geskik word, 'n volledige tegniese ondersoekverslag bekom ten opsigte van die omstandighede wat tot die sluiting van die openbare plek gelei het, ten einde vas te stel of die Munisipaliteit nalatig was al dan nie.
- (4) Die Munisipaliteit kan 'n eis betaal indien—
- (a) die omstandighede van die verlies of skade wys dat die Munisipaliteit onregmatig gehandel het;
- (b) die eiser sy of haar verlies of skade bewys het;
- (c) die eiser bewys van 'n billike en redelike omvang gelewer het;
- (d) geen eis deur persoonlike versekering betaal is wat dieselfde verlies dek nie; en
- (e) enige tersaaklike inligting soos versoek deur die gemagtigde werknemer, ontvang is.
- (5) Die eienaarskap van die grond bevat in enige openbare plek, of 'n gedeelte daarvan, wat permanent ingevolge hierdie artikel gesluit is, bly gevestig in die Munisipaliteit tensy die Munisipaliteit anders bepaal.

- (6) Die Munisipale Bestuurder kan, sonder voldoening aan Hoofstuk IV, 'n openbare plek tydelik sluit—
- (a) vir die doel van, of hangende, die bou, herbou of instandhouding van die openbare plek;
  - (b) vir die doel van, of hangende, die bou, uitbreiding, instandhouding of sloping van enige gebou, struktuur, werke of diens langs, op, oor, deur, bo-oor of onder die openbare plek;
  - (c) indien die openbare plek in 'n toestand is wat vir die publiek 'n gevaar inhou;
  - (d) omrede 'n noodsituasie of openbare geleentheid wat spesiale maatreëls vir die beheer van verkeer of skares vereis; of
  - (e) om enige ander rede wat die tydelike sluiting van die openbare plek nodig of wenslik maak.
- (7) Die Munisipaliteit moet die Landmeter-generaal van 'n goedkeuring ingevolge subartikel (1) in kennis stel en die Landmeter-generaal moet die rekords van die Kantoor van die Landmeter-generaal endosseer om die sluiting van die openbare plek weer te gee.

#### **Dienste wat uit onderverdeling voortspruit**

27. Na die goedkeuring van 'n aansoek om onderverdeling ingevolge hierdie Verordening moet die eienaar van enige grondeenheid wat uit die onderverdeling voortspruit—
- (a) toelaat dat die volgende ten opsigte van ander grondeenhede wat uit die onderverdeling voortspruit sonder vergoeding oor sy of haar grondeenheid vervoer word:
    - (i) hoofgasleidings;
    - (ii) elektrisiteitskabels;
    - (iii) telefoonkabels;
    - (iv) televisiekabels;
    - (v) ander elektroniese infrastruktuur;
    - (vi) hoof- en ander waterpype;
    - (vii) vuilriole;
    - (viii) stormwaterpype; en
    - (ix) vore en kanale;

- (b) die volgende op sy of haar grondeenheid toelaat indien nodig geag en op die wyse en posisie soos redelikerwys deur die Munisipaliteit vereis kan word:
  - (i) oppervlak-installerings soos mini-substasies;
  - (ii) meterskakelkaste; en
  - (iii) dienspilare;
- (c) te eniger redelike tyd toegang tot die grondeenheid toelaat vir die doel om enige werke bedoel in paragraaf (a) of (b) te bou, verbou, verwyder of te ondersoek; en
- (d) materiaal ontvang of tot uitgrawings op die grondeenheid instem soos nodig kan wees om gebruik van die volle breedte van 'n aangrensende straat toe te laat en om die straatwal van 'n veilige en behoorlike helling te voorsien waar genoodsaak weens verskille tussen die vlak van die straat soos aan die uiteinde gebou en die vlak van die grondeenheid tensy hy of sy kies om steunmure te bou tot die bevrediging van en binne 'n tydperk bepaal deur die Munisipaliteit.

### **Sertifisering deur Munisipaliteit**

- 28.** (1) 'n Persoon kan by die Registrateur van Aktes aansoek doen om die registrasie van 'n grondeenheid in die gevalle bedoel in subartikel (3)(a) tot (c) slegs indien die Munisipaliteit 'n sertifikaat ingevolge hierdie artikel uitgereik het.
- (2) Die Registrateur van Aktes kan die oordrag van 'n grondeenheid in die gevalle bedoel in subartikel (3)(a) tot (c) registreer slegs indien die Munisipaliteit 'n sertifikaat ingevolge hierdie artikel uitgereik het.
  - (3) Die Munisipaliteit moet 'n sertifikaat uitreik vir die oordrag van 'n grondeenheid beoog in subartikels (1) en (2) indien die eienaar die volgende aan die Munisipaliteit verskaf:
    - (a) waar 'n eienaarsvereniging ten opsigte van daardie grondeenheid ingestel is, 'n transportbesorgersertifikaat wat bevestig dat geld verskuldig deur die transportgewer van die grondeenheid aan daardie eienaarsvereniging betaal is of dat voorsiening tot die bevrediging van die eienaarsvereniging gemaak is vir die betaling daarvan;
    - (b) bewys van betaling van enige bestaande strydigheidshewing verskuldig deur die transportgewer van die grondeenheid of bewys van voldoening aan 'n opdrag in 'n voldoeningskenningsgewing wat ingevolge Hoofstuk IX aan die transportgewer uitgereik is;



- (c) in die geval van die eerste oordrag van 'n grondeenheid wat uit 'n onderverdeling voortspruit, bewys dat—
- (i) alle gemeenskaplike eiendom wat uit die onderverdeling voortspruit na die eienaarsvereniging oorgedra is soos beoog in artikel 29(3)(e) of gelyktydig met die registrasie van die oordrag van daardie grondeenheid na die eienaarsvereniging oorgedra sal word;
  - (ii) grond wat vir openbare doeleindes of ander munisipale infrastruktuur benodig word soos beoog ingevolge 'n voorwaarde opgelê kragtens artikel 66 oorgedra is na die Munisipaliteit of gelyktydig by die registrasie van die oordrag van daardie grondeenheid na die Munisipaliteit oorgedra sal word;
  - (iii) die ingenieursdienste en geriewe wat in verband met die onderverdeling verskaf moet word beskikbaar is; en
  - (iv) 'n sertifikaat beoog in artikel 20(6) deur die Munisipaliteit uitgereik is.

### **Eienaarsverenigings**

- 29.** (1) Die Munisipaliteit kan, wanneer hy 'n aansoek om 'n onderverdeling van grond goedkeur, voorwaardes oplê met betrekking tot die verpligte instelling deur die aansoeker van 'n eienaarsvereniging vir 'n gebied bepaal in die voorwaardes.
- (2) 'n Eienaarsvereniging wat uit hoofde van subartikel (1) tot stand kom, is 'n regspersoon en moet 'n grondwet hê.
- (3) Die grondwet van 'n eienaarsvereniging moet voor die oordrag van die eerste grondeenheid goedgekeur word deur die Munisipaliteit en moet voorsiening maak vir—
- (a) die eienaarsvereniging om die gemeenskaplike wedersydse belange van die gebied, voorstad of buurt uiteengesit in die grondwet ooreenkomstig die voorwaardes van goedkeuring formeel te verteenwoordig;
  - (b) beheer oor en instandhouding van geboue, dienste of geriewe wat uit die onderverdeling voortspruit;
  - (c) die reëling van minstens een jaarvergadering met sy lede;
  - (d) beheer oor die ontwerpsriglyne van die geboue en erwe wat uit die onderverdeling voortspruit;

- (e) die eienaarskap deur die eienaarsvereniging van alle gemeenskaplike eiendom wat uit die onderverdeling voortspruit, met inbegrip van—
    - (i) privaat oop ruimtes;
    - (ii) privaat paaie; en
    - (iii) grond benodig vir dienste gelewer deur die eienaarsvereniging;
  - (f) afdwinging van voorwaardes van goedkeuring of bestuursplanne;
  - (g) prosedures om die instemming van lede van die eienaarsvereniging te bekom om 'n erf oor te dra in die geval waar die eienaarsvereniging ophou funksioneer; en
  - (h) die implementering en afdwinging deur die eienaarsvereniging van die bepalings van die grondwet.
- (4) Die grondwet van 'n eienaarsvereniging kan ander doelwitte hê soos gestel deur die vereniging maar mag nie bepalings bevat wat strydig met enige wet is nie.
  - (5) Die grondwet van die eienaarsvereniging tree in werking by registrasie van die eerste grondeenheid.
  - (6) 'n Eienaarsvereniging kan wanneer nodig sy grondwet wysig maar indien 'n wysiging die Munisipaliteit of 'n bepaling bedoel in subartikel (3) raak, moet die wysiging ook deur die Munisipaliteit goedgekeur word.
  - (7) 'n Eienaarsvereniging wat tot stand kom uit hoofde van subartikel (1)—
    - (a) het as sy lede al die eienaars van die grondeenhede wat uit die onderverdeling voortspruit en hul regsopvolgers, wat gesamentlik aanspreeklik is vir uitgawes aangegaan in verband met die vereniging; en
    - (b) is by registrasie van die eerste grondeenheid outomaties ingestel.
  - (8) Die ontwerpstriglyne beoog in subartikel (3)(d) kan ontwikkelingsreëls instel wat meer beperkend is as die reëls waarvoor die soneringskema voorsiening maak.

### **Eienaarsverenigings wat ophou funksioneer**

- 30.** (1) Indien 'n eienaarsvereniging ophou om te funksioneer of om sy verpligtinge na te kom, kan die Munisipaliteit of enige geraakte persoon, met inbegrip van 'n lid van die vereniging, aansoek doen—
  - (a) ingevolge artikel 15(2)(g) om die eienaarsvereniging te ontbind behoudens—
    - (i) die wysiging van die voorwaardes van goedkeuring om die verpligting om 'n eienaarsvereniging in te stel, op te hef; en

- (ii) die wysiging van titelvoorwaardes rakende die eienaarsvereniging om enige verpligting ten opsigte van 'n eienaarsvereniging op te hef;
  - (b) om toepaslike optrede deur die Munisipaliteit ingevolge artikel 15(2)(r) om 'n versuim van die eienaarsvereniging, om enige van sy verpligtinge na te kom ten opsigte van die beheer oor of instandhouding van dienste beoog in artikel 29(3)(b), reg te stel; of
  - (c) by die Hooggeregshof om 'n administrateur aan te stel wat die bevoegdhede van die eienaarsvereniging met uitsluiting van die eienaarsvereniging moet uitvoer.
- (2) By oorweging van 'n aansoek beoog in subartikel (1)(a)(i) moet die Munisipaliteit die volgende in ag neem:
- (a) die doel van die eienaarsvereniging;
  - (b) wie beheer oor, en instandhouding van, dienste waarvoor die eienaarsvereniging verantwoordelik is, sal oorneem; en
  - (c) die impak van die ontbinding van die eienaarsvereniging op die lede van die eienaarsvereniging en die betrokke gemeenskap.
- (3) Die Munisipaliteit of die geraakte persoon kan van die lede van die eienaarsvereniging die bedrag van enige uitgawes wat deur die Munisipaliteit of die geraakte persoon aangegaan is, na gelang van die geval, ten opsigte van enige handeling ingevolge subartikel (1), verhaal.
- (4) Die bedrag van enige uitgawe aldus verhaal, word vir die doeleindes van artikel 29(7)(a) geag uitgawes te wees wat in verband met die eienaarsvereniging aangegaan is.

### **Konsolidering van grondeenhede**

- 31.** (1) Geen persoon mag grond konsolideer sonder die goedkeuring van die Munisipaliteit ingevolge artikel 15(2) nie, tensy die konsolidering ingevolge artikel 24 vrygestel is.
- (2) Indien die Munisipaliteit 'n konsolidering goedkeur, moet die aansoeker 'n diagram by die Landmeter-generaal indien vir goedkeuring, met inbegrip van bewys tot die bevrediging van die Landmeter-generaal van—
- (a) die Munisipaliteit se besluit om die konsolidering goed te keur;
  - (b) die voorwaardes van goedkeuring opgelê ingevolge artikel 66; en
  - (c) die goedgekeurde konsolideringsplan.

- (3) Indien die Munisipaliteit 'n konsolidering goedkeur, moet die Munisipaliteit die soneringskaart en, waar van toepassing die register, dienooreenkomstig wysig.

### **Verval van konsolidering**

- 32.** (1) 'n Goedgekeurde konsolidering van grondeenhede verval indien die konsolidering nie binne die toepaslike tydperk vanaf die datum waarop die goedkeuring in werking tree ingevolge die Registrasie van Aktes Wet geregistreer is nie.
- (2) Indien 'n goedkeuring van 'n konsolidering ingevolge subartikel (1) verval—
- (a) moet die Munisipaliteit—
- (i) die soneringskaart, en waar van toepassing die register, dienooreenkomstig wysig; en
- (ii) die Landmeter-generaal dienooreenkomstig in kennis stel; en
- (b) moet die Landmeter-generaal die rekords van die Kantoor van die Landmeter-generaal endosseer om die kennisgewing dat die konsolidering verval het, weer te gee.

### **Opheffing, opskorting of wysiging van beperkende voorwaardes**

- 33.** (1) Die Munisipaliteit kan, uit eie beweging of by aansoek ingevolge artikel 15(2), 'n beperkende voorwaarde ophef, opskort of wysig.
- (2) Die Munisipaliteit kan 'n beperkende voorwaarde soos volg ophef, opskort of wysig:
- (a) permanent;
- (b) vir 'n tydperk vermeld in die goedkeuring; of
- (c) behoudens voorwaardes van goedkeuring.
- (3) Benewens die prosedures uiteengesit in Hoofstuk IV moet die eienaar—
- (a) 'n afskrif van die tersaaklike titelakte by die Munisipaliteit indien; en
- (b) waar van toepassing, die verbandhouer se toestemming vir die aansoek indien.
- (4) Die Munisipaliteit moet 'n kennisgewing van 'n aansoek ingevolge subartikel (1) laat beteken op—
- (a) alle staatsorgane wat moontlik 'n belang by die beperkende voorwaarde het;
- (b) 'n persoon wie se regte of regmatige verwagtinge geraak sal word deur die goedkeuring van die aansoek; en

- (c) alle persone vermeld in die titelakte tot wie se voordeel die beperkende voorwaarde van toepassing is.
- (5) Wanneer die Munisipaliteit die opheffing, opskorting of wysiging van 'n beperkende voorwaarde oorweeg, moet die Munisipaliteit die volgende in ag neem:
- (a) die finansiële of ander waarde van die regte wat 'n persoon of entiteit ingevolge die beperkende voorwaarde geniet, ongeag of dié regte persoonlik is of in die persoon as die eienaar van 'n heersende erf vestig;
- (b) die persoonlike voordele wat aan die houër van regte ingevolge die beperkende voorwaarde toeval;
- (c) die persoonlike voordele wat sal toeval aan die persoon wat die opheffing, opskorting of wysiging van die beperkende voorwaarde verlang indien dit gewysig, opgeskort of opgehef word;
- (d) die maatskaplike voordeel indien die beperkende voorwaarde in sy bestaande vorm in plek bly;
- (e) die maatskaplike voordeel van die opheffing, opskorting of wysiging van die beperkende voorwaarde; en
- (f) of die opheffing, opskorting of wysiging van die beperkende voorwaarde alle regte wat die begunstigde geniet volkome sal wegneem of slegs sommige van daardie regte.
- (6) 'n Goedkeuring om 'n beperkende voorwaarde op te hef, op te skort of te wysig, tree in werking—
- (a) indien geen appèl aangeteken is nie, na die verstryking van die tydperk beoog in artikel 79(2) waarbinne 'n appèl aangeteken moet word; of
- (b) indien appèl aangeteken is, wanneer die Appèlgesag oor die appèl besluit het.
- (7) Die Munisipaliteit moet nadat die besluit in werking tree soos beoog in subartikel (6) 'n kennisgewing van die besluit om 'n beperkende voorwaarde op te hef, op te skort of te wysig in die *Provinsiale Koerant* laat publiseer en die Registrateur van die besluit in kennis stel.

### **Endossemente in verband met die opheffing, opskorting of wysiging van beperkende voorwaardes**

34. (1) 'n Aansoeker op wie se versoek 'n beperkende voorwaarde opgehef, opgeskort of gewysig word, moet na die publisering van 'n kennisgewing in die *Provinsiale Koerant* beoog in artikel 33(7) by die Registrateur van Aktes aansoek doen om die toepaslike inskrywings in en endossemente op, enige tersaaklike register of titelakte te maak ten einde die opheffing, opskorting of wysiging van die beperkende voorwaarde weer te gee.

- (2) Die Registrateur van Aktes kan bewys van die opheffing, opskorting of wysiging van 'n beperkende voorwaarde van die aansoeker vereis, met inbegrip van die indiening by die Registrateur van Aktes van die volgende:
- (a) 'n afskrif van die goedkeuring;
  - (b) die oorspronklike titelakte; en
  - (c) 'n afskrif van die kennisgewing beoog in artikel 33(7) soos gepubliseer in die *Provinsiale Koerant*.

#### **HOOFSTUK IV AANSOEKPROSEDURES**

##### **Wyse en datum van kennisgewing**

- 35. (1)** Enige betekening van 'n kennisgewing of kennisgewing of erkenning gegee ingevolge hierdie Verordening moet op skrif wees en kan aan 'n persoon uitgereik word—
- (a) deur dit per hand aan die persoon af te lewer;
  - (b) deur dit per geregistreerde pos te stuur—
    - (i) na daardie persoon se besigheids- of woonadres; of
    - (ii) in die geval van 'n regs persoon, na sy geregistreerde adres of vernaamste besigheidsplek;
  - (c) deur middel van databoodskappe beoog in die Wet op Elektroniese Kommunikasies en Transaksies, 2002 (Wet 25 van 2002), deur 'n afskrif van die kennisgewing aan die persoon te stuur, indien die persoon 'n e-posadres of ander elektroniese adres het; of
  - (d) waar 'n adres onbekend is ondanks redelike ondersoek, deur dit eenmalig in die *Provinsiale Koerant* en eenmalig in 'n plaaslike koerant in omloop in die gebied van daardie persoon se laaste bekende besigheids- of woonadres te publiseer.
- (2) Die datum van kennisgewing ten opsigte van 'n kennisgewing wat ingevolge hierdie Verordening aan 'n persoon beteken of gegee is—
- (a) wanneer dit per gesertifiseerde of geregistreerde pos beteken is, is die datum van registrasie van die kennisgewing;
  - (b) wanneer dit persoonlik aan daardie persoon afgelewer is, is die datum van aflewering aan daardie persoon;

- (c) wanneer dit by daardie persoon se besigheids-, werks- of woonadres in die Republiek gelaat is by 'n persoon oënskynlik ouer as 16 jaar, is die datum waarop dit by daardie persoon gelaat is;
  - (d) wanneer dit vertoon is op 'n opsigtelike plek op die eiendom of perseel waarop dit betrekking het, is die datum waarop dit op daardie plek aangebring is; of
  - (e) wanneer dit per e-pos of na 'n elektroniese adres gestuur is, is die datum waarop dit deur daardie persoon ontvang is soos beoog in die Wet op Elektroniese Kommunikasies en Transaksies, 2002.
- (3) Die Munisipaliteit kan ten opsigte van aansoeke en appèlle spesifieke metodes van betekening en kennisgewing bepaal, met inbegrip van—
- (a) inligtingspesifikasies wat verband hou met aangeleenthede soos grootte, skaal, kleur, hardekopie, getal afskrifte, elektroniese formaat en lêerformaat;
  - (b) die wyse van indiening by en kommunikasie met die Munisipaliteit;
  - (c) die metode waarvolgens 'n persoon in kennis gestel kan word;
  - (d) ander inligtingsvereistes; en
- (d) ander prosedurele vereistes.

### **Prosedures vir aansoeke**

- 36.** (1) 'n Aansoeker moet aan die prosedures in hierdie Hoofstuk voldoen en, waar van toepassing, aan die spesifieke prosedures bepaal in Hoofstuk III van hierdie Verordening.
- (2) 'n Aansoeker kan gelyktydig om verskillende soorte aansoeke om grondontwikkeling ingevolge artikel 15(2) aansoek doen.

### **Konsultasie voor aansoek**

- 37.** (1) Die Munisipaliteit kan van 'n eienaar van grond wat van voorneme is om 'n aansoek in te dien of sy of haar agent vereis om met die gemagtigde werknemer en, waar van toepassing, met ander tersaaklike staatsorgane te vergader vir 'n konsultasie voor aansoek voordat hy of sy 'n aansoek indien by die Munisipaliteit ten einde vas te stel welke inligting en dokumente saam met die aansoek ingedien moet word.
- (2) Die Munisipaliteit kan riglyne uitreik rakende—
- (a) aansoeke wat 'n konsultasie voor aansoek benodig;
  - (b) die aard van die inligting en dokumente wat saam met 'n aansoek ingedien moet word;

- (c) die bywoning deur werknemers van die Munisipaliteit of ander staatsorgane van 'n konsultasie voor aansoek; en
  - (d) die prosedures by 'n konsultasie voor aansoek.
- (3) Die Munisipaliteit moet notule hou van die verrigtinge van 'n konsultasie voor aansoek.

### Vereiste inligting

- 38. (1)** Behoudens subartikel (2) moet 'n aansoek van die volgende inligting en dokumente vergesel gaan:
- (a) 'n aansoekvorm verskaf deur die Munisipaliteit, voltooi en onderteken deur die aansoeker;
  - (b) indien die aansoeker 'n agent is, 'n volmag wat die aansoeker magtig om die aansoek namens die eienaar te doen;
  - (c) indien die eienaar van die grond 'n maatskappy, beslote korporasie, trust, regs persoon of eienaarsvereniging is, bewys dat die persoon gemagtig is om namens die maatskappy, beslote korporasie, trust, korporatiewe liggaam of 'n eienaarsvereniging op te tree;
  - (d) bewys van geregistreerde eienaarskap of enige ander tersaaklike reg in die betrokke grond gehou;
  - (e) die toestemming van die tersaaklike verbandhouer, indien enige;
  - (f) 'n skriftelike motivering vir die aansoek gegrond op die vereistes bedoel in artikel 65;
  - (g) 'n afskrif van die Landmeter-generaal se diagram van die betrokke eiendom of, indien dit nie bestaan nie, 'n uittreksel uit die tersaaklike algemene plan;
  - (h) 'n liggingsplan en 'n terreinontwikkelingsplan, indien nodig, of 'n plan wat die voorgestelde grondontwikkeling in sy kadastrale konteks aantoon;
  - (i) in die geval van 'n aansoek om die onderverdeling van grond, afskrifte van die onderverdelingsplan wat die volgende aantoon:
    - (i) die ligging van die voorgestelde grondeenhede;
    - (ii) die voorgestelde sonerings ten opsigte van die voorgestelde grondeenhede;
    - (iii) alle bestaande strukture op die eiendom;



- (iv) die voorgestelde openbare plekke en die grond wat vir openbare doeleindes benodig word;
  - (v) die bestaande toegangspunte;
  - (vi) alle serwitute;
  - (vii) kontoere met minstens 'n eenmeter-tussenruimtes of sodanige ander tussenruimte soos die Munisipaliteit kan goedkeur;
  - (viii) die straatmeubels;
  - (ix) die lamp-, elektrisiteits- en telefoonpale;
  - (x) die elektrisiteitstransformators en minisubstasies;
  - (xi) die stormwaterkanale en -dreine;
  - (xii) die rioolpyplyne en -aansluitings;
  - (xiii) enige betekenisvolle natuurverskynsels; en
  - (xiv) alle afstande en gebiede op skaal;
- (j) bewys van 'n ooreenkoms of toestemming indien die voorgestelde grondontwikkeling 'n serwituut oor grond of toegang tot 'n provinsiale of nasionale pad benodig;
- (k) enige ander dokumente of inligting wat die Munisipaliteit kan vereis;
- (l) bewys van betaling van aansoekgelde;
- (m) 'n afskrif van die titelakte van die betrokke grond;
- (n) 'n transportbesorgersertifikaat wat aandui dat die aansoek nie beperk word deur enige voorwaarde vervat in die titelakte ten opsigte van die aansoekeiendom nie of 'n afskrif van alle historiese titelaktes; en
- (o) waar van toepassing, die notule van 'n konsultasie voor aansoek ten opsigte van die aansoek.
- (2) Die Munisipaliteit kan vir 'n bepaalde aansoek enige inligting of dokumente beoog in subartikel (1) by 'n konsultasie voor aansoek byvoeg of verwyder.
- (3) Die Munisipaliteit kan riglyne rakende die indiening van inligting, dokumente of prosedurele vereistes uitreik.

### Aansoekgelde

39. (1) 'n Aansoeker moet die aansoekgelde wat deur die Munisipaliteit bepaal word betaal voordat hy of sy 'n aansoek ingevolge hierdie Verordening indien.
- (2) Aansoekgelde betaal aan die Munisipaliteit is nie terugbetaalbaar nie en 'n aansoek moet vergesel gaan van bewys van betaling van die aansoekgelde.

### Gronde vir weiering om aansoek te aanvaar

40. Die Munisipaliteit kan weier om 'n aansoek te aanvaar indien—
- (a) daar geen bewys van betaling van die toepaslike gelde is nie; of
- (b) die aansoek nie in die vorm is of nie die inligting of dokumente bevat waarna in artikel 38 verwys word nie.

### Ontvangs van aansoek en begin van aansoekproses

41. (1) Die Munisipaliteit moet—
- (a) ontvangs van 'n aansoek op die dag van ontvangs aanteken, skriftelik of deur 'n stempel op die aansoek aan te bring;
- (b) nagaan of die aansoek aan artikel 38 voldoen; en
- (c) die aansoeker binne veertien dae vanaf ontvangs van die aansoek skriftelik in kennis stel—
- (i) dat die aansoek volledig is en aan artikel 38 voldoen en dat die aansoekproses begin; of
- (ii) van enige inligting, dokumente of gelde bedoel in artikel 38 wat uitstaande is en wat die aansoeker aan die Munisipaliteit moet verskaf binne 14 dae vanaf die datum van kennisgewing.
- (2) Die Munisipaliteit moet binne veertien dae van ontvangs van die uitstaande inligting, dokumente of gelde bedoel in subartikel (1)(c)(ii) die aansoeker skriftelik in kennis stel dat die aansoek volledig is en dat die aansoekproses begin.
- (3) Die Munisipaliteit kan weier om die aansoek te oorweeg indien die aansoeker versuim om binne die tydperk beoog in subartikel (1)(c)(ii) die inligting of dokumente te verskaf of die gelde te betaal.
- (4) Die Munisipaliteit moet die aansoeker in kennis stel van 'n weiering kragtens subartikel (3) om 'n aansoek te oorweeg en moet die aansoek sluit.
- (5) 'n Aansoeker het geen reg van appèl na die Appèlgesag ten opsigte van 'n besluit beoog in subartikel (3) om te weier om 'n aansoek te oorweeg nie.

- (6) Indien 'n aansoeker met 'n aansoek wil voortgaan wat die Munisipaliteit kragtens subartikel (3) geweier het om te oorweeg, moet die aansoeker weer aansoek doen en die toepaslike gelde betaal.
- (7) Die Munisipaliteit moet binne 21 dae vanaf die datum waarop die aansoekproses soos beoog in subartikel (1)(c)(i) of (2) begin, kennis van die aansoek laat gee.

#### **Verskaffing van bykomende inligting of dokumente**

42. (1) Die Munisipaliteit moet binne 30 dae van ontvangs van 'n aansoek wat aan artikel 38 voldoen die aansoeker skriftelik in kennis stel van enige inligting of dokumente wat hy benewens die vereistes beoog in artikel 38 benodig.
- (2) Die aansoeker moet binne 30 dae vanaf die datum van kennisgewing of binne die verdere tydperk waarvoor die aansoeker en die Munisipaliteit ooreengekom het, die Munisipaliteit voorsien van die bykomende inligting of dokumente beoog in subartikel (1).
- (3) Indien die aansoeker versuim om die bykomende inligting of dokumente binne die tydperk beoog in subartikel (2) te verskaf, moet die Munisipaliteit sonder die inligting of dokumente die aansoek oorweeg en die aansoeker dienooreenkomstig in kennis stel.
- (4) Die Munisipaliteit moet binne 21 dae vanaf ontvangs van die bykomende inligting of dokumente, indien die aansoeker alle vereiste inligting of dokumente verskaf het, ontvangs daarvan erken en die aansoeker skriftelik in kennis stel dat die aansoekproses voortgaan of dat verdere inligting, dokumente of gelde vereis word as gevolg van die inligting of dokumente ontvang.
- (5) Indien die Munisipaliteit die aansoeker in kennis gestel het dat verdere inligting of dokumente soos beoog in subartikel (4) benodig word, is subartikels (2) en (3) van toepassing op die verdere indiening van inligting of dokumente.

#### **Terugtrekking van aansoek of volmag**

43. (1) 'n Aansoeker kan te eniger tyd voordat die Munisipaliteit 'n besluit neem oor 'n aansoek ingedien deur die aansoeker die aansoek terugtrek deur skriftelike kennis van die terugtrekking aan die Munisipaliteit te gee.
- (2) Die eienaar van grond moet die Munisipaliteit skriftelik in kennis stel indien hy of sy die volmag gegee aan sy of haar voormalige agent teruggetrek het en bevestig of hy of sy persoonlik sal voortgaan met die aansoek.

### **Openbare kennisgewing ooreenkomstig ander wette en geïntegreerde prosedures**

- 44.** (1) Die Munisipaliteit kan voordat kennis van 'n aansoek ingevolge artikel 45 of 46 gegee word op skriftelike versoek en by motivering deur 'n aansoeker bepaal dat—
- (a) 'n prosedure vir openbare kennisgewing wat ingevolge 'n ander wet ten opsigte van die aansoek uitgevoer word openbare kennisgewing uitmaak vir die doel van 'n aansoek wat ingevolge hierdie Verordening gemaak word; of
  - (b) openbare kennisgewing wat ingevolge hierdie Verordening van die aansoek gegee word, gepubliseer kan word ooreenkomstig die vereistes vir openbare kennisgewing van toepassing op 'n verwante aansoek ingevolge 'n ander wet.
- (2) Indien die Munisipaliteit bepaal dat 'n aansoek soos beoog in subartikel (1)(b) gepubliseer kan word, moet 'n ooreenkoms aangegaan word tussen die Munisipaliteit en die tersaaklike staatsorgane om die gelyktydige publisering van kennisgewings te fasiliteer.

### **Publisering van kennisgewings**

- 45.** (1) Behoudens artikel 44 moet die Munisipaliteit ooreenkomstig subartikel (2) openbare kennisgewing laat gee van die volgende aansoeke:
- (a) 'n aansoek om 'n hersonering of 'n hersonering op inisiatief van die Munisipaliteit;
  - (b) die onderverdeling van grond groter as vyf hektaar binne die buitenste grens van stedelike uitbreiding soos weergegee in die munisipale ruimtelike ontwikkelingsraamwerk;
  - (c) die onderverdeling van grond groter as een hektaar buite die buitenste grens van stedelike uitbreiding soos weergegee in die munisipale ruimtelike ontwikkelingsraamwerk;
  - (d) indien die Munisipaliteit geen goedgekeurde munisipale ontwikkelingsraamwerk het nie, die onderverdeling van grond groter as vyf hektaar binne die fisiese rand, met inbegrip van bestaande goedkeurings van stedelike grondgebruik, van die bestaande stedelike gebied;
  - (e) indien die Munisipaliteit geen goedgekeurde munisipale ruimtelike ontwikkelingsraamwerk het nie, die onderverdeling van grond groter as een hektaar buite die fisiese rand, met inbegrip van bestaande goedkeurings van stedelike grondgebruik, van die bestaande stedelike gebied;
  - (f) die sluiting van 'n openbare plek;
  - (g) 'n aansoek ten opsigte van 'n beperkende voorwaarde;

- (h) ander aansoeke wat, indien goedgekeur, die openbare belang of die belange van die gemeenskap wesenlik sal raak.
- (2) Openbare kennisgewing van 'n aansoek bedoel in subartikel (1) moet gegee word deur—
- (a) 'n kennisgewing met die inhoud beoog in artikel 47 in koerante in algemene omloop in die betrokke gebied te publiseer, in minstens twee van die amptelike tale van die Provinsie wat die meeste in die betrokke gebied gepraat word;
  - (b) indien daar geen koerant in algemene omloop in die gebied is nie, 'n kennisgewing met die inhoud beoog in artikel 47 vir minstens die duur van die kennisgewingstydperk op die betrokke grond te plaas en op enige ander kennisgewingbord, soos die Munisipaliteit kan bepaal; en
  - (c) 'n kennisgewing met die inhoud beoog in artikel 47 te publiseer op die Munisipaliteit se webtuiste.
- (3) Die Munisipaliteit kan van die aansoeker vereis om die publisering soos beoog in subartikel (2) van die openbare kennisgewing van 'n aansoek te behartig.
- (4) 'n Aansoeker wat 'n kennisgewing ingevolge hierdie artikel publiseer, moet binne die tydperk bepaal deur die Munisipaliteit vanaf publikasie van die kennisgewing bewys aan die Munisipaliteit verskaf, soos bepaal deur die Munisipaliteit, dat die kennisgewing ooreenkomstig hierdie artikel gepubliseer is.
- (5) Wanneer die munisipaliteit van voorneme is om ontwikkeling of 'n aktiwiteit beoog in subartikel (1)(a) tot (h) uit te voer, moet hy 'n kennisgewing beoog in subartikel (2) laat publiseer.

### **Betekening van kennisgewings**

- 46.** (1) Die Munisipaliteit moet 'n kennisgewing met die inhoud beoog in artikel 47 laat beteken van minstens die volgende aansoeke:
- (a) 'n aansoek bedoel in artikel 45(1);
  - (b) 'n bepaling van 'n sonering beoog in artikel 13;
  - (c) 'n aansoek om onderverdeling, wysiging of kansellasie van 'n onderverdeling beoog in onderskeidelik artikel 15(2)(d) en (k);
  - (d) 'n aansoek om konsolidering beoog in artikel 15(2)(e);
  - (e) die wysiging, skrapping of oplegging van 'n voorwaarde beoog in artikel 15(2)(h).

- (2) 'n Kennisgewing beoog in subartikel (1) moet beteken word—
- (a) ooreenkomstig artikel 35;
  - (b) in minstens twee van die amptelike tale van die Provinsie wat die meeste in die betrokke gebied gepraat word;
  - (c) aan elke persoon van wie die regte of wettige verwagtinge deur die goedkeuring van die toepassing aangeraak kan word; en
  - (d) op elke eienaar van grond wat aan die betrokke grond grens.
- (3) Die Munisipaliteit kan die betekening van 'n kennisgewing soos beoog in hierdie artikel vereis vir enige ander aansoek wat ingevolge hierdie Verordening gedoen word en nie in subartikel (1) gelys word nie.
- (4) Die Munisipaliteit kan van die aansoeker vereis om die betekening van 'n kennisgewing soos beoog in subartikel (2) te behartig.
- (5) 'n Aansoeker wat 'n kennisgewing ingevolge hierdie artikel beteken moet binne die tydperk bepaal deur die Munisipaliteit vanaf die betekening van daardie kennisgewing bewys aan die Munisipaliteit verskaf, soos bepaal deur die Munisipaliteit, van die betekening van die kennisgewing ooreenkomstig subartikel (2).
- (6) Die Munisipaliteit kan van die aansoeker verwag om die aansoek ter insae beskikbaar te stel aan die publiek by 'n openbare plek bepaal deur die Munisipaliteit.
- (7) Wanneer die Munisipaliteit van voorneme is om 'n ontwikkeling of 'n ander aktiwiteit beoog in subartikel (1)(a) tot (e) uit te voer, moet hy 'n kennisgewing laat beteken soos beoog in subartikel (2).

### **Inhoud van kennisgewing**

- 47.** Wanneer 'n kennisgewing van 'n aansoek ingevolge hierdie Verordening gepubliseer of beteken moet word, moet die kennisgewing—
- (a) die naam en kontakbesonderhede van die aansoeker en die eienaar verskaf;
  - (b) die grond of grondeenheid waarmee die aansoek verband hou, identifiseer deur die eiendomsbeskrywing en die fisiese adres te vermeld;
  - (c) die oogmerk en doel van die aansoek vermeld;
  - (d) vermeld dat 'n afskrif van die aansoek en stawende dokumentasie op die tye en by die plek vermeld in die kennisgewing ter insae beskikbaar sal wees;
  - (e) die naam en kontakbesonderhede vermeld van die persoon aan wie kommentaar gerig moet word;

- (f) lede van die publiek uitnoui om skriftelike kommentaar, tesame met die redes daarvoor, ten opsigte van die aansoek in te dien;
- (g) vermeld op welke wyse kommentaar ingedien kan word;
- (h) die datum vermeld waarteen die kommentaar ingedien moet wees, welke datum nie minder as 30 dae mag wees vanaf die datum waarop die kennis gegee is nie; en
- (i) vermeld dat enige persoon wat nie kan skryf nie gedurende kantoorure na 'n adres vermeld in die kennisgewing kan kom waar 'n genoemde werknemer van die Munisipaliteit daardie persone sal bystaan deur hul kommentaar op skrif te stel.

### **Ander metodes van openbare kennisgewing**

- 48. (1)** Die Munisipaliteit kan openbare kennisgewing deur een of meer van die metodes bedoel in subartikel (2) laat gee—
- (a) ten einde bykomende openbare kennisgewing van aansoeke gelys in artikel 45(1) te verseker indien die Munisipaliteit kennisgewing ooreenkomstig artikels 45 of 46 ondoeltreffend beskou of verwag dat die kennisgewing ondoeltreffend sal wees; of
  - (b) ten einde openbare kennisgewing van enige ander aansoek ingevolge hierdie Verordening te gee.
- (2)** Openbare kennisgewing beoog in subartikel (1) kan gegee word deur—
- (a) 'n kennisgewing beoog in artikel 47 met 'n grootte van minstens 60 sentimeter by 42 sentimeter aan die voorkant van die betrokke erf of op enige ander opsigtelike en maklik bereikbare plek op die erf te vertoon, mits—
    - (i) die kennisgewing vir 'n minimum van 30 dae vertoon word gedurende enige tydperk wat die publiek kommentaar op die aansoek kan lewer; en
    - (ii) die aansoeker binne 30 dae vanaf die laaste dag van die vertoon van die kennisgewing die volgende indien by die Munisipaliteit:
      - (aa) 'n beëdigde verklaring wat die instandhouding van die kennisgewing vir die voorgeskrewe tydperk bevestig; en
      - (bb) minstens twee foto's van die kennisgewing, een van naby en een van oorkant die straat;

- (b) 'n vergadering byeen te roep vir die doel om geraakte lede van die publiek van die aansoek in kennis te stel;
  - (c) die inligting rakende die aansoek in 'n bepaalde taal op 'n plaaslike radiostasie uit te saai;
  - (d) 'n ope dag of openbare vergadering te hou om geraakte lede van die publiek van die aansoek in kennis te stel;
  - (e) die aansoek op die Munisipaliteit se webtuiste te publiseer vir die duur van die tydperk waarbinne die publiek kommentaar op die aansoek kan lewer; of
  - (f) briewe van instemming of beswaar ten opsigte van die aansoek te bekom, mits die briewe vergesel word van aanvaarbare bewys dat korrekte en voldoende inligting oor die aansoek verskaf is aan die persoon wat die brief onderteken.
- (3) Bykomende openbare kennisgewing kan gelyktydig met 'n kennisgewing ooreenkomstig artikels 45 of 46 gegee word of daarna.
- (4) Die Munisipaliteit kan van die aansoeker vereis om die publisering van 'n kennisgewing soos beoog in subartikel (2) te behartig.
- (5) 'n Aansoeker wat ingevolge hierdie artikel kennis gee, moet binne die tydperk bepaal deur die Munisipaliteit vandat kennis gegee is aan die Munisipaliteit bewys lewer, soos bepaal deur die Munisipaliteit, dat kennis ooreenkomstig subartikel (2) gegee is.

#### **Vereistes vir petisies**

- 49.** (1) Kommentaar ten opsigte van 'n aansoek wat deur die publiek in die vorm van 'n petisie ingedien word, moet die volgende duidelik vermeld:
- (a) die kontakbesonderhede van die gemagtigde verteenwoordiger van die ondertekenaars van die petisie;
  - (b) die volledige naam en fisiese adres van elke ondertekenaar; en
  - (c) die kommentaar en redes daarvoor.
- (2) Kennis aan die persoon beoog in subartikel (1)(a) maak kennis aan al die ondertekenaars van 'n petisie uit.

#### **Vereistes vir indiening van kommentaar**

- 50.** (1) 'n Persoon kan ooreenkomstig hierdie artikel skriftelik antwoord op 'n kennisgewing beoog in artikels 44, 45, 46 of 48.



- (2) Enige kommentaar gelewer as gevolg van 'n kennisgewingsproses moet op skrif wees en gerig word aan die persoon vermeld in die kennisgewing en moet binne die tydperk vermeld in die kennisgewing en op die wyse uiteengesit in hierdie artikel ingedien word.
- (3) Die kommentaar moet die volgende vermeld:
  - (a) die naam van die betrokke persoon;
  - (b) die adres of kontakbesonderhede waar die betrokke persoon of liggaam kennisgewing of die betekening van dokumente sal ontvang;
  - (c) die persoon se belang by die aansoek; en
  - (d) die redes vir die kommentaar.
- (4) Die redes vir enige kommentaar moet in genoeg besonderhede uiteengesit word ten einde—
  - (a) die feite en omstandighede aan te dui wat die kommentaar verduidelik;
  - (b) waar ter sake, die ongewenste uitwerking wat die aansoek sal hê indien dit goedgekeur word, uit te lê;
  - (c) waar ter sake, enige aspek van die aansoek uit te lê wat nie bestaanbaar met die toepaslike beleid geag word nie; en
  - (d) die aansoeker in staat te stel om op die kommentaar te antwoord.
- (5) Die Munisipaliteit kan weier om na die sluitingsdatum kommentaar te aanvaar.

### **Interregeringsdeelnameproses**

51. (1) Behoudens artikel 44 moet 'n Munisipaliteit gelyktydig met die kennisgewing aan die aansoeker dat die aansoek volledig is soos beoog in artikel 41(1)(c)(i) of (2), kennis van die aansoek tesame met 'n afskrif van die betrokke aansoek laat gee aan elke munisipale departement en staatsorgaan wat 'n belang het by die aansoek en hul kommentaar op die aansoek versoek.
- (2) 'n Staatsorgaan moet binne 60 dae van ontvangs van 'n versoek om kommentaar skriftelike kommentaar op 'n aansoek aan die Munisipale bestuurder lewer.

### **Wysigings voor goedkeuring**

52. (1) 'n Aansoeker kan sy of haar aansoek te eniger tyd voor die goedkeuring van die aansoek wysig—
  - (a) op die aansoeker se eie inisiatief;

- (b) as gevolg van 'n beswaar, kommentaar of vertoog wat gedurende die kennisgewingstydperk ingedien is; of
  - (c) op versoek van die Munisipaliteit.
- (2) Indien 'n wysiging van 'n aansoek wesenlik is, moet die Munisipaliteit kennis van die wysiging van 'n aansoek gee aan alle munisipale departemente en ander staatsorgane en diensverskaffers wat op die aansoek kommentaar gelewer het en hulle versoek om binne 21 dae vanaf die datum van kennisgewing kommentaar op die gewysigde aansoek te lewer.
- (3) Indien 'n wysiging aan 'n aansoek wesenlik is, kan die Munisipaliteit vereis dat verdere kennis van die aansoek ingevolge artikel 44, 45, 46 of 48 gepubliseer of beteken word.

### **Verdere openbare kennisgewing**

53. (1) Die Munisipaliteit kan vereis dat kennis van 'n aansoek weer gegee word indien meer as 18 maande sedert die eerste openbare kennisgewing van die aansoek verloop het en indien die Munisipaliteit nie die aansoek oorweeg het nie.
- (2) Die Munisipaliteit kan in enige stadium gedurende die prosessering van die aansoek indien nuwe inligting onder sy aandag kom wat wesenlik by die oorweging van die aansoek is, vereis dat—
- (a) kennis van 'n aansoek opnuut ingevolge artikel 44, 45, 46 of 48 gegee of beteken word; en
  - (b) 'n aansoek weer aan munisipale departemente, ander staatsorgane of diensverskaffers vir kommentaar gestuur word.

### **Aanspreeklikheid vir koste van kennisgewing**

54. Die aansoeker is aanspreeklik vir die koste van die gee en betekening van kennis van 'n aansoek ingevolge artikel 44, 45, 46, 48, 52 of 53.

### **Reg van aansoeker om te antwoord**

55. (1) Afskrifte van alle kommentaar en ander inligting wat by die Munisipaliteit ingedien is, moet binne 14 dae vanaf die sluitingsdatum vir openbare kommentaar aan die aansoeker gegee word tesame met 'n kennisgewing wat die aansoeker van sy of haar regte ingevolge hierdie artikel in kennis stel.
- (2) Die aansoeker kan binne 30 dae vanaf die datum waarop hy of sy die kommentaar ontvang het, 'n skriftelike antwoord daarop by die Munisipaliteit indien.

- (3) Die aansoeker kan voor die verstryking van die tydperk van 30 dae bedoel in subartikel (2) by die Munisipaliteit aansoek doen om 'n verlenging van die tydperk om skriftelik te antwoord tot 'n bykomende tydperk van hoogstens 14 dae.
- (4) Indien die aansoeker nie binne die tydperk van 30 dae of binne 'n bykomende tydperk beoog in subartikel (3), indien toegestaan, 'n antwoord indien nie word die aansoeker geag geen kommentaar te hê nie.
- (5) Indien die Munisipaliteit bykomende inligting van die aansoeker vereis as gevolg van die kommentaar ontvang, moet die inligting binne die verdere tydperk waaroor die aansoeker en die Munisipaliteit ooreen kan kom, verskaf word.
- (6) Indien die aansoeker nie die bykomende inligting binne die tydperk beoog in subartikel (5) verskaf nie is artikel 42(3), saamgelees met die nodige veranderinge, van toepassing.

### **Skriftelike evaluering van aansoek**

- 56.** (1) 'n Gemagtigde werknemer moet 'n aansoek ooreenkomstig artikel 65 skriftelik evalueer en 'n aanbeveling aan die besluitnemer maak rakende die goedkeuring of weiering van die aansoek.
- (2) 'n Evaluering van 'n aansoek moet 'n motivering vir die aanbeveling en, waar van toepassing, die voorgestelde voorwaardes van goedkeuring insluit.

### **Besluitnemingstydperk**

- 57.** (1) Indien die bevoegdheid om 'n besluit ten opsigte van 'n aansoek te neem gedelegeer word aan 'n gemagtigde werknemer en geen geïntegreerde proses ingevolge 'n ander wet gevolg word nie moet die gemagtigde werknemer binne 60 dae oor die aansoek besluit, gereken vanaf—
- (a) die laaste dag vir die indiening van kommentaar soos beoog in artikel 50(2) indien geen kommentaar ingedien is nie;
  - (b) die laaste dag vir die indiening van die aansoeker se antwoord op kommentaar soos beoog in artikel 55(2) of (3); of
  - (c) die laaste dag vir die indiening van bykomende inligting soos beoog in artikel 55(5).
- (2) Indien die bevoegdheid om 'n besluit te neem nie gedelegeer word aan 'n gemagtigde werknemer nie en geen geïntegreerde proses ingevolge 'n ander wet gevolg word nie moet die Tribunaal binne 120 dae, gereken vanaf die toepaslike datum beoog in subartikel (1)(a) tot (c), oor die aansoek besluit.

- (3) Die gemagtigde werknemer of Tribunaal, na gelang van die geval, kan die tydperk beoog in subartikel (1) of (2) verleng in uitsonderlike omstandighede, met inbegrip van die volgende:
- (a) indien 'n belanghebbende persoon 'n petisie vir toetredersstatus ingedien het;
  - (b) in die geval van die Tribunaal, indien 'n mondelinge verhoor gehou sal word.

### **Versuim om binne tydperk te handel**

58. Behoudens artikel 41(5) kan 'n aansoeker appèl by die Appèlgesag aanteken indien die gemagtigde werknemer of die Tribunaal versuim om binne die tydperk bedoel in artikel 57(1) of (2) oor 'n aansoek te besluit.

### **Bevoegdhede om roetine-ondersoeke uit te voer**

59. (1) 'n Gemagtigde werknemer of die Tribunaal kan ooreenkomstig die vereistes van hierdie artikel grond of 'n gebou betree om 'n ondersoek uit te voer vir die doel om inligting te bekom om 'n aansoek ingevolge hierdie Verordening te evalueer en 'n skriftelike evaluering beoog in artikel 56 voor te berei.
- (2) Wanneer 'n ondersoek uitgevoer word, kan die gemagtigde werknemer—
- (a) versoek dat enige rekord, dokument of item verskaf word om met die ondersoek te help;
  - (b) afskrifte maak van of uittreksels neem uit enige dokument verskaf uit hoofde van paragraaf (a) wat met die ondersoek verband hou;
  - (c) by verskaffing van 'n kwitansie, 'n rekord, dokument of ander item wat met die ondersoek verband hou, verwyder; of
  - (d) enige gebou of struktuur ondersoek en navrae doen rakende daardie gebou of struktuur.
- (3) Geen persoon mag inmeng wanneer 'n persoon bedoel in subartikel (1) wat besig is om 'n ondersoek soos beoog in subartikel (1) uit te voer nie.
- (4) Die gemagtigde werknemer of lid van die Tribunaal moet, op versoek, identifikasie verskaf wat aantoon dat hy of sy gemagtig is om die ondersoek uit te voer.
- (5) 'n Ondersoek kragtens subartikel (1) moet op 'n redelike tyd plaasvind en nadat redelike kennis aan die eienaar of bewoner van die grond of gebou gegee is.

### **Besluite oor aansoek**

- 60.** 'n Werknemer gemagtig uit hoofde van artikel 69, of die Tribunaal, na gelang van die geval, kan ten opsigte van 'n aansoek beoog in artikel 15(2)—
- (a) daardie aansoek goedkeur, in die geheel of gedeeltelik, of weier;
  - (b) by die goedkeuring van daardie aansoek voorwaardes ingevolge artikel 66 oplê;
  - (c) enige nodige ondersoek uitvoer om 'n aansoek ingevolge artikel 59 te evalueer;
  - (d) in die geval van die Tribunaal, 'n tegniese raadgewer aanstel om raad te gee of bystand te verleen met die verrigting van die Tribunaal se werksaamhede ingevolge hierdie Verordening.

### **Kennisgewing en inwerkingtreding van besluit**

- 61.** (1) Die Munisipaliteit moet binne 21 dae vanaf sy besluit die aansoeker en enige persoon wie se regte deur die besluit geraak word van die besluit, die redes vir die besluit en hul reg tot appèl, indien van toepassing, skriftelik in kennis stel.
- (2) 'n Kennisgewing beoog in subartikel (1) moet 'n aansoeker in kennis stel wanneer 'n goedkeuring in werking tree.
- (3) Indien die eienaar 'n agent aangestel het, moet die eienaar stappe doen om toe te sien dat die agent hom of haar van die besluit van die Munisipaliteit in kennis stel.
- (4) 'n Goedkeuring tree in werking slegs na die verstryking van die tydperk beoog in artikel 79(2) waarbinne 'n appèl aangeteken moet word, indien geen appèl aangeteken is nie.
- (5) Behoudens subartikel (6) is die werking van die goedkeuring van 'n aansoek wat die onderwerp van 'n appèl is, opgeskort hangende die besluit van die Appèlgesag oor die appèl.
- (6) Indien 'n appèl aangeteken is slegs teen voorwaardes wat ingevolge artikel 66 opgelê is, kan die Tribunaal of die gemagtigde werknemer wat die voorwaardes opgelê het, bepaal dat die goedkeuring van die aansoek nie opgeskort is nie.

### **Pligte van agent**

- 62.** (1) 'n Agent moet toesien dat hy of sy die kontakbesonderhede van die eienaar het namens wie hy of sy gemagtig is om op te tree.
- (2) 'n Agent mag nie ter ondersteuning van 'n aansoek inligting verskaf of 'n verklaring maak welke inligting of stelling hy of sy weet of van mening is misleidend, onwaar of onakkuraat is nie.

### **Foute en weglatings**

- 63.** (1) Die Munisipaliteit kan te eniger tyd 'n fout in die bewoording van sy besluit regstel indien die regstelling nie die besluit verander of 'n verandering, invoeging, opskorting of skraping van 'n voorwaarde van goedkeuring tot gevolg het nie.
- (2) Die Munisipaliteit kan, uit eie beweging of by aansoek deur die aansoeker of belanghebbende party, by aanvoering van goeie gronde, 'n fout in 'n prosedure oorsien, indien die oorsiening nie 'n wesentlike nadelige uitwerking het op enige party nie of enige party onredelik benadeel nie.

### **Vrystellings om bespoedigde prosedures te fasiliteer**

- 64.** (1) Die Munisipaliteit kan skriftelik en behoudens artikel 60 van die Wet op Grondgebruikbeplanning—
- (a) 'n ontwikkeling vrystel van voldoening aan 'n bepaling van hierdie Verordening ten einde die finansiële of administratiewe las van die volgende te verminder:
- (i) geïntegreerde aansoekprosesse beoog in artikel 44;
  - (ii) die verskaffing van behuising met behulp van 'n staatsubsidie; of
  - (iii) stapsgewyse opgradering van bestaande nedersettings;
- (b) in 'n noodsituasie magtiging verleen dat 'n ontwikkeling van enige van die bepalinge van hierdie Verordening kan afwyk.
- (2) Indien die Provinsiale Minister ingevolge artikel 60 van die Wet op Grondgebruikbeplanning 'n vrystelling of magtiging om af te wyk van 'n bepaling van die Wet op Grondgebruikbeplanning verleen, is die Munisipaliteit vrygestel, of is hy gemagtig om af te wyk, van enige bepaling in hierdie Verordening wat ooreenstem met die bepaling van die Wet op Grondgebruikbeplanning ten opsigte waarvan 'n vrystelling verleen of 'n afwyking gemagtig is.

## **HOOFSTUK V MAATSTAWWE VIR BESLUITNEMING**

### **Algemene maatstawwe vir oorweging van aansoeke**

- 65.** (1) Wanneer die Munisipaliteit 'n aansoek oorweeg, moet hy die volgende in ag neem:
- (a) die aansoek ingedien ingevolge hierdie Verordening;
  - (b) die prosedure wat gevolg is om die aansoek te prosesseer;
  - (c) die wenslikheid van die voorgestelde aanwending van grond en enige riglyne uitgereik deur die Provinsiale Minister rakende die wenslikheid van voorgestelde grondgebruike;

- (d) die kommentaar in antwoord op die kennisgewing van die aansoek, met inbegrip van kommentaar ontvang van staatsorgane, munisipale departemente en die Provinsiale Minister ingevolge artikel 45 van die Wet op Grondgebruikbeplanning;
- (e) die antwoord deur die aansoeker, indien enige, op die kommentaar bedoel in paragraaf (d);
- (f) ondersoeke wat ingevolge ander wette uitgevoer word en tersaaklik tot die oorweging van die aansoek is;
- (g) 'n geregistreeerde beplanner se skriftelike evaluering ten opsigte van 'n aansoek om—
  - (i) 'n hersonering;
  - (ii) 'n onderverdeling van meer as 20 kadastrale eenhede;
  - (iii) 'n opheffing, opskorting of wysiging van 'n beperkende voorwaarde indien dit met 'n verandering van grondgebruik verband hou;
  - (iv) 'n wysiging, skrapping of oplegging van bykomende voorwaardes ten opsigte van 'n bestaande gebruiksreg;
  - (v) 'n goedkeuring van 'n oorlegsone beoog in die soneringskema;
  - (vi) 'n fasering, wysiging of kansellasië van 'n onderverdelingsplan of 'n gedeelte daarvan;
  - (vii) 'n bepaling van 'n sonering;
  - (viii) 'n sluiting van 'n openbare plek of 'n gedeelte daarvan;
- (h) die impak van die voorgestelde grondontwikkeling op munisipale ingenieursdienste;
- (i) die geïntegreerde ontwikkelingsplan, met inbegrip van die munisipale ruimtelike ontwikkelingsraamwerk;
- (j) die geïntegreerde ontwikkelingsplan en ruimtelike ontwikkelingsraamwerk van die distriksmunisipaliteit, waar van toepassing;
- (k) die toepaslike plaaslike ruimtelike ontwikkelingsraamwerke aangeneem deur die Munisipaliteit;
- (l) die toepaslike struktuurplanne;
- (m) die toepaslike beleide van die Munisipaliteit wat besluitneming lei;

- (n) die provinsiale ruimtelike ontwikkelingsraamwerk;
  - (o) waar van toepassing, 'n streeks- ruimtelike ontwikkelingsraamwerk beoog in artikel 18 van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur of provinsiale streeks- ruimtelike ontwikkelingsraamwerk;
  - (p) die beleide, beginsels en die norme en maatstawwe vir beplanning en ontwikkeling wat deur die nasionale en provinsiale regering gestel word;
  - (q) die aangeleenthede bedoel in artikel 42 van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur;
  - (r) die beginsels bedoel in Hoofstuk VI van die Wet op Grondgebruikbeplanning; en
  - (s) die toepaslike bepalings van die soneringskema.
- (2) Waar vereis ingevolge toepaslike ontwikkelingsparameters of voorwaardes van goedkeuring moet die Munisipaliteit 'n terreinontwikkelingsplan goedkeur indien die terreinontwikkelingsplan—
- (a) bestaanbaar is met die ontwikkelingsreëls van die sonering;
  - (b) bestaanbaar is met die ontwikkelingsreëls van 'n oorlegsone, indien van toepassing;
  - (c) aan die voorwaardes van goedkeuring voldoen; en
  - (d) aan hierdie Verordening voldoen.

### **Voorwaardes van goedkeuring**

- 66.** (1) Die Munisipaliteit kan 'n aansoek goedkeur behoudens redelike voorwaardes wat uit die goedkeuring van die voorgestelde aanwending van grond voortspruit.
- (2) Voorwaardes wat ooreenkomstig subartikel (1) opgelê word, kan voorwaardes insluit in verband met—
- (a) die verskaffing van ingenieursdienste en infrastruktuur;
  - (b) vereistes rakende ingenieursdienste soos beoog in artikels 82 en 83;
  - (c) die oordrag van grond of die betaling van geld;
  - (d) die herstrukturering van nedersettings;
  - (e) die bewaring van landbou- of erfenishulpbronne;
  - (f) die bewaring en bestuur van biodiversiteit;



- (g) die verskaffing van behuising met behulp van 'n staatsubsidie, maatskaplike fasiliteite of maatskaplike infrastruktuur;
- (h) energiedoelmatigheid;
- (i) vereistes om aandag te gee aan klimaatsverandering;
- (j) die instelling van 'n eienaarsvereniging ten opsigte van die goedkeuring van 'n onderverdeling;
- (k) die verskaffing van grond benodig deur ander staatsorgane;
- (l) die endossering ingevolge artikel 31 van die Registrasie van Aktes Wet ten opsigte van openbare plekke waar die eienaarskap daarvan in die Munisipaliteit vestig;
- (m) die verskaffing van grond benodig vir openbare plekke of die betaling van geld in plaas van die verskaffing van grond vir daardie doel;
- (n) die omvang van grond wat aan die Munisipaliteit oorgedra staan te word vir die doel van 'n openbare oop ruimte of pad soos bepaal ooreenkomstig 'n beleid aangeneem deur die Munisipaliteit;
- (o) die registrasie van openbare plekke in die naam van die Munisipaliteit;
- (p) die oordrag van eienaarskap aan die Munisipaliteit van grond wat vir ander openbare doeleindes benodig word;
- (q) die implementering van 'n onderverdeling in fases;
- (r) vereistes van ander staatsorgane;
- (s) die indiening van 'n boubestuurplan om die impak van die bou van 'n nuwe gebou op die omliggende eiendomme of op die omgewing te bestuur;
- (t) ooreenkomste wat aangegaan moet word ten opsigte van sekere voorwaardes;
- (u) die fasering van 'n ontwikkeling, met inbegrip van vervalklousules wat met sodanige fasering verband hou;
- (v) die afbakening van ontwikkelingsparameters of grondgebruike wat vir 'n bepaalde sonering gestel word;
- (w) die stel van 'n geldigheidstydperk en enige verlengings daarvan;
- (x) die stel van 'n tydperk waarbinne daar aan 'n bepaalde voorwaarde voldoen moet word;

- (y) vereistes vir 'n geleentheidsgebruik, wat die volgende moet insluit:
- (i) parkering en die getal vereiste ablusiegeriewe;
  - (ii) die maksimum duur of voorkoms van die geleentheidsgebruik; en
  - (iii) parameters wat met 'n vergunningsgebruik ingevolge die soneringskema verband hou;
- (z) die betaling van 'n strydigheidshoofskedding ten opsigte van die onwettige aanwending van grond.
- (3) Indien die Munisipaliteit 'n voorwaarde beoog in subartikel (2)(a) of (b) oplê, moet 'n ooreenkoms vir ingenieursdienste tussen die Munisipaliteit en die eienaar van die betrokke grond gesluit word voor die bouwerk aan infrastruktuur op die grond begin.
- (4) 'n Voorwaarde beoog in subartikel (2)(c) kan slegs 'n proporsionele bydrae tot munisipale openbare uitgawes vereis volgens die normale behoefte daaraan wat uit die goedkeuring voortspruit, soos bepaal deur die Munisipaliteit ooreenkomstig artikel 83(7) en enige ander toepaslike provinsiale norme en standaarde.
- (5) Munisipale openbare uitgawes beoog in subartikel (4) sluit munisipale openbare uitgawes in wat met die volgende munisipaledienste-infrastruktuur en -geriewe verband hou, maar is nie daartoe beperk nie:
- (a) gemeenskapsfasiliteite, met inbegrip van speeltoerusting, straatmeubels, bewaarskole, klinieke, sportgronde, binnenshuise sportfasiliteite of gemeenskapsale;
  - (b) natuurbewaring;
  - (c) energiebesparing;
  - (d) klimaatsverandering; of
  - (e) ingenieursdienste.
- (6) Behalwe vir grond wat vir openbare plekke of interne ingenieursdienste benodig word, moet enige bykomende grond benodig deur die Munisipaliteit of ander staatsorgane wat uit 'n goedgekeurde onderverdeling voortspruit, verkry word behoudens die toepaslike wette wat vir die verkryging of onteiening van grond voorsiening maak.
- (7) 'n Eienaarsvereniging of huiseienaarsvereniging wat uit hoofde van 'n voorwaarde opgelê kragtens die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985), tot stand gekom het en wat onmiddellik voor die inwerkingtreding van hierdie Verordening bestaan, word geag as 'n eienaarsvereniging wat uit hoofde van 'n voorwaarde opgelê deur die Munisipaliteit ooreenkomstig hierdie Verordening tot stand gekom het.

- (8) Die Munisipaliteit mag nie 'n grondgebruikaansoek goedkeur behoudens 'n voorwaarde dat goedkeuring ingevolge ander wetgewing vereis word nie.
- (9) Voorwaardes wat vereis dat daar aan 'n standaard voldoen moet word, moet spesifiek na 'n goedgekeurde of gepubliseerde standaard verwys.
- (10) Geen voorwaardes mag opgelê word wat op 'n derde party vir voldoening staatmaak nie.
- (11) Indien die Munisipaliteit 'n grondgebruikaansoek behoudens voorwaardes goedkeur, moet hy vermeld welke voorwaardes aan voldoen moet word voor die verkoop, ontwikkeling of oordrag van die grond.
- (12) Die Munisipaliteit kan, uit eie beweging ingevolge artikel 15(6) of by aansoek ingevolge artikel 15(2), na behoorlike kennisgewing aan die eienaar en enige persone wie se regte moontlik geraak word, voorwaardes wysig, skrap of bykomende voorwaardes oplê.

## **HOOFSTUK VI VERLENGING VAN GELDIGHEIDSTYDPERK VAN GOEDKEURINGS**

### **Aansoeke om verlenging van geldigheidstydperk**

- 67.** (1) Behoudens artikel 43(2) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur kan die Munisipaliteit 'n aansoek om die verlenging van 'n geldigheidstydperk opgelê ingevolge 'n voorwaarde van goedkeuring goedkeur op 'n datum voor of na die verstryking van die geldigheidstydperk van 'n goedkeuring indien die aansoek om die verlenging van die tydperk voor die verstryking van die geldigheidstydperk ingedien is.
- (2) Wanneer die Munisipaliteit 'n aansoek ingevolge subartikel (1) oorweeg, moet hy die volgende in ag neem:
- (a) of die omstandighede wat ten tye van die oorspronklike goedkeuring gegeld het wesenlik verander het;
  - (b) of die vereistes van wetgewing of beleid wat op die goedkeuring van toepassing was en wat ten tyde van die oorspronklike goedkeuring gegeld het wesenlik verander het; en
  - (c) of daar 'n hangende hersieningsaansoek voor die hof is wat 'n uitwerking op die datum van implementering van die goedkeuring kan hê.
- (3) Indien daar wesenlike veranderinge in omstandighede of in vereistes van wetgewing of beleid is wat nuwe voorwaardes van goedkeuring sal noodsaak indien 'n verlenging van 'n geldigheidstydperk goedgekeur word, moet 'n aansoek beoog in artikel 15(2)(h) voor of gelyktydig met die aansoek om die verlenging van 'n geldigheidstydperk vir oorweging ingedien word.

- (4) Die verlengde geldigheidstydperk tree in werking op en word gereken vanaf die verstrykingsdatum van die geldigheidstydperk van toepassing op die oorspronklike goedkeuring of vanaf die verstrykingsdatum van die voorheen verlengde geldigheidstydperk wat ingevolge hierdie Verordening goedgekeur is.

## **HOOFSTUK VII BESLUITNEMINGSTRUKTURE VIR MUNISIPALE BEPLANNING**

### **Besluitnemingstrukture vir munisipale beplanning**

**68.** Aansoeke word oor besluit deur—

- (a) 'n gemagtigde werknemer wat deur die Munisipaliteit gemagtig is om die aansoeke beoog in subartikel 69(1) te oorweeg en te bepaal;
- (b) die Tribunaal, waar die bevoegdhede en pligte om 'n aansoek te oorweeg en te bepaal nie aan 'n gemagtigde werknemer gedelegeer is nie, soos beoog in artikel 69(2); of
- (c) die Appèlgesag, waar appèl aangeteken is teen 'n besluit van die gemagtigde werknemer of die Tribunaal.

### **Oorweging van aansoeke**

- 69.** (1) Die Munisipaliteit kan aansoeke vir die oorweging en bepaling van 'n gemagtigde werknemer kategoriseer en moet die bevoegdhede en pligte om oor daardie aansoeke te besluit aan daardie gemagtigde werknemer deleger.
- (2) Die Tribunaal oorweeg en bepaal alle aansoeke, behalwe daardie ten opsigte waarvan die bevoegdhede en pligte om dit te oorweeg en te bepaal aan 'n gemagtigde werknemer ingevolge subartikel (1) opgedra en gedelegeer is.

### **Instelling van Tribunaal**

**70.** (1) Die Munisipaliteit moet—

- (a) 'n Munisipale Beplanningstribunaal vir sy munisipale gebied instel;
- (b) by ooreenkoms met een of meer munisipaliteite 'n gesamentlike Munisipale Beplanningstribunaal instel; of
- (c) toestem tot die instelling deur die distriksmunisipaliteit van 'n distriks- Munisipale Beplanningstribunaal.

- (2) 'n Ooreenkoms bedoel in subartikel (1)(b) of (c) moet vir die volgende voorsiening maak:
- (a) die samestelling van die Tribunaal;
  - (b) die bepalings en voorwaardes van aanstelling van lede van die Tribunaal;
  - (c) die bepaling van reëls en prosedures by vergaderings van die Tribunaal; en
  - (d) ander aangeleenthede soos ingevolge die Wet op Ruimtelike Beplanning en Grondgebruikbestuur voorgeskryf kan word.

### **Samestelling van Tribunaal vir munisipale gebied**

71. (1) 'n Tribunaal wat ingevolge subartikel 70(1)(a) ingestel word, moet uit minstens die volgende lede aangestel deur die Raad bestaan:
- (a) drie werknemers voltyds in diens van die Munisipaliteit; en
  - (b) twee persone wat nie werknemers van die Munisipaliteit of raadslede is nie.
- (2) Die lede van die Tribunaal moet kennis en ondervinding van grondgebruikbeplanning of die reg wat daarmee verband hou hê en verteenwoordigend wees van 'n wye reeks gepaste ondervinding en kundigheid.
- (3) 'n Lid van die Tribunaal aangestel ingevolge subartikel (1)(b) kan—
- (a) 'n amptenaar of werknemer wees van—
    - (i) enige staatsdepartement of administrasie in die nasionale of provinsiale regeringsfeer;
    - (ii) 'n regeringsbesigheidsonderneming;
    - (iii) 'n openbare instelling;
    - (iv) georganiseerde plaaslike regering soos beoog in die Grondwet;
    - (v) 'n organisasie geskep deur die regering om munisipale ondersteuning te verskaf;
    - (vi) 'n nie-regeringsorganisasie; en
    - (vii) enige ander staatsorgaan waarvoor daar nie voorsiening gemaak is in subparagrafe (i) tot (iv) nie; of
  - (b) 'n individu in sy of haar eie hoedanigheid wees.

## Proses vir aanstelling van lede van Tribunaal vir munisipale gebied

72. (1) Die lede van die Tribunaal bedoel in subartikel 71(1)(b) kan aangestel word deur die Raad slegs nadat die Munisipaliteit—
- (a) in die geval van 'n amptenaar of werknemer beoog in artikel 71(3)(a), 'n skriftelike uitnodiging gestuur het aan die departemente in die nasionale en provinsiale regeringsfeer, ander staatsorgane en ander organisasies bedoel in artikel 71(3)(a) om 'n amptenaar of werknemer te benoem om in die Tribunaal te dien; en
  - (b) in die geval van 'n lid beoog in artikel 71(3)(b), by kennisgewing in 'n koerant in omloop in die munisipale gebied, belanghebbende partye uitgenooi het om binne die tydperk vermeld in die kennisgewing name in te dien van persone wat aan die vereistes voldoen om aldus aangestel te word.
- (2) 'n Uitnodiging vir benoemings moet—
- (a) genoeg inligting versoek om die munisipaliteit in staat te stel om die kennis en ondervinding van die benoemde te evalueer;
  - (b) 'n skriftelike benoeming versoek in die vorm wat die Munisipaliteit bepaal wat aan subartikel (3) voldoen.
- (3) 'n Benoeming in antwoord op 'n uitnodiging moet—
- (a) selfbenoeming toelaat of voorsiening maak vir die aanvaarding van die benoeming deur die benoemde;
  - (b) bevestiging deur die benoemde bevat dat hy of sy nie ingevolge artikel 74 gediskwalifiseer is om as 'n lid te dien nie;
  - (c) instemming deur die benoemde bevat dat die Munisipaliteit alle inligting verskaf deur die benoemde kan nagaan;
  - (d) 'n verklaring bevat dat die benoemde verplig sal wees om hom of haarself te verbind aan 'n gedragskode en om die gedragskode te handhaaf indien hy of sy aangestel word; en
  - (e) voorsiening maak vir 'n sluitingsdatum vir benoemings, welke datum nie minder as 14 dae mag wees vanaf die datum van publikasie van die uitnodiging ingevolge subartikel (1)(b) of die skriftelike uitnodiging ingevolge subartikel (1)(a) nie, en geen benoemings wat na daardie datum ingedien word mag deur die Munisipaliteit oorweeg word nie.

- (4) Indien geen of nie genoeg benoemings ontvang word nie of indien die benoemdes nie oor die vereiste kennis en vaardighede beskik nie of nie aan enige bykomende maatstawwe voldoen wat die Munisipaliteit moontlik bepaal het nie, moet die Munisipaliteit 'n tweede keer benoemings uitnooi en die vereiste proses vir die uitnodiging van benoemings bedoel in hierdie artikel volg.
- (5) Indien daar na die tweede uitnodiging vir benoemings geen of onvoldoende benoemings ontvang is of indien die benoemdes nie oor die vereiste kennis en vaardighede beskik of nie voldoen aan enige bykomende maatstawwe wat die Munisipaliteit moontlik bepaal het nie, moet die uitvoerende gesag van die Munisipaliteit persone aanwys wat oor die vereiste kennis en ondervinding beskik en aan enige bykomende maatstawwe voldoen wat die Munisipaliteit moontlik bepaal het en die persoon aanstel.
- (6) Benoemings wat uit hoofde van subartikel (1) by die Munisipaliteit ingedien is, moet op skrif en in die vorm wees wat die Munisipaliteit bepaal en moet die inhoud bedoel in subartikel (3) bevat.
- (7) Die Munisipaliteit moet 'n evalueringspaneel byeenroep wat uit amptenare in diens van die Munisipaliteit bestaan om benoemings wat aan hierdie artikel voldoen soos ontvang deur die Munisipaliteit te evalueer en die opdrag aan daardie evalueringspaneel bepaal.
- (8) Die Raad moet lede van die Tribunaal aanstel na inagneming van—
  - (a) die aanbevelings van die evalueringspaneel;
  - (b) die kennis en ondervinding van kandidate ten opsigte van grondgebruikbeplanning of die reg wat daarop betrekking het;
  - (c) die vereiste dat die lede van die Tribunaal verteenwoordigend moet wees van 'n wye verskeidenheid van gepaste ondervinding en kundigheid;
  - (d) die bevoegdhede en pligte van die Tribunaal; en
  - (e) die beleid van die Munisipaliteit ten opsigte van die bevordering van persone wat voorheen deur onregverdigde diskriminasie benadeel is.
- (9) Die Raad mag nie enige persoon in die Tribunaal aanstel indien daardie persoon—
  - (a) nie ooreenkomstig die bepalings van hierdie artikel benoem is nie;
  - (b) van aanstelling gediskwalifiseer is soos beoog in artikel 74; of
  - (c) nie oor die kennis en ervaring vereis ingevolge artikel 71(2) beskik nie.

- (10) Die Raad moet onder die lede van die Tribunaal die volgende aanwys:
- (a) die voorsitter van die Tribunaal; en
  - (b) 'n ander lid as adjunkvoorsitter, om as voorsitter van die Tribunaal waar te neem wanneer die voorsitter afwesig is of nie in staat is om sy of haar pligte uit te voer nie.
- (11) Die Munisipale Bestuurder moet—
- (a) die lede skriftelik van hul aanstelling in kennis stel;
  - (b) van die Raad skriftelike bevestiging bekom dat die Raad tevrede is dat die Tribunaal in staat is om met sy bedrywighede te begin; en
  - (c) na ontvangs van die bevestiging bedoel in paragraaf (a) 'n kennisgewing van die volgende in die *Provinsiale Koerant* publiseer:
    - (i) die naam van elke lid van die Tribunaal;
    - (ii) die datum waarop die aanstelling van elke lid in werking tree;
    - (iii) die ampstermyn van elke lid; en
    - (iv) die datum waarop die Tribunaal met sy bedrywighede sal begin.
- (12) Die Tribunaal mag slegs na die publisering van die kennisgewing beoog in subartikel (11)(c) met sy bedrywighede begin.

### **Ampstermyn en diensvoorwaardes van lede van Tribunaal vir munisipale gebied**

- 73.** (1) 'n Lid van 'n Tribunaal beoog in artikel 70(1)(a)—
- (a) word aangestel vir vyf jaar of 'n korter tydperk wat die Munisipaliteit kan bepaal; en
  - (b) kan vir verdere termyne aangestel word behoudens artikel 37(1) van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur.
- (2) Die amp van 'n lid raak vakant indien—
- (a) die lid van twee opeenvolgende vergaderings van die Tribunaal afwesig is sonder die verlof van die voorsitter van die Tribunaal;
  - (b) die lid sy of haar bedanking skriftelik by die voorsitter van die Tribunaal indien;



- (c) die lid kragtens subartikel (3) uit die Tribunaal verwyder word; of
  - (d) die lid sterf.
- (3) Die Raad kan, nadat hy die lid 'n geleentheid gegun het om sy of haar saak te stel 'n lid van die Tribunaal verwyder indien—
- (a) voldoende gronde vir sy of haar verwydering bestaan;
  - (b) die lid die gedragskode bedoel in artikel 76 oortree;
  - (c) die lid aan 'n diskwalifisering van lidmaatskap soos bedoel in artikel 74 onderworpe raak.
- (4) 'n Vakature in die Tribunaal moet deur die Raad ingevolge artikels 71 en 72 gevul word.
- (5) 'n Lid wat uit hoofde van subartikel (4) aangestel word, beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die lid wat hy of sy vervang, aangestel was.
- (6) Lede van die Tribunaal bedoel in artikel 71(1)(b) moet op die bepalings en voorwaardes aangestel word en die vergoeding en toelaes betaal word en vir uitgawes vergoed word soos bepaal deur die Raad.
- (7) 'n Amptenaar van die Munisipaliteit aangestel ingevolge artikel 71(1)(a) as 'n lid van die Tribunaal—
- (a) mag as lid van die Tribunaal dien slegs vir solank hy of sy voltyds in diens van die Munisipaliteit is;
  - (b) is onderworpe aan die diensvoorwaardes bepaal in sy of haar werkskontrak en is nie geregtig op bykomende vergoeding, toelaes, verlof of siekteverlof of enige ander werknemersvoordeel as gevolg van sy of haar lidmaatskap van die Tribunaal nie.
- (8) 'n Persoon wat ingevolge artikel 71(1)(b) as 'n lid van die Tribunaal aangestel word—
- (a) is nie 'n werknemer op die diensstaat van die Munisipaliteit nie;
  - (b) in die geval van 'n persoon bedoel in artikel 71(3)(a), is onderworpe aan die diensvoorwaardes bepaal in sy of haar werkskontrak en is nie geregtig op bykomende vergoeding, toelaes, verlof of siekteverlof of enige ander werknemersvoordeel as gevolg van sy of haar lidmaatskap van die Tribunaal nie;
  - (c) verrig die bepaalde take ten opsigte van die oorweging van 'n aansoek aan hom of haar toegewys deur die voorsitter van die Tribunaal;

- (d) sit by sodanige vergaderings van die Tribunaal wat sy of haar tersaaklike kennis en ondervinding benodig soos bepaal deur die voorsitter van die Tribunaal;
  - (e) in die geval van 'n persoon bedoel in artikel 71(3)(b), is geregtig op 'n bywonings- en reistoelaag soos bepaal deur die Munisipaliteit vir elke vergadering van die Tribunaal waar dit van hom of haar vereis word om by te woon; en
  - (f) in die geval van 'n persoon bedoel in artikel 71(3)(b), is nie geregtig op oortydbesoldiging, jaarverlof, siekteverlof, kraamverlof, gesinsverantwoordelikhedsverlof, studieverlof, spesiale verlof, 'n prestasiebonus, mediesefondsbydrae, pensioen, motorvoertuigvoordele of enige ander voordeel waarop 'n munisipale werknemer geregtig is nie.
- (9) Die toelaes bedoel in subartikel (8)(e) is onderworpe aan belasting ooreenkomstig die gewone belastingsreëls wat deur die Suid-Afrikaanse Inkomstediens uitgereik word.

#### **Diskwalifikasie van lidmaatskap van Tribunaal**

- 74. (1)** 'n Persoon mag nie aangestel word of voortgaan om te dien as lid van die Tribunaal nie indien daardie persoon—
- (a) nie 'n landsburger of permanente inwoner van die Republiek van Suid-Afrika is nie;
  - (b) 'n lid van die Parlement, 'n provinsiale wetgewer, 'n Munisipale Raad of 'n Huis van Tradisionele Leiers is;
  - (c) 'n ongerehabiliteerde insolvent is;
  - (d) geestesonbevoeg verklaar is deur 'n geregshof of vantevore aangehou is kragtens die "Mental Health Care Act, 2002" (Wet 17 van 2002);
  - (e) te eniger tyd skuldig bevind is van 'n misdryf waar oneerlikheid betrokke was;
  - (f) te eniger tyd weens wangedrag uit 'n vertrouenspos verwyder is;
  - (g) voorheen uit 'n tribunaal verwyder is vir 'n oortreding van die Wet op Ruimtelike Beplanning en Grondgebruikbestuur of hierdie Verordening;
  - (h) skuldig bevind is aan wangedrag, onvermoë of onbevoegdheid; of
  - (i) versuim om aan die Wet op Ruimtelike Beplanning en Grondgebruikbestuur of hierdie Verordening te voldoen.
- (2) 'n Lid moet sy of haar amp verlaat indien daardie lid onderworpe word aan 'n diskwalifikasie soos beoog in subartikel (1).

- (3) 'n Lid van 'n Tribunaal—
- (a) moet enige konflik van belang, met inbegrip van 'n moontlike konflik, volledig verklaar; en
  - (b) mag nie enige verrigtinge van die Tribunaal in verband met enige aangeleentheid ten opsigte waarvan die lid 'n konflik van belang het bywoon, daaraan deelneem of daaroor stem nie.
- (4) Vir die doeleindes van hierdie artikel het 'n lid 'n konflik van belang indien—
- (a) die lid, 'n familielid, vennoot of sakegenoot van die lid die aansoeker is of 'n geldelike of ander belang het by die aangeleentheid voor die Tribunaal nie;
  - (b) die lid enige ander belang het wat hom of haar kan verhinder of wat redelikerwys beskou kan word as dat dit die lid verhinder om die werksaamhede van die lid op 'n regverdig, onbevooroordeelde en behoorlike wyse te verrig;
  - (c) die lid 'n amptenaar in diens van die nasionale, provinsiale of plaaslike regering is, indien die departement waar die amptenaar in diens is 'n direkte of wesenlike belang het by die uitkomst van die aangeleentheid.
- (5) Die Raad kan te eniger tyd 'n lid van die Tribunaal uit sy of haar amp verwyder—
- (a) indien daar redelike gronde is om die verwydering te regverdig; of
  - (b) waar 'n lid ingevolge subartikel (1) gediskwalifiseer is, nadat so 'n lid 'n geleentheid gegee is om sy of haar saak te stel.
- (6) Indien die aanstelling van 'n lid beëindig word of die lid bedank, kan die Raad 'n persoon aanstel om die vakature te vul vir die onverstreke gedeelte van die ampstermyn van die uittredende lid, ooreenkomstig artikels 71 en 72.

### **Vergaderings van Tribunaal vir munisipale gebied**

- 75.** (1) Behoudens artikel 78 moet die Tribunaal beoog in artikel 70(1)(a) sy eie interne reëlings, verrigtinge en prosedures bepaal en dié van sy komitees, deur reëls op te stel vir—
- (a) die byeenroeping van vergaderings;
  - (b) die prosedure by vergaderings; en
  - (c) hoe gereeld vergaderings gehou word.

- (2) Die Tribunaal kan homself saamstel om een of meer panele uit te maak om die volgende te bepaal:
  - (a) aansoeke in bepaalde geografiese gebiede;
  - (b) aansoeke in bepaalde gebiede binne die munisipaliteit; of
  - (c) 'n bepaalde aansoek of 'n soort, of 'n kategorie van, aansoek.
- (3) In hierdie artikel, tensy dit uit die samehang anders blyk, beteken “die Tribunaal” ook 'n paneel van die Tribunaal beoog in subartikel (2).
- (4) Die Tribunaal moet op die tyd en by die plek bepaal deur die voorsitter, of in die geval van 'n paneel, deur die voorsittende beampte, minstens een maal per maand vergader indien daar 'n aansoek is om te oorweeg.
- (5) Indien die Tribunaal homself saamstel om 'n paneel te vorm, moet die Tribunaal minstens drie lede van die Tribunaal aanwys om lede van daardie paneel te wees, waarvan minstens een 'n lid beoog in artikel 71(1)(b) moet wees.
- (6) 'n Korum vir 'n vergadering van die Tribunaal is die gewone meerderheid van sy aangestelde lede.
- (7) 'n Korum vir 'n vergadering van 'n paneel van die Tribunaal is—
  - (a) 'n gewone meerderheid van sy aangewese lede; of
  - (b) drie, indien die paneel uit slegs drie lede bestaan.
- (8) Vergaderings van die Tribunaal of 'n paneel van die Tribunaal moet gehou word soos beoog in hierdie artikel en artikel 78 ooreenkomstig die reëls van die Tribunaal.

### **Gedragkode vir lede van Tribunaal vir munisipale gebied**

- 76.** (1) Die gedragkode in Bylae 1 is van toepassing op elke lid van 'n Tribunaal beoog in artikel 71(1).
- (2) Indien 'n lid die gedragkode oortree, kan die Raad—
    - (a) in die geval van 'n lid beoog in artikel 71(1)(a), dissiplinêre verrigtinge teen die lid instel;
    - (b) die lid uit sy of haar amp verwyder.

**Administrateur vir Tribunaal vir munisipale gebied**

77. (1) Die Munisipale Bestuurder moet 'n werknemer as die Administrateur en ander personeel vir die Tribunaal beoog in artikel 70(1)(a) ingevolge die Munisipale Stelselwet aanstel of aanwys.
- (2) Die Administrateur moet—
- (a) met die tersaaklike Tribunaalrede en die betrokke partye skakel oor enige aansoek wat ingedien is by, of oor ander verrigtinge van, die Tribunaal;
  - (b) 'n dagboek van vergaderings van die Tribunaal byhou;
  - (c) vir 'n aansoek 'n vergaderingsdatum en aansoeknommer toeken;
  - (d) die bywoning van vergaderings deur lede van die Tribunaal reël;
  - (e) lokale vir Tribunaalvergaderings reël;
  - (f) die administratiewe werksaamhede in verband met die verrigtinge van die Tribunaal uitvoer;
  - (g) toesien dat die verrigtinge van die Tribunaal doelmatig en ooreenkomstig die opdragte van die voorsitter van die Tribunaal uitgevoer word;
  - (h) die sake van die Tribunaal reël ten einde toe te sien dat tyd beskikbaar is om met ander staatsorgane te skakel oor die ooreenstemming van geïntegreerde aansoeke en magtigings;
  - (i) die betrokke partye in kennis stel van besluite en prosedurele opdragte van die Tribunaal;
  - (j) 'n rekord hou van alle aansoeke wat by die Tribunaal ingedien is asook van die uitslag van elkeen, met inbegrip van—
    - (i) besluite van die Tribunaal;
    - (ii) ondersoeke ter plaatse en enige aangeleentheid wat as gevolg daarvan aangeteken word;
    - (iii) redes vir besluite; en
    - (iv) verrigtinge van die Tribunaal; en
  - (k) rekord hou op enige wyse wat die Tribunaal dienstig ag.

### Funksionering van Tribunaal vir munisipale gebied

78. (1) Die vergaderings van die Tribunaal beoog in artikel 75(1)(a) moet op die tye en by die plekke gehou word soos die voorsitter kan bepaal.
- (2) Indien 'n aansoeker, of 'n persoon wie se regte of regmatige verwagtinge deur die goedkeuring van 'n ondersoek geraak sal word, versoek om 'n mondelinge vertoog by 'n vergadering van die Tribunaal te rig, moet hy of sy minstens 14 dae voor daardie vergadering 'n skriftelike versoek by die Administrateur indien.
- (3) Die voorsitter kan 'n versoek beoog in subartikel (2) behoudens redelike voorwaardes goedkeur.
- (4) 'n Aansoek kan deur die Tribunaal oorweeg word deur middel van—
- (a) die oorweging van die skriftelike aansoek en kommentaar; of
  - (b) 'n mondelinge verhoor.
- (5) Die aansoek kan ingevolge subartikel (4)(a) oorweeg word indien dit vir die Tribunaal blyk dat die aangeleenthede vir beslissing oor die aansoek in die afwesigheid van die partye voldoende bepaal kan word deur die dokumente of ander materiaal wat by die Tribunaal ingedien is of aan hom verskaf is, te oorweeg.
- (6) 'n Mondelinge verhoor kan gehou word—
- (a) indien dit vir die Tribunaal blyk dat die aangeleenthede vir beslissing oor die aansoek nie in die afwesigheid van die partye voldoende bepaal kan word deur die dokumente of ander materiaal te oorweeg wat by die Tribunaal ingedien is of aan hom verskaf is nie; of
  - (b) indien so 'n verhoor sal bydra tot die spoedige en regverdigde afhandeling van die aansoek.
- (7) Indien toepaslik onder die omstandighede kan die mondelinge verhoor elektronies geskied.

### Appèlle

79. (1) Die uitvoerende gesag (*uitvoerende komitee/uitvoerende burgermeester van die munisipaliteit/ indien die munisipaliteit nie 'n uitvoerende komitee of uitvoerende burgermeester het nie, 'n komitee van raadslede*) is die Appèlgesag ten opsigte van besluite van die Tribunaal of 'n gemagtigde werknemer beoog in artikels 68(a) of (b) en 'n versuim om oor 'n aansoek te besluit soos beoog in artikel 58.

- (2) 'n Persoon wie se regte geraak word deur 'n besluit beoog in subartikel (1) kan binne 21 dae vanaf kennisgewing van die besluit skriftelik by die Appèlgesag appelleer.
- (3) 'n Aansoeker mag te eniger tyd na die verstryking van die tydperk beoog in artikel 57(1) of (2) skriftelik by die Appèlgesag appelleer ten opsigte van die versuim van die Tribunaal of 'n gemagtigde werknemer om binne die tydperk beoog in daardie artikels 'n besluit te neem.
- (4) 'n Appèl word aangeteken deur die appèl op die Munisipale Bestuurder te beteken in die vorm bepaal deur die Munisipaliteit en, in die geval van 'n appèl beoog in subartikel (2), binne die tydperk beoog in subartikel (2).
- (5) Wanneer die Appèlgesag 'n appèl oorweeg, moet die Appèlgesag die volgende in ag neem:
  - (a) die bepalinge van artikel 65(1), saamgelees met die nodige veranderinge; en
  - (b) die kommentaar van die Provinsiale Minister beoog in artikel 52 van die Wet op Grondgebruikbeplanning.

### **Prosedure vir appèl**

- 80.** (1) 'n Appèl is ongeldig indien—
- (a) in die geval van 'n appèl beoog in artikel 79(2), dit nie binne die tydperk bedoel in daardie artikel aangeteken is nie; en
  - (b) dit nie aan hierdie artikel voldoen nie.
- (2) 'n Appèl moet die volgende uiteensit—
- (a) die gronde vir die appèl, wat die volgende gronde kan insluit:
    - (i) dat die administratiewe optrede nie prosedureel regverdig was nie soos beoog in die "Promotion of Administrative Justice Act, 2000" (Wet 3 van 2000);
    - (ii) gronde met betrekking tot die meriete van die aansoek om grondontwikkeling of grondgebruik waarop die appellant van mening is die Tribunaal of gemagtigde werknemer het gefouteer in die slotsom waartoe die Tribunaal of gemagtigde werknemer, na gelang van die geval, gekom het;
  - (b) of die appèl teen die hele besluit of 'n gedeelte van die besluit is;
  - (c) indien die appèl teen 'n gedeelte van die besluit aangeteken word, 'n beskrywing van die gedeelte;

- (d) indien die appèl teen 'n voorwaarde van goedkeuring aangeteken word, 'n beskrywing van die voorwaarde;
  - (e) die feitelike of regsbevindings waarop die appellant steun;
  - (f) die bystand wat die appellant verlang;
  - (g) enige aangeleentheid wat die appellant wil hê die Appèlgesag moet oorweeg wanneer die Appèlgesag sy besluit neem; en
  - (h) in die geval van 'n appèl ten opsigte van die versuim van 'n besluitnemer om 'n besluit te neem, die feite wat die versuim bewys;
- (3) 'n Aansoeker wat 'n appèl aanteken, moet bewys van betaling van appèlgede soos bepaal kan word deur die Munisipaliteit by die Munisipale Bestuurder indien.
  - (4) 'n Aansoeker wat 'n appèl aanteken moet gelyktydig kennisgewing van die appèl aan enige persoon beteken wat op die betrokke aansoek kommentaar gelewer het en aan enige ander persoon soos die Munisipaliteit kan bepaal.
  - (5) Die kennisgewing moet ooreenkomstig artikel 35 beteken word.
  - (6) Die kennisgewing beoog in subartikel (5) moet persone uitnooi om binne 21 dae vandat hulle kennis van die appèl ontvang het kommentaar op die appèl te lewer.
  - (7) Die appellant moet binne 14 dae vanaf die datum van kennisgewing bewys van betekening soos beoog in subartikel (5) by die Munisipale Bestuurder indien.
  - (8) Indien 'n persoon behalwe die aansoeker 'n appèl aanteken, moet die Munisipale Bestuurder binne 14 dae vanaf ontvangs daarvan die aansoeker skriftelik van die appèl in kennis stel.
  - (9) 'n Aansoeker wat ingevolge subartikel (8) van 'n appèl in kennis gestel is, kan binne 21 dae vandat hy of sy in kennis gestel is kommentaar op die appèl by die Munisipaliteit indien.
  - (10) Die Munisipaliteit kan weier om enige kommentaar op 'n appèl na die sluitingsdatum vir daardie kommentaar te aanvaar.
  - (11) Die Munisipale Bestuurder—
    - (a) kan binne 14 dae vanaf die ontvangs van 'n appèl die Provinsiale Minister versoek om binne 60 dae van ontvangs van die versoek skriftelik op die appèl kommentaar te lewer;
    - (b) moet binne 14 dae vanaf ontvangs van 'n appèl die Provinsiale Minister daarvan in kennis stel en versoek om binne 60 dae vanaf ontvangs van die versoek kommentaar te lewer op die appèl ten opsigte van appèlle met betrekking tot die volgende aansoeke:



- (i) 'n ontwikkeling buite die Munisipaliteit se beplande buitenste grens van stedelike uitbreiding soos weergegee in sy munisipale ruimtelike ontwikkelingsraamwerk;
  - (ii) indien die Munisipaliteit geen goedgekeurde munisipale ruimtelike ontwikkelingsraamwerk het nie, 'n ontwikkeling buite die fisiese rand, met inbegrip van bestaande goedkeurings van stedelike grondgebruik, van die bestaande stedelike gebied;
  - (iii) 'n hersonering van grond wat vir die doeleindes van landbou of bewaring gesoneer is;
  - (iv) enige kategorie van grondgebruikaansoeke soos die Provinsiale Minister kan voorskryf; en
- (c) moet by ontvangs van 'n appèl ingevolge hierdie artikel die aansoeker skriftelik in kennis stel of die werking van die goedkeuring van die aansoek opgeskort is al dan nie.
- (12) 'n Gemagtigde werknemer moet 'n verslag opstel wat 'n appèl evalueer en moet dit indien by die Munisipale Bestuurder binne—
- (a) 30 dae vanaf die sluitingsdatum vir kommentaar wat ingevolge subartikels (6) en (9) versoek is, indien geen kommentaar ingevolge subartikel (11) versoek is nie; of
  - (b) 30 dae vanaf die sluitingsdatum vir kommentaar wat ingevolge subartikel (11) versoek is.
- (13) Die Munisipale bestuurder moet binne 14 dae vanaf ontvangs van die verslag beoog in subartikel (12) die appèl by die Appèlgesag indien.
- (14) Die Munisipale Bestuurder of 'n werknemer deur hom of haar aangewys moet—
- (a) met die Appèlgesag en die betrokke partye skakel oor enige appèl wat by die Appèlgesag aangeteken is;
  - (b) 'n dagboek van vergaderings van die Appèlgesag byhou;
  - (c) aan 'n appèl 'n vergaderingsdatum en 'n appèlnommer toeken;
  - (d) die bywoning van vergaderings deur lede van die Appèlgesag reël;
  - (e) lokale vir die Appèlgesag reël;
  - (f) die administratiewe werksaamhede in verband met die verrigtinge van die Appèlgesag uitvoer;

- (g) toesien dat die verrigtinge van die Appèlgesag doelmatig en ooreenkomstig die opdragte van die Appèlgesag uitgevoer word;
  - (h) die sake van die Appèlgesag reël ten einde toe te sien dat tyd beskikbaar is om met ander staatsorgane te skakel oor die ooreenstemming van geïntegreerde appèlprosedures;
  - (i) die betrokke partye in kennis stel van besluite en prosedurele opdragte van die Appèlgesag;
  - (j) 'n rekord hou van alle appèlle wat aangeteken is asook van die uitslag van elkeen, met inbegrip van—
    - (i) besluite van die Appèlgesag;
    - (ii) ondersoeke ter plaatse en enige aangeleentheid wat as gevolg daarvan aangeteken word;
    - (iii) redes vir besluite; en
    - (iv) verrigtinge van die Appèlgesag; en
    - (v) rekord hou op enige wyse wat die Appèlgesag dienstig ag.
- (15) 'n Appellant kan te eniger tyd voordat die Appèlgesag 'n besluit neem oor 'n appèl wat die appellant ingedien het die appèl terugtrek deur die Munisipale Bestuurder skriftelik van die terugtrekking in kennis te stel.
- (16) Die eienaar van grond moet die Munisipaliteit skriftelik in kennis stel indien hy of sy die volmag wat aan sy of haar voormalige agent gegee is, terugtrek en bevestig of hy of sy self sal voortgaan met die appèl.

### **Oorweging deur Appèlgesag**

- 81.** (1) 'n Appèl kan deur die Appèlgesag oorweeg word deur middel van—
- (a) die oorweging van die skriftelike appèl en kommentaar; of
  - (b) 'n mondelinge verhoor.
- (2) Die appèl kan ingevolge subartikel (1)(a) oorweeg word indien dit vir die Appèlgesag blyk dat die aangeleentheid vir beslissing oor die appèl in die afwesigheid van die partye voldoende bepaal kan word deur die dokumente of ander materiaal wat by die Appèlgesag ingedien is of aan hom verskaf is, te oorweeg.

- (3) 'n Mondelinge verhoor kan gehou word—
- (a) indien dit vir die Appèlowerheid blyk dat die aangeleenthede vir beslissing oor die appèl nie in die afwesigheid van die partye voldoende bepaal kan word deur die dokumente of ander materiaal te oorweeg wat by die Appèlgesag ingedien is of aan hom verskaf is nie; of
  - (b) indien so 'n verhoor sal bydra tot die spoedige en regverdigde afhandeling van die appèl.
- (4) Indien gepas in die omstandighede kan die mondelinge verhoor elektronies geskied.
- (5) Indien die Appèlgesag besluit om 'n mondelinge verhoor te hou, kan enige party tot die appèl self verskyn of deur 'n ander persoon verteenwoordig word.
- (6) Die Appèlgesag moet toesien dat elke party tot 'n verrigting voor die Appèlgesag 'n geleentheid gegee word om sy of haar saak te stel, hetsy skriftelik of mondelings soos beoog in subartikels (2) en (3) en veral om insae te hê in enige dokumente wat die Appèlgesag van voorneme is om in ag te neem in die neem van 'n besluit in die verrigting en om voorleggings te maak met betrekking tot daardie dokumente.
- (7) Die Appèlgesag moet—
- (a) alle appèlle wat wettiglik by hom ingedien is, oorweeg en bepaal;
  - (b) die besluit van die Tribunaal of gemagtigde werknemer bevestig, verander of intrek;
  - (c) redes verskaf vir enige besluit wat hy neem;
  - (d) opdragte tersaaklik tot sy werksaamhede aan die Munisipaliteit gee;
  - (e) 'n rekord van al sy verrigtinge hou; en
  - (f) bepaal of die appèl binne sy regsbevoegdheid val.
- (8) Behoudens subartikel (12) moet die Appèlgesag binne 60 dae vanaf ontvangs van die evalueringsverslag beoog in artikel 80(13) oor 'n appèl besluit.
- (9) Indien die Appèlgesag 'n besluit van die Tribunaal of gemagtigde werknemer intrek, kan die Appèlgesag—
- (a) die aangeleentheid terugverwys na die Tribunaal of die gemagtigde werknemer—
    - (i) indien daar 'n fout in die proses was wat onregverdig is en nie deur die Appèlgesag reggestel kan word nie; en
    - (ii) met instruksies rakende die regstelling van die fout; of
  - (b) die besluit vervang met enige besluit wat die Appèlgesag nodig ag.

- (10) Die Appèlgesag kan 'n tegniese raadgewer aanstel om die Appèlgesag van raad te voorsien of by te staan rakende 'n aangeleentheid wat deel van die appèl uitmaak.
- (11) Die Appèlgesag moet binne 21 dae vanaf die datum van sy besluit die partye tot die appèl skriftelik in kennis stel van—
- (a) die besluit en die redes daarvoor; en
  - (b) indien die besluit op 'n appèl die goedkeuring handhaaf, die aansoeker skriftelik in kennis stel dat hy of sy aan die goedkeuring uitvoering kan gee.
- (12) Die Appèlgesag kan die tydperk beoog in subartikel (8) in uitsonderlike omstandighede verleng, wat die volgende insluit:
- (a) indien 'n belanghebbende persoon 'n petisie om toetredersstatus ingedien het;
  - (b) indien 'n mondelinge verhoor gehou gaan word.

## **HOOFSTUK VIII VERSKAFFING VAN INGENIEURSDIENSTE**

### **Verantwoordelikheid vir verskaffing van ingenieursdienste**

- 82.** (1) 'n Aansoeker is verantwoordelik vir die verskaffing, installering en koste van interne ingenieursdienste benodig vir 'n ontwikkeling sodra 'n aansoek goedgekeur is.
- (2) Die Munisipaliteit is verantwoordelik vir die verskaffing en installering van eksterne ingenieursdienste.
- (3) Indien die Munisipaliteit nie die verskaffer van 'n ingenieursdiens is nie moet die aansoeker die Munisipaliteit tevrede stel dat voldoende reëlings met die tersaaklike diensverskaffer getref is vir die verskaffing van daardie diens.
- (4) Die Munisipaliteit kan 'n skriftelike ooreenkoms met 'n aansoeker aangaan om te bepaal dat—
- (a) die aansoeker vir die verskaffing, installering en koste van eksterne ingenieursdiens verantwoordelik is in plaas daarvan om die toepaslike ontwikkelingsheffings te betaal; of
  - (b) die aansoeker vir die verskaffing, installering en koste van die eksterne ingenieursdiens verantwoordelik is en dat die billike en redelike koste van die eksterne ingenieursdiens teen die ontwikkelingsheffings betaalbaar deur die aansoeker verreken kan word.

### **Ontwikkelingsheffings**

- 83.** (1) Die aansoeker moet ontwikkelingsheffings ten opsigte van die verskaffing en installering van eksterne ingenieursdienste aan die Munisipaliteit betaal.
- (2) Dié eksterne ingenieursdienste waarvoor ontwikkelingsheffings betaalbaar is, moet uiteengesit word in 'n beleid wat deur die Munisipaliteit aangeneem en jaarliks hersien word.
- (3) Die bedrag van die ontwikkelingsheffings betaalbaar deur 'n aansoeker moet ooreenkomstig die beleid aangeneem deur die Munisipaliteit bereken word.
- (4) Die datum waarteen ontwikkelingsheffings betaal moet wees en die betaalmiddel moet in die voorwaardes van goedkeuring vermeld word.
- (5) Die ontwikkelingsheffings wat opgelê word, is onderhewig aan opwaartse aanpassing teen die koers bereken ooreenkomstig die beleid oor ontwikkelingsheffings.
- (6) Die Munisipaliteit moet jaarliks by die Raad 'n verslag indien van die ontwikkelingsheffings wat aan die Munisipaliteit betaal is, tesame met 'n opgaaf van die uitgawes van die bedrag en die doel van die uitgawes.
- (7) Wanneer die Munisipaliteit die bydrae beoog in artikel 66(4) en (5) bepaal, moet die Munisipaliteit provinsiale norme en standaarde in ag neem sowel as—
- (a) die munisipaledienste-infrastruktuur en munisipale geriewe vir die betrokke grond wat vir die goedgekeurde grondgebruik benodig word;
- (b) die openbare uitgawes op daardie infrastuktuur en daardie geriewe wat in die verlede aangegaan is en wat die goedgekeurde grondgebruik fasiliteer;
- (c) die openbare uitgawes op daardie infrastuktuur en daardie geriewe wat uit die goedgekeurde grondgebruik kan voorspruit;
- (d) geld ten opsigte van bydraes beoog in artikel 66(4) wat in die verlede deur die eienaar van die betrokke grond betaal is; en
- (e) geld ten opsigte van bydraes beoog in artikel 66(4) wat in die toekoms deur die eienaar van die betrokke grond betaal moet word.

### **Grond vir parke, oop ruimtes en ander gebruike**

- 84.** (1) Wanneer die Munisipaliteit 'n aansoek om die gebruik van grond vir residensiële doeleindes goedkeur, kan die Munisipaliteit van die aansoeker vereis om grond vir parke of openbare oop ruimtes te verskaf.
- (2) Die omvang van grond benodig vir parke of openbare oop ruimtes word deur die Munisipaliteit ooreenkomstig 'n beleid aangeneem deur die Munisipaliteit bepaal.

- (3) Die grond benodig vir parke of openbare oop ruimtes moet binne die grondgebied van die aansoek verskaf word of kan, met die instemming van die Munisipaliteit, elders binne die munisipale gebied verskaf word.
- (4) Wanneer 'n aansoek goedgekeur word sonder die vereiste verskaffing van grond vir parke of oop ruimtes binne die grondgebied van die ontwikkeling kan dit van die aansoeker vereis word om geld aan die Munisipaliteit te betaal in plaas van die verskaffing van grond.

## **HOOFSTUK IX AFDWINGING**

### **Afdwinging**

- 85.** (1) Die Munisipaliteit moet voldoen en voldoening afdwing aan die volgende:
- (a) die bepalings van hierdie Verordening;
  - (b) die bepalings van 'n soneringskema;
  - (c) voorwaardes opgelê ingevolge hierdie Verordening of vorige beplanningswetgewing; en
  - (d) titelvoorwaardes.
- (2) Die Munisipaliteit mag niks doen wat strydig is met subartikel (1) nie.

### **Misdrywe en strawwe**

- 86.** (1) 'n Persoon is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf van hoogstens 20 jaar of met beide 'n boete en sodanige gevangenisstraf indien hy of sy—
- (a) artikels 15(1) en (5), 20(1), 21(4), 31(1), 59(3), 62(2) of 88(2) oortree of versuim om daaraan te voldoen;
  - (b) sonder die goedkeuring van die Munisipaliteit grond anders aanwend as wat in die soneringskema voorgeskryf word;
  - (c) versuim om by registrasie van die eerste grondeenheid wat uit 'n onderverdeling voortspruit alle gemeenskaplike eiendom wat uit die onderverdeling voortspruit na die eienaarsvereniging oor te dra;
  - (d) besonderhede, inligting of antwoorde verskaf in 'n aansoek of in 'n appèl teen 'n besluit oor 'n aansoek of in enige dokumentasie of voorlegging wat verband hou met 'n aansoek of 'n appèl met die wete dat dit onwaar, foutief of misleidend is of met die mening dat dit nie korrek is nie;

- (e) voorgee om 'n gemagtigde werknemer of die tolk of assistent van 'n gemagtigde werknemer te wees; of
  - (f) 'n gemagtigde werknemer verhinder of inmeng in die uitoefening van enige bevoegdheid of die uitvoering van enige plig van daardie werknemer.
- (2) 'n Eienaar wat toelaat dat sy of haar grond gebruik word op 'n wyse uiteengesit in subartikel (1)(b) en wat nie daardie gebruik staak of redelike stappe doen om toe te sien dat die gebruik staak nie, of wat 'n persoon toelaat om die bepalings van 'n soneringskema te verbreek, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf van hoogstens 20 jaar of met beide 'n boete en sodanige gevangenisstraf.
- (3) 'n Persoon wat ingevolge hierdie Verordening aan 'n misdryf skuldig bevind is wat na skuldigbevinding voortgaan met die handeling ten opsigte waarvan hy of sy aldus skuldig bevind is, is skuldig aan 'n voortgesette misdryf en by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met 'n gelykwaardige boete of met beide sodanige boete en gevangenisstraf ten opsigte van elke dag waarop hy of sy aldus voortgaan of voortgegaan het met daardie handeling of versuim.
- (4) Die Munisipaliteit moet boetes en strydigheidshreffings aanneem wat by die afdwinging van hierdie Verordening opgelê moet word.

### **Betekening van voldoeningskennisgewings**

- 87.** (1) Die Munisipaliteit moet 'n voldoeningskennisgewing op 'n persoon beteken indien hy redelike gronde het om te vermoed dat die persoon of eienaar skuldig is aan 'n misdryf ingevolge artikel 86.
- (2) 'n Voldoeningskennisgewing moet die bewoner en eienaar opdrag gee om sonder versuim of binne die tydperk bepaal deur die Munisipaliteit die onwettige aanwending van grond of bou-aktiwiteit of albei te staak en kan ook 'n opdrag insluit om—
- (a) binne die tydperk bepaal deur die Munisipale Bestuurder enige gebou, struktuur of werk wat onwettiglik opgerig of gebou is te sloop, verwyder of te verbou of om die betrokke grond te rehabiliteer of gebou te herstel na sy oorspronklike vorm of om die aktiwiteit te staak, na gelang van die geval;
  - (b) binne 30 dae vanaf die betekening van die voldoeningskennisgewing 'n aansoek om die goedkeuring van die aanwending van die grond of bou-aktiwiteit ingevolge hierdie Verordening in te dien en die strydigheidshreffing binne 30 dae vanaf goedkeuring van die aanwending te betaal; of
  - (c) die oortreding van of nievoldoening aan 'n voorwaarde van goedkeuring binne 'n bepaalde tydperk reg te stel.
- (3) 'n Persoon wat 'n voldoeningskennisgewing met 'n opdrag beoog in subartikel (2)(a) ontvang het, mag nie 'n aansoek indien ingevolge subartikel (2)(b) nie.

- (4) 'n Opdrag om 'n aansoek ingevolge subartikel (2)(b) in te dien, moet nie vertolk word as 'n aanduiding dat die aansoek goedgekeer sal word nie.
- (5) Indien die aansoek wat ingevolge subartikel (2)(b) ingedien is, geweier word, moet die eienaar die gebou, struktuur of werk wat onwettiglik opgerig of gebou is sloop, verwyder of verbou en die grond rehabiliteer of die gebou herstel.
- (6) 'n Persoon wat 'n voldoeningskennisgewing ingevolge hierdie artikel ontvang het, kan teen die kennisgewing beswaar aanteken deur binne 30 dae vanaf ontvangs van die kennisgewing skriftelike versoë by die Munisipaliteit in te dien.

### **Inhoud van voldoeningskennisgewing**

#### **88. (1) 'n Voldoeningskennisgewing moet—**

- (a) die persoon aan wie dit gerig is, identifiseer;
- (b) die beweerde onwettige aanwending van grond of betrokke bou-aktiwiteit en die grond waarop dit plaasvind of plaasgevind het, beskryf;
- (c) vermeld dat die aanwending van grond of bou-aktiwiteit onwettig is en die persoon in kennis stel van die bepaalde misdryf beoog in artikel 86 wat daardie persoon na bewering gepleeg het of pleeg deur die voortsetting van daardie aktiwiteit op die grond;
- (d) die stappe vermeld wat die persoon moet doen en die tydperk waarbinne daardie stappe gedoen moet word;
- (e) enigiets vermeld wat die persoon nie mag doen nie en die tydperk waarbinne die persoon dit nie mag doen nie;
- (f) voorsiening maak vir die persoon om ingevolge artikel 89 by die skakelpersoon vermeld in die kennisgewing versoë in te dien; en
- (g) 'n waarskuwing uitreik met die volgende strekking:
  - (i) dat die persoon vervolg kan word vir en skuldig bevind kan word aan 'n misdryf beoog in artikel 86;
  - (ii) dat die persoon by skuldigbevinding aan 'n misdryf strafbaar sal wees met die straf soos bepaal;
  - (iii) dat dit deur 'n hofbevel van die persoon vereis kan word om enige gebou, struktuur of werk wat onwettiglik opgerig of gebou is, te sloop, te verwyder of te verbou of om die betrokke grond te rehabiliteer of gebou te herstel of die aktiwiteit te staak;



- (iv) dat in die geval van 'n oortreding wat met 'n vergunningsgebruik of tydelike afwyking verband hou, die goedkeuring ingetrek kan word;
  - (v) dat in die geval van 'n aansoek om magtiging van die aktiwiteit of ontwikkelingsparameter, die strydigheidshewing ten bedrae soos vermeld in die kennisgewing, met inbegrip van enige kostes aangegaan deur die Munisipaliteit, opgelê kan word.
- (2) Enige persoon op wie 'n voldoeningskennisgewing beteken is, moet binne die tydperk vermeld in die kennisgewing aan daardie kennisgewing voldoen, tensy die persoon ingevolge artikel 89 teen die kennisgewing beswaar gemaak het en die Munisipaliteit nog nie ingevolge daardie artikel oor die aangeleentheid besluit het nie of die Munisipaliteit ingestem het om die werking van die voldoeningskennisgewing ingevolge artikel 89(2) op te skort.

### **Besware teen voldoeningskennisgewing**

- 89.** (1) Enige persoon of eienaar wat 'n voldoeningskennisgewing ingevolge artikel 87 ontvang, kan beswaar maak teen die kennisgewing deur binne 30 dae vanaf die datum van kennisgewing skriftelike verstoë aan die Munisipaliteit te rig.
- (2) Na oorweging van enige besware of verstoë wat ingevolge subartikel (1) gemaak of gerig is en enige ander tersaaklike inligting—
- (a) kan die Munisipaliteit 'n voldoeningskennisgewing of enige gedeelte van die voldoeningskennisgewing opskort, bevestig, verander of intrek; en
  - (b) moet die Munisipaliteit die tydperk vermeld waarbinne die persoon aan wie die voldoeningskennisgewing gerig is aan enige gedeelte van die voldoeningskennisgewing wat bevestig of verander is, moet voldoen.

### **Versuim om aan voldoeningskennisgewing te voldoen**

- 90.** Indien 'n persoon versuim om aan 'n voldoeningskennisgewing te voldoen, kan die Munisipaliteit—
- (a) 'n kriminele klag teen die persoon indien;
  - (b) by die Hooggeregshof 'n bevel aanvra—
    - (i) wat daardie persoon belet om met die onwettige aanwending van die grond voort te gaan;
    - (ii) wat daardie persoon gelas om, sonder die betaling van vergoeding—
      - (aa) enige gebou, struktuur of werk wat onwettiglik opgerig of gebou is, te sloop, te verwyder of te verander; of
      - (bb) die betrokke grond te rehabiliteer;

- (c) in die geval van 'n vergunningsgebruik of tydelike afwyking, die verleende goedkeuring intrek en ingevolge artikel 87 optree.

### **Voldoeningsertifikate**

91. (1) 'n Gemagtigde werknemer wat tevrede is dat die eienaar of bewoner van enige grond of perseel voldoen het aan 'n voldoeningskennisgewing kan 'n sertifikaat uitreik, in die wyse en vorm bepaal deur die Munisipaliteit, om die voldoening te bevestig.
- (2) Die gemagtigde werknemer moet 'n verslag by die Munisipaliteit indien rakende sy of haar bevindinge beoog in subartikel (1) en die uitreik van 'n voldoeningssertifikaat.

### **Dringende aangeleenthede**

92. (1) Die Munisipaliteit hoef nie aan artikels 87(6), 88(1)(f) en 89 te voldoen in 'n geval waar 'n onwettige aanwending van grond dringend gestuit moet word nie en kan 'n voldoeningskennisgewing uitreik wat 'n beroep op die persoon of eienaar doen om die onwettige aanwending van grond onmiddellik te staak.
- (2) Indien die persoon of eienaar versuim om die onwettige aanwending van grond onmiddellik te staak, kan die Munisipaliteit by die Hooggeregshof 'n dringende interdik of enige ander nodige regshulp aanvra.

### **Algemene bevoegdhede en werksaamhede van gemagtigde werknemers**

93. (1) 'n Gemagtigde werknemer kan te eniger redelike tyd, met die toestemming van die bewoner of eienaar van grond, sonder 'n lasbrief en sonder voorafkennisgewing grond of 'n perseel of 'n gebou betree vir die doel om voldoening aan hierdie Verordening te verseker.
- (2) 'n Gemagtigde werknemer moet in besit wees van bewys dat hy of sy aangewys is as 'n gemagtigde werknemer vir die doeleindes van subartikel (1).
- (3) 'n Gemagtigde werknemer kan vergesel word van 'n tolk, 'n polisiebeampte of enige ander persoon wat moontlik met die ondersoek kan help.

### **Bevoegdhede van betreding, deursoeking en beslaglegging**

94. (1) By die versekering van voldoening aan hierdie Verordening ingevolge artikel 87, kan 'n gemagtigde werknemer—
- (a) op grond of 'n perseel wat betree is of in 'n gebou wat binnegegaan is enige persoon ondervra wat na die mening van die gemagtigde werknemer moontlik inligting kan verskaf oor 'n aangeleentheid wat met die afdwinging van hierdie Verordening verband hou;

- (b) op daardie grond of daardie perseel of in daardie gebou enige persoon ondervra oor enige handeling of versuim ten opsigte waarvan daar 'n redelike vermoede is dat dit die volgende uitmaak:
- (i) 'n misdryf ingevolge hierdie Verordening;
  - (ii) 'n oortreding van hierdie Verordening; of
  - (iii) 'n oortreding van 'n goedkeuring of 'n bepaling of voorwaarde van daardie goedkeuring;
- (c) daardie persoon ondervra oor enige struktuur, voorwerp, dokument, boek, rekord, skriftelike of elektroniese inligting of enige struktuur, voorwerp, dokument, boek of rekord ondersoek wat moontlik tersaaklik is vir die doel van hierdie subartikel;
- (d) afskrifte of uittreksels maak van enige dokument, boek, rekord, skriftelike of elektroniese inligting bedoel in paragraaf (c) of daardie dokument, boek, rekord of skriftelike of elektroniese inligting verwyder ten einde afskrifte daarvan of uittreksels daaruit te maak;
- (e) van daardie persoon vereis om enige dokument, boek, rekord, skriftelike of elektroniese inligting bedoel in paragraaf (c) vir insae te verskaf of af te lewer by 'n plek vermeld deur die gemagtigde werknemer;
- (f) daardie dokument, boek, rekord, skriftelike of elektroniese inligting ondersoek of 'n afskrif daarvan of 'n uittreksel daaruit maak;
- (g) van daardie persoon 'n verduideliking vereis van enige inskrywing in daardie dokument, boek, rekord, skriftelike of elektroniese inligting;
- (h) enige artikel, stof, plant of masjinerie wat op die grond is of was of enige verrigte werk op die grond, of enige heersende toestand op die grond ondersoek of kan enige artikel, stof, plant of masjinerie of 'n gedeelte of monster daarvan vir ondersoek of ontleding verwyder;
- (i) foto's neem of oudiovisuele opnames maak van enigiets of enige persoon op daardie grond of daardie perseel of in daardie gebou wat tersaaklik tot die doeleindes van die ondersoek is; of
- (j) beslag lê op 'n boek, rekord, skriftelike of elektroniese inligting bedoel in paragraaf (c) of op 'n artikel, stof, plant of masjinerie bedoel in paragraaf (h) of op 'n gedeelte of monster daarvan wat na sy of haar mening as bewys kan dien by die verhoor van die persoon wat kragtens hierdie Verordening of die gemene reg aangekla staan te word van 'n misdryf, mits die gebruiker van die artikel, stof, plant of masjinerie op die betrokke grond of perseel of in die betrokke gebou voor die beslaglegging afskrifte kan maak van daardie boek, rekord of dokument.

- (2) Wanneer 'n gemagtigde werknemer enige artikel, stof, plant of masjinerie, boek, rekord of ander dokument soos beoog in hierdie artikel verwyder of daarop beslag lê, moet hy of sy 'n kwitansie aan die eienaar of persoon in beheer daarvan uitreik.
- (3) 'n Gemagtigde werknemer mag nie 'n direkte of indirekte persoonlike of privaat belang hê by die aangeleentheid wat ondersoek staan te word nie.

### **Lasbrief van betreding vir afdwingingsdoeleindes**

- 95.** (1) 'n Regter van die Hooggeregshof of 'n Magistraat vir die distrik waarin die grond geleë is kan, op versoek van die Munisipaliteit, 'n lasbrief uitreik om die grond of perseel of gebou te betree indien—
- (a) die voorafgoedkeuring van die bewoner of eienaar van grond na redelike pogings nie bekom kan word nie; of
  - (b) die doel van die ondersoek verydel sou word deur die bewoner of eienaar se voorafkennis daarvan.
- (2) 'n Lasbrief kan uitgereik word slegs indien dit vir die Regter of Magistraat uit inligting onder eed blyk dat daar redelike gronde is om te glo dat—
- (a) 'n gemagtigde werknemer toegang geweier is tot grond of 'n gebou wat hy of sy geregtig is om te ondersoek;
  - (b) 'n gemagtigde werknemer toegang geweier sal word tot grond of 'n gebou wat hy of sy geregtig is om te ondersoek;
  - (c) 'n misdryf beoog in artikel 86 plaasvind of plaasgevind het en 'n ondersoek van die perseel waarskynlik inligting rakende daardie misdryf sal oplewer; of
  - (d) die ondersoek redelik nodig is vir die doeleindes van hierdie Verordening.
- (3) 'n Lasbrief moet die Munisipaliteit magtig om die grond of perseel te betree of die gebou binne te gaan om enige van die maatreëls bedoel in artikel 94 soos vermeld in die lasbrief te tref, slegs by 'n enkele geleentheid, en dat die betreding moet plaasvind—
- (a) binne een maand vanaf die datum waarop die lasbrief uitgereik is; en
  - (b) te eniger redelike tyd, behalwe waar die lasbrief op gronde van dringendheid uitgereik is.

### **Inagneming van behoorlikheid en orde**

- 96.** Die betreding op grond of 'n perseel of van 'n gebou kragtens hierdie Hoofstuk moet met streng inagneming van behoorlikheid en orde uitgevoer word, wat inagneming van die volgende moet insluit—
- (a) 'n persoon se reg tot respek vir en beskerming van sy of haar menswaardigheid;
  - (b) die reg tot vryheid en veiligheid van die persoon; en
  - (c) 'n persoon se reg tot persoonlike privaatheid.

### **Afdwingingsgedingvoering**

- 97.** Of die Munisipaliteit kriminele klagtes teen 'n persoon indien vir 'n misdryf beoog in artikel 86 al dan nie, en ondanks artikel 87, kan die Munisipaliteit by die Hooggeregshof 'n interdik of enige ander gepaste bevel aanvra, met inbegrip van 'n bevel wat daardie persoon verplig om—
- (a) enige gebou, struktuur of werk wat onwettig opgerig of gebou is, te sloop, te verwyder of te verander;
  - (b) die betrokke grond te rehabiliteer; of
  - (c) die onwettige aanwending van grond te staak.

## **HOOFSTUK X DIVERSE BEPALINGS**

### **Naamgewing en nommering van strate**

- 98.** (1) Indien paaie of strate as gevolg van die goedkeuring van 'n ontwikkelingsaansoek geskep word, hetsy openbaar of privaat, moet die Munisipaliteit die naamgewing van strate goedkeur en 'n straatnommer toeken aan elk van die erwe of grondeenhede geleë in sodanige straat of pad.
- (2) Die voorgestelde name van die strate en nommers moet as 'n deel van 'n aansoek om onderverdeling ingedien word.
- (3) By oorweging van die naamgewing van strate moet die Munisipaliteit die tersaaklike beleide rakende straatnaamgewing en -nommering in aanmerking neem.
- (4) Die Munisipaliteit moet die Landmeter-generaal in kennis stel van die goedkeuring van nuwe strate as gevolg van die goedkeuring van 'n wysiging of kansellering van 'n onderverdeling ingevolge artikel 23 en die Landmeter-generaal moet die rekords van die Kantoor van die Landmeter-generaal endosseer om die wysiging of kansellering van die straatname op 'n goedgekeurde algemene plan weer te gee.

**Herroeping**

**99.** Die verordeninge vermeld in Bylae 2 word herroep.

**Kort titel en inwerkingtreding**

- 100.** (1) Hierdie Verordening heet die Verordening op Stellenbosch Munisipaliteit se Grondgebruikbeplanning.
- (2) Hierdie Verordening tree in werking op die datum waarop die Wet op Grondgebruikbeplanning in die munisipale gebied van die Munisipaliteit in werking tree.

## **BYLAE 1 GEDRAGSKODE VIR LEDE VAN TRIBUNAAL**

### **Algemene gedrag**

1. 'n Lid van die Tribunaal moet te alle tye—
  - (a) ooreenkomstig die beginsels van verantwoordenspligtigheid en deursigtigheid handel;
  - (b) sy of haar persoonlike belange by enige besluit wat geneem staan te word in die beplanningsproses waarin hy of sy dien of versoek is om te dien, verklaar;
  - (c) hom of haar ten volle weerhou van direkte of indirekte deelname as 'n raadgewer of besluitnemer in enige aangeleentheid waarby hy of sy 'n persoonlike belang het en enige kamer verlaat waarin sodanige aangeleentheid in oorweging is, tensy die persoonlike belang op openbare rekord geplaas is en die Raad skriftelike goedkeuring verleen en sy of haar deelname uitdruklik gemagtig het.
  
2. 'n Lid van die Tribunaal mag nie—
  - (a) sy of haar posisie of voorregte as Tribunaallid of vertroulike inligting wat as 'n Tribunaallid bekom is, gebruik vir eie gewin of om 'n ander persoon onbehoorlik te bevoordeel nie; en
  - (b) deelneem aan enige besluit rakende 'n aangeleentheid waarin daardie Tribunaallid of daardie lid se eggenoot, vennoot of sakegenoot 'n direkte of indirekte persoonlike belang of privaat sakebelang het nie.

### **Geskenke**

3. 'n Lid van die Tribunaal mag nie geskenke, gunste of enige ander aanbod ontvang of najaag in omstandighede waarin dit redelik afgelei sou kon word dat die geskenke, gunste of aanbiedinge bedoel is of verwag word om daardie lid se objektiwiteit as 'n raadgewer of besluitnemer in die beplanningsproses te beïnvloed nie.

### **Onbehoorlike invloed**

4. 'n Lid van die Tribunaal mag nie—
  - (a) die bevoegdheid van sy of haar amp gebruik om spesiale voordeel na te jaag of te bekom vir eie gewin of om 'n ander persoon onbehoorlik te bevoordeel wat nie in die openbare belang is nie;
  - (b) vertroulike inligting wat in die verloop van sy of haar pligte verkry is, gebruik om 'n persoonlike belang te bevorder nie;
  - (c) vertroulike inligting wat in die verloop van sy of haar pligte verkry is, bekendmaak nie, tensy dit regtens van hom of haar vereis word om dit te doen of omstandighede hom of haar verplig om wesenlike benadeling of skade aan 'n ander persoon te voorkom; en

opsetlik 'n wederregtelike handeling pleeg wat die Tribunaal, die Munisipaliteit, die regering of die beplanningsprofessie in 'n slegte lig stel deur besigheid na te jaag deur te verklaar of te impliseer dat hy of sy bereid, gewillig of in staat is om besluite van die Tribunaal deur onbehoorlike middele te beïnvloed nie.

**BYLAE 2**  
**VERORDENINGE HERROEP BY ARTIKEL 99**




## **UMTHETHO KAMASIPALA WASE-STELLENBOSCH WOCWANGCISO LOKUSETYENZISWA KOMHLABA**

### **INTSHAYELELO**

NJENGOKUBA icandelo 156(1) loMgaqo-siseko leRiphabliki yaseMzantsi Afrika, ka-1996 (uMthetho 108 ka-1996) lilinikezela koomasipala igunya lesigqeba kwakunye nelungelo lokulawulwa kwemicimbi karhulumente wendawo edweliswe kwiSahlulo B seShedyuli 4 kwakunye neSahlulo B seShedyuli 5 kuMgaqo-siseko;

NJENGOKUBA iSahlulo B seShedyuli 4 kuMgaqo-siseko sidwelisa ucwangciso loomasipala njengomcimbi karhulumente wendawo;

NJENGOKUBA icandelo 156(2) loMgaqo-siseko linika oomasipala amandla okwenza kwanokusebenzisa imithetho kulawulo olugqibeleleyo lwemicimbi abanelungelo lokuyilawula;

NJENGOKUBA iPalamente iwise uMthetho woCwangciso lweNdawo noLawulo Lokusetyenziswa koMhlaba, ka-2013 (uMthetho 16 ka-2013) kwaye neNdlu yoWisomthetho yePhondo laseNtshona Koloni iwise uMthetho woCwangciso Lokusetyenziswa koMhlaba (uMthetho 3 ka-2014), nothi phakathi kwezinye izinto umisele iinqobo zophuhliso ezisebenza kuwo onke amaziko karhulumente anoxanduva lokuphuyezwa kwemithetho elawula ukusetyenziswa kunye nophuhliso lomhlaba;

KE NGOKO NGOKU uMasipala waseStellenbosch uwamkele lo mthetho kamasipala.

### **UKUCWANGCISWA KWAMACANDELO NEESHEDYULI**

#### **ISAPHLUKO I UTOLIKO NOMISELO**

1. linkcazo-magama
2. Umiselo lwalo Mthetho kaMasipala

#### **ISAPHLUKO II UCWANGCISO LOMHLABA**

3. Uqulunqo okanye ukwenziwa kwezilungiso kwisikhokelo sophuhliso lomhlaba sikamasipala
4. Umiselo lwekomiti yeprojekthi
5. Umiselo lwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente
6. Inkqubo yekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente

7. Inkqubo ngaphandle kwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente
8. Imisebenzi
9. Izikhokelo zophuhliso lomhlaba zengingqi
10. Uqulunqo, ulwamkelo, ukwenziwa izilungiso okanye ukuvandlakanywa kwesikhokelo sophuhliso lomhlaba sengingqi
11. Ubume bezikhokelo zophuhliso lomhlaba zengingqi
12. Iiplani zolwakhiwo

### **ISAHLUKO III ULAWULO LOPHUHLISO**

13. Ukugqiba ngesimo somhlaba
14. Usetyenziso olungathobeli miqathango
15. Uphuhliso lomhlaba oludinga imvume
16. Ukuqhubeka nesicelo emva kokutshintsha komnini-mhlaba
17. Ukutshintswa kwesimo somhlaba
18. Uphambuko
19. Amalungelo osetyenziso
20. Ulwahlula-hlulo
21. Uqinisekiso lolwahlula-hlulo
22. Upheliso lolwahlula-hlulo
23. Ulungiso okanye ukucinywa kweplani yolwahlula-hlulo
24. Isaphulelo kulwahlula-hlulo oluthile nohlanganiso
25. Ubunini beendawo zikawonkewonke nomhlaba weenkondo zobunjineli zikamasipala nezibonelelo zentlalo
26. Ukuvalwa kweendawo zikawonkewonke
27. Iinkonzo ezidalwe lulwahlula-hlulo
28. Ukukhutshwa kwesatifikethi ngumasipala
29. Imibutho yabanini-mhlaba
30. Imibutho yabanini-mhlaba eyekayo ukusebenza
31. Uhlanganiso lweziza zomhlaba
32. Ukuphelelwa kohlanganiso lweziza zomhlaba
33. Ukususwa, ukumiswa okanye ukwenziwa kwezilungiso kwimiqathango enyinayo
34. Ulwamkelo lokususwa, ukumiswa okanye ukwenziwa kwezilungiso kwimiqathango enyinayo

### **ISAHLUKO IV IINKQUBO ZOKUFAKA ISICELO**

35. Indlela yolwaziso nomhla wolwaziso
36. Iinkqubo zokufaka izicelo
37. Intlanganiso yokubonisana phambi kokufaka isicelo
38. Iinkcukacha ezidingekayo
39. Imirhumo ehlawulelwa ukufaka isicelo
40. Izizathu zokwala ukwamkela isicelo
41. Ukufunyanwa kwesicelo nokuqalwa kwenkqubo yesicelo
42. Ubonelelo lweenkcukacha ezongezelelekileyo okanye amaxwebhu ongezizelekileyo
43. Urhoxiso lwesicelo nolwegunya lomthetho

44. Isaziso soluntu ngokweminye imithetho neenkqubo ezihlanganisiweyo
45. Upapasho lwezaziso
46. Ukukhutshwa kwezaziso
47. linkcukacha eziqulethwe kwizaziso
48. Ezinye iindlela zokwazisa uluntu
49. Imiqathango yokufaka amaxwebhu ezikhalazo
50. Imiqathango yokufaka izimvo
51. Inkqubo yentatho-nxaxheba kwizigaba ezahlukileyo zikarhulumente
52. Izilungiso phambi konikezelo lwemvume
53. Esinye isaziso soluntu
54. Uxanduva lweendleko zesaziso
55. Ilungelo lomfaki-sicelo lokuphendula
56. Uvavanyo olubhaliweyo lwesicelo
57. Isithuba sokuthatha isigqibo
58. Ukungathathi amanyathelo ngexesha elibekiweyo
59. Amagunya okwenza uvavanyo ngamaxesha athile
60. Izigqibo ngesicelo
61. Isaziso nokuqala ukusebenza kwesigqibo
62. Imisebenzi ye-arhente
63. Iimpazamo nezinto ezishiyiweyo
64. Izaphulelo zokukhawulezisa iinkqubo

#### **ISAPHLUKO V**

##### **INKQUBO YOKUTHATHA IZIGQIBO**

65. Inkqubo gabalala yokuqwalaselwa kwezicelo
66. Imiqathango yemvume

#### **ISAPHLUKO VI**

##### **ULONGEZELELO LWESITHUBA SOKUSEBENZA SEMVUME**

67. Izicelo zokongezelwa isithuba sokusebenza

#### **ISAPHLUKO VII**

##### **IZIGQEBA EZITHATHA ISIGQIBO NGOCWANGCISO LUKAMASIPALA**

68. Izigqeba ezithatha isigqibo ngocwangciso lukamasipala
69. Uqwalaselo lwezicelo
70. Umiselo lweSigqeba
71. Amalungu eSigqeba sommandla kamasipala
72. Inkqubo yotyumbo lwamalungu eSigqeba sommandla kamasipala
73. Isithuba sokusebenza nemiqathango yenkonzo yamalungu eSigqeba sommandla kamasipala
74. Ukuphelelwa bubulungu beSigqeba
75. Iintlanganiso zeSigqeba
76. Umgaqo wokuziphatha kwamalungu esigqeba sommandla kamasipala
77. Umgaqo wokuziphatha kwamalungu esigqeba sommandla kamasipala
78. Ukusebenza kwesigqeba sommandla kamasipala
79. Izibheni
80. Iinkqubo zokubhena
81. Uqwalaselo olwenziwa nguGunyaziwe weZibheni

**ISAPHLUKO VIII  
UBONELELO LWEENKONZO ZOBUNJINELI**

- 82. Uxanduva lobonelelo lweenkonzo zobunjini
- 83. Imirhumo yophuhliso
- 84. Imihlaba yeepaki, yamabala neminye imisebenzi

**ISAPHLUKO IX  
UNYANZELISO**

- 85. Unyanzeliso
- 86. Amatyala nezigwebo
- 87. Ukunikezwa kwezaziso zothobelo
- 88. Iziquqatho zezaziso zothobelo
- 89. Izichaso zezaziso zothobelo
- 90. Ukusilela ekuthobeleni isaziso sothobelo
- 91. Izatifiketi zothobelo
- 92. Imiba engxamisekileyo
- 93. Amagunya nemisebenzi yabasebenzi abagunyazisiweyo
- 94. Amagunya okungena, okusetsha nokuthatha izinto
- 95. Amagunya okungena, okusetsha nokuthatha amaxwebhu
- 96. Ukunika ingqalelo isidima nocwangco
- 97. Unyanzeliso lwesigwebo senkundla

**ISAPHLUKO X  
IMIBA GABALALA**

- 98. Ukuthiywa nokunombolishwa kwezitalato
- 99. Utshitshiso
- 100. Isihlokwana esifutshane nokuqalisa

**ISHEDYULI 1  
UMGAQO WOKUZIPHATHA KWAMALUNGU ESIGQEBA**

**ISHEDYULI 2  
IMITHETHO KAMASIPALA ETSHITSHISWE LICANDELO 99**

## ISAHLUKO I

### UTOLIKO NOMISELO

#### linkcazelo

1. Kulo Mthetho kaMasipala, ngaphandle kwalapho imeko elisetyenziswe kuyo igama ilinika enye, intsingiselo yegama yileyo ikwintsingiselo ekwiWestern Cape Land Use Planning Act, 2014 (Umthetho 3 ka-2014) yaye—

“**ukwamkela**”, kwisikhokelo sophuhliso lwemihlaba engamabala, inkqubo yolawulo lophuhliso, umgaqonkqubo okanye isicwangciso, kuthetha ulwamkelo ziziphathamandla ezinelungelo lokwenza njalo;

“**iarhente**” ithetha umntu ogunyaziswe ngokomthetho ukuba enze isicelo egameni lomnini-mhlaba;

“**UGunyaziwe weSibheni**” uthetha uGunyaziwe weSibheni oxelwe kwicandelo 79(1);

“**isithuba sokusebenza**”, ekubhekiswe kuso kumacandelo 17(5) no-(6), 18(2), 19(5), 22(1) no-32(1), sithetha isithuba esinokubekwa ngumasipala kwimiqathango yemvume kuxhomekeke kwicandelo 43(2)(b) leSpatial Planning and Land Use Management Act okanye isithuba ekubhekiswe kuso kwicandelo 43(2)(a) leSpatial Planning and Land Use Management Act;

“**umfaki-sicelo**” uthetha umntu ekubhekiswe kuyo kwicandelo 15(2) owenza isicelo kumasipala njengoko kuxelwe kwelo candelo;

“**isicelo**” sithetha isicelo esenziwe kumasipala ekubhekiswe kuso kwicandelo 15(2);

“**umsebenzi ogunyazisiweyo**” uthetha umsebenzi kamasipala ogunyaziswe ngumasipala ukuba asebenzise igunya okanye enze umsebenzi ngokwalo Mthetho kaMasipala okanye ahlale umhlaba nezakhiwo ukunyanzelisa uthotyelo lwalo Mthetho kaMasipala okanye isikim sesimo yomhlaba;

“**isimo somhlaba esisisiseko**” kuthetha ukuzowuna phambi kwesicelo sayo nayiphi iZowuni eneMiqathango eYodwa;

“**izimvo**”, malunga nezimvo zoluntu, ezamasebe kamasipala namanye amaziko karhulumente nezababoneleli-ngeenkono kwisicelo okanye isibheni, zithetha izichaso, izimvo nezikhalazo;

“**uhlanganiso**” malunga nomhlaba, luthetha ukudityaniswa kweeziza ezimbini nangaphezulu zemihlaba emeleneyo ukuze ibe sisiza esinye somhlaba, yaye ulungiso lwalo mhlaba ukuze uhlanganiswe;

“**IBhunga**” lithetha ibhunga likamasipala;

**“umhla wolwaziso”** uthetha umhla ekuhanjiswe ngawo isaziso njengoko kuxelwe kwicandelo 35 okanye esipapashwe ngawo kumajelo eendaba okanye kwiGazethi yePhondo;

**“imali ebizwayo yokuphuhlisa”** ithetha intlawulo yophuhliso exelwe kwicandelo 83 ehlawuliswa ngumasipala;

**“uxakeka”** ubandakanya imeko eyenziwa ziimpuphuma, imimoya evuthuzayo, iimvula ezimandla, umlilo, inyikima okanye ingozi yefemu efuna ukuba kususwe abantu kuloo ndawo;

**“iinkonzo zobunjineli zangaphandle”** zithetha inkonzo yobunjineli engaphaya kwemida yommandla womhlaba ekubhekiswe kuwo kwisicelo neziyimfuneko kusetyenziso kuphuhliso lomhlaba;

**“iLand Use Planning Act”** ithetha iWestern Cape Land Use Planning Act, 2014 (Act 3 of 2014);

**“isikhokelo sophuhliso lwemihlaba engamabala sengingqi”** sithetha isikhokelo sophuhliso lwemihlaba engamabala sengingqi esixelwe kwicandelo 9;

**“UManejala kaMasipala”** uthetha uManejala kaMasipala;

**“isikhokelo sophuhliso lomhlaba sikamasipala”** sithetha isikhokelo sophuhliso lomhlaba esamkelwe ngumasipala SngokweSahluko 5 seMunicipal Systems Act;

**“uMasipala”** uthetha umasipala wese- Stellenbosch omiselwe ngokweSaziso soMiselo 479 yomhla we 22 Yomnga 2000 ekhutshwe kulandelwa umthetho iLocal Government: Municipal Structures Act, 1998 (uMthetho 117 ka-1998), yaye apho imeko ifuna njalo, ubandakanya—

- (a) iBhunga;
- (b) esinye isigqeba sepolitiki okanye igosa lezopolitiko likamasipala eligunyazisiweyo ukuba lenze umsebenzi okanye asebenzise igunya ngokwalo Mthetho kaMasipala;
- (c) iSigqeba esigunyazisiweyo ukuba senze umsebenzi okanye sisebenzise igunya ngokwalo Mthetho kaMasipala;
- (d) uManejala kaMasipala; kunye
- (e) nomsebenzi ogunyazisiweyo.

**“usetyenziso olungathobeli miqathango”** luthetha usetyenziso-mhlaba olukhoyo ngoku olwalusemthethweni ngokwenkqubo yemo yomhlaba yangaphambili olungahambiselani nenkqubo yemo yomhlaba ekhoyo;

**“usetyenziso ngamaxesha athile”**, kunxaxho, luthetha ilungelo lokusebenzisa umhlaba okwexeshana uwusebenzisela injongo onikwe invume yayo yesiganeko esithile;

**“iSimo somhlaba esineMiqathango eYodwa”** ithetha indawo enesimo somhlaba esingokukodwa ngaphezu kwesimo somhlaba okusisiseko, apho—

(a) kuchazwa iinjongo emazisetyenziselwe wona umhlaba kunye nemigaqo yophuhliso esenokuba nezibophelelo ezingaphezulu okanye ngaphantsi kwezi zesimo somhlaba okusisiseko; yaye

(b) isenokubandakanya imiqathango nemida yophuhliso emalunga—

- (i) amalungelo osetyenziso angundoqo;
- (ii) isimo somhlaba olusisiseko;
- (iii) ulwahlula-hlulo okanye imimandla yolwahlula-hlulo;
- (iv) ukhuthazo lophuhliso;
- (v) imida yengxinano;
- (vi) ubume bemihle esezidolophini uhlaziyo lweedolophulu;
- (vii) ukhuseleko lwelifa lemveli okanye lokusingqongileyo;
- (viii) ulawulo lwemida yeedolophu;
- (ix) iindlela ezibukekayo okanye imimandla ekwiingingqi;
- (x) ubuyiso lwemida ebekiweyo yolwandle (apho kukho imida ebekiweyo yolwandle); okanye
- (xi) nayiphi injongo echazwe kwiskim sesimo somhlaba;

**“umbutho wabanini”** uthetha umbutho wabanini-mhlaba oxelwe kwicandelo 29;

**“uboniswano ngesicelo phambi kokuba siqwalaselwe”** luthetha uboniswano oluxelwe kwicandelo 37;

**“umqathango onyinayo”** uthetha nawuphi na umqathango obhaliswe kunye netayitile yomhlaba onyina indlela yokusetyenziswa, yokuphuhliswa okanye yolwahlula-hlulo lomhlaba ochaphazelekayo;

**“inkonzo”** ithetha inkonzo ebonelelwa ngumasipala, naliphi elinye iziko likarhulumente okanye umboneleli-nkonzo, ebandakanya ubonelelo ngamanzi, ugutyulo, umbane, ukuthuthwa kwenkunkuma, iindlela, iidreyini zeziphango, yaye ibonelela izixhobo, neenkqubo ezihambelana nezi nkonzo;

**“iplani yophuhliso lwesiza”** ithetha iplani ebonisa iinkcukacha zamacala ngamacala zophuhliso lomhlaba olucetywayo, olubandakanya ubume besiza, iindawo eziza kuba kuyo izakhiwo, indawo yokungena kwisakhiwo, uyyilo lwesakhiwo zemboniselo yomhlaba;

**“izibonelelo zentlalo”** zithetha izibonelelo zoluntu, iinkonzo nothungelwano oluhoya izidingo zoluntu;

**“iSpatial Planning and Land Use Management Act”** ibhekisa kwiSpatial Planning and Land Use Management Act, 2013 (Umthetho 16 ka-2013);

**“iMiqathango yoCwangciso lweMhlaba neYosetyenziso-Mhlaba”** ithetha *iSpatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015* eyenziwe kulandelwa iSpatial Planning and Land Use Management Act epapashwe phantsi kweSaziso R239/2015 kwiGazethi kaRhulumente 38594 yowe-23 Matshi 2015;

**“ummandla wolwahlula-hlulo”** uthetha isimo esimiselwe ulwahlula-hlulo olunemiqathango eyodwa kuloo mmandla evumela ulwahlula-hlulo lomhlaba ngokwesicelo solwahlula-hlulo ebandakanya utshintsha kuzowuno;

**“Isigqeba”** sithetha iSigqeba soCwangciso lukamasipala esimiselwe ngokwemiqathango yecandelo 70.

### **Umiselo lwalo Mthetho kaMasipala**

2. Lo mthetho kamasipala usebenza kuwo wonke umhlaba okwindawo kamasipala waseStellenbosch, kuquka nalo mhlaba ungowamaziko karhulumente.

## **ISAPHLUKO II**

### **UCWANGCISO LOMHLABA**

#### **Uqulunqo okanye ukwenziwa kwezilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala**

3. (1) Xa iBhunga liqulunqa okanye lisenza izilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala ngokwe Municipal Systems Act, iBhunga kufuneka, njengoko kuxelwe kwicandelo 11 leLand Use Planning Act—
  - (a) limisele ikomiti yamanqwanqwa onke karhulumente ukuqulunqa okanye ukwenza izilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala; okanye
  - (b) lithumele isikhokelo sophuhliso lwemihlaba sikamasipala esisayilwayo okanye izilungiso eziseluyilo zesikhokelo sophuhliso lwemihlaba sikamasipala kuMphathiswa wePhondo ukuba anike izimvo zakhe.
- (2) Umasipala kufuneka—
  - (a) apapashe isaziso ngeelwimi ezimbini ezisemthethweni kwiPhondo ezithethwa kakhulu kuloo mmandla kumaphephandaba amabini aloo mmandla uchaphazelekayo—
    - (i) esichaza injongo yokuqulunqa okanye yokulungisa isikhokelo sophuhliso lwemihlaba sikamasipala; kunye



- (ii) nenkqubo emayilandelwe ngokwecandelo 28(3) no-29 leMunicipal Systems Act;
- (b) azise uMphathiswa wePhondo ngokumbhalela —
  - (i) malunga nenjongo yokuqulunqa okanye ukulungisa isikhokelo sophuhliso lwemihlaba sikamasipala;
  - (ii) ngesigqibo sakhe ngokwamacandelo (1)(a) okanye (b); kunye
  - (iii) nenkqubo emayilandelwe ukuqulunqa okanye ukwenza izilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala, kubandakanywa nenkqubo exelwe kumacandelo (2)(a)(ii); yaye
- (c) abhalise abantu abachaphazelekayo ekufuneka bacelwe ukuba bavakalise izimvo zabo ngesikhokelo sophuhliso lwemihlaba sikamasipala esisayilwayo okanye isilungiso esiseluyilo sesikhokelo sophuhliso lwemihlaba sikamasipala njengexalenye yenkqubo exelwe kumacandelo (2)(a)(ii).

#### **Umiselo lwekomiti yeprojekthi**

4. (1) Umasipala kufuneka amisele ikomiti yeprojekthi yokuqulunqa okanye yokwenza izilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala.
- (2) Le komiti yeprojekthi kufuneka iqulathe aba bantu—
  - (a) uManejala kaMasipala okanye umsebenzi kamasipala ochongwe nguManejala kaMasipala; kunye
  - (b) nabasebenzi bakamasipala abatyunjwe nguManejala kaMasipala, ubuncinane kula masebe kamasipala alandelayo:
    - (i) iofisi yocwangciso lophuhliso ehlanganisiweyo;
    - (ii) isebe locwangciso lwemihlaba;
    - (iii) isebe lobunjinieli;
    - (iv) isebe lophuhliso loqoqosho lengingqi; kunye
    - (v) nesebe lezezindlu.

#### **Ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente**

5. Ukuba iBhunga liseka ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente umasipala kufuneka, ngembalelwano, limeme abantu ukuba batyumbwe abameli abaza kuba ngamalungu ekomiti amanqanaba ngamanqanaba oburhulumente kwaba bantu balandelayo okanye la maziko karhulumente alandelayo:

- (a) intloko yesebe lephondo enoxanduva locwangciso losetyenziso-mhlaba;
- (b) intloko yesebe lephondo enoxanduva lemicimbi yokusingqongileyo; kunye
- (c) namanye amaziko karhulumente achaphazelekayo.

### **Inkqubo ngekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente**

6. (1) Ukuba iBhunga liseka ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente, ikomiti yeprojekthi kufuneka iqulunqe ingxelo yobume esayilwayo echaza ngovavanyo lwamazinga akhoyo ngoku ophuhliso nemingeni yophuhliso kummandla kamasipala ze iyingenise kwikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente ukuze inike izimvo zayo.
- (2) Emva kokuqwalasela izimvo zekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente, ikomiti yeprojekthi kufuneka igqibezele ingxelo yobume iyingenise kwiBhunga ukuba yamkelwe.
- (3) Emva kokugqiba ingxelo yobume, ikomiti yeprojekthi kufuneka iqulunqe idrafti yokuqala yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokuqala yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala ze iyingenise kwikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente ukuze inike izimvo.
- (4) Emva kokuqwalasela izimvo zekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente, ikomiti yeprojekthi kufuneka igqibezele idrafti yokuqala yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokuqala yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala iyingenise kwiBhunga ukuba yamkele upapasho lwayo ukuze uluntu lunike izimvo zalo ngokwenkqubo eyamkelwe ngokwamacandelo 28 nele-29 eMunicipal Systems Act.
- (5) Emva kokuqwalasela izimvo ezifunyenwe ngenxa yopapasho oluxelwe kumacandelo (4), ikomiti yeprojekthi kufuneka iqulunqe idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala ze iyingenise kwikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente ukuze inike izimvo.
- (6) Emva kokuqwalasela izimvo zekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente exelwe kumacandelo (5), ikomiti yeprojekthi kufuneka igqibezele idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala iyingenise kwiBhunga ukuba yamkelwe.

- (7) Ukuba idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala exelwe kumacandelo (6) yahlukile kuleyo ibipapashiwe ngokwamacandelo (4), umasipala kufuneka ngokuhambelana namacandelwana (4), (5) no-(6) afundwa notshintsho olufanelekileyo, kufuneka kuphinde kwenziwe enye inkqubo yokubonisana noluntu phambi kokuba isikhokelo sophuhliso lwemihlaba sikamasipala okanye isilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala samkelwe liBhunga.
- (8) IBhunga okanye ikomiti yeprojekthi ingathi nanini na xa iqulunqa isikhokelo sophuhliso lwemihlaba sikamasipala okanye iyila izilungiso zesikhokelo sophuhliso lwemihlaba ifune izimvo kwikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente.
- (9) IBhunga kufuneka lamkele idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala, enezilungiso okanye engenazilungiso yaye kufuneka kwiintsuku ezili-14 zokuthatha isigqibo sayo inikeze isaziso sokuthatha isigqibo sayo kumajelo eendaba nakwiGazethi yePhondo.

#### **Inkqubo ngaphandle kwekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente**

7. (1) Ukuba iBhunga aliyisekanga ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente ukuba iqulunqe okanye yenze izilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala, ikomiti yeprojekthi kufuneka—
- (a) iqulunqe ingxelo yobume esayilwayo echaza ngovavanyo lwamazinga akhoyo ngoku ophuhliso nemingeni yophuhliso kummandla kamasipala iyingenise kwiBhunga ukuba yamkelwe;
- (b) emva kokwamkelwa kwengxelo yobume, iqulunqe idrafti yokuqala yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokuqala yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala iyingenise kwiBhunga ukuba yamkele upapasho lwayo ukuze uluntu lunike izimvo zalo;
- (c) emva kokwamkelwa kwedrafti yokuqala yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokuqala yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala yopapasho oluxelwe kumhlathi (b), ingenise idrafti yokuqala yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokuqala yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala kuMphathiswa wePhondo ukuze anike izimvo

ngokwemiqathango yecandelo 13 leLand Use Planning Act; kananjalo

- (d) emva kokuqwalasela izimvo ezifunyenwe kuluntu nakuMphathiswa wePhondo, ingenise idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala, nezilungiso, kwiBhunga ukuba yamkelwe.
- (2) Ukuba idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala exelwe kumacandelo (1) yahlukile kuleyo ibipapashiwe ngokwamacandelo (1)(b), umasipala kufuneka aphinde enze enye inkqubo yokubonisana noluntu phambi kokuba isikhokelo sophuhliso lwemihlaba sikamasipala okanye isilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala samkelwe liBhunga.
- (3) IBhunga kufuneka lamkele idrafti yokugqibela yesikhokelo sophuhliso lwemihlaba sikamasipala okanye idrafti yokugqibela yezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala, enezilungiso okanye engenazilungiso yaye kufuneka kwiintsuku ezili-14 zokuthatha isigqibo sayo inikeze isaziso sokuthatha isigqibo sayo kumajelo eendaba nakwiGazethi yePhondo

### Imisebenzi

8. (1) Amalungu ekomiti yeprojekthi kufuneka, ngokuhambelana nezikhokelo [zekomiti yesigqeba/zikasodolophu olawulayo/zekomiti yooceba]—
- (a) kufuneka aqinisekise ukuba kuqulunqwa isikhokelo sophuhliso lwemihlaba sikamasipala okanye kwenziwa izilungiso kwisikhokelo sophuhliso lwemihlaba sikamasipala ukuze samkelwe liBhunga;
- (b) abonelele ngolwazi lobungcali kwiBhunga;
- (c) aqinisekise ukuba ukuqulunqwa kwesikhokelo sophuhliso lwemihlaba sikamasipala okanye ukwenziwa kwezilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala kuqhuba ngokwenkqubo exelwe kwicandelo 3(2)(a)(ii);
- (d) akhokele inkqubo yentatho-nxaxheba yoluntu ze aqinisekise ukuba abantu abachaphazelekayo ababhalisiweyo bahlala besazi ngokuqhubekayo;

- (e) abeke iliso kuhlunganiso lwezilungiso nesikhokelo sophuhliso lwemihlaba sikamasipala esisayilwayo okanye izilungiso zesikhokelo sophuhliso lwemihlaba sikamasipala ezisayilwayo ezisekelwe kuqwalaselo lwezimvo ezifunyenwe ngexesha loqulunqo lwaso;
- (f) abeke iliso kuyilo—
- (i) lwengxelo ngokwemiqathango yecandelo 14 leLand Use Planning Act achaze impendulo kamasipala kwizimvo zephondo ezikhutshwe ngokwemiqathango yecandelo 12(4) okanye 13(2) yaloo Mthetho; kananjalo
- (ii) nakwingxelo echaza—
- (aa) ukuba ingaba umasipala uyimisele na imigaqonkqubo neenjongo ezibekwe ngumphathiswa wesizwe ojongene nocwangciso lwemihlaba nolawulo losetyenziso-mhlaba, yaye ukuba kunjalo, umasipala ukwenze njani yaye ukwenze kangakanani oko; okanye
- (bb) ukuba umasipala akayimiselanga imigaqonkqubo neenjongo, zithini izizathu zoko.
- (g) aqinisekise ulungelelwaniso lwesikhokelo sophuhliso lwemihlaba sikamasipala kunye neeplani kunye nezicwangciso zophuhliso zabanye oomasipala abahaphazelekayo namanye amaziko karhulumente njengoko kuxelwe kwicandelo 24(1) leMunicipal Systems Act;
- (h) aqinisekise ngohlunganiso lwezicwangciso zamanye amacandelo kwisikhokelo sophuhliso lwemihlaba sikamasipala; yaye
- (i) ukuba iBhunga liseke ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente—
- (i) ancedise iBhunga ukumisela ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente nokuthobela amaxesha abekiweyo; yaye
- (ii) aqinisekise ngokuhamba kolwazi phakathi kwekomiti yeprojekthi nekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente.

- (2) Amalungu ekomiti esungulayo yamanqanaba ngamanqanaba oburhulumente kufuneka—
- (a) abonelele ikomiti esungulayo yamanqanaba ngamanqanaba oburhulumente ngoku kulandelayo:
- (i) ulwazi lobungcali nobungcali;
  - (ii) izimvo ngeenkukacha ezisafunekayo ukuqulunqa isikhokelo sophuhliso lwemihlaba sikamasipala okanye ukwenza izilungiso zaso;
  - (iii) iinkukacha ngolwabiwo lohlahlo-mali;
  - (iv) inkukacha ngeeprojekthi zangoku okanye ezicetywayo ezinefuthe kummandla kamasipala; kunye
  - (v) nezimvo ezibhaliweyo ngokwemiqathango yecandelo 6; yaye
- (b) anike ikomiti yeprojekthi izimvo ezibhaliweyo ngokwemiqathango yecandelo 6.

#### **Isikhokelo sophuhliso lwemihlaba sengingqi**

9. (1) Umasipala angamkela isikhokelo sophuhliso lwemihlaba sengingqisommandla othile okummandla kamasipala.
- (2) Injongo yesikhokelo sophuhliso lwemihlaba sengingqi kukuba kummandla othile —
- (a) sibonelele ngezikhokelo zocwangciso-mhlaba ezineenkukacha;
  - (b) sibonelele ngeenkukacha ongezelekileyo zesiphakamiso esikwisikhokelo sophuhliso lwemihlaba sikamasipala;
  - (c) siphumeze izidingo ezithile zocwangciso losetyenziso-mhlaba;
  - (d) sibonelele ngomgaqonkqubo oneenkukacha nemida yophuhliso yocwangciso losetyenziso-mhlaba;
  - (e) sibonelele ngezinto eziphambili ezimalunga nocwangciso losetyenziso-mhlaba kunye nezihlangene nocwangciso losetyenziso-mhlaba, imiba yezityalo nezilwanyana neyokusingqongileyo; kunye
  - (f) nokukhokela ukuthathwa kwezigqibo kwizicelo zosetyenziso-mhlaba.

**Uqulunqo, ulwamkelo, ukwenziwa kwezilungiso okanye ukuvandlakanywa kwesikhokelo sophuhliso lwemihlaba sengingqi**

10. (1) Ukuba umasipala uqulunqa, enze izilungiso okanye avandlakanye isikhokelo sophuhliso lwemihlaba sengingqi, kufuneka amkele isicwangciso senkqubo esibandakanya iinkqubo zentatho-nxaxheba yoluntu ekufuneka zilandelwe kuqulunqo, ukwenziwa kwezilungiso novandlakanyo okanye ulwamkelo lwesikhokelo sophuhliso lwemihlaba sengingqi.
- (2) Umasipala kufuneka, kwiintsuku ezingama-21 zokwamkela isikhokelo sophuhliso lwemihlaba sengingqi okanye sokwenza izilungiso kwisikhokelo sophuhliso lwemihlaba sengingqi, apapshe isaziso sesigqibo kumajelo eendaba nakwiGazethi yePhondo.

**Ubume besikhokelo sophuhliso lwemihlaba sengingqi**

11. (1) isikhokelo sophuhliso lwemihlaba sengingqi okanye isilungiso saso siqala ukusebenza ngomhla wopapasho lwesaziso oxelwe kwicandelo 10(2).
- (2) isikhokelo sophuhliso lwemihlaba sengingqi sikhokela izigqibo ezenziwa ngumasipala ezimalunga nophuhliso lomhlaba, kodwa asiniki yaye asithathi malungelo.

**Iiplani zezakhiwo**

12. (1) Ukuba umasipala unenjongo yokuguqula iplani yesakhiwo ukuba ibe sisikhokelo sophuhliso lwemihlaba sengingqi, umasipala kufuneka athobele amacandelo 9 ukuya ku-11 yaye kufuneka—
- (a) aphonononge loo plani yesakhiwo ayenze ihambelane nenjongo yesikhokelo sophuhliso lwemihlaba sengingqi exelwe kwicandelo 9(2); yaye
- (b) ahlanganise imiqathango yeplani yesakhiwo ehambelana nenjongo yesikhokelo sophuhliso lwemihlaba sengingqi .
- (2) Umasipala kufuneka, ngokwemiqathango yecandelo 16(4) leLand Use Planning Act arhoxise iplani yesakhiwo echaphazelekayo ngokukhupha isaziso kwiGazethi yePhondo xa esamkela isikhokelo sophuhliso lwemihlaba sengingqi esixelwe kumacandelo (1).

### ISAHLUKO III

#### ULAWULO LOPHUHLISO

##### Ukugqiba ngozowuno

- 13.** (1) Umnini-mhlaba okanye iarhente yakhe angafaka isicelo ngokwemiqathango yecandelo 15(2) kumasipala ukuba kugqitywe ngokuzowunwa komhlaba ekubhekiswe kuwo kwicandelo 34(1), (2) okanye (3) leLand Use Planning Act.
- (2) Xa umasipala eqwalasela isicelo ngokwamacandelo (1), kufuneka athathele ingqalelo ezi zinto zilandelayo:
- (a) Ukusetyenziswa ngokusemthethweni komhlaba, okanye injongo onokusetyenziselwa wona ngokusemthethweni phambi kokuqala kweLand Use Planning Act ukuba iyakwazi ukugqitywa;
- (b) uzowuno, ukuba lukhona, oluhambelana nolo setyenziso okanye naloo njongo kunye nawuphi umqathango wobunini-mhlaba;
- (c) naluphi unxaxho okanye imvume yosetyenziso enokufunwa ngokuhambelana nozowuno;
- (d) kwimeko yomhlaba ongenanto phambi nje kokuqala kweLand Use Planning Act usetyenziso oluvumelekileyo ngokwemiqathango yobunini-mhlaba okanye apho kuvunyelwe ngaphezulu komsebenzi omnye womhlaba, omnye wolo setyenziso ugqitywa ngumasipala; yaye
- (e) apho usetyenziso olusemthethweni nenjongo enokusetyenziselwa yona phambi kokuqala kweLand Use Planning Act lungakwazi ukuchazwa, uzowuno olufunekayo oluhambelana nomqathango wobunini-mhlaba, kunye nayo naluphi unxaxho okanye imvume yosetyenziso enokufuneka.
- (3) Xa ukuzowuna okusemthethweni komhlaba okuxelwe kumacandelo (1) kungakwazi ukuchazwa, umasipala kufuneka agqibe ngozowuno ze anike isaziso ngenjongo yakhe ngokwemiqathango yecandelo 46.
- (4) Usetyenziso-mhlaba oluqale ngokungekho mthethweni, nokuba kuphambi okanye kusemva kokuqala kwalo Mthetho kaMasipala, alunakuthathwa njengolusemthethweni.

##### Usetyenziso olungathobeli miqathango

- 14.** (1) Usetyenziso olungathobeli mithetho asilotyala ngokwalo Mthetho kaMasipala.
- (2) Usetyenziso olungathobeli mithetho lungaqhubeka ukuba isemthethweni, kuxhomekeke kwezi zinto zilandelayo:



- (a) ukuba usetyenziso olungathobeli mithetho luyayekwa nangasiphi isizathu isithuba seenyanga ezingamashumi amabini anesine ezilandeelanayo, naluphi usetyenziso olulandela olo lwepropati kufuneka luthobeke lo Mthetho kaMasipala kunye nenkqubo yokuzowuna kunye okanye ngaphandle kotyeshelo-mthetho;
  - (b) isicelo esifanelekileyo esixelwe kwicandelo 15(2) masenziwe sokutshintsha okanye sokongeza izakhiwo ezimalunga nosetyenziso olungathobeli mithetho;
  - (c) umnini nguye ekufuneka eze nobungqina bokuba lukhona usetyenziso olungathobeli mithetho; yaye
  - (d) ilungelo losetyenziso luphelela kummandla wesakhiwo okanye umhlaba apho kuboniswe ukuba usetyenziso olo lukhona.
- (3) Kuxhomekeke kumacandelo (2)(a) no-(b), ukuba isakhiwo esikhoyo ebesisetyenziswa ngosetyenziso olungathobeli mithetho siyatshatyalaliswa okanye siyamoshakala kangangokuba kufuneka kuchithwe inxalenye enkulu yeso sakhiwo, umasipala angathi ngokubona kwakhe anike imvume yokuba siphinde sakhiwe siphinde siqhube ngosetyenziso olwaphula imiqathango kodwa oko kwenzeka phantsi kwemiqathango ethile.

#### **Uphuhliso lomhlaba oludinga imvume**

15. (1) Akukho mntu unokuqalisa, unokuqhubeka nophuhliso lomhlaba ngaphandle kolwahlula-hlulo okanye uhlanganiso lomhlaba ekubhekiswe kulo kwicandelo 24, ngaphandle kwemvume kamasipala ngokwamacandelo (2).
- (2) Umnini-mhlaba okanye iarhente yakhe ingafaka isicelo kumasipala ngokweSahluko neSahluko IV zezi zinto zilandelayo ezimalunga nophuhliso lomhlaba oluchaphazelekayo:
- (a) ukuzowunwa kwakhona komhlaba;
  - (b) utyeshelo-mthetho olusisigxina ngokwemida yophuhliso yenkqubo yokuzowuna;
  - (c) utyeshelo-mthetho olunikezwe okwexeshana ukusebenzisa umhlaba uwusebenzisela injongo engavumelekanga ngokwamalungelo angundoqo ozowuno olusebenza kuloo ndawo;
  - (d) ulwahlula-hlulo lomhlaba oluvumelekileyo ngokwemiqathango yecandelo 24, kubandakanywa ubhaliso lwelungelo lomhlaba okanye isivumelwano sokurentisa;
  - (e) uhlanganiso lomhlaba oluvumelekileyo ngokwemiqathango yecandelo 24;

- (f) ukususwa, ukumiswa okanye ukwenziwa kwezilungiso kwimiqathango enyinayo kwiyunithi yomhlaba;
  - (g) imvume efunekayo ngokwenkqubo yokuzowuna;
  - (h) ukwenziwa kwezilungiso, ukucima okanye ukubekwa kwemiqathango yemvume ekhoyo;
  - (i) ukongezwa kwesithuba sokusebenza solwamkelo;
  - (j) ulwamkelo lwezowuni enemiqathango eyodwa njengoko kuxeliwe kwinkqubo yokuzowuna;
  - (k) isilungiso okanye ukucinywa kweplani eyamkelweyo yolwahlula-hlulo inxalenye yayo, kubandakanywa iplani gabalala okanye umzobo ;
  - (l) imvume efunekayo ngokomqathango wolwamkelo;
  - (m) ukugqiba ngozowuno;
  - (n) ukuvalwa kwendawo kawonkewonke okanye inxalenye yayo;
  - (o) imvume yosetyenziso exelwe kwinkqubo yokuzowuna;
  - (p) ukumana kusetyenziswa umhlaba;
  - (q) ukuchitha umbutho wabanini-zindlu;
  - (r) ukulungisa usilelo lombutho wabanini-zindlu lokuphumeza uxanduva lwawo wokulawula okanye ukumenteyina iinkonzo;
  - (s) imvume efunekayo yokwakhiwa kwakhona kwesakhiwo esikhoyo esiyinxalenye yosetyenziso olungathobeli mithetho etshatyalalisiweyo okanye emoshakeleyo kangangokuba kufuneka inxalenye yayo eyo enkulu ichithwe.
- (3) Ukuba icandelo 53 leLand Use Planning Act liyasebenza kuphuhliso lomhlaba, umnini okanye iarhente kufuneka ifake isicelo semvume yophuhliso lomhlaba ngokwemiqathango yaloo Mthetho.
- (4) Ukuba icandelo 52 leSpatial Planning and Land Use Management Act Act liyasebenza kuphuhliso lomhlaba, umnini okanye iarhente kufuneka ifake isicelo semvume yophuhliso lomhlaba ngokwemiqathango yaloo Mthetho.
- (5) Xa umfaki-sicelo okanye umnini esebenzisa ilungelo losetyenziso elinikwe ngokwemvume yolwamkelo, kufuneka athobele imiqathango yemvume nemiqathango yenkqubo yokuzowuna echaphazelekayo.

- (6) Xa umasipala ngokunokwakhe enenjongo yokuphuhlisa umhlaba okanye enze umsebenzi oxelwe kumacandelo (2), isigqibo kwisicelo kufuneka senziwe siSigqeba ngokuhambelana nesi Sahluko kunye neSahluko IV yaye akukho gosa linokunikwa igunya lokwenza eso sigqibo.

### **Ukuqhubeka nesicelo emva kokutshintsha komnini-mhlaba**

16. Ukuba umhlaba owenzelwa isicelo ngokwalo Mthetho kaMasipala udluliselwe kumnini omtsha, umnini omtsha angaqhubeka nesicelo njengomnini-tayitile omtsha yaye umnini omtsha uya kuthathwa njengomfaki-sicelo ngeenjongo zalo Mthetho kaMasipala

### **Ukuzowunwa kwakhona komhlaba**

17. (1) Umasipala angathi, ngokunokwakhe, atshintshe isimo somhlaba engenguye umnini wawo ukuze —
- (a) abonelele ngenkonzo karhulumente okanye ngendawo yoluntu yolonwabo; okanye
- (b) atshintshe inkqubo yokuzowuna okanye inxalenye yayo asebenzise inkqubo yokuzowuna apho umhlaba ungazowunwanga ngokuhambelana nolo setyenziso-mhlaba okanye ngokwamalungelo osetyenziso.
- (2) Umfaki-sicelo, ofuna ukutshintshelwa isimo somhlaba, kufuneka angenise isicelo kumasipala ngokwemiqathango yecandelo 15(2).
- (3) Xa umasipala eyila izowuni enemiqathango eyodwa, kufuneka ithobele amacandelo 12 no-13 eMunicipal Systems Act.
- (4) Uzowuno lungenziwa lusebenze kwiyunithi yomhlaba okanye inxalenye yayo yaye uzowuno alunyanzelekanga lulandele imida esikiweyo.
- (5) Kuxhomekeke kumacandelo (6), imvume yokuzowuna kwakhona exelwe kumacandelo (2) iyaphelwa emva kwexesha ebelibekiwe ukususela ngomhla unikezo lwemvume luqala ukusebenza ukuba ngexesha lesi sithuba—
- (a) Uzowuno alusetyenziswanga ngokuhambelana nemvume; okanye
- (b) le miqathango ilandelayo ayithotyelwanga:
- (i) imvume kamasipala yeplani yesakhiwo esiza kusetyenziselwa ilungelo losetyenziso elamkelweyo; kunye
- (ii) nokuqala kolwakhiwo lwesakhiwo esixelwe kumhlathana (i).

- (6) Ulwamkelo lokutshintshwa kwesimo somhlaba ukuba ube ngummandla wolwahlula-hlulo oxelwe kumacandelo 20(2) luyaphelelwa emva kwexesha ebelibekiwe ukususela ngomhla unikezo lwemvume luqala ukusebenza ukuba ngeso sithuba —
- (a) isicelo solwahlula-hlulo asingeniswanga; yaye
- (b) imiqathango yemvume ayithotyelwanga.
- (7) Ukuba isicelo solwahlula-hlulo singenisiwe salo mhlaba uzowunwa njengommandla wolwahlulahlulo, uzowuno lommandla wolwahlula-hlulo luyaphelelwa kweminye yale mihla ilandelayo:
- (a) umhla wolwamkelo lolwahlula-hlulo; okanye
- (b) umhla osemva kwexesha ebelibekiwe elixelwe kumacandelo (6) kubandakanywa nasiphi isithuba esibekiweyo ngokwemiqathango yecandelo 67.
- (8) Imvume yokutshintshwa kwesimo somhlaba ukuze ube ngummandla wolwahlula-hlulo kufuneka ibandakanye imiqathango evumela ubuncinane—
- (a) imiqathango ngengxinano;
- (b) usetyenziso olungundoqo nomda walo; kunye
- (c) iplani eneenkcukacha zezigaba isikhokelo kubandakanywa—
- (i) iindlela ezingundoqo zothutho;
- (ii) usetyenziso olungundoqo lomhlaba;
- (iii) izibonelelo ezikhulu;
- (iv) iimfuno zamaziko karhulumente;
- (v) iimfuno zemihlaba engamabala yoluntu; kunye
- (vi) nemiqobo yophuhliso.
- (9) Ukuba imvume yokutshintsha isimo somhlaba iyaphelelwa, kuya kusebenza uzowuno obelusebenza kuloo mhlaba ngaphambilli okanye, ukuba bekungekho luzowuno pha mbi kolwamkelo lokutshintshwa kwesimo somhlaba, umasipala kufuneka agqibe ngozuwuno ngokwemiqathango yecandelo 13.

**Utyeshelo-mthetho**

- 18.** (1) Umfaki-sicelo angafaka isicelo kumasipala ngokwemiqathango yecandelo 15(2)—
- (a) sotyeshelo-mthetho kwimida yophuhliso yokuzowuna okanye yezowuni enemiqathango eyodwa; okanye
  - (b) ukusebenzisa umhlaba okwethutyana ngenjongo engavunyelwanga ngokwamalungelo angundoqo ezowuni echaphazelekayo yomhlaba isithuba esingekho ngaphezulu kwesihlanu.
- (2) Utyeshelo-mthetho oluxelwe kumacandelo (1)(a) luyaphelelwa emva kwexesha ebelibekiwe ukususela ngomhla unikezo lwemvume luqala ukusebenza ukuba kweso sithuba—
- (a) utyeshelo-mthetho alusetyenziswanga ngokuhambelana nemvume; okanye
  - (b) le miqathango ilandelayo ayithotyelwanga:
    - (i) ukufumana imvume kamasipala yeplani yesakhiwo eza kusetyenziselwa utyeshelo-mthetho olwamkelweyo; kunye
    - (ii) nokuqala kolwakhiwo lwesakhiwo esixelwe kumhlathana (i).
- (3) Umasipala angalwamkela utyeshelo-mthetho oluxelwe kumacandelo (1)(b) lwesithuba esingaphantsi kweminyaka emihlanu kodwa ukuba isithuba esifutshane samkelwe, isithuba kunye nolwangezo lwaso ngokwecandelo 67 asinakuba ngaphezulu kweminyaka emihlanu;
- (4) Utyeshelo-mthetho lwethutyana oluxelwe kwicandelo (1)(b) luya kwamkelwa kube kanye kuphela kusetyenziso oluthile kwiyunithi yomhlaba ethile.
- (5) Utyeshelo-mthetho lwethutyana oluxelwe kwicandelo (1)(b) lungabandakanya uphuculo lomhlaba kuphela xa—
- (a) olo phuculo lulolwethutyana; yaye
  - (b) umhlaba ungabuyiselwa kwimeko obukuyo kungakhiwanga kwakhona okanye kuchithwe, emva kokuphelelwa kwelungelo losetyenziso.

### Amalungelo osetyenziso

19. (1) Umfaki-sicelo angafaka isicelo kumasipala ngokwemiqathango yecandelo 15(2) semvume yosetyenziso exelwe kwinkqubo yokuzowuna.
- (2) Ukuba imida yophuhliso yemvume yosetyenziso efakelwe isicelo ayichazwanga kwinkqubo yokuzowuna, umasipala kufuneka abeke imida yophuhliso esebenza kwimvume yosetyenziso ngokwemiqathango yemvume ebekwe ekwicandelo 66.
- (3) Imvume yosetyenziso ingamkelwa isigxina okanye isithuba esithile esichazwe kwimiqathango yemvume ebekwe ngokwemiqathango yecandelo 66.
- (4) Imvume yosetyenziso eyamkelelwe isithuba esithile kufuneka ingenzi ukuba ipropati ingakwazi ukusetyenziswa kwixa elizayo isetyenziselwa owona msebenzi wayo ungundoqo ngokozowuno lomhlaba.
- (5) Imvume yosetyenziso exelwe kumacandelo (1) iyaphelelwa emva kwexesha ebelibekiwe ukususela ngomhla unikezo lwemvume luqala ukusebenza ukuba kweso sithuba —
- (c) imvume yosetyenziso ayisetyenziswanga ngokuhambelana nemvume; okanye
- (a) le miqathango ilandelayo ayithotyelwanga:
- (i) ukufumana imvume kamasipala yeplani yesakhiwo eza kusetyenziselwa utyeshelo-mthetho olwamkelweyo; kunye
- (i) nokuqala kolwakhiwo lwesakhiwo esixelwe kumhlathana (i).

### Ulwahlula-hlulo

20. (1) Akukho mntu unokwahlula-hlula umhlaba ngaphandle kwemvume kamasipala ngokwemiqathango yecandelo 15(2) ngaphandle kokuba ulwahlula-hlulo lwaphulelwe ngokwemiqathango yecandelo 24.
- (2) Akukho sicelo solwahlula-hlulo esindakanya utshintsho kuzowuno esiya kuqwalaselwa ngumasipala ngaphandle kokuba loo mhlaba uzowunwe njengommandla wolwahlula-hlulo.
- (3) Umfaki-sicelo angafaka isicelo solwahlula-hlulo ngexesha elinye nesicelo sozowuno kwakhona.

- (4) Umasipala kufuneka abeke imiqathango efanelekileyo ngokwecandelo 66 emalunga neenkonzobunjineli zolwamkelo lolwahlula-hlulo.
- (5) Ukuba umasipala wamkele ulwahlula-hlulo, umfaki-sicelo kufuneka angenise iplani gabalala okanye umzobo kuNocanda-Jikelele wokufumana imvume, kubandakanywa ubungqina obanelisa uNocanda-Jikelele —
- (a) besigqibo sikamasipala sokwamkela ulwahlula-hlulo;
- (b) bemiqathango yemvume ekwicandelo 66; kunye
- (c) neplani eyamkelweyo yolwahlula-hlulo.
- (6) Umasipala makanike umfaki-sicelo isatifikethi okanye nawuphi na omnye umntu ngokwesicelo sakhe ukuqinisekisa ukuba yonke imiqathango yemvume exelwe kumacandelo 21(1)(c) ithotyelwe, kwanokuba umfaki-sicelo ubungenisile ubungqina obuxelwe kwela candelo.
- (7) Ukuba umasipala ukhupha isatifikethi ekubhekiswe kuso kwicandelo (6) ngempazamo, loo nto ayithi umnini makangenzi iimfuno ezibekwe kwimiqathango.

### Uqinisekiso lolwahlula-hlulo

21. (1) Ulwahlula-hlulo okanye inxalenye yalo luqinisekisiwe yaye alunakuphelelwa xa kuthotyelwe ezi mfuno zilandelayo kwisithuba esixelwe kwicandelo 22(1):
- (a) ulwamkelo lweplani-gabalala okanye umzobo exelwe kwicandelo 20(5); nguNocanda-Jikelele
- (b) ukugqitywa kofakelo lweenkonzo zobunjineli ngokuhambelana nemiqathango exelwe kwicandelo 20(4) neminye imithetho echaphazelekayo;
- (c) ubungqina obanelisa umasipala ykuba yonke imiqathango yolwahlula-hlulo olwamkelweyo ekufuneka ithotyelwe phambi kokuthobela umhlathi (d) ithotyelwe malunga nommandla okwiplani-gabalala okanye okumzobo; kunye
- (d) nobhaliso lonikezelo lobunini-mhlaba ngokweDeeds Registries Act lomhlaba oboniswe kumzobo okanye iyunithi entsha enye ubuncinane kwezo ziboniswe kwiplani.
- (2) Xa kuqinisekisiwe ulwahlula-hlulo okanye inxalenye yalo ngokwamacandelo (1), uzowuno oluboniswe kwiplani yolwahlula-hlulo eyamkelweyo luyaqinisekiswa yaye alunakuphelelwa.

- (3) Umasipala kufuneka ngembalelwano aqinisekise umfaki-sicelo okanye nawuphi omnye umntu athe makaziswe ukuba ulwahlula-hlulo okanye inxalenye yolwahlula-hlulo iqinisekisiwe kwanokuba umfaki-sicelo ungenise ubungqina obuthobela iimfuno ekubhekiswe kuzo kumacandelo (1)(a) ukuya ku-(d) zolwahlula-hlulo okanye inxalenye yalo obanelisa umasipala.
- (4) Akukho sakhiwo sinokwakhiwa kwiyunithi yomhlaba eyinxalenye yolwahlula-hlulo olwamkelweyo ngaphandle kokuba ulwahlula-hlulo luqinisekisiwe njengoko kuxelwe kumacandelo (1) okanye umasipala wamkele ulwakhiwo phambi koqinisekiso lolwahlula-hlulo.

### Uphelelo lolwahlula-hlulo

22. (1) Ulwahlula-hlulo olwamkelweyo luyaphelelwa emva kwexesha ebelibekiwe ukususela ngomhla unikezo lwemvume luqala ukusebenza ukuba iimfuno ezixelwe kwicandelo 21(1)(a) ukuya ku-(d) azithotyelwanga kweso sithuba.
- (2) Ukuba umfaki-sicelo uzithobele iimfuno zecandelo 21(1)(b) no-(c) kuphela kwinxalenye yomhlaba eboniswe kwiplani gabalala exelwe kwicandelo 21(1)(a), umfaki-sicelo kufuneka arhoxise iplani gabalala ze angenise iplani-gabalala entsha kuNocanda-Jikelele.
- (3) Ukuba imvume yolwahlula-hlulo okanye inxalenye yalo iyaphelelwa ngokwamacandelo (1)—
  - (a) umasipala kufuneka—
    - (i) atshintshe imephu yokuzowuna ze, apho oku kuyimfuneko, nerejista ngokufanelekileyo; ze
    - (ii) azise uNocanda-Jikelele ngokufanelekileyo;
  - (b) uNocanda-Jikelele makakufake oku kwiirekhodi zeofisi kaNocanda-Jikelele ukuze zibonise ukuba ulwahlula-hlulo luphelelwe.

### Ulungiso okanye ukucinywa kweplani yolwahlula-hlulo

23. (1) Umasipala angathi ngokwemiqathango yecandelo 15(2) amkelwe ukwenziwa kwezilungiso okanye ukucinywa kweplani yolwahlula-hlulo, kubandakanywa imiqathango yemvume, iplani gabalala okanye umzobo, malunga neeyunithi zomhlaba eziboniswe kwiplani gabalala okanye umzobo aphokungekabikho lunikezelo-mhlaba lubhalisiweyo ngokweDeeds Registries Act.
- (2) Xa umasipala amkele isicelo ngokwamacandelo (1), nayiphi indawo kawonke-wonke engafunekiyo ngenxa yonikezo lwemvume kufuneka ivalwe ngokwemiqathango yecandelo 26.
- (3) Umasipala kufuneka azise uNocanda-Jikelele ngolwamkelo ngokwamacandelo (1) yaye uNocanda-Jikelele kufuneka akubhale



oku kwiirerekhodi zeofisi yakhe abonise ukwenziwa kwezilungiso okanye ukucinywa kolwahlula-hlulo.

- (4) Ulwamkelo lolwahlula-hlulo olunezilungiso oluxelwe kumacandelo (1) lusebenza kwintsalela yesithuba solwamkelo lolwahlula-hlulo phambi kokuba lwenziwe izilungiso, ukusuka kumhla wolwamkelo lwezilungiso okanye ucinyo ngokwecandelo (1).

### **Isaphulelo kulwahlula-hlulo oluthile nohlanganiso**

- 24.** (1) Ulwahlula-hlulo okanye uhlanganiso lomhlaba aludingi mvume kwezi meko zilandelayo:
- (a) kulwahlula-hlulo okanye uhlanganiso olwenzeke ngenxa yomiselo lwesigwebo senkundla;
  - (b) kulwahlula-hlulo okanye uhlanganiso olwenzeke ngenxa yokuthathwa komhlaba;
  - (c) kutshintsho oluncinci kumda ophakathi kweeyunithi zemihlaba ezimbini ukuba olo tshintsho alukho ngaphezulu kweepesenti ezili-10;
  - (d) kuhlanganiso lwendawo yoluntu evaliweyo enesiza esayamileyo;
  - (e) kulwakhiwo okanye utshintsho lwesitrato sikawonke-wonke;
  - (f) kubhaliso lwelungelo lomhlaba okanye isivumelwano sokurentisa—
    - (i) sobonelelo okanye ufakelo lwemibhobho yamanzi, iintambo ezihambisa umbane, imibhobho yogutyulo, imibhobho yamanzi ezikhukhula, imibhobho yogesi okanye imibhobho yeemveliso zeolu nepetroliyam zeziko okanye egameni leziko likarhulumente okanye umboneleli-nkonzo;
    - (ii) sobonelelo okanye ufakelo lweentambo zefowuni ezifakelwa yiophareyitha okanye egameni leophareyitha yonxibelelwano ngeefowuni;
    - (iii) sokubekwa kwemiqathango yobude; okanye
    - (iv) sokunikezwa kwelungelo lokuhlala, ilungelo lendlela yabucala okanye ukusebenzisa ipropati engeyoyakho;
  - (g) kusetyenziso lomhlaba lusetyenziselwa kuphela ulimo ukuba olo setyenziso—
    - (i) ludinga imvume yomthetho elawula ulwahlula-hlulo lomhlaba wolimo; yaye
    - (ii) alukhokeleli kunabiso lweendawo ezisezidolophini.

- (2) Umnini womhlaba okanye iarhente yakhe kufuneka afumane isatifikethi kumasipala esiqinisekisa ngembalelwano ukuba ulwahlula-hlulo okanye uhlanganiso lwaphulelwe kwisicelo secandelo 15, ngokwamacandelo 20 ukuya ku-23 kwimeko yolwahlula-hlulo, okanye amacandelo 15, 31 no-32 kuhlanganiso.
- (3) Umasipala kufuneka abonise kwiplani yolwahlula-hlulo, okanye kumzobo kumba wohlanganiso, ukuba ulwahlula-hlulo okanye uhlanganiso lwaphulelwe kwisicelo ngokwamacandelo ekubhekiswe kuwo kwicandelo (2).

**Ubunini beendawo zikawonkewonke nomhlaba weenkonzobunjineli zikamasipala nezibonelelo zentlalo**

25. (1) Ubunini bomhlaba obekelwe ukuba ube yindawo yoluntu njengoko kuboniswe kwiplani yolwahlula-hlulo eyamkelweyo bugqitywa ngumasipala emva koqinisekiso lolwahlula-hlulo okanye inxalenye yalo.
- (2) Umasipala angathi ngokwemiqathango ebekwe kwicandelo 66 agqibe ukuba umhlaba ochongelwe ukubonelela ngeenkonzobunjineli zikamasipala kwiplani yolwahlula-hlulo eyamkelweyo mawunikezelwe kumasipala emva koqinisekiso lolwahlula-hlulo okanye inxalenye yalo.

**Ukuvalwa kweendawo zikawonkewonke**

26. (1) Umasipala angathi, ngokunokwakhe okanye ngokwesicelo, avale indawo yoluntu isigxina okanye inxalenye yayo ngokuhambelana neSahluko IV.
- (2) Umfaki-sicelo kwisicelo esifuna ukuvalwa kwendawo kawonkewonke, nokuba kokwexeshana okanye kokusisigxina na, kufuneka afake isicelo ngokwemiqathango yecandelo 15(2) kumasipala.
- (3) Xa umntu efaka ibango kumasipala lelahleko okanye lomonakalao omehleleyo ngenxa yento engafanelekanga eyenziwe ngumasipala xa ebevala isigxina indawo yoluntu, umsebenzi ogunyazisiweyo must—
  - (a) Afune ubungqina bokungakhathali okanye bokwenza okubi kwicala likamasipala obukhokelele kwilahleko okanye umonakalo; yaye
  - (b) Phambi kokuba kuhlawulwe naliphi na ibango, kufunyanwe ingxelo epheleleyo yophando malunga neemeko ezikhokelele ekuvalweni kwendawo yoluntu ukujonga ukuba ingaba kubekho ukungakhathali na kwicala likamasipala.
- (4) Umasipala angahlawula ibango ukuba—
  - (a) limeko zelahleko okanye zokonakalelwa zibonisa ukuba umasipala wenze into engafanelekanga;

- (b) umfaki-bango uze nobungqina belahleko okanye bokonakalelwa;
  - (c) umfaki-bango uze nobungqina obunezizathu ezibambekayo ezivakalayo nezinobulungisa;
  - (d) akukho bango lihlawulwe yi-inshorensi yakhe lale ahleko inye; kunye
  - (e) zifunyenwe naziphi iinkcukacha ebezifunwe ngumsebenzi ogunyazisiweyo.
- (5) Ubunini bomhlaba apho kukho indawo yoluntu okanye inxalenye yayo, evalwe isigxina ngokweli candelo bugqitywa ngumasipala ngaphandle kokuba umasipala uthethe enye into.
- (6) UManejala kaMasipala angathi, engathobelanga iSahluko IV, avale okwethutyana indawo yoluntu—
- (a) ngenjongo, okanye kuba kuza kubakho, ulwakhiwo, ukulungiswa okanye ukumenteyinwa kwalo ndawo yoluntu;
  - (b) ngenjongo, okanye kuba kuza kubakho ulwakhiwo, ukongezwa, ukumenteyinwa okanye ukuchithwa kwaso nasiphi isakhiwo okanye inkonzo ekufuphi okanye enqumla kwindawo yoluntu;
  - (c) ukuba indawo yoluntu ikwimo enobungozi dangerous kuluntu;
  - (d) ngenxa yentlekele okanye isiganeko soluntu esifuna amanyathelo awodwa ukulawula ubuninzi babantu abalapho; okanye
  - (e) nangasiphi isizathu esinyanzelisa ukuba loo ndawo ivalwe okwexeshana.
- (7) Umasipala kufuneka amazise uNocanda-Jikelele ngokuvalwa isigxina kwendawo kawonke-wonke kulandelwa icandelo (1) kwaye ke uNocanda-Jikelele kufuneka enze izilungiso kwisicwangciso esikwiofisi yakhe ukubonisa ukuvalwa kwendawo yoluntu.

### **linkonzo ezidalwe lulwahlula-hlulo**

- 27.** Kulandela ukwamkelwa kwesicelo solwahlula-hlulo ngokwalo Mthetho kaMasipala, umnini wawo nawuphi umhlaba wolwahlula-hlulo kufuneka—
- (a) avumele ukuba kufakwe ezi zinto zilandelayo wakhe kungekho mbuyekezo aza kuyifumana ezidalwe lulwahlula-hlulo:
    - (i) imibhobho ehambisa igesi;
    - (ii) iintambo zombane;
    - (iii) iintambo zefowuni;

- (iv) iintambo zikamabonakude;
  - (v) ezinye izibonelelo zombane;
  - (vi) imibhobho yamanzi neminye imibhobho emikhulu;
  - (vii) imibhobho yogutyulo;
  - (viii) imibhobho yamanzi esiphango; kunye
  - (ix) nemingxunya yokuhambisa iinkonzo.
- (b) makuvumeleke ukuba kungene kwenziwe oku kulandelayo kwiyunithi yomhlaba wakhe ukuba kubonwa kuyimfuneko, yaye ngendlela efunwa ngumasipala:
- (i) izinto ezifakwa apha ngaphezulu ezifana nezitishana;
  - (ii) izingxobo zeemitha; kunye
  - (iii) neepali zeenkono;
- (c) makuvumeleke ukuba kungene kwenziwe le misebenzi ixelwe kumhlathi **Error! Reference source not found.** okanye (b) kwiyunithi yomhlaba nangaliphi ixesha elifanelekileyo, kubandakanywa nokwakha, ukutshitsha, ukulungisa, ukumenteyina, ukususa okanye ukuhlola umsebenzi ekubhekiswe kuwo; kananjalo
- (d) nokufumana loo mathiriyeli okanye ukuvumela ukugrumba kwiyunithi yomhlaba okunokufuneka kwenziwe ukuze kusetyenziswe isitrato esingena apho ze kubonelelwe ngesidulana esikhuselekileyo nesifanelekileyo kwindawo ophela kuyo umhlaba esinyanzeliswa ngumahluko phakathi komgangatho wesitrato esenziweyo neyunithi yomhlaba, ngaphandle kokuba umnini-mhlaba ukhetha ukwenza iindongana ezenziwe ngendlela eyanelisa umasipala nezenziwe ngexesha elibekwe ngumasipala.

### Ukukhutshwa kwesatifikethi ngumasipala

28. (1) Umntu may apply to iRejistra yoBunini-propati to register the transfer of a iyunithi yomhlaba in the instances ekubhekiswe kuyo kumacandelo (3)(a) ukuya ku-(c), kuphela xa umasipala ekhuphe isatifikethi ngokweli candelo.
- (2) Umbhalisi woBunini-mhlaba angabhalisa unikezelo lomhlaba kwiimeko ekubhekiswe kuzo kumacandelo (3)(a) ukuya ku-(c) kuphela xa umasipala ekhuphe isatifikethi ngokweli candelo.
- (3) Umasipala makakhuphe isatifikethi sonikezelo lomhlaba oxelwe kumacandelwana (1) no-(2) ukuba umnini ubonelela umasipala ngezi zinto zilandelayo:

- (a) apho kumiselwe umbutho wabanini-mhlaba olawula loo mhlaba, isatifikethi segqwetha esiqinisekisa ukuba imali efanele ukuba uhlawulwe nguloo mntu kumbutho wabanini-mhlaba ihlawulwe, okanye kwenziwe amalungiselo anelisa umbutho wabanini-mhlaba okuhlawulwa kwaloo mali;
- (b) ubungqina bentlawulo yaso nasiphi isigwebo somntu oza kunikezwa umhlaba okanye ubungqina bothobelo lwemiyalelo ekwisaziso sothobelo esikhutshwe ngumnikezeli-mhlaba ngokwemiqathango yeSahluko IX;
- (c) apho umhlaba udluliselw okokuqala odalwe lulwahlula-hlulo, ubungqina bokuba—
  - (i) yonke ipropati kawonkewonke edalwe lulwahlula-hlulo inikezelwe kumbutho wabanini-mhlaba njengoko kuxelwe kwicandelo 29(3)(e) okanye iza kudluliselwa umbutho wabanini-mhlaba ngaxeshanye nobhaliso lonikezelo lomhlaba;
  - (ii) umhlaba odingeka ukuba usetyenziselwe iinjongo zoluntu okanye ezinye izibonelelo zikamasipala njengoko kuxelwe kumqathango okwicandelo 66 unikezelwe kumasipala okanye uza kunikezelwe kumasipala ngaxeshanye nobhaliso lonikezelo lomhlaba;
  - (iii) iinkonzo zobunjini ne nezibonelelo ekufuneka zibonelelwe ezihambelana nolwahlula-hlulo ziyafumaneka; yaye
  - (iv) isatifikethi esixelwe kwicandelo 20(6) sikhutshiwe ngumasipala.

### **Imibutho yabanini-mhlaba**

- 29.**
- (1) Umasipala angathi, xa esamkela isicelo solwahlula-hlulo lomhlaba, abeke imiqathango emalunga nomiselo lombutho wabanini-mhlaba ngumfaki-sicelo wommandla ochazwe kwimiqathango.
  - (2) Umbutho wabanini-mhlaba osekwa ngenxa yecandelwana (1) liqumrhu elisemthethweni yaye kufuneka unomgaqosiseko.
  - (3) Umgaqosiseko wombutho wabanini-mhlaba kufuneka wamkelwe ngumasipala phambi konikezelo lwesizai somhlaba sokuqala yaye kufuneka ubonelele ngokuba—
    - (a) umbutho wabanini-mhlaba umele wonke umntu okuloo mmandla, kuloo lokishi okanye indawo engummelwane echazwe kumgaqosiseko ngokuhambelana nemiqathango yemvume;
    - (b) ngolawulo nokulondolozwa kwezakhiwo, iinkonzo nezibonelelo ezidalwe lulwahlula-hlulo;

- (c) umgaqo othi kufuneka ubuncinane kubekho intlanganiso yonyaka enye namalungu awo;
  - (d) ulawulo lwezikhokelo zoyilo lwezakhiwo neziza ezidalwe lulwahlula-hlulo;
  - (e) ubunini bombutho wabanini-mhlaba bazo zonke iziza zoluntu ezidalwe lulwahlula-hlulo, kubandakanywa—
    - (i) imihlaba engamabala yabucala;
    - (ii) iindlela zabantu zabucala; kunye
    - (iii) nomhlaba ofunekayo weenkonzo ezibonelelwa ngumbutho wabanini-mhlaba;
  - (f) unyanzeliso lwemiqathango yemvume okanye izicwangciso zolawulo;
  - (g) iinkqubo zokufumana imvume yamalungu ombutho wabanini-mhlaba ukudlulisa isiza xa umbutho wabanini-mhlaba uyekile ukusebenza; kunye
  - (h) nomiselo kunye nonyanzeliso lwemiqathango yomgaqosiseko wombutho wabanini-mhlaba .
- (4) Umgaqosiseko wombutho wabanini-mhlaba usenokuba nezinye iinjongo njengoko zibekwe ngumbutho kodwa azinakukhabana nemiqathango yawo nawuphi na umthetho.
- (5) Umgaqosiseko wombutho wabanini-mhlaba uqala ukusebenza emva kobhaliso lwesiza somhlaba sokuqala.
- (6) Umbutho wabanini-mhlaba ungenza izilungiso kumgaqosiseko wawo xa oko kuyimfuneko, kodwa ukuba isilungiso sichaphazela umasipala okanye umqathango ekubhekiswe kuwo kumacandelwana (3), eso silungiso kufuneka samkelwe nangumasipala.
- (7) Umbutho wabanini-mhlaba obakhona ngenxa yecandelwana (1)—
- (a) uba namalungu angabanini beziza zomhlaba ezidalwe lulwahlula-hlulo kunye nabo bathenge loo mihlaba abanoxanduva lwenkcitho bebonke; yaye
  - (b) emva kokubhaliswa kwesiza sokuqala somhlaba, loo mbutho uya kube umiselwe.
- (8) Izikhokelo zokudizayina ezixelwe kwicandelwana (3)(d) zisenokuza nemiqathango engqongqo ngakumbi yolwakhiwo kunaleyo ikwiskim sesimo yomhlaba.

### Imibutho yabanini-mhlaba eyekayo ukusebenza

30. (1) Ukuba umbutho wabanini-mhlaba uyayeka ukusebenza okanye ukwenza imisebenzi yawo, umasipala okanye nawuphi omnye umntu ochaphazelekayo, kubandakanywa nelungu lombutho, angafaka isicelo—
- (a) ngokwemiqathango yecandelo 15(2)(q), sokuchitha umbutho wabanini-mhlaba kuxhomekeke—
- (i) ukwenza izilungiso kwimiqathango yemvume ukususa isinyanzelo somiselo lombutho wabanini-mhlaba; kunye
- (ii) nokwenza izilungiso kwimiqathango yobunini-mhlaba emalunga nombutho wabanini-mhlaba, ukususa isinyanzelo esimalunga nombutho wabanini-mhlaba;
- (b) ngokwemiqathango yecandelo 15(2)(r) samanyathelo afanelekileyo emakathathwe ngumasipala ukulungisa usilelo lombutho wabanini-mhlaba lokuthobela imiqathango yokulawula okanye ukugcina iinkonzo ezixelwe kwicandelwana 29(3)(b); okanye
- (c) kwiNkundla ePhakamileyo ukuba ityumbe umlawuli omakasebenzise amagunya ombutho wabanini-mhlaba yaye angawubandakanyi tu umbutho wabanini-mhlaba.
- (2) Ekuqwalaseleni isicelo esixelwe kwicandelwana (1)(a)(i), umasipala kufuneka athathele ingqalelo—
- (a) injongo yombutho wabanini-mhlaba;
- (b) ngubani oza kugcina iinkonzo zombutho onoxanduva lwazo; kunye
- (c) nefuthe lokuchithwa kombutho kumalungu ombutho wabanini-mhlaba nakuluntu oluchaphazelekayo.
- (3) Umasipala okanye umntu ochaphazelekayo angafuna kumbutho wabanini-mhlaba zonke iindleko zikamasipala okanye ezaloo mntu uchaphazelekayo, kuxhomekeka kwimeko leyo, zawo nawuphi amanyathelo athatyathiweyo ngokwecandelwana (1).
- (4) Isixamali senkcitho esibuyisiweyo, kulandelwa icandelo 29(7)(a), sithathwa njengenkcitho ehlangene nombutho wabanini-mhlaba.

### Uhlanganiso lweziza zomhlaba

31. (1) Akukho mntu unokuhlanganisa umhlaba ngaphandle kwemvume kamasipala ngokwemiqathango yecandelo 15(2) ngaphandle kokuba uhlanganiso lwaphulelwe ngokwemiqathango yecandelo 24.

- (2) Ukuba umasipala wamkela uhlanganiso, umfaki-sicelo kufuneka angenise ubungqina bomzobo kuNocanda-Jikelele ukuba wamkelwe, kubandakanywa ubungqina obanelisa uNocanda-Jikelele—
- (a) besigqibo sikamasipala sokwamkela uhlanganiso;
- (b) imiqathango yemvume ebekwe ngokwemiqathango yecandelo 66; kunye
- (c) iplani yohlanganiso eyamkelweyo.
- (3) Ukuba umasipala wamkela uhlanganiso, umasipala kufuneka atshintshe imephu yesimo somhlaba, apho kuyimfuneko atshintshe nerejista ngokunjalo.

### **Ukuphelelwa kohlanganiso**

- 32.** (1) Uhlanganiso olwamkelweyo lweeyunithi zomhlaba luyaphelelwa ukuba uhlanganiso alubhaliswanga ngokweDeeds Registries Act kwisithuba esibekiweyo ukususela ngomhla unikezo lwemvume luqala ukusebenza.
- (2) Ukuba imvume yohlanganiso iyaphelelwa ngokwamacandelwana (1)—
- (a) umasipala kufuneka—
- (i) atshintshe imephu yesimo somhlaba, ze apho kuyimfuneko atshintshe nerejista ngokunjalo; kananjalo
- (ii) azise uNocanda-Jikelele ngokufanelekileyo; yaye
- (b) uNocanda-Jikelele alungise iirekhodi ezise-ofisini yakhe ukuze zibonise isaziso esithi uhlanganiso luphelelwe.

### **Ukususwa, ukumiswa okanye ukwenziwa kwezilungiso kwimiqathango enyinayo**

- 33.** (1) Umasipala angathi ngokunokwakhe okanye afumane isicelo ngokwemiqathango yecandelo 15(2), sokususa, sokumisa okanye sokwenza izilungiso kumqathango onyinayo.
- (2) Umasipala angasusa, amise okanye enze izilungiso kwimiqathango enyinayo, oku akwenze —
- (a) isigxina;
- (b) isithuba esibekwe kwimvume; okanye
- (c) enze oko kuchazwe kwimiqathango yemvume.



- (3) Ngaphezu kwenkqubo ezichazwe kwiSahluko IV, umnini kufuneka—
- (a) angenise ikopi eqinisekisiweyo yobunini-mhlaba baloo mhlaba kumasipala; yaye
  - (b) apho oku kuyimfuneko, angenise imvume yomnini-bhondi emalunga nesicelo.
- (4) Umasipala kufuneka enze ukuba kuhanjise isaziso sesicelo ngokwecandelo (1) —
- (a) kuwo onke amaziko karhulumente anokuba ayachaphazeleka ngumqathango onyinayo;
  - (b) kumntu othe amalungelo akhe achaphazeleka okanye othe waphoxakala koko ebekulindele ngenxa yokwamkelwa kwesicelo; kunye
  - (c) nakubo bonke abantu abakhankanywe kwiimpepha zobunini-mhlaba abachatshazelwa ngumqathango onyinayo.
- (5) Xa umasipala eqwalasela ukususwa, ukumiswa okanye ukulungiswa kwemiqathango enyinayo, umasipala kufuneka athathele ingqalelo oku kulandelayo:
- (a) ixabiso ngokwezimali okanye ngokwenye into ngokomqathango onyinayo elifunyanwa ngumntu okanye liziko nokuba la malungelo ngawomntu okanye ngaweziko;
  - (b) iinzuzo zomntu azifumana njengomnini-lungelo ngokomqathango onyinayo;
  - (c) iinzuzo eziza kufunyanwa ngumntu ofuna ukususwa, ukumiswa okanye ukulungiswa kwemiqathango enyinayo;
  - (d) inzuzo kuluntu ekuhlaleni zomqathango onyinayo xa uhlala ungatshintshi;
  - (e) inzuzo kuluntu ekuhlaleni yokususwa, ukumiswa okanye ukulungiswa kwemiqathango enyinayo; kwanokuba
  - (f) ingaba ukususwa, ukumiswa okanye ukulungiswa kwemiqathango enyinayo kuza kuwasusa onke amalungelo afunyanwa ngumzuzi okanye inxalenye yaloo malungelo.
- (6) Ulwamkelo lokususa, ukumisa okanye ukulungisa imiqathango enyinayo luqala ukusebenza—
- (a) ukuba akukho sibheni singenisiweyo emva kokuphela kwesithuba esixelwe kwicandelo 79(2) ekufuneka kubhenwe ngaso; okanye

- (b) ukuba isibheni singeniswe, xa uGunyaziwe weSibheni sele ethathe isigqibo ngesibheni.
- (7) Umasipala kufuneka enze isaziso sokususa, ukumisa okanye ukulungisa imiqathango enyinayo emasipapashwe kwiGazethi yePhondo emva kokuba isigqibo esithathiweyo siqalile ukusebenza njengoko kuxelwe kwicandelwana (6) yaye azise iRejistra ngesigqibo.

**Ulwamkelo lokususwa, ukumiswa okanye ukwenziwa kwezilungiso kwimiqathango enyinayo**

34. (1) Umfaki-sicelo ongunobangela wokususwa, ukumiswa okanye ukulungiswa komqathango onyinayo makathi emva kopapasho lwesaziso esixelwe kwicandelo 33(7) kwiGazethi yePhondo, afake isicelo kweRejistra yobuNini-mhlaba ukuba kubhalwe yaye kuqinisekise konke oku kwirejista efanelekileyo eza kubonisa ukususwa, ukumiswa okanye ukulungiswa komqathango onyinayo.
- (2) IRejistra yoBunini-siza ingafuna ubungqina bokususwa, ukumiswa okanye ukulungiswa kwemiqathango enyinayo kumfaki-sicelo kubandakanywa ukungeniswa kwezi zinto zilandelayo kwiRejistra yoBunini-siza:
- (a) ikopi yolwamkelo;
- (b) iimpepha zobunini-siza zokuqala; kunye
- (c) nekopi yesaziso esixelwe kwicandelo 33(7) njengoko sipapashiwe kwiGazethi yePhondo.

**ISAHLUKO IV**

**IINKQUBO ZOKUFAKA ISICELO**

**Indlela yolwaziso nomhla wolwaziso**

35. (1) Nakuphi ukuhanjiswa kwesaziso okanye ukwamkela kwaso ngokwalo Mthetho kaMasipala kufuneka kwenziwe ngembalelwano yaye isaziso singathunyelwa kumntu ngezi ndlela—
- (a) sisiwe ngesandla kuloo mntu;
- (b) sithunyelwe ngeposi erejistarishiweyo —
- (i) kwishishini laloo mntu okanye idilesi yasekhaya; okanye
- (ii) kwimeko yenkampani, sithunyelwe kwidilesi ebhalisiweyo okanye kwindawo yoshishino;
- (c) ngomyalezo wedatha oxelwe kwiElectronic Communications and Transactions Act, 2002 (uMthetho 25 ka-2002), ngokuthumela ikopi yesaziso kumntu ukuba unedilesi yeimeyili okanye enye idilesi e-elektroniki; okanye

- (d) xa idilesi ingaziwa noxa kwenziwe uphando, kufuneka isaziso sipapashwe kube kanye kwiGazethi yePhondo sipapashwe kanye nakwiphephandaba lengingqi elijikeleza kummandla wedilesi yokugqibela eyaziwayo yaloo mntu okanye yelo shishini.
- (2) Umhla wolwaziso omalunga nesaziso esihanjisiweyo okanye esinikwe umntu ngokwalo Mthetho kaMasipala—
- (a) umhla esahanjiswa ngawo okanye aposwa ngawo ngerejista ngumhla wobhaliso lwesaziso;
- (b) umhla esahanjiswa ngawo sanikwa loo mntu esandleni, ngumhla wohanjiso kuloo mntu;
- (c) umhla esashiywa ngawo kwindawo ahlala kuyo loo mntu eyempangelo okanye ishishini elikwiRiphabliki kumntu oneminyaka engaphezulu kweshumi elinesithandathu, ngumhla eshiywe kuwo kuloo mntu;
- (d) umhla esaxhonywa kuwo kwindawo ecacileyo kwisiza okanye kwisakhiwo somntu okanye seshishini, ngumhla esixhonwe ngawo; okanye
- (e) umhla esi-imeyilwe ngawo okanye sithunyelwe kwidilesi e-elektroniki, ngumhla esifunyenwe ngawo nguloo mntu njengoko kuxelwe kwiElectronic Communications and Transactions Act, 2002.
- (3) Umasipala angagqiba ngeendlela zokuhambisa isaziso sezicelo nezibheno kubandakanywa—
- (a) iinkcukacha zolwazi ezimalunga nobungakanani, isikeyili, umbala, iphepha, inani leekopi eziprintiweyo, ikopi e-elektroniki nefomathi;
- (b) indlela yokusingenisa nokunxibelana nomasipala;
- (c) indlela yokwazisa umntu;
- (d) ezinye iinkcukacha ezifunwayo; kunye
- (e) nezinye iimfuno zeenkqubo.

### **Iinkqubo zokufaka izicelo**

- 36.** (1) Umfaki-sicelo kufuneka athobele iinkqubo zesiSahluko ze, apho oku kuyimfuneko, inkqubo ezingqalileyo zeSahluko III salo Mthetho kaMasipala.
- (2) Umfaki-sicelo angafaka izicelo ezahlukileyo ngaxeshanye zophuhliso lomhlaba olwahlukileyo ngokwemiqathango yecandelo 15(2).

### **Intlanganiso yokubonisana phambi kokufaka isicelo**

- 37.** (1) Umasipala angafuna ukuba umnini womhlaba ofuna ukufaka isicelo okanye iarhente yakhe ahlangane nomsebenzi ogunyazisiweyo ze, apho oku kuyimfuneko, nabasebenzi bamanye amaziko karhulumente sentlanganiso yokubonisana phambi kokungeniswa kwesicelo kumasipala ukuze kuze kuchazwa ngeenkukacha namaxwebhu ekufuneka angeniswe nesicelo.
- (2) Umasipala angakhupha izikhokelo malunga—
- (a) nezicelo ekufuneka kuboniswane ngazo phambi kokuba zingeniswe;
- (b) iinkukacha namaxwebhu ekufuneka angeniswe nesicelo;
- (c) ubukho babasebenzi bakamasipala okanye bamanye amaziko karhulumente kwintlanganiso yokubonisana ngesicelo; kunye
- (d) neenkqubo zentlanganiso yokubonisana ngesicelo.
- (3) Umasipala kufuneka agcine imizuzu yentlanganiso yokubonisana ngesicelo.

### **Iinkukacha ezidingekayo**

- 38.** (1) Kuxhomekeke kumacandelwana (2), isicelo kufuneka sikhathshwe zezi nkukacha nala maxwebhu alandelayo:
- (a) ifomu yokufaka isicelo yakwamasipala, esayinwe ngumfaki-sicelo;
- (b) ukuba umfaki-sicelo yiarhente, incwadi yegunya egunyazisa umfaki-sicelo ukuba afake isicelo egameni lomnini;
- (c) ukuba umnini yinkampani, yithrasti, liqumrhu elilawula izakhiwo okanye ngumbutho wabanini-mhlaba, ubungqina bokuba umfaki-sicelo ugunyazisiwe ukuba enze oko egameni lomnini;
- (d) ubungqina bobunini obubhalisiweyo okanye naliphi elinye ilungelo lalo mhlaba uchaphazelekayo;
- (e) imvume yomnini-bhondi ochaphazelekayo, ukuba iyafuneka;

- (f) izizathu ezibhaliweyo zesicelo ezisekelwe kwinkqubo ekubhekiswe kuyo kwicandelo 65;
- (g) ikopi yomzobo woMhloli-mhlaba wesi siza kubhekiswa kuso okanye umzobo othathwe kwiplani-gabalala eyamkeliweyo;
- (h) iplani yengingqi esikuyo e isiza kunye neplani yophuhliso lwesiza, ukuba iyafuneka, okanye iplani ebonisa uphuhliso lomhlaba olucetywayo nemida yalo;
- (i) kwimeko yesicelo solwahlulwa hlulo lomhlaba, iplani yolwahlula-hlulo ebonisa oku kulandelayo :
  - (i) iindawo ezikuyo iziza zemihlaba eziphakanyisiweyo;
  - (ii) uqulunqo lwezimo zomhala ezicetywayo ezimalunga neziza zemihlaba eziphakanyisiweyo;
  - (iii) zonke izakhiwo ezikwisiza neziza ezimelene nazo;
  - (iv) iindawo zoluntu eziphakanyisiweyo nomhlaba odingekayo ukuze usetyenziswe luluntu;
  - (v) iindawo ezikhoyo zokungena nokuphuma;
  - (vi) onke amalungelo obunini-mhlaba;
  - (vii) iikhonto ezibonisa imiphakamo eyimitha enye ubuncinane okanye loo miphakamo yamkelwe ngumasipala;
  - (viii) ifenitshala esesitratweni;
  - (ix) ipali yesibane, eyombane neyefowuni;
  - (x) isiguquli-mbane nezitishana zawo;
  - (xi) imijelo yamanzi esiphango neendawo afikela kuzo amanzi esiphango;
  - (xii) imibhobho yogutyulo neendawo zokuyidibanisa;
  - (xiii) naziphi iimpawu zendalo ezibalulekileyo; kunye
  - (xiv) nayo yonke imigama nemimandla ekwiskeyili;
- (j) ubungqina bokuba isivumelwano okanye imvume echaza ukuba uphuhliso lomhlaba oluphakanyiswayo ludinga ilungelo kuloo mhlaba okanye imvume yokungena nokuphumela kwindlela zephondo okanye oohola besizwe;
- (k) nawaphi amanye amaxwebhu okanye iinkcukacha umasipala anokuzifuna;
- (l) ubungqina bentlawulo yemirhumo yesicelo;

- (m) ikopi yobunini-mhlaba yomhlaba ofakelwe isicelo;
  - (n) isatifiketi segqwetha esibonisa ukuba akukho miqathango ithintela isicelo ekuxwebhu lobunini-siza okanye kwikopi yeencwadi zakudala ezineenkukacha zobunini-mhlaba; yaye
  - (o) apho oku kuyimfuneko, imizuzu yentlanganiso yokubonisana ngesicelo.
- (2) Umasipala angathi nakweyiphi intlanganiso yokubonisana ongeze okanye asuse naziphi iinkukacha ezixelwe kwicandelwana (1) zesicelo esithile.
  - (3) Umasipala angakhupha izikhokelo ezimalunga nokungeniswa kweenkukacha, amaxwebhu okanye iimfuno zeenkqubo.

#### **Imali ezihlawulelwa isicelo**

- 39. (1) Umfaki-sicelo kufuneka ahlawule intlawulo yokufaka isicelo egqitywe ngumasipala phambi kokufaka isicelo ngokwalo Mthetho kaMasipala.
- (2) Imali eyintlawulo yokufaka isicelo ehlawulwe kumasipala ayibuyi yaye ubungqina bokuhlawulwa kwale mali kufuneka bungene kunye nesicelo.

#### **Izizathu zokwala ukwamkela isicelo**

- 40. Umasipala angala ukwamkela isicelo ukuba—
  - (a) akukho bungqina bokuhlawulwa kwemali efanele ukuhlawulwa; okanye
  - (b) isicelo asikho kwifomu efanelekileyo okanye asiqulathanga iinkukacha okanye amaxwebhu ekubhekiswe kuyo kwicandelo 38.

#### **Ukufunyanwa kwesicelo nokuqalwa kwenkqubo yesicelo**

- 41. (1) Umasipala kufuneka—
  - (a) arekhode ukuba isicelo usifumene, ngembalelwano okanye ngokufaka isitampu kwisicelo esifakiweyo, ngemini asifumene ngayo;
  - (b) aqinisekise ukuba ingaba isicelo sizithobeke iimfuno zecandelo 38; yaye
  - (c) azise umfaki-sicelo ngembalelwano kwiintsuku ezilishumi elinesine emva kokufumana isicelo—
    - (i) ukuba isicelo siphela yaye sizithobeke iimfuno zecandelo 38 kwanokuba inkqubo yokujongwa kwesicelo iyaqala; okanye

- (ii) naziphi iinkcukacha, amaxwebhu okanye imirhumo ekubhekiswe kuyo kwicandelo 38 engekangeni yaye umfaki-sicelo kufuneka azingenise ezo zinto zishotayo kumasipala kwiintsuku ezili-14 zomhla wesaziso.
- (2) Umasipala kufuneka kwiintsuku ezilishumi elinesine emva iinkcukacha, amaxwebhu okanye imirhumo ebishota ekubhekiswe kuyo kwicandelwana (1)(c)(ii) azise umfaki-sicelo ngembalelwano ukuba isicelo siphela yaye inkqubo yesicelo iyaqala.
- (3) Umasipala angala ukuqwalasela isicelo ukuba umfaki-sicelo akangenisi iinkcukacha okanye amaxwebhu okanye ahlawule imirhumo kwisithuba esixelwe kwicandelwana (1)(c)(ii).
- (4) Umasipala kufuneka azise umfaki-sicelo ngembalelwano ngokwala ukuqwalasela isicelo ngokwecandelwana (3) yaye kufuneka asivale isicelo.
- (5) Umfaki-sicelo akanalungelo lakubhena kuGunyaziwe weSibheni ngesigqibo esixelwe kwicandelwana (3) sokwala ukuqwalasela isicelo.
- (6) Ukuba umfaki-sicelo ufuneka ukuqhubeka nesicelo, umasipala alileyo ukusiqwalasela ngokwecandelwana (3), umfaki-sicelo kufuneka afake isicelo kwakhon ze ahlawule imirhumo ekufuneka eyihlawule.
- (7) Umasipala kufuneka akhuphe isicelo kwiintsuku ezingama-21 ukususela ngosuku lokuqala kwenkqubo yesicelo njengoko kuxelwe kumacandelwana (1)(c)(i) okanye (2).

**Ubonelelo lweenkcukacha ezongezelekileyo okanye amaxwebhu ongezolelekileyo**

42. (1) Umasipala kufuneka, kwiintsuku ezingama-30 zokwamkelaisicelo sizithobeke iimfuno zecandelo 38, azise umfaki-sicelo ngembalelwano ngazo naziphi iinkcukacha okanye amaxwebhu awafunayo ngaphezu kweemfuno ezixelwe kwicandelo 38.
- (2) Umfaki-sicelo makanike umasipala iinkcukacha ezongezelekileyo okanye amaxwebhu axelwe kwicandelwana (1) kwiintsuku ezingama-30 zomhla wesaziso okanye ngesithuba esongezwayo ekuvunyelwene ngaso ngumfaki-sicelo nomasipala.
- (3) Ukuba umfaki-sicelo akakwazi kubonelela ngeenkcukacha ezongezelekileyo okanye amaxwebhu ngesithuba esixelwe kwicandelwana (2), umasipala kufuneka asiqwalasele isicelo zingekho ezo nkcukacha okanye amaxwebhu yaye amazise umfaki-sicelo ngokufanelekileyo.

- (4) Umasipala kufuneka, kwiintsuku ezingama-21 zokufumana iinkcukacha ezongezelelekileyo okanye amaxwebhu ukuba umfaki-sicelo unikeze ngazo zonke iinkcukacha okanye amaxwebhu afunekayo, atsho ukuba uzifumene yaye azise umfaki-sicelo ngembalelwano ukuba inkqubo yesicelo iyaqhubeka okanye ezinye iinkcukacha, amaxwebhu okanye zisafuneka ngenxa yeenkcukacha okanye amaxwebhu afunyenweyo.
- (5) Ukuba umasipala wazise umfaki-sicelo ukuba ezinye iinkcukacha okanye amaxwebhu asafuneka njengoko kuxelwe kwicandelwana (4), kuya kusebenza amacandelwana (2) no-(3) kungeniso lweenkcukacha okanye amaxwebhu.

### **Urhoxiso lwesicelo nolwegunya lomthetho**

43. (1) Umfaki-sicelo angathi, nanini na phambi kokuba umasipala enze isigqibo ngesicelo esingeniswe ngumfaki-sicelo, arhoxise isicelo ngokungenisa isaziso esibhaliweyo sorhoxiso kumasipala.
- (2) Umnini-mhlaba makazise umasipala ngembalelwano ukuba uwarhoxisile amagunya ebewanike iarhente yakhe ze atsho ukuba ingaba uza kuqhubeka nesicelo ngokwakhe na.

### **Isaziso soluntu ngokweminye imithetho neenkqubo ezihlanganisiweyo**

44. (1) Umasipala angathi, efake isicelo esibhaliweyo nezizathu kumfaki-sicelo, phambi kokungeniswa kwesicelo ngokwemiqathango yecandelo 45 okanye 46, agqibe ukuba—
  - (a) inkqubo yesaziso soluntu ebiyenziwe kulandelwa omnye umthetho yesi sicelo ithathwa njengenqubo yesaziso kwesi sicelo ngokwalo Mthetho kaMasipala; okanye
  - (b) isaziso soluntu sesicelo ngokwalo Mthetho kaMasipala singapapashwa ngokuhambelana neemfuno zesaziso soluntu ezichaphazela isicelo ngokomnye umthetho.
- (2) Ukuba umasipala ugqiba kwelokuba isicelo singapapashwa njengoko kuxelwe kumacandelwana (1)(b), kufuneka kungenwe kwisivumelwano phakathi komasipala kunye namaziko karhulumente achaphazelekayo ukuba nawo apapashe isaziso ngexesha elinye.

### **Upapasho lwezaziso**

45. (1) Kuxhomekeke kwicandelo 44, umasipala kufuneka, ngokwamacandelo (2), akhuphe isaziso soluntu sezi zicelo zilandelayo:
  - (a) isicelo sozowuno kwakhona okanye ukuzowuna kwakhona okucelwe ngumasipala;



- (b) ulwahlula-hlulo lomhlaba ongaphezulu kwehektare ezintlanu okwimida engaphandle kwedolophu njengoko kubonisiwe kwisikhokelo sophuhliso lwemihlaba sikamasipala;
  - (c) ulwahlula-hlulo lomhlaba ongaphezulu kwehektare enye okwimida engaphandle kwedolophu njengoko kubonisiwe kwisikhokelo sophuhliso lwemihlaba sikamasipala;
  - (d) ukuba umasipala akanaso isikhokelo sophuhliso lwemihlaba sikamasipala esamkelweyo, ulwahlula-hlulo lomhlaba ongaphezulu kwehektare ezintlanu kumda ongaphakathi, kubandakanywa iimvume zosetyenziso-mhlaba ezikhoyo zommandla osezidolophini okhoyo ngoku;
  - (e) ukuba umasipala awunasikhokelo sophuhliso lwemihlaba sikamasipala, ulwahlula-hlulo ongaphezulu kwehektare enye ngaphandle komda, kubandakanywa kubandakanywa iimvume zosetyenziso-mhlaba ezikhoyo zommandla osezidolophini okhoyo ngoku;
  - (f) ukuvalwa kwendawo yoluntu;
  - (g) isicelo somqathango onyinayo;
  - (h) ezinye izicelo eziza kuchaphazela uluntu ukuba zamkelwe.
- (2) Isaziso soluntu sesicelo ekubhekiswe kuso kwicandelo (1) sikhutshwa —
- (a) ngokupapashwa kwesaziso esiqulethe oko kuxelwe kwicandelo 47 kumaphephandaba athengiswa okanye anikezwa kuloo mmandla ubuncinane ngeelwimi ezimbini ezisemthethweni zePhondo ezithethwa kakhulu kuloo mmandla uchaphazelekayo;
  - (b) ukuba akukho phephandaba kuloo mmandla, ukuxhoma isaziso esiqulethe oko kuxelwe kwicandelo 47, kwisithuba esibekelwe isaziso, kumhlaba ochaphazelekayo kunye kuyo nayiphi ibhodi yezaziso, ngokokutsho kukamasipala; kunye
  - (c) nokupapasha isaziso esiqulethe oko kuxelwe kwicandelo 47 kwiwebhusayithi kamasipala.
- (3) Umasipala angacela umfaki-sicelo ukuba ibe nguye owenza upapasho njengoko kuxelwe kumacandelo (2) esaziso soluntu sesicelo.
- (4) Umfaki-sicelo opapasha isaziso ngokweli candelo kufuneka athi ngesithuba esibekwe ngumasipala sopapasho lwesaziso, anike umasipala ubungqina, obuchazwe ngumasipala bokuba isaziso sipapashwe ngokuhambelana neli candelo.

- (5) Xa umasipala efuna ukwenza uphuhliso okanye umsebenzi oxelwe kwicandelo (1)(a) ukuya ku-(h) kufuneka enze ukuba eso sazi esixelwe kwicandelo (2) sipapashwe.

### Ukukhutshwa kwezaziso

46. (1) Umasipala kufuneka enze ukuba isaziso esixelwe kwicandelo 47 ukuba esinye sezi zaziso sihanjisiwe:
- (a) isicelo ekubhekiswe kuso kwicandelo 45(1);
  - (b) isigqibo sokuzowuna esixelwe kwicandelo 13;
  - (c) isicelo solwahlula-hlulo, ukwenziwa kwezilungiso okanye ukucinywa kolwahlula-hlulo oluxelwe kwicandelo 15(2)(d) no-(k) ngokulandelelana;
  - (d) isicelo sohlanganiso exelwe kwicandelo 15(2)(e);
  - (e) isilungiso, ucimo okanye ukubekwa komqathango oxelwe kwicandelo 15(2)(h).
- (2) Isaziso esixelwe kwicandelo (1) kufuneka sihanjisiwe—
- (a) ngokwecandelo 35;
  - (b) ngeelwimi ezimbini ezisemthethweni kwiPhondo ezithethwa kakhulu kuloo mmandla uchaphazelekayo;
  - (c) kumntu ngamnye othe amalungelo akhe achaphazeleka okanye othe waphoxakala koko ebekulindele ngenxa yokwamkelwa kwesicelo; kunye
  - (d) nakubo bonke abanini bomhlaba abanomhlaba ojoyine umhlaba ochaphazelekayo.
- (3) Umasipala angafuna ukuba kuhanjisiwe isaziso njengoko kuxelwe kweli candelo saso nasiphi isicelo esenziwe ngokwalo Mthetho kaMasipala esingadweliswanga kwicandelo (1).
- (4) Umasipala angafuna ukuba umfaki-sicelo ahambise isaziso njengoko kuxelwe kwicandelo (2).
- (5) Umfaki-sicelo ohambisa isaziso ngokweli candelo kufuneka kwisithuba esibekwe ngumasipala sokuhanjiswa kweso sazi anike umasipala ubungqina, ngohlobo oluchazwe umasipala, lokuhambisa isaziso isaziso ngokwecandelo (2).

- (6) Umasipala angafuna ukuba umfaki-sicelo enze isicelo sohlolo ukuba sifumaneke kumalungu oluntu kwindawo yoluntu echazwe ngumasipala.
- (7) Xa umasipala efuna ukwenza uphuhliso okanye umsebenzi oxelwe kwicandelo (1)(a) ukuya ku-(e) kufuneka enze ukuba eso saziso sihanjiswe njengoko kuxelwe kwicandelo (2).

#### **linkcukacha eziqulethwe kwizaziso**

- 47.** Xa isicelo kufuneka sipapashiwe okanye sihanjiswe ngokwalo Mthetho kaMasipala, isaziso kufuneka—
- (a) sibe negama neenkukacha zoqhagamshelwano zomfaki-sicelo nomnini;
  - (b) sichaze umhlaba okanye iyunithi yomhlaba esibhekisa kuwo isicelo ngokunika inkcazelo yepropati nedilesi yayo;
  - (c) sichaze injongo yesicelo;
  - (d) sichaze ukuba ikopi yesicelo namaxwebhu axhasayo aya kufumaneka ukuba ajongwe ngeeyure nakwindawo ekhankanywe kwisaziso;
  - (e) sichaze igama neenkukacha zoqhagamshelwano zomntu emazithunyelwe kuye izimvo;
  - (f) sicele abantu ukuba bafake izimvo ezibhaliweyo, ezinezizathu ezimalunga nesicelo;
  - (g) sichaze indlela emazingeniswe ngayo izimvo;
  - (h) sichaze umhla emazingeniswe ngawo izimvo, ekufuneka ukuba ungabikho ngaphantsi kweentsuku ezingama-30 ukusuka kumhla wokunikezwa kwesaziso; yaye
  - (i) sichaze ukuba nawuphi umntu ongakwazi kubhala angathi ngeeyure zomsebenzi aye kwidilesi echazwe kwisaziso apho umsebenzi waseofisini kamasipala okhankanyiweyo eya kunceda abo bantu ababhalele phantsi izimvo zabo.

#### **Ezinye iindlela zokwazisa uluntu**

- 48.** (1) Umasipala angathi, akhuphe isaziso soluntu ngendlela enye okanye nangezinye iindlela ekubhekiswe kuzo kwicandelo (2)—
- (a) ukuqinisekisa isaziso soluntu sezicelo ezidweliswe kwicandelo 45(1) ukuba umasipala aqwalasele isaziso ngokwamacandelo

45 okanye 46 njengesingenafuthe okanye njengesilindeleke ukuba singabi nafuthe; okanye

(b) akhuphe isaziso soluntu saso nasiphi isicelo ngokwalo Mthetho kaMasipala.

(2) Isaziso soluntu esixelwe kwicandelo (1) singakhutshwa—

(a) ngokuxhonywa kwesaziso esixelwe kwicandelo 47 somlinganiselo oyi-60 yeesentimitha nge-42 yeesentimetha kumphambili wesiza ekubhekiswa kuso okanye nakweyiphi enye indawo ecacileyo nekululula ukungena nokuphuma kuyo kweso siza, ukuba ngaba—

(i) isaziso sixhonywa iintsuku ezingama-30 ubuncinane ngaso nasiphi isithuba sokuba uluntu luvakalise izimvo zalo ngesicelo; yaye

(ii) umfaki-sicelo, kwiintsuku ezingama-30 ukusuka kusuku lokugqibela lokuxhonywa kwesaziso, angenise kumasipala—

(aa) iafidavithi eqinisekisa ukumenteyinwa kwesaziso for kwisithuba esibekiweyo; kunye

(bb) neefoto ezimbini ubuncinane zesaziso, enye ithathwe kufuphi ze enye ithathwe umntu ofotayo eme ngaphaya kwendlela;

(b) ngokubiza intlanganiso ngenjongo zokwazisa abantu abachaphazelekayo ngesicelo;

(c) ngokukhupha isaziso malunga nesicelo kwisitishi sikanomathotholo sengingqi ngolwimi oluthile;

(d) ngokuba nemini evulelekileyo okanye intlanganiso yoluntu ukwazisa abantu abachaphazelekayo malunga nesicelo;

(e) ngokupapasha isicelo kwiwebhusayithi kamasipala kwisithuba sokuba uluntu luvakalise izimvo zalo ngesicelo; okanye

(f) ngokufumana iileta zemvume okanye zesichaso kwisicelo, ukuba ezo leta zikhatshwa bubungqina obamkelekileyo bokuba umntu osayina ileta unikezwe iinkcukacha ezichanekileyo nezaneleyo ngesicelo.

(3) Isaziso soluntu esongezelelekileyo singakhutshwa ngexesha elinye nesaziso esikhutshwe ngokwamacandelo 45 okanye 46.

- (4) Umasipala angafuna umfaki-sicelo asipapashe ngokwakhe isaziso njengoko kuxelwe kumacandelo (2).
- (5) Umfaki-sicelo okhupha isaziso ngokweli candelo candelo kufuneka athi ngesithuba esibekwe ngumasipala sopapasho lwesaziso, anike umasipala ubungqina, obuchazwe ngumasipala bokuba isaziso sipapashwe ngokwecandelo (2).

#### **Imiqathango yokufaka amaxwebhu ezikhalazo**

49. (1) izimvo ngesicelo ezingeniswe luluntu zingeniswa ziluxwebhu lwezikhalazo kufuneka ezingeniswe by the public in the form of a petition must clearly state—
  - (a) sibe neenkukacha zoqhagamshelwano zomeli ogunyazisiweyo weesignitsha ezikuxwebhu lwezikhalazo;
  - (b) sibe negama and physical address of each signatory; kunye
  - (c) nezimvo nezizathu zazo.
- (2) Isaziso esiya kumntu oxelwe kwicandelo (1)(a) sisiziso esiya kubo bonke abantu abasayine uxwebhu lwezikhalazo.

#### **Imiqathango yokufaka izimvo**

50. (1) Umntu angaphendula kwisaziso esixelwe kumacandelo 44, 45, 46 okanye 48 ngokufaka izimvo ngembalelwano ngokuhambelana neli candelo.
- (2) Naluphi uluvo olwenziwe ngenxa yenkqubo yesaziso maluze ngembalelwano luthunyelwe kumntu okhankanywe kwisaziso yaye lungeniswe kwisithuba esichazwe kwisaziso ngendlela echazwe kweli candelo.
- (3) Izimvo mazichaze oku kulandelayo:
  - (a) igama lomntu ochaphazelekayo;
  - (b) idilesi okanye iinkukacha zoqhagamshelwano umntu okanye iqela elichaphazelekayo eliya kufumana kuyo isaziso okanye amaxwebhu ahanjiswa;
  - (c) uchaphazeleko lomntu kwisicelo; kunye
  - (d) nezizathu zezimvo.

- (4) Izizathu zalo naluphi uluvo mazinike iinkcukacha ezaneleyo ukuze—
- (a) zibonise imiba neemeko ezicacisa izimvo;
  - (b) apho kunjalo, zibonise iziphumo ezingafunekiyo isicelo esiya kuba nazo ukuba samkelwe;
  - (c) apho kunjalo, zibonise nayiphi inxalenye yesicelo engahambelanni nomgaqonkqubo ochaphazelekayo; yaye
  - (d) zivumele umfaki-sicelo ukuba aphendule kwizimvo.
- (5) Umasipala angala ukwamkela izimvo ezingeniswe emva kosuku lokuvala.

### **Inkqubo yentatho-nxaxheba kwizigaba ezahlukileyo zikarhulumente**

51. (1) Kuxhomekeke kwicandelo 44, umasipala kufuneka, athi ngaxeshanye nokwazisa umfaki-sicelo ukuba isicelo siphela njengoko kuxelwe kwicandelo 41(1)(c)(i) okanye (2) anikeze isaziso sesicelo kunye nekopi yesicelo kwisebe ngalinye likamasipala neziko ngalinye iziko likarhulumente elichaphazelekayo kwisicelo ze acele uluvo lwazo kwisicelo.
- (2) Iziko likarhulumente kufuneka lingenise uluvo olubhaliweyo kwisicelo kuManejala kaMasipala kwiintsuku ezingama-60 zokufumana eso sicelo.

### **Izilungiso phambi konikezelo lwemvume**

52. (1) Umfaki-sicelo angenza izilungiso kwisicelo nanini na phambi kokwamkelwa kwesicelo—
- (a) ngokunokwakhe;
  - (b) ngenxa yesichaso okanye uluvo olungeniswe ngexesha lenkqubo yesaziso; okanye
  - (c) ngokucelwa ngumasipala.
- (2) Ukuba isilungiso kwisicelo siyavakala, umasipala kufuneka anikeze isaziso sokwenziwa kwesilungiso kwisicelo kuwo onke amasebe kamasipala nawo onke amaziko karhulumente nababoneleli-nkonzo abafake uluvo kwisicelo ze abacele ukuba bafake izimvo kwisicelo kwiintsuku ezingama-21 zomhla wesaziso.
- (3) Ukuba isilungiso kwisicelo siyavakala, umasipala angafuna kuphinde kupapashwe esinye isaziso sesicelo okanye sihanjise ngokwemiqathango yecandelo 44, 45, 46 okanye 48.

### **Esinye isaziso soluntu**

- 53.** (1) Umasipala angafuna ukuba isaziso sesicelo siphinde sikhutshwe ukuba kudlule iinyanga ezingaphezu kwe-18 zidlulile ukususela kwisaziso zoluntu sokuqala abe umasipala engekasiqwalaseli isicelo.
- (2) Umasipala angathi, nanini xa kuqwalaselwa isicelo, ukuba kuvela iinkcukacha ezintsha ezivakalayo zoqwalaselo lwesicelo, afune—
- (a) isaziso sesicelo kufuneka sikhutshwe kwakhona ngokwemiqathango yecandelo 44, 45, 46 okanye 48; yaye
- (b) isicelo kufuneka siphinde sithunyelwe kumasebe kamasipala, namanye amaziko karhulumente okanye ababoneleli-nkonzo ukuze banike izimvo zabo.

### **Uxanduva lweendleko zesaziso**

- 54.** Umfaki-sicelo nguye oya uhlawula iindleko zokupapasha nokuhambisa isaziso sesicelo ngokwamacandelo 44, 45, 46, 48, 52 okanye 53.

### **Ilungelo lomfaki-sicelo lokuphendula**

- 55.** (1) Iikopi zazo zonke izimvo nezinye iinkcukacha ezingeniswe kumasipala kufuneka zinikwe umfaki-sicelo kwiintsuku ezili-14 emva kosuku lokuvala kokungena kwezimvo zoluntu kunye nesaziso esazisa umfaki-sicelo ngamalungelo akhe ngokweli candelo.
- (2) Umfaki-sicelo angathi, kwiintsuku ezingama-30 ukusuka kumhla afumene ngawo izimvo, angenise impendulo yakhe ebhaliweyo kumasipala.
- (3) Umfaki-sicelo angathi, phambi kokuphelelwa kwesithuba seentsuku ezingama-30 ekubhekiswe kuzo kwicandelwana (2), afake isicelo kumasipala sokongezelwa isithuba sokubhala impendulo ebhaliweyo, sibe sisithuba esingekho ngaphezu kweentsuku ezili-14.
- (4) Ukuba umfaki-sicelo akangenisi mpendulo kwisithuba seentsuku ezingama-30 okanye kwisithuba esongeziweyo esixelwe kumacandelwana (3) ukuba sinikiwe, umfaki-sicelo uthathwa njengongenampendulo.

- (5) Ukuba umasipala ufuna iinkcukacha ezongezelelekileyo kumfaki-sicelo ngenxa yezimvo ezifunyenweyo, iinkcukacha mazinikezwe ngesithuba ekuvunyelwene ngaso phakathi komfaki-sicelo nomasipala.
- (6) Ukuba umfaki-sicelo akangenisi iinkcukacha ezongezelelekileyo kwisithuba esixelwe kumacandelwana (5), kuya kusebenza icandelo 42(3), eliya kufundwa notshintsho oluyimfuneko.

#### **Uvavanyo olubhaliweyo ngesicelo**

56. (1) Umsebenzi ogunyazisiweyo makathi ngembalelwano avavanye isicelo ngokwecandelo 65 ze enze isindululo kumntu oza kwenza isigqibo malunga nolwamkelo okanye ukukhatywa kwesicelo.
- (2) Uvavanyo lwesicelo kufuneka lubandakanye isizathu sesindululo ze, apho oku kuyimfuneko, kubekwe nemiqathango yemvume.

#### **Isithuba sokuthatha isigqibo**

57. (1) Ukuba igunya lokwenza isigqibo linikwe umsebenzi ogunyazisiweyo yaye akukho nkqubo idibanisa neminye imithetho, umsebenzi ogunyazisiweyo makagqibe ngesicelo kwiintsuku ezingama-60, ukususela—
  - (a) kusuku lokugqibela lokungeniswa kwezimvo njengoko kuxelwe kwicandelo 50(2) ukuba akukho izimvo zingenisiweyo;
  - (b) kusuku lokugqibela lokungeniswa kwempendulo yomfaki-sicelo kwizimvo ezingeniswe njengoko kuxelwe kwicandelo 55(2) okanye (3); okanye
  - (c) kusuku lokugqibela lokungeniswa kweenkcukacha ezongezelelekileyo njengoko kuxelwe kwicandelo 55(5).
- (2) Ukuba igunya lokuthatha isigqibo alidluliselwanga kumsebenzi ogunyazisiweyo yaye akukho nkqubo idibanisa neminye imithetho,, iSigqeba masigqibe ngesicelo kwiintsuku ezili-120 ukususela kumhla oxelwe kwicandelwana (1)(a) ukuya ku-(c).
- (3) Umsebenzi ogunyazisiweyo okanye iSigqeba, ngokwemeko leyo, angongeza isithuba esixelwe kumacandelwana (1) okanye (2) kwiimeko ezizodwa kubandakanywa nezi zinto zilandelayo:
  - (a) ubukho bomntu ochaphazelekayo ongenise uxwebhu lwezikhalazo;
  - (b) kwimeko yeSigqeba, xa kukho indibano yezimvo zomlomo eza kubanjwa.



### Ukungathathi amanyathelo ngexesha elibekiweyo

58. Kuxhomekeke kumacandelo 41(5), umfaki-sicelo angafaka isibheno kuGunyaziwe weZibheno ukuba umsebenzi ogunyazisiweyo okanye iSigqeba siyasilela ukwenza isigqibo kwisicelo kwisithuba ekubhekiswe kuso kwicandelo 57(1) okanye (2).

### Amagunya okwenza uvavanyo ngamaxesha athile

59. (1) Umsebenzi ogunyazisiweyo okanye iSigqeba angathi, ngokuhambelana neemfuno zeli candelo, lingangena kumhlaba okanye kwisakhiwo lize kwenza uhlolo ngenjongo yokufumana iinkcukacha zokuvavanya isicelo ngokwalo Mthetho kaMasipala nokulungiselela uvavanyo olubhaliweyo oluxelwe kwicandelo 56.
- (2) Xa igosa eligunyazisiweyo lisenza uhlolo—
- (a) lingacela ukuba nayiphi irekhodi, uxwebhu okanye umba unikezwe ukuncedisa kuhlolo;
- (b) lingenza iikopi okanye licaphule kumaxwebhu anikeziweyo ngokomhlathi **Error! Reference source not found.** anento yokwenza nohlolo;
- (c) xa linikeze irisithi, lingasusa irekhodi, uxwebhu okanye nawuphi umba onento yokwenza nohlolo; okanye
- (d) lingahlola nasiphi isakhiwo libuze nemibuzo emalunga neso sakhiwo.
- (3) Akukho mntu unokuphazamisana negosa eligunyazisiweyo elenza uhlolo oluxelwe kwicandelwana **Error! Reference source not found.**
- (4) Igosa eligunyazisiweyo okanye ilungu leSigqeba kufuneka, xa liceliwe, linikeze ubungqina obubonisa ukuba ligunyazisiwe ukuba lenze uhlolo.
- (5) Uhlolo oluchazwe kwicandelwana **Error! Reference source not found.** kufuneka ngexesha elifanelekileyo nasemva kokwazisa umnini okanye umntu ohlala kuloo mhlaba okanye kweso sakhiwo.

### Izigqibo ngezicelo

60. Umsebenzi ogunyazisiwe licandelo 69, okanye iSigqeba, ngokwemeko leyo, angathi kwisicelo esixelwe kwicandelo 15(2)—
- (a) amkele isicelo sisonke okanye inxalenye yaso, okanye asikhabe;

- (b) xa kwamkelwe eso sicelo, abeke imiqathango ngokwemiqathango yecandelo 66;
- (c) enze naluphi uhlolo oludingekayo ukuvavanya isicelo ngokwemiqathango yecandelo 59;
- (d) kwimeko yeSigqeba, baya kutyumba umcebisi oya kucebisa okanye ancedise kwimisebenzi yeSigqeba ngokwalo Mthetho kaMasipala.

### **Isaziso nokuqala ukusebenza kwesigqibo**

- 61.**
- (1) Umasipala kufuneka, kwiintsuku ezingama-21 zokuthatha isigqibo sakhe, athi ngembalelwano azise umfaki-sicelo kunye nawuphi umntu omalungelo akhe achatshazelwa sisigqibo ngesigqibo, izizathu zesigqibo kunye nelungelo lokubhena ukuba liyadingeka.
  - (2) Ngesaziso esixelwe kwicandelwana (1) kwaziswe umfaki-sicelo ukuba imvume iqala nini ukusebenza.
  - (3) Ukuba umnini utyumbe iarhente, umnini kufuneka athathe amanyathelo okuqinisekisa ukuba i-arhente iyamchazela ngesigqibo sikamasipala.
  - (4) Imvume iqala ukusebenza emva kokuphelelwa kwesithuba esixelwe kwicandelo 79(2) ekufuneka kuso kufakwe nesibheni ukuba akufakwanga sibheni.
  - (5) Kuxhomekeke kwicandelwana (6), ukwamkelwa kwesicelo kuyemiswa xa kufakwe isibheni ze kuxhomekeke kwisigqibo sikaGunyaziwe weZibheni weso sibheni.
  - (6) Ukuba kufakwe isibheni kwimiqathango yecandelo 66, iSigqeba okanye umsebenzi ogunyazisiweyo angagqiba ukuba ukwamkelwa kwesicelo akumiswanga

### **Imisebenzi yearhente**

- 62.**
- (1) Iarhente kufuneka iqinisekise ukuba ineenkcukacha zomnini emmeleyo.
  - (2) Iarhente ayinakunikeza iinkcukacha okanye inkcazelo exhasa isicelo eyaziyo ukuba iyakhohlisa, ibubuxoki okanye ayichanekanga.

### **Iimpazamo nezinto ezishiyiweyo**

- 63.**
- (1) Umasipala angathi nanini alungise impazamo kumagama esigqibo saso ukuba olo lungiso alutshintshi isigqibo sakhe okanye aludali utshintsho, ukumiswa okanye ukucinywa komqathango wemvume.

- (2) Umasipala angathi, ngokunokwakhe okanye ngokwesicelo somfakisicelo okanye iqela elichaphazelekayo, xa kunikwe isizathu esivakalayo, ayixolele impazamo ekwinkqubo ukuba ngaba olo xolelo alunafuthe elibi okanye alucaluli naliphi na iqela.

### **Izaphulelo zokukhawulezisa iinkqubo**

- 64** (1) Umasipala angathi ngembalelwano yaye kuxhomekeke kwicandelo 60 leLand Use Planning Act—
- (a) aphulele uphuhliso ukuba lungathobeli imiqathango yalo Mthetho ukunciphisa uxanduva lwemali okanye lolawulo—
- (i) lweenkqubo ezihlanganisiweyo zesicelo ezixelwe kwicandelo 44;
- (ii) lobonelelo ngezindlu ezixhaswa ngesabsidi karhulumente; okanye
- (iii) lophuculo lwendawo yokuhlala ekhoyo;
- (b) kwimeko kaxakeka agunyazise ukuba uphuhliso lungatyeshelwa kwimiqathango yalo Mthetho kaMasipala.
- (2) Ukuba uMphathiswa wePhondo unikeza isaphulelo okanye ugunyaziso lokunxaxha kwimiqathango yeLand Use Planning Act kumasipala ngokwemiqathango yecandelo 60 leLand Use Planning Act, umasipala waphulelwe okanye ugunyazisiwe ukuba anxaxhe kuyoa nayiphi imiqathango yalo Mthetho kaMasipala ehambelana nemiqathango yeLand Use Planning Act kwisaphulelo okanye unxaxho olugunyazisiweyo.

## **ISAPHLUKO V**

### **INKQUBO YOKUTHATHA ISIGQIBO**

#### **Inkqubo gabalala yokuqwalaselwa kwezicelo**

- 65.** (1) Xa umasipala eqwalasela isicelo, kufuneka athathele ingqalelo ezi zinto zilandelayo:
- (a) isicelo esingeniswe ngokwalo Mthetho kaMasipala;
- (b) inkqubo elandelweyo ukuqwalasela isicelo;
- (c) ukudingeka kosetyenziso lomhlaba oluphakanyiswayo kunye naziphi izikhokelo ezikhutshwe nguMphathiswa wePhondo ngodingeko losetyenziso lomhlaba oluphakanyiswayo;

- (d) izimvo kwimpendulo yesaziso sesicelo, kubandakanywa izimvo ezifunyenwe kumaziko karhulumente, amasebe kamasipala kunye noMphathiswa wePhondo ngokwemiqathango yecandelo 45 yeLand Use Planning Act;
- (e) impendulo yomfaki-sicelo, ukuba ikhona, kwizimvo ekubhekiswe kuzo kumhlathi (d);
- (f) uphando olwenziweyo kulandelwa eminye imithetho echaphazelekayo kuqwalaselo lwesicelo;
- (g) uvavanyo olubhaliweyo lonocanda obhalisiweyo kwisicelo—
  - (i) sotshintsho lwesimo somhlaba;
  - (ii) solwahlula-hlulo lweziza ezingaphezu kwama-20;
  - (iii) ukususwa, ukumiswa okanye ukulungiswa komqathango onyinayo ukuba ungotshintsho losetyenziso lomhlaba;
  - (iv) ukwenziwa kwezilungiso, ukucima okanye ukubekwa kwemiqathango eyongezelelekileyo kwilungelo elikhoyo losetyenziso;
  - (v) ulwamkelo lwesimo somhlaba esinemiqathango eyodwa exelwe kwiskim sesimo somhlaba;
  - (vi) ukwenziwa ngezigaba, ukulungiswa okanye ukucinywa kweplani yolwahlula-hlulo okanye inxalenye yayo;
  - (vii) ukugqiba ngesimo somhlaba;
  - (viii) ukuvalwa kwendawo kawonkewonke okanye inxalenye yayo;
- (h) ifuthe lophuhliso lomhlaba oluphakanyiswayo kwiinkonzo zobunjineli zikamasipala;
- (i) isicwangciso sophuhliso esihlanganisiweyo, kubandakanywa isikhokelo sophuhliso lwemihlaba sikamasipala;
- (j) isicwangciso sophuhliso esihlanganisiweyo nesophuhliso lwemihlaba somasipala wesithili, apho oku kuyimfuneko;
- (k) isikhokelo sophuhliso lwemihlaba sengingqi esichaphazelekayo esamkelwe ngumasipala;
- (l) iplani yesakhiwo echaphazelekayo;
- (m) imigaqonkqubo echaphazelekayo kamasipala ekhokela ukuthathwa kwesigqibo;
- (n) isikhokelo sophuhliso lwemihlaba sephondo;

- (o) apho oku kuyimfuneko, isikhokelo sophuhliso lwemihlaba sommandla esixelwe kwicandelo 18 leSpatial Planning and Land Use Management Act okanye isikhokelo sophuhliso lwemihlaba sephondo nesommandla;
  - (p) imigaqonkqubo, iziseko kunye nemigangatho yocwangciso nophuhliso kunye nenkqubo ebekwe ngurhulumente wesizwe nowephondo;
  - (q) imiba ekubhekiswe kuyo kwicandelo 42 leSpatial Planning and Land Use Management Act;
  - (r) iziseko ekubhekiswe kuzo kwiSahluko VI seLand Use Planning Act; kunye
  - (s) nemiqathango echaphazelekayo yeskim sesimo somhlaba.
- (2) Apho kuyimfuneko ngokwemida yophuhliso okanye imiqathango yemvume, umasipala kufuneka amkele iplani yophuhliso lwesiza ukuba iplani yophuhliso lwesiza —
- (a) iyahambelana nemigaqo yophuhliso yesimo somhlaba;
  - (b) iyahambelana nemigaqo yophuhliso yesimo somhlaba enemiqathango eyodwa, ukuba iyachaphazeleka;
  - (c) iyayithobela imiqathango yemvume; yaye
  - (d) iyawuthobela lo Mthetho kaMasipala.

### **Imiqathango yemvume**

- 66.** (1) Umasipala angasamkela isicelo kuxhomekeke kwimiqathango edalwe lulwamkelo losetyenziso lomhlaba oluphakanyiswayo.
- (2) Imiqathango ebekwe ngokwamacandelwana (1) ingabandakanya imiqathango—
- (a) yobonelelo lweenkonzo zobunjineli nezibonelelo;
  - (b) iimfuno ezimalunga neenkonzo zobunjineli njengoko kuxelwe kwicandelo 82 no-83;
  - (c) unikezelo lomhlaba okanye intlawulo yemali;
  - (d) ukwakhiwa kwakhona kwendawo;
  - (e) ulondolozo loovimba bolimo okanye belifa lemveli;
  - (f) ulondolozo nolawulo lwezindalo nezityalo;
  - (g) ubonelelo ngezindlu ezifumana isabsidi kunye nezibonelelo zoluntu;

- (h) ukusebenza ngendlela eyiyo kombane;
- (i) iimfuno zokujongana neemeko zokutshintsha kwemozulu;
- (j) umiselo lombutho wabanini-mhlaba kulwahlula-hlulo;
- (k) ubonelelo lomhlaba oludingwa ngamanye amaziko karhulumente;
- (l) ulwamkelo ngokwemiqathango yecandelo 31 leDeeds Registries Act kwiindawo zoluntu zikamasipala;
- (m) ubonelelo ngomhlaba odingelwa iindawo zoluntu okanye intlawulo yemali endaweni yobonelelo lomhlaba waloo njongo;
- (n) ubungakanani bomhlaba onikezelwa kumasipala ngenjongo yebala loluntu okanye indlela, njengoko kugqitywe ngokuhambelana nomgaqonkqubo owamkelwe ngumasipala;
- (o) ubhaliso lweendawo zikawonkewonke egameni likamasipala;
- (p) udluliselo lobunini kumasipala lomhlaba odingelwa uluntu;
- (q) umiselo lolwahlula-hlulo ngokwezigaba;
- (r) iimfuno zamanye amaziko karhulumente;
- (s) ukungeniswa kweplani yolawulo lolwakhiwo yokulawula ifuthe lolwakhiwo lwesakhiwo esitsha kwiziza ezingqongileyo okanye kokusingqongileyo;
- (t) izivumelwano emakungenwe kuzo kwimiqathango ethile;
- (u) ukwenziwa ngezigaba kophuhliso, kubandakanywa amabinzana asukayo amalunga nezo zigaba;
- (v) ukubekwa kwemida yophuhliso okanye yosetyenziso-mhlaba kwisimo somhlaba esithile;
- (w) ukubekwa kwesithuba sokusebenza nokongezwa kwaso;
- (x) ukubekwa kwesithuba emakuthotyelwe ngaso umqathango othile;
- (y) imiqathango yosetyenziso ngamaxesha athile, ekufuneka ibandakanye—
  - (i) indawo yokupaka nenani lezibonelelo zendawo yangasese;
  - (ii) elona xesha lide losetyenziso okanye usetyenziso ngamaxesha athile; kunye
  - (iii) nemida emalunga nemvume yosetyenziso ngokweskim sesimo somhlaba;

- (z) ukuhlawulwa komrhumo wosetyenziso-mhlaba olungekho mthethweni.
- (3) Ukuba umasipala ubeke umqathango oxelwe kwicandelwaana (2)(a) okanye (b), kufuneka kwenziwe isivumelwano senkonzo yobunjineli phakathi komasipala nomnini-mhlaba phambi kolwakhiwo lwezibonelelo kuloo mhlaba.
- (4) Umqathango oxelwe kwicandelwana (2)(c) ungafuna intlawulana nje kwinkcitho kamasipala ngokwesidingo sesiqhelo esidalwe lulwamkelo egqitywe ngumasipala ngokwecandelo 83(7) neminye imigangatho yephondo.
- (5) Inkcitho kamasipala exelwe kumacandelwana (4) ibandakanya kodwa ayiphelelanga kwinkcitho yezibonelelo zeenkonzoz ezimalunga—
- (a) Izibonelelo zoluntu ekuhlaleni, kubandakanywa izixhobo zokudlala, ifenitshala yasesitalatweni, iikrishi, iikliniki, amabala okanye iiholo zoluntu;
- (b) ulondolozo lwendalo;
- (c) ulondolozo lombane;
- (d) ukutshintsha kwemozulu; kunye
- (e) neenkonzoz zobunjineli.
- (6) Ngaphandle komhlaba ofunelwa izidingo zoluntu okanye iinkonzoz zobunjineli zangaphakathi, nawuphi umhlaba owongezelelekileyo odingwa ngumasipala okanye ngamanye amaziko karhulumente ngenxa yolwahlula-hlulo olwamkelweyo kufuneka ufunyanwe kuxhomekeke kwimithetho echaphazelekayo ebonelela ngokufunyanwa okanye ukuthathwa komhlaba.
- (7) Umbutho wabanini-mhlaba othe wakho ngenxa yomqathango obekwe phantsi komthetho iLand Use Planning Ordinance, 1985 (i-Odinensi 15 ka-1985) obekho phambi ngqo kokuqala kwalo Mthetho kaMasipala uthathwa njengombutho wabanini-mhlaba obekho ngenxa yomqathango obekwe ngumasipala ngokuhambelana nalo Mthetho kaMasipala.
- (8) Umasipala akanakwamkela isicelo sosetyenziso-mhlaba oluxhomekeke kumqathango wolwamkelo lomnye umthetho.
- (9) Imiqathango edinga ukuba kuthotyelwe umgangatho masijonge ngqo kumgangatho owamkelweyo okanye opapashiweyo.
- (10) Akukho miqathango emayibekwe exhomekeke kwiqela lesithathu ukuze iphunyezwe.

- (11) Ukuba umasipala wamkela isicelo sosetyenziso-mhlaba esixhomekeke kwimiqathango, kufuneka atsho ukuba yeyiphi le miqathango kufuneka ithotyelwe phambi kophuhliso okanye udluliselo lomhlaba.
- (12) Umasipala angathi, ngokunokwakhe ngokwemiqathango yecandelwana 15(6) okanye kwisicelo ngokwemiqathango yecandelwana 15(2), alungise, acime okanye abeke imiqathango eyongezelekileyo emva kokukhupha isaziso esiya kumnini kunye naye nawuphi umntu onelungelo elichaphazelekayo.

## ISAPHLUKO VI

### UKONGEZWA KWESITHUBA SOKUSEBENZA SEEMVUME

#### Izicelo zokongezelwa ithuba lokusebenza

- 67.** (1) Kuxhomekeke kwicandelo 43(2) leSpatial Planning and Land Use Management Act, umasipala angasamkela isicelo sokongezwa kwesithuba sokusebenza esibekwe kumqathango wemvume ngomhla ophambi kophelelo okanye emva kokuphelelwa kwesithuba sokusebenza kowamkelo, ukuba isicelo solongezelelo singeniswe phambi kokuphelelwa kwesithuba sokusebenza.
- (2) Xa umasipala eqwalasela isicelo ngokwecandelwana (1), kufuneka athathele ingqalelo ezi zinto zilandelayo:
- (a) ingaba imeko ekhoyo ngeloo xesha zemvume yokuqala zitshintshile na;
- (b) ingaba iimfuno zemithetho okanye ezomgaqonkqubo ezichaphazela imvume ezazikho ngaphambili zitshintshile na; yaye
- (c) ingaba akukho luphononongo lwesicelo lusenkundleni na olunokuba nefuthe kumhla womiselo lwemvume.
- (3) Ukuba kukho utshintsho kwiimeko okanye kwiimfuno zemithetho okanye ezomgaqonkqubo ezinyanzelisa imiqathango yemvume emitsha ukuba ulongezelelo lwesithuba sokusebenza lwamkelwe, isicelo esixelwe kwicandelwana 15(2)(h) masingeniswe ukuze siqwalaselwe phambi okanye ngaxeshanye nesiicelo solongezelelo lwesithuba sokusebenza.
- (4) Isithuba sokusebenza esongeziweyo siqala ukusebenza usuka ngemini yokuphelelwa kwesithuba sokusebenza semvume yokuqala okanye kumhla wophelelo lolongezelelo lwangaphambili lwesithuba sokusebenza olwalwamkelwe ngokwalo Mthetho kaMasipala.



## ISAHLUKO VII

### IZIGQEBA EZITHATHA ISIGQIBO NGOCWANGCISO LUKAMASIPALA

#### Izigqeba ezithatha isigqibo ngocwangciso lukamasipala

- 68.** Izigqibo ngezicelo zenziwa—
- (a) ngumsebenzi ogunyaziswe ngumasipala ukuba aqwalasele ze athathe izigqibo ngezicelo ezixelwe kwicandelwana 69(1);
  - (b) siSigqeba, apho amagunya nemisebenzi yezicelo ingadluliswanga kumsebenzi ogunyazisiweyo exelwe kwicandelwana 69(2); okanye
  - (c) nguGunyaziwe weZibheni apho kufakwe isibheni ngesigqibo esenziwe ngumsebenzi ogunyazisiweyo okanye iSigqeba.

*Qaphela: Yonke imiba yokwenziwa kwezigqibo ekubhekiswe kuyo kulo Mthetho kaMasipala, kubandakanywa inkqubo yokuthatha izigqibo, isebenza kuzo zozithathu izigqeba ezikhankanywe ngentla ezithatha izigqibo.*

#### Uqwalaselo lwezicelo

- 69.** (1) Umasipala angabeka ngokwezintlu izicelo eziza kuqwalaselwa ngumsebenzi ogunyazisiweyo yaye kufuneka adlulisele amagunya nemisebenzi yokuthatha isigqibo kuloo msebenzi ugunyazisiweyo.
- (2) ISigqeba siqwalasela ze sigqibe ngezicelo, ngaphandle kwezo amagunya nemisebenzi yazo idluliselwe kumsebenzi ogunyazisiweyo ngokwecandelwana (1).

#### Umiselo lweSigqeba

- 70.** (1) Umasipala kufuneka—
- (a) amisele iSigqeba soCwangciso sikaMasipala kummandla kamasipala;
  - (b) ngesivumelwano nomasipala omnye okanye ngaphezulu komiselwe iSigqeba soCwangciso sikaMasipala esidityanelweyo; okanye
  - (c) kuvunyelwano ngomiselo lweSigqeba soCwangciso sikaMasipala sesithili ngumasipala wesithili.
- (2) Isivumelwano ekubhekiswe kuso kumacandelwana (1)(b) okanye (c) masibonelele—
- (a) ngenkcazelo malunga namalungi eSigqeba;
  - (b) imiqathango yokutyunjwa kwamalungu eSigqeba;

- (c) ukubekwa kwemigaqo neenkqubo zeentlanganiso zeSigqeba; kunye
- (d) eminye imiba ebekwe kwiSpatial Planning and Land Use Management Act.

### **Amalungu eSigqeba sommandla kamasipala**

- 71.** (1) ISigqeba esimiselwe ngokwecandelwana 70(1)(a) kufuneka siqulathe ubuncinane la malungu alandelayo atyunjwe liBhunga:
- (a) abasebenzi abathathu abasebenza isigxina kumasipala; kunye
  - (b) nabantu ababini abangengobasebenzi bakamasipala okanye ooceba.
- (2) Amalungu eSigqeba nanolwazi kunye namava kwimiba yocwangciso lwemihlaba engamabala okanye umthetho omalunga noko ze amele amava nobungcali obahlukileyo.
- (3) Ilungu leSigqeba elityunjwe ngokwamacandelwana (1)(b) —
- (a) Ingaligosa okanye umsebenzi—
    - (i) walo naliphi isebe likarhulumente okanye lolawulo kurhulumente wesizwe okanye wephondo;
    - (ii) ishishini likarhulumente;
    - (iii) iziko likarhulumente;
    - (iv) urhulumente wengingqi ochazwe kumgaqosiseko;
    - (v) umbutho owenziwe ngurhulumente ukunikeza inkxaso kamasipala;
    - (vi) umbutho ongekho phantsi korhulumente; kunye
    - (vii) naliphi elinye iziko likarhulumente elingabonelelwanga kumhlathana (i) ukuya ku-(iv); okanye
  - (b) umntu ozimele ngokwakhe.

### **Inkqubo yotyumbo lwamalungu eSigqeba sommandla kamasipala**

- 72.** (1) Amalungu eSigqeba ekubhekiswe kuwo kumacandelwana 71(1)(b) angatyunjwa liBhunga emva kokuba umasipala —
- (a) kwimeko yegosa okanye umsebenzi oxelwe kwicandelwana 71(3)(a), ethe wakhupha isimemo ngembalelwano sokuba kutyunjwe igosa okanye umsebenzi ukuba abe lilungu

leSigqeba kumasebe esizwe nawephondo, kumanye amaziko karhulumente neminye imibutho ekubhekiswe kuyo kwicandelwana 71(3)(a); yaye

- (b) kwimeko yelungu elixelwe kwicandelwana-71(3)(b), ngesaziso esikwiphephandaba elijikeleza kummandla kamasipala, ethe wamema amaqela anomdla ukuba angenise amagama abantu abanezinto ezifunwayo kumntu oza kuba lilungu ukuze batyunjwe, bakwenze oko kwisithuba esichazwe kwisaziso.
- (2) Isimemo sotyumbo kufuneka—
- (a) sicele iinkcukacha ezaneleyo eziza kwenza ukuba umasipala avavanye ulwazi namava omtyunjwa;
  - (b) sicele utyumbo olubhaliweyo olukwifomu echazwe ngumasipala ethobela amacandelo (3).
- (3) Utyumbo oluphendula kwisimemo kufuneka—
- (a) luvumele ukuba umntu azityumbe okanye lubonelele ngokuba kwamkelwe utyumbo olwenziwe ngumtyumbi;
  - (b) lubandakanye uqinisekiso ngumtyunjwa ukuba ufanelekile ukuba angatyunjwa njengelungu ngokwemiqathango yecandelo 74;
  - (c) lubandakanye nesivumelwano nomtyunjwa sokuba umasipala angamphanda ze siqinisekise iinkcukacha azinikileyo;
  - (d) lubandakanye inkcazelo yokuba umtyunjwa uza kuzibophelela kwindlela yokuziphatha ukuba utyunjiwe; yaye
  - (e) lubeke usuku lokuvala lotyumbo ekufuneka ukuba lungabikho ngaphantsi kweentsuku ezili-14 ukusuka kumhla wopapasho lwesimemo ngokwecandelwana (1)(b) okanye isimemo esibhaliweyo ngokwecandelwana (1)(a) yaye akukho lutyumbo lungeniswe emva kwaloo mhla olunokuvavanywa ngumasipala.
- (4) Ukuba akufunyenwanga lutyumbo okanye abantu abatyunjiweyo abanelanga, okanye abanalo ulwazi nezakhono ezifunekayo okanye aluthobeli inkqubo eyongezelelweyo esenokuba igqitywe ngumasipala, umasipala kufuneka akhuphe izimemo okwesibini ze kulandelwe inkqubo echazwe kwisimemo sotyumbo ekubhekiswe kuyo kweli candelo.

- (5) Ukuba emva kwesimemo sesibini sotyumbo, abanelanga, okanye abanalo ulwazi nezakhono ezifunekayo okanye aluthobeli inkqubo eyongezelelweyo esenokuba igqitywe ngumasipala, abalawuli bakamasipala kufuneka bakhethe abantu abanolwazi nezakhono abathobela inkqubo eyongezweyo esenokuba igqitywe ngumasipala ze batyumbe umntu.
- (6) Utyumbo olungeniswe kumasipala ngokwecandelwana (1) kufuneka lungeniswe ngembalelwano ngefomu egqitywe ngumasipala yaye kufuneka siqulathe iziqulatho ekubhekiswe kuzo kumacandelwana. (3).
- (7) Umasipala kufuneka amisele iphaneli yovavanyo enabasebenzi abasebenza kumasipala abaza kuvavanya lamagama atyunjiweyo oluthobela icandelo afunyenwe ngumasipala ze babeke imiqathango yepaneli yotyumbo.
- (8) IBhunga kufuneka lityumbe amalungu eSigqeba emva kokuthathela ingqalelo—
- (a) izindululo zepaneli yovavanyo;
  - (b) ulwazi namava abathunywa kumba wocwangciso losetyenziso-mhlaba okanye umthetho ochaphazelekayo;
  - (c) imfuno ethi amalungu eSigqeba makamele amava nobungcali obahlukileyo;
  - (d) amagunya nemisebenzi yeSigqeba; kunye
  - (e) nomgaqonkqubo kamasipala wophakamiso lwabantu ababehlelekile ngaphambili ngenxa yocalulo.
- (9) IBhunga alinakutyumba nawuphi umntu kwiSigqeba ukuba loo mntu—
- (a) zange atyunjwe ngokuhambelana nemiqathango yeli candelo;
  - (b) akavumelekanga ukuba atyunjwe njengoko kuxelwe kwicandelo 74; okanye
  - (c) ukuba akanalo ulwazi okanye amava afunwayo ngokwemiqathango yecandelwana 71(2).
- (10) IBhunga kufuneka lichonge kumalungu alo, amalungu eSigqeba—
- (a) uSihlalo weSigqeba; kunye
  - (b) nelinye ilungu eliza kuba ngusekela-sihlalo, oza kumela usihlalo kwiSigqeba xa usihlalo engekho okanye engakwazi ukwenza umsebenzi wakhe.

- (11) UManejala kaMasipala kufuneka—
- (a) azise amalungu ngokutyunjwa kwawo esebenzisa imbalelwano;
  - (b) afumane isiqinisekiso kwiBhunga ukuba iBhunga lanelisekile ukuba iSigqeba siyakwazi ukuqalisa nemisebenzi yalo; yaye
  - (c) emva koqinisekiso ekubhekiswe kulo kumhlathi (a), apapashe isaziso kwiGazethi yePhondo soku kulandelayo:
    - (i) igama lelungu ngalinye leSigqeba;
    - (ii) umhla ilungu ngalinye eliqala ngalo ukusebenza;
    - (iii) isithuba esiza kusetyenzwa lilungu ngalinye; kunye
    - (iv) nomhla iSigqeba esiya kuqala ngawo ukusebenza.
- (12) ISigqeba singaqala nemisebenzi yaso kuphela emva kopapasho lwesaziso esixelwe kwicandelwana (11)(c).

**Isithuba sokusebenza nemiqathango yenkonzo yamalungu eSigqeba sommandla kamasipala**

73. (1) Ilungu leSigqeba elixelwe kwicandelwana 70(1)(a)—
- (a) lityunjelwa iminyaka emihlanu okanye isithuba esifutshane kunoko ngokokugqiba kukamasipala; yaye
  - (b) bangaphinde batyunjelwe izithuba ezilandelayo kuxhomekeke kwicandelo 37(1) leSpatial Planning and Land Use Management Act.
- (2) Isithuba selungu asibi namntu ukuba —
- (a) ilungu alizimisanga iintlanganiso ezimbini ezilandeelanayo zeSigqeba soCwangciso lweMihlaba kaMasipala ngaphandle kokufumana imvume kasihlalo;
  - (b) ilungu lingenise ileta ebhaliweyo yokuyeka kusihlalo weSigqeba;
  - (c) ilungu lisusiwe kwiSigqeba phantsi kwecandelwana (3); okanye
  - (d) ilungu liyasweleka.
- (3) IBhunga lingathi, leSixeko lingathi lisuse ilungu leSigqeba soCwangciso lweMihlaba kaMasipala, emva kokunika ilungu ithuba lokuba limanyelwe, ukuba —
- (a) kukho izizathu ezaneleyo zokuba lisuswe;

- (b) ilungu laphule imigaqo yokuziphatha ekubhekiswe kuyo kwicandelo 76;
- (c) ilungu liyayekiswa ukuba lilungu leSigqeba ngokwenkcazo ekwicandelo 74.
- (4) Isithuba esikwiSigqeba kufuneka sizaliswe liBhunga ngokwemiqathango yecandelo 71 necandelo 72.
- (5) Ilungu elityunjwe ngokwecandelwana (4) liba lilungu kweli xesha lingekapheli lokusebenza kwesigqeba esi angenele umntu kuso.
- (6) Amalungu eSigqeba ekubhekiswe kuwo kwicandelwana 71(1)(b) kufuneka atyunjwe ngokwemiqathango yaye kufuneka ahlawulwe umvuzo nezibonelelo zeenkitho ngokwemali egqitywe liBhunga.
- (7) umsebenzi kamasipala otyunjwe ngokwemiqathango yecandelwana 71(1)(a) njengelungu leSigqeba—
- (a) angasebenza kuphela njengelungu leSigqeba ngeli lixa aqeshwe isigxina ngumasipaa;
- (b) ubotshelwe yimiqathango yengqesho ekwisivumelwano sakhe sengqesho yaye akazi kufumana mvuzo wongezelelekileyo okanye izibonelelo, akazi kunikwa khedu longeziweyo okanye nayiphi enye inzuzo yomsebenzi eyongeziweyo kule sele enayo ngenxa yokuba elilungu leSigqeba.
- (8) Umntu otyunjwe ngokwemiqathango yecandelwana 71(1)(b) njengelungu leSigqeba—
- (a) akangomsebenzi kamasipala;
- (b) kumntu ekubhekiswe kuyo kwicandelwana 71(3)(a), ubotshelwe yimiqathango yengqesho ekwisivumelwano sakhe sengqesho yaye akazi kufumana mvuzo wongezelelekileyo okanye zibonelelo, akazi kunikwa khedu langeziweyookanye nayiphi enye inzuzo yomsebenzi eyangeziweyo kule sele enayo ngenxa yokuba elilungu leSigqeba;
- (c) wenza imisebenzi engqalileyo yoqwalaselo lwesicelo asinikiweyo nguSihlalo weSigqeba;
- (d) uhlala kwiintlanganiso zeSigqeba ezidinga ulwazi lwakhe nobungcali bakhe njengoko kugqitywe nguSihlalo weSigqeba;
- (e) kwimeko yomntu ekubhekiswe kuye kwicandelwana 71(3)(b), uya kufumana isibonelelo esiyintlawulo yemali sokuzimasa iintlanganiso nesokuya ezindaweni esigqitywe ngumasipala sentlanganiso nganye yeSigqeba ekufuneka eyizimasile; yaye

- (f) kwimeko yomntu ekubhekiswe kuye kwicandelwana 71(3)(b), akafumanai ma-owuva, ikhefu lonyaka, elokugula, elokubeleka, elosapho, ikhefu elilodwa, ikhefu lokufunda, ibhonasi yokusebenza, inkxaso kwimali yokuya kwagqirha, umhlalaphantsi, imoto okanye nayiphi enye inzuzo efunyanwa ngumsebenzi kamasipala.
- (9) Izibonelelo zemali ekubhekiswe kuzo kwicandelwana (8)(e) zixhomekeke kwirhafu ngokuhambelana nemigaqo yerhafu ekhutshwe yiSouth African Revenue Service.

#### **Ukuphelelwa bubulungu beSigqeba**

- 74.** (1) Umntu akanakutyunjwa okanye aqhubeke esebenza njengelungu leSigqeba ukuba loo mntu—
- (a) akangommi osisigxina weRiphabliki yoMzantsi Afrika;
- (b) lilungu lePalamente, lilungu lendlu yowisomthetho yephondo, leBhunga likaMasipala okanye leNdlu yeeNkosi zoMthonyama;
- (c) ungene gabhu ematyaleni;
- (d) ubhengezwe yinkundla yomthetho njengophazamisekileyo engqondweni okanye okhe wabekwa phantsi kweliso kwizibhedlele zengqondo phantsi kweMental Health Care Act, 2002 (UMthetho 17 ka-2002);
- (e) wakhe wagwetyelwa ityala elihlangene nokungathembeki;
- (f) wakhe wasuswa kwi-ofisi ngenxa yokuziphatha kakubi;
- (g) wakhe wasuswa kwiSigqeba ngenxa yokwaphula iSpatial Planning and Land Use Management Act okanye lo Mthetho kaMasipala;
- (h) ufunyenwe enetyala lokuziphatha kakubi, okanye lokungakwazi ukwenza umsebenzi; okanye
- (i) uyasilela ukuthobela umthetho iSpatial Planning and Land Use Management Act okanye lo Mthetho kaMasipala.
- (2) Ilungu kufuneka liyeke ukusebenza ukuba liye lasuswa njengoko kuxelwe kwicandelwana (1).
- (3) Ilungu leSigqeba—
- (a) malichaze zonke izinto elinazo ezinokungquzulana nomsebenzi walo; yaye

- (b) alinakuzimasa, alinakuthatha inxaxheba yaye alinakuvota kuyo nayiphi intlanganiso elinento elichaphazelayo njengelungu.
- (4) Ukulungiselela eli candelo, ilungu linento engquzulanayo nomsebenzi walo ukuba—
- (a) ilungu, ilungu losapho, okanye ihlakani leshishini lelungu lingumfaki-sicelo okanye linomdla kumba ophambi kweSigqeba;
- (b) ilungu linenye into elichaphazelayo enokwenza ukuba lingenzi umsebenzi ngendlela enobulungisa, engenamkhethe nefanelekileyo;
- (c) ilungu liqeshwe ngurhulumente wesizwe, wephondo okanye wengingqi, ukuba isebe eliqeshe elo gosa linento edibene nombamba ophethwe sisigqeba.
- (5) IBhunga lingathi nanini na likhuphe ilungu kwiSigqeba—
- (a) ukuba kukho izizathu ezibambekayo zokulisusa; okanye
- (b) apho ilungu libonwe lingafanelekanga ukuba lilungu ngokwecandelwana (1), emva kokunika elo lungu ithuba lokuba limanyelwe.
- (6) Ukuba ubulungu belungu buyekisiwe, okanye ilungu libeke phantsi iintambo, iBhunga lingatyumba umntu wokuzalisa eso sithuba sexesha esisasebenza ngalo eso sigqeba, ngokwamacandelo 71 no-72.

#### **Iintlanganiso zeSigqeba sommandla kamasipala**

75. (1) Kuxhomekeke kwicandelo 78, iSigqeba esixelwe kwicandelwana 70(1)(a) masenze amalungiselelo aso angaphakathi, eentlanganiso neenkqubo kunye nezeekomiti zazo ngokwenza imigaqo—
- (a) yokubiza iintlanganiso;
- (b) inkqubo yeentlanganiso; kwanokuba
- (c) iintlanganiso ziza kubanjwa kangaphi.
- (2) ISigqeba singazahlula sibe yiphaneli enye okanye eziliqela ukuthatha izigqibo—
- (a) ngezicelo zemimandla ethile;
- (b) izicelo kwimimandla ethile ekumasipala; okanye
- (c) isicelo esithile okanye uluhlu lwesicelo.



- (3) Kweli candelo, ngaphandle kokuba imeko ithetha enye into, 'iSigqeba' sibandakanya ipaneli yeSigqeba exelwe kwicandelwana (2).
- (4) Isigqeba kufuneka sihlalane kwindawo nexesha eligqitywe ngusihlalo okanye kwimeko yepaneli, egqitywe ligosa elichophela ipaneli kodwa kufuneka idibane ubuncinane kanye ngenyanga ukuba kukho isicelo ekufuneka siqwalaselwe.
- (5) Ukuba iSigqeba siya sanepaneli, iSigqeba kufuneka sityumbe ubuncinane amalungu amathathu eSigqeba ukuba abe ngamalungu aloo phaneli, yaye omnye wabo kufuneka abe lilungu elixelwe kwicandelwana 71(1)(b).
- (6) Ikhoram yentlanganiso yeSigqeba bubuninzi bamalungu eSigqeba.
- (7) Ikhoram yentlanganiso yepaneli yeSigqeba —
  - (a) bubuninzi bamalungu akhethelwe loo phaneli okanye
  - (b) isithathu, ukuba ipaneli inamalungu amathathu kuphela.
- (8) Iintlanganiso zeSigqeba okanye zepaneli yeSigqeba mazibanjwe ngohlobo oluxelwe kweli candelo necandelo 78 ngokuhambelana nemigaqo yeSigqeba.

#### **Umgqo wokuziphatha kwamalungu esigqeba sommandla kamasipala**

- 76.** (1) Indlela yokuziphatha ekwiShedyuli 1 isebenza kwilungu ngalinye leSigqeba elixelwe kwicandelwana 71(1).
- (2) Ukuba ilungu laphula umgaqo wokuziphatha, iBhunga lingathi—
- (a) kwimeko yelungu elixelwe kwicandelo 71(1)(a), lisebenzise iinkqubo zoluleko ngakweloo lungu;
  - (b) lisuse ilungu kubulungu besigqeba.

#### **Umgqo wokuziphatha kwamalungu esigqeba sommandla kamasipala**

- 77.** (1) UManejala kaMasipala kufuneka atyumbe umsebenzi kamasipala njengoMlawuli kunye nabanye abasebenzi abaza kuncedisa iSigqeba abaxelwe kwicandelo 70(1)(a) ngokweMunicipal Systems Act.
- (2) Umlawuli kufuneka—
- (a) asebenzisane namalungu eSigqeba namaqela achaphazelakayo kwisicelo esifakiweyo, okanye kwezinye iintlanganiso zeSigqeba;
  - (b) amenteyine idayari yeentlanganiso zeSigqeba;

- (c) abeke usuku lwentlanganiso kunye nenombolo yesicelo kwisicelo;
- (d) enze amalungiselelo ozimaso lweentlanganiso lwamalungu eSigqeba;
- (e) afune iindawo esiza kusebenzela kuyo iSigqeba;
- (f) enze imisebenzi yobumabhalame yeentlanganiso zeSigqeba;
- (g) aqinisekise ukuba iintlanganiso zeSigqeba zilawulwa ngendlela eyiyo ngokuhambelana nezikhokelo zeSigqeba;
- (h) alungiselele imicimbi yeSigqeba ngendlela eqinisekisa ukuba likhona ixesha lokusebenzisana namanye amaziko karhulumente malunga nolungelelwaniso lweenkqubo zezicelo nogunyaziso;
- (i) azise amaqela achaphazelekayo ngezizigqibo zemiyalelo yenkqubo enikwe siSigqeba;
- (j) agcine irekhodi yazo zonke izicelo ezingenisiweyo kunye neziphumo zazo zonke, kubandakanywa—
  - (i) izigqibo zeSigqeba;
  - (ii) uhlobo lweendawo kunye nawuphi umba orekhodwe ngenxa yeziphumo zoko;
  - (iii) izizathu zezigqibo; kunye
  - (iv) neentlanganiso zeSigqeba; kananjalo
- (k) agcine iirekhodi nangaluphi na uhlobo iSigqeba esibona lulolona lukhawulezayo.

#### **Ukusebenza kwesigqeba sommandla kamasipala**

- 78.**
- (1) Iintlanganiso zeSigqeba ezixelwe kwicandelo 75(1)(a) mazibanjwe ngamaxesha nakwiindawo ezizigqitywe ngusihlalo.
  - (2) Ukuba umfaki-sicelo okanye umntu olungelo lakhe lichaphazelekileyo okanye oko ebekulindele kuchatshazelwe kukwamkelwa kwesicelo, ucela ukuvakalisa uluvo lwakhe ngomlomo kwintlanganiso yeSigqeba, kufuneka angenise isicelo esibhaliweyo kuMlawuli, ubuncinane kwiintsuku ezili-14 phambi kwentlanganiso.
  - (3) Usihlalo angasamkela isicelo esixelwe kumacandelo (2), kuxhomekeke kwimiqathango.

- (4) Isicelo singaqwalaselwa siSigqeba ngezi ndlela—
- (a) ngokuqwalasela isicelo esibhaliweyo nezimvo; okanye
- (b) ngeseshoni yomanyelo-zimvo.
- (5) Isicelo singaqwalaselwa ngokwamacandelo (4)(a) ukuba ngokweSigqeba kubonakala ngathi imiba efuna ukujongwa kwisicelo ingajongwa engekho amaqela, akwenze oko ngokuqwalasela amaxwebhu okanye enye imathiriyeli engenisiweyo.
- (6) Umanyelo-zimvo lungakhona—
- (a) ukuba ngokweSigqeba kubonakala ngathi imiba efuna ukujongwa kwesicelo ayinakuqwalaselwa ngokwaneleyo engekho amaqela ngokuqwalasela amaxwebhu okanye enye imathiriyeli engenisiweyo; okanye
- (b) ukuba olo manyelo-zimvo luya kukhawulezisa inkqubo yoqwalaselo lwesicelo.
- (7) Ukuba kufanelekile kwiimeko ezo, umanyelo-zimvo lungaqhutywa ngobuxhakaxhaka be-elektroniki.

## Izibheno

79. (1) UGunyaziwe wesigqeba (*ikomiti yesigqeba esilawulayo/usodolophu olawulayo kamasipala/ ukuba umasipala akanakomiti yesigqeba esilawulayo okanye usodolophu olawulayo, ikomiti yooceba*) inguGunyaziwe weZibheno kwizigqibo zeSigqeba okanye zomsebenzi ogunyazisiweyo oxelwe kwicandelo 68(a) okanye (b) nasekujongeni ukusilela ekuthatheni isigqibo kwisicelo njengoko kuxeliwe kwicandelo 58.
- (2) Umntu olungelo lakhe lichatshazelwa sisigqibo esixelwe kwicandelo (1) angafaka isibheno ngembalelwano kuGunyaziwe weZibheno kwiintsuku ezingama-21 emva kwesaziso ngesigqibo.
- (3) Umfaki-sicelo angafaka isibheno ngembalelwano kuGunyaziwe weZibheno xa iSigqeba sisilela ukwenza isigqibo kwisicelo kwisithuba ekubhekiswe kuso kwicandelo 57(1) okanye (2), nanini na emva kokuphela kwesithuba esixelwe kuloo macandelo.
- (4) Isibheno singeniswa kuManejala kaMasipala ngefomu echazwe ngumasipala yaye kwimeko yesibheno esixelwe kwicandelo(2), kwisithuba esixelwe kwicandelo( 2).

- (5) Xa uGunyaziwe weZibheno eqwalasela isibheno, kufuneka athathele ingqalelo—
- (a) imiqathango yecandelo 65(1), elifundwa kunye notshintsho olufunekayo; kunye
- (b) nezimvo zoMphathiswa wePhondo ezixelwe kwicandelo 52 leLand Use Planning Act.

#### **linkqubo zokufaka isibheno**

- 80.** (1) isibheno asamkelekanga ukuba—
- (a) kwimeko yesibheno esixelwe kwicandelo 79(2), asifakwanga kwisithuba ekubhekiswe kuso kweloo candelo; yaye
- (b) asithobeli elo candelo.
- (2) Isibheno kufuneka sichaze ezi zinto zilandelayo—
- (a) izizathu zokufaka isibheno ezinokubandakanya ezi zilandelayo:
- (i) ukuba amanyathelo ecandelo loalwulo akakhange afake inkqubo efanelekileyo exelwe kwiPromotion of Administrative Justice Act, 2000 (UMthetho 3 ka- 2000);
- (ii) izizathu ezimalunga nemiba yophuhliso lomhlaba isicelo sosetyenziso-mhlaba umbheni akholelwa ukuba iSigqeba okanye umsebenzi ogunyazisiweyo wenze impazamo kuso xa ebethatha isigqibo;
- (b) ukuba ingaba isibheno sesesigqibo sonke na okanye inxalenye yesigqibo;
- (c) ukuba isibheno sesenxalenye yesigqibo, inkcazelo yalo nxalenye;
- (d) ukuba isibheno sibhena kumqathango wemvume, inkcazelo yomqathango;
- (e) iziphumo zophando azixhasa ngaso umfaki-sibheno;
- (f) isiqhamo esifunwa by umfaki-sibheno;
- (g) nawuphi na umba umfaki-sibheno afuna ukuba uGunyaziwe weZibheno awuqwalasele ekwenzeni isigqibo sakhe; kunye
- (h) kwimeko yesibheno esimalunga nosilelo lomenzi-sigqibo ukuba enze isigqibo, izinto ezibonisa ukuba usilele;

- (3) Umfaki-sicelo ofaka isibheno kufuneka angenise ubungqina bentlawulo yemali zesibheno ezigqitywe ngumasipala, abungenise kuManejala kaMasipala.
- (4) Umfaki-sicelo ofaka isibheno kufuneka ngaxeshanye ahambise isaziso sesibheno kuye nawuphi umntu owafaka izimvo kwisicelo eso kunye nawuphi umntu athe umasipala makanikwe isaziso.
- (5) Isaziso masihanjiswe ngokwecandelo 35.
- (6) Isaziso esixelwe kumacandelo (5) masicele abantu ukuba bavakalise izimvo kwisibheno kwiintsuku ezingama-21 zokwaziswa ngesibheno.
- (7) Umfaki-sibheno kufuneka angenise ubungqina bokuhambisa isaziso njengoko kuxelwe kwicandelo (5) kuManejala kaMasipala kwiintsuku ezili-14 zomhla wesaziso.
- (8) Ukuba umntu ongengomfaki-sicelo ufaka isibheno, uManejala kaMasipala kufuneka anike isaziso sesibheno kumfaki-sicelo kwiintsuku ezili-14 zokusifumana.
- (9) Umfaki-sicelo ofumene isaziso sesibheno ngokwecandelo (8) angafaka uluvo ngesibheno kumasipala kwiintsuku ezingama-21 zokwaziswa.
- (10) Umasipala angala ukwamkela naluphi uluvo kwisibheno emva kosuku lokuvala lwezimvo.
- (11) UManejala kaMasipala—
  - (a) angacela uMphathiswa wePhondo kwiintsuku ezili-14 zokufumana isibheno okuba afake izimvo zakhe ngembalelwano kwisibheno kwiintsuku ezingama-60 zokufumana isicelo;
  - (b) makazise ze acele uMphathiswa wePhondo kwiintsuku ezili-14 emva kokufumana isibheno afake izimvo zakhe kwisibheno kwiintsuku ezingama-60 ozokufumana isicelo esimalunga nezibheno zezicelo:
    - (i) zophuhliso olungaphandle kwemida kamasipala njengoko kubonisiwe kwisikhokelo sophuhliso lwemihlaba sikamasipala;
    - (ii) ukuba umasipala akanasikhokelo sophuhliso lwemihlaba sikamasipala esamkelweyo, uphuhliso olungaphandle kwemida, kubandakanywa iimvume zosetyenziso-mhlaba osezidolophini ezisebenzayo ngoku;

- (iii) ukuzowuna kwakhona komhlaba ozowunelwe ezolimo okanye ulondolozo lwendalo;
    - (iv) naluphi uluhlu lwezicelo zosetyenziso lomhlaba olubekwe nguMphathiswa wePhondo; kananjalo
  - (c) akufumana isibheno ngokweli candelo azise umfaki-sicelo ngembalelwano ukuba ingaba ulwamkelo lwesicelo lumisiwe okanye alumiswanga na.
- (12) Umsebenzi ogunyazisiweyo makayile ingxelo yovavanyo lwesibheno yaye kufuneka ayingenise kuManejala kaMasipala —
  - (a) kwiintsuku ezingama-30 zomhla wokuvala ukuze anike izimvo ezifunwe ngokwamacandelo (6) no-(9), ukuba akukho zimvo zifunyenweyo kumacandelo (11); okanye
  - (b) kwiintsuku ezingama-30 zomhla wokuvala ukuze anike izimvo ezifunwe kwicandelo (11).
- (13) UManejala kaMasipala kufuneka kwiintsuku ezili-14 zokufumana ingxelo exelwe kwicandelo (12) angenise kwisibheno kuGunyaziwe weZibheno.
- (14) UManejala kaMasipala okanye umsebenzi ochongwe nguye kufuneka—
  - (l) asebenzisane noGunyaziwe weZibheno kunye namaqela achaphazelekayo malunga nesibheno esifakwe kuGunyaziwe weZibheno;
  - (m) amenteyine idayari yeentlanganiso zikaGunyaziwe weZibheno;
  - (n) abeke usuku lwentlanganiso kunye nenombolo yesibheno kwisibheno;
  - (o) enze amalungiselelo ozimaso lweentlanganiso lwamalungu kaGunyaziwe weZibheno;
  - (p) afune iindawo aza kusebenzela kuzo uGunyaziwe weZibheno;
  - (q) enze imisebenzi yobumabhalame yeentlanganiso zoGunyaziwe weZibheno;
  - (r) aqinisekise ukuba iintlanganiso zoGunyaziwe weZibheno zilawulwa ngendlela eyiyo ngokuhambelana nezikhokelo zoGunyaziwe weZibheno;

- (s) alungiselele imicimbi kaGunyaziwe weZibheni ngendlela eqinisekisa ukuba likhona ixesha lokusebenzisana namanye amaziko karhulumente malunga nolungelelwaniso lweenkqubo zezibheni ezihlanganisiweyo;
- (t) azise amaqela achaphazelekayo ngezigqibo zemiyalelo yenkqubo enikwe nguGunyaziwe weZibheni;
- (u) agcine irekhodi yazo zonke izibheni ezingenisiweyo kunye neziphumo zazo zonke, kubandakanywa—
  - (v) izigqibo zoGunyaziwe weZibheni;
  - (vi) uhlobo lweendawo kunye nawuphi umba orekhodwe ngenxa yeziphumo zoko;
  - (vii) izizathu zezigqibo; kunye
  - (viii) neentlanganiselo zoGunyaziwe weZibheni; kananjalo
  - (ix) agcine iirekhodi nangaluphi na uhlobo uGunyaziwe weZibheni abona lulolona lukhawulezayo.
- (15) Umfaki-sibheni angathi, nanini na xa uGunyaziwe weZibheni enze isigqibo ngesibheni esingeniswe ngumfaki-sibheni, arhoxise isibheni ngokungenisa isaziso esibhaliweyo sorhoxiso kuManejala kaMasipala.
- (16) Umnini-mhlaba makathi ngembalelwano azise umasipala ukuba urhoxise ilungelo abelinike iarhente yakhe ze atsho ukuba uza kuqhubeka ngokwakhe na nesibheni.

### **Uqwalaselo olwenziwa nguGunyaziwe weZibheni**

- 81.** (1) Isibheni singaqwalaselwa nguGunyaziwe weZibheni ngokuthi—
- (a) aqwalasele isibheni esibhaliweyo kunye nezimvo; okanye
  - (b) ngenkqubo yomanyelo-zimvo eyenziwa ngomlomo.
- (2) Isibheni singaqwalaselwa ngokwecandelo (1)(a) ukuba kuGunyaziwe weZibheni kubonakala ngathi imiba efuna ukujongwa kwisibheni ingajongwa engekho amaqela, akwenze oko ngokuqwalasela amaxwebhu okanye enye imathiriyeli engenisiweyo.

- (3) Umanyelo-zimvo lungaqhubeka—
- (a) ukuba ukuba kuGunyaziwe weZibheno kubonakala ngathi imiba efuna ukujongwa kwisibheno akunakuqhutywa nayo engekho amaqela ngokuqwalasela amaxwebhu okanye enye imathiriyeli engenisiweyo; okanye
  - (b) ukuba olo manyelo-zimvo luya kukhawulezisa inkqubo yoqwalaselo lwesibheno.
- (4) Ukuba kufanelekile kwiimeko ezo, umanyelo-zimvo lungaqhutywa ngobuxhakaxhaka be-elektroniki.
- (5) Ukuba uGunyaziwe weZibheno ugqiba ngokubamba iseshoni yomanyelo-zimvo, naliphi iqela leenkqubo zesibheno lingavela okanye limelwe ngomnye umntu.
- (6) UGunyaziwe weZibheno kufuneka aqinisekise ukuba iqela ngalinye eliyinxalenye yenkqubo yesibheno ephambi koGunyaziwe weZibheno linikwa ithuba lokuvakalisa icala lalo, nokuba kungembalelwano okanye ngomlomo njengoko kuxelwe kumacandelwana (2) no-(3) yaye lijongae namaxwebhu uGunyaziwe weZibheno athi uwanike ingqwalasela ekuthatheni isigqibo kwinkqubo yaye afake izimvo zawo ngaloo maxwebhu.
- (7) UGunyaziwe weZibheno kufuneka—
- (a) aqwalasele ze agqibe ngazo zonke izibheno ezingeniswe ngokusemthethweni kuye;
  - (b) aqinisekise okanye atshintshe isigqibo seSigqeba okanye somsebenzi ogunyanzisiweyo;
  - (c) anike izizathu ngaso nasiphi isigqibo asenzileyo;
  - (d) anike izikhokelo zomsebenzi wakhe kumasipala;
  - (e) agcine zonke iirekhodi zeenkqubo zakhe; yaye
  - (f) agqibe ngokuba ingaba isibheno sifanele ukugqwetywa nguye na.



- (8) Kuxhomekeke kumacandelo (12), uGunyaziwe weZibheno makagqibe ngesibheno kwiintsuku ezingama-60 zokufumana ingxelo yovavanyo exelwe kwicandelo 80(13)
- (9) Ukuba uGunyaziwe weZibheno utshintsha isigqibo seSigqeba okanye somsebenzi ogunyanzisiweyo kungafuneka—
- (a) adlulisele umba kwiSigqeba okanye umsebenzi ogunyanzisiweyo—
- (i) ukuba bekukho impazamo kwinkqubo ebingenabulungisa nengenakulungiswa nguGunyaziwe weZibheno; kunye
- (ii) nemiyalelo ethi makulungiswe impazamo; okanye
- (b) enze esinye isigqibo asibona siyimfuneko.
- (10) UGunyaziwe weZibheno angatyumba umcebisi oyingcali ukuba aze kucebisa okanye ancedise kumba oyinxalenye yesibheno.
- (11) UGunyaziwe weZibheno kufuneka kwiintsuku ezingama-21 ukusuka kumhla wokuthatha isigqibo sakhe azise amaqela abandakanyeka kwisibheno ngembalelwano—
- (a) ngesigqibo nezizathu zesigqibo asenzileyo; yaye
- (b) ukuba isigqibo kwisibheno sivumelana nemvume ebinikeziwe, azise umfaki-sicelo ngembalelwano angaqhubeka enze oko ebekufakele isicelo afumene imvume kuko.
- (12) UGunyaziwe weZibheno angongeza isithuba esixelwe kwicandelo (8) kwiimeko ezizodwa kubandakanywa ezi zilandelayo:
- (a) ukuba umntu ochaphazelekayo ungenise uxwebhu lwezikhalazo ecela ukuba kungenelelwe;
- (b) ukuba umanyelo-zimvo luza kuba khona.

## ISAHLUKO VIII

### UBONELELO LWEENKONZO ZOBUNJINELI

#### Uxanduva lobonelelo lweenkonzo zobunjinieli

82. (1) Umfaki-sicelo unoxanduva lofakelo nobonelelo lweenkonzo zobunjinieli zangaphakathi ezidingekayo kuphuhliso emva kokwamkelwa kwesicelo.

- (2) Umasipala unoxanduva lofakelo nobonelelo lweenkonzo zobunjineli zangaphandle.
- (3) Ukuba umasipala akangomboneleli wenkonzo yobunjineli enkulu umfaki-sicelo kufuneka anelise iSixeko ukuba wenze amalungiselelo aneleyo nomboneleli-nkonzo ofanelekileyo okanye necandelo elithile likarhulumente ukuba kubonelelwe loo nkonzo.
- (4) Umasipala angangena kwisivumelwano esibhaliweyo nomfaki-sicelo esithi—
  - (a) umfaki-sicelo unoxanduva lofakelo nobonelelo lweenkonzo zobunjineli zangaphandle endaweni yokuhlawula imirhumo yophuhliso efunekayo; okanye
  - (b) umfaki-sicelo unoxanduva lofakelo nobonelelo lweenkonzo zobunjineli zangaphandle yaye iindleko zenkonzo yobunjineli yangaphandle ziya kwaphulelwa kwimirhumo yophuhliso ehlawulwa ngumfaki-sicelo.

### **Imirhumo yophuhliso**

- 83.** (1) Umfaki-sicelo kufuneka ahlawule imirhumo yophuhliso kumasipala yobonelelo nofakelo lweenkonzo zobunjineli zangaphandle.
- (2) Ezi nkonzo zobunjineli zangaphandle ezihlawulelwa imirhumo yophuhliso kufuneka zichazwe kumgaqonkqubo owamkelweyo yaye ziphononongwe qho ngonyaka ngumasipala.
- (3) Isixamali esiyimirhumo yophuhliso esihlawulwa ngumfaki-sicelo kufuneka sibalwe ngokuhambelana nomgaqonkqubo owamkelwe ngumasipala.
- (4) Umhla ekufuneka imirhumo yophuhliso ihlawulwe ngawo kunye nendlela yokuhlawula kufuneka ichazwe kwimiqathango yemvume.
- (5) Imirhumo yophuhliso ebekiweyo mayixhomekeke ekunyukeni kwezinga elibalwe ngokuhambelana nomgaqonkqubo wimirhumo yophuhliso.
- (6) Umasipala kufuneka annually submit ingxelo to iBhunga on the imirhumo yophuhliso paid to umasipala, together with a statement of the expenditure of the amount and injongo ythe expenditure.
- (7) Xa kugqitywa ngomrhumo oxelwe kwicandelo 66(4) no-(5), umasipala kufuneka athathele ingqalelo imigangatho ebekiweyo kunye—
  - (a) nezibonelelo zeenkonzo zikamasipala zomhlaba ekubhekiswa kuwo ezidingekayo kusetyenziso lomhlaba olwamkelweyo;
  - (b) inkcitho karhulumente kwezo zibonelelo yexesha elidlulileyo encedisa kusetyenziso lomhlaba olwamkelweyo;

- (c) inkcitho karhulumente kwezo zibonelelo enokuba khona ngenxa yosetyenziso lomhlaba olwamkelweyo;
- (d) imali yemirhumo exelwe kwicandelo 66(4) eyahlawulwayo kwixa elidlulileyo ngumnini walo mhlaba kubhekiswa kuwo; kunye
- (e) imali yemirhumo exelwe kwicandelo 66(4) eza kuhlawulwa kwixa elizayo ngumnini walo mhlaba kubhekiswa kuwo.

#### **Imihlaba yeepaki, yamabala neminye imisebenzi**

- 84.**
- (1) Xa umasipala esamkela isicelo sosetyenziso lomhlaba wokwakha izindlu zoluntu, umasipala angafuna umfaki-sicelo ukuba abonelele ngomhlaba weepaki namabala.
  - (2) Ubungakanani bomhlaba ofunekayo kwiipaki okanye kumabala uya kuchazwa ngumasipala ngokuhambelana nomgaqonkqubo owamkelwa ngumasipala.
  - (3) Umhlaba ofunelwa iipaki namabala kufuneka ube kummandla womhlaba wesicelo okanye umfaki-sicelo angathi, ngemvume kamasipala, avume ukuba loo mhlaba weepaki ube kwenye indawo ekummandla kamasipala.
  - (4) Xa isicelo samkelwe ngaphandle komqathango wokuba kubekho umhlaba weepaki okanye amabala kummandla womhlaba wophuhliso, umfaki-sicelo kungafuneka ukuba ahlawule imali kumasipala endaweni yokubonelela ngomhlaba.

### **ISAHLUKO IX**

#### **UNYANZELISO**

##### **Unyanzeliso**

- 85.**
- (1) Umasipala kufuneka athobele ze anyanzelise uthotyelo—
    - (a) lwemiqathango yalo Mthetho kaMasipala;
    - (b) imiqathango yenkqubo yokuzowuna;
    - (c) imiqathango ebekwe ngokwalo Mthetho kaMasipala okanye imithetho yocwangciso yangaphambili; kunye
    - (d) nemiqathango yobunini-mhlaba.
  - (2) Umasipala akanakwenza nantoni na engquzulana necandelo (1).

### Amatyala nezigwebo

86. (1) Umntu unetyala yaye emva kwesigwebo uya kuhlawuliswa intlawulo okanye avalelwe entolongweni isithuba esingekho ngaphezu kweminyaka engama-20 azifumane zozibini ezi zigwebo esentlawulo nesokuvalelwa ukuba—
- (a) waphula okanye usilela ukuthobela amacandelo 15(1) no-(5), 20(1), 21(4), 31(1), 59(3), 62(2) okanye 88(2);
  - (b) usebenzisa umhlaba ngendlela engeyiyo leyo ichazwe kwinkqubo yokuzowuna ngaphandle kwemvume kamasipala;
  - (c) emva kobhaliso lweyunithi yokuqalai yomhlaba edalwe lulwahlula-hlulo, akadluliseli ipropati kawonkewonke kumbutho wabanini-mhlaba;
  - (d) unika iinkcukacha okanye iimpendulo kwiisicelo okanye kwisibheni okanye kuwo nawaphi amaxwebhu, azaziyo ukuba aziyonyani okanye ziyalahlekisa okanye akholelwa ukuba azichanekanga;
  - (e) uphosisa athi ungumsebenzi ogunyazisiweyo okanye itoliki umncedisi womsebenzi ogunyazisiweyo; okanye
  - (f) uvalela, unqanda okanye akavuleli umsebenzi ogunyazisiweyo emphazamisa kumsebenzi wakhe.
- (2) Umnini-mhlaba ovumela ukuba umhlaba wakhe usetyenziswe, okanye ongathathi manyathelo ukuqinisekisa ukuba umhlaba wakhe ukuba usetyenziswe ngendlela eyaphula lo Mthetho kaMasipala ovumela umntu ukuba aphule inkqubo yokuzowuna, unetyala yaye emva kwesigwebo uya kuhlawuliswa intlawulo okanye avalelwe entolongweni isithuba esingekho ngaphezu kweminyaka engama-20 azifumane zozibini ezi zigwebo esentlawulo nesokuvalelwa.
- (3) Umntu ofunyaniswe enetyala ngokwalo Mthetho kaMasipala, othe emva kwesigwebo waqhubeka waziphatha ngendlela ebeziphethe ngayo ebimbambisile, uya kuhlawuliswa imali okanye avalelwe isithuba esingekho ngaphezulu kweenyanga ezintathu okanye azifumane zozibini ezi zigwebo, ngosuku ngalunye athe waqhubeka nokwaphula umthetho.
- (4) Umasipala kufuneka asebenzise uhlawuliso njengendlela yokunyanzelisa lo Mthetho kaMasipala.

### Ukunikezwa kwezaziso zothobelo

87. (1) Umasipala kufuneka ahambise isaziso sothobelo kumntu ukuba unezizathu ezivakalyo zokukrokrela ukuba umntu okanye umnini unetyala ngokwemiqathango yecandelo 86.
- (2) Isaziso sothobelo kufuneka sichazele umntu ohlala kwipropati nomnini ukuba ayeke usetyenziso lomhlaba olungekho mthethweni okanye ulwakhiwo okanye zombini, ngaphandle kokulibazisa okanye kwisithuba esibekwe ngumasipala, yaye singabandakanya umyalelo wokuba umntu lowo—
- (a) achithe achithe, asuse okanye atshintshe isakhiwo okanye umsebenzi owenziweyo owaphula lo Mthetho kaMasipala, ze ahlaziye umhlaba ochaphazelekayo okanye abuyisele isakhiwo kwimeko ebesikuyo okanye ayeke loo nto ayenzayo, kwisithuba esichazwe nguManejala kaMasipala;
- (b) angenise isicelo semvume yosetyenziso lomhlaba okanye yolwakhiwo ngokwalo Mthetho kaMasipala kwiintsuku ezingama-30 zokufumana isaziso sothobelo yaye ahlawule iimali ezisisohlwayo sokwaphula umthetho kwiintsuku ezingama-30 emva kwemvume yosetyenziso-mhlaba; okanye
- (c) alungise ulwaphulo-mthetho okanye ukungathobeli umqathango wemvume kwisithuba esibekiweyo.
- (3) Umntu ofumene isaziso sothobelo nomyalelo oxelwe kwicandelo (2)(a) akanakungenisa isicelo ngokwecandelo (2)(b).
- (4) Umyalelo wokungenisa isicelo ngokwecandelo (2)(b) masingathathwa njengengqinisekiso yokuba isicelo siza kwamkelwa.
- (5) Ukuba isicelo esingeniswe ngokwecandelo (2)(b) siyakhatywa, umnini kufuneka achithe achithe, asuse okanye atshintshe isakhiwo okanye umsebenzi owenziweyo owaphula lo Mthetho kaMasipala, ze ahlaziye umhlaba ochaphazelekayo okanye abuyisele isakhiwo kwimeko ebesikuyo.
- (6) Umntu ofumana isaziso sothobelo ngokweli candelo angafaka isichaso kwisaziso ngokufaka izimvo ezibhaliweyo kumasipala kwiintsuku ezingama-30 zomhla wesaziso.

### Iziqulatho zezaziso zothobelo

- 88.** (1) Isaziso sothobelo kufuneka—
- (a) sibhalwe igama lomntu esiya kuye;
  - (b) sichaze isityholo sosetyenziso lomhlaba olungekho mthethweni okanye ulwakhiwo oluchaphazelekayo kunye nomhlaba ochaphazelekayo qho lwenzeka khona;
  - (c) sichaze ukuba usetyenziso lomhlaba alukho mthethweni okanye ulwakhiwo alukho mthethweni ze kwaziswe umntu owenza elo tyala elixelwe kwicandelo 86 okanye ekutyholwa ukuba uyalenza kuloo mhlaba;
  - (d) sichaze amanyathelo umntu emakawathathe nexesha ekufuneka ewathathe ngalo;
  - (e) sichaze nantoni na umntu angenokuyenza nesithuba angenakuyenza ngaso;
  - (f) senze amalungiselelo okuba umntu angenise izimvo zakhe ngokwemiqathango yecandelo 89 kulo mntu kuqhagamshelwana naye ochazwe kwisaziso; yaye
  - (g) sikhuphe isilumkiso esithi—
    - (i) umntu angagwetywa ngetyala alenzayo elixelwe kwicandelo 86;
    - (ii) xa egwetyiwe, umntu uya kuba noxanduva lokuhlawula isigwebo eso;
    - (iii) umntu anganyazeliswa ngumyalelo wenkundla ukuba achithe achithe, asuse okanye atshintshe isakhiwo okanye umsebenzi owenziweyo owaphula lo Mthetho kaMasipala, ze ahlaziye umhlaba ochaphazelekayo okanye abuyisele isakhiwo kwimeko ebesikuyo okanye ayeke loo nto ayenzayo;
    - (iv) kulwaphulo lwemvume yosetyenziso okanye utyeshelo-mthetho lwethutyana, imvume ingarhoxiswa;
    - (v) kwimeko yesicelo sogunyaziso lomsebenzi okanye imida yophuhliso njengoko kuchaziwe kwisaziso, kungachazwa ukuba siyimalini na isohlwayo solwaphulo-mthetho, kubandakanywa neendleko ezichithwe ngumasipala.

- (2) Nawuphi umntu onikwe isaziso sothobelo kufuneka athobele eso saziso kwisithuba esichazwe kwisaziso ngaphandle kokuba umntu ufake isichaso kwisaziso ngokwemiqathango yecandelo 89 yaye umasipala akathathanga sigqibo kumba ngokwelo candelo okanye umasipala uvumile ukumisa iinkqubo zothobelo lwesaziso ngokwemiqathango yecandelo 89(2).

#### **Izichaso zezaziso zothobelo**

- 89.** (1) Nawuphi umntu okanye umnini ofumana isaziso sothobelo ngokwemiqathango yecandelo 87 angafaka isichaso kwisaziso ngokufaka izimvo ezibhaliweyo kumasipala kwiintsuku ezingama-30 zomhla wesaziso.
- (2) Emva koqwalaselo lwazo naziphi izichaso okanye izimvo ezingenisiweyo ngokwecandelo (1) kunye naziphi iinkcukacha ezilulutho, umasipala—
- (a) angamisa, aqinisekise, atshintshe okanye arhoxise isaziso sothobelo okanye inxalenye yaso; yaye
- (b) kufuneka achaze isithuba ekufuneka umntu ekuthunyelwa kuye isaziso asithonele okanye athobele inxalenye yesaziso eqinisekisiweyo okanye etshintshiweyo.

#### **Ukusilela ekuthobeleni isaziso sothobelo**

- 90.** Ukuba umntu uyasilela ukuthobela isaziso sothobelo, umasipala—
- (a) angammangalela loo mntu kwiinkundla zomthetho;
- (b) angafaka isicelo kwiNkundla ePhakamileyo somyalelo—
- (i) onqanda loo mntu ekuqhubekeni nokusebenzisa umhlaba ngokungekho mthethweni;
- (ii) ayalele loo mntu ukuba, engafumenanga mbuyekezo—
- (aa) achithe, asuse okanye atshintshe isakhiwo okanye umsebenzi owenziwe ngokungekho mthethweni okanye isakhiwo esakhiwe ngokungekho mthethweni; okanye
- (bb) ahlaziye umhlaba ochaphazelekayo;
- (c) kwimeko yemvume yosetyenziso okanye utyeshelo-mthetho lwethutyana, arhoxise imvume enikeziweyo ze athathe amanyathelo ngokwemiqathango yecandelo 87.

### Izatifikethi zothobelo

91. (1) Umsebenzi ogunyazisiweyo owanelisekileyo ukuba umnini okanye umntu ohlala kuye nawuphi umhlaba okanye kwisakhiwo usithobele isaziso sothobelo angakhupha isatifikethi, ngendlela kunye nakwifomu exelwe ngumasipala, ukuqinisekisa uthobelo.
- (2) Umsebenzi ogunyazisiweyo kufuneka angenise ingxelo kumasipala malunga noko akufumanisileyo malunga nokuxelwe kwicandelo (1) kunye nokukhutshwa kwesatifikethi sothotyelo.

### Imiba engxamisekileyo

92. (1) Umasipala akunyanzelekanga ukuba athobele amacandelo 87(6), 88(1)(f) no-89 apho usetyenziso lomhlaba ngokungekho mthethweni kufuneka luyekisiwe ngokukhawuleza yaye angakhupha isaziso sothobelo esixelela loo mntu ukuba ayeke olo setyenziso lomhlaba lungekho mthethweni ngoko nangoko.
- (2) Ukuba umntu okanye umnini akaluyeki olo setyenziso lomhlaba lungekho mthethweni ngoko nangoko, umasipala angafaka isicelo olo setyenziso lomhlaba lungekho mthethweni ngoko nangoko kwiNkundla ePhezulu songenelelo olukhawulezileyo okanye nayiphi indlela yokuyekisa olo setyenziso.

### Amagunya nemisebenzi yabasebenzi abagunyazisiweyo

93. (1) Umsebenzi ogunyazisiweyo angathi, ngemvume yomntu ohla lwipropati okanye umnini womhlaba, engaphethanga msila wengwe yaye enganikanga saziso, angene kumhlaba okanye kwisakhiwo nangaliphi ixesha elamkelekileyo ngenjongo zokuqinisekisa uthobelo lwalo Mthetho kaMasipala.
- (2) Umsebenzi ogunyazisiweyo ubungqina obubonisa ukuba ugunyazisiwe ukuba lenze uhlolo ngokwecandelo (1).
- (3) Umsebenzi ogunyazisiweyo angakhatshwa yitoliki, a lipolisa okanye nawuphi omnye umntu onokuncedisa kuhlolo.

### Amagunya okungena, okusetsha nokuthatha izinto

94. (1) Ukuqinisekisa uthobelo lwalo Mthetho kaMasipala ngokwemiqathango yecandelo 87, umsebenzi ogunyazisiweyo—
- (a) angabuza nawuphi na umntu okuloo mhlaba, ukuba umsebenzi ogunyazisiweyo ubona ukuba angabonelela ngeenkukacha zomba ongqamene nalo Mthetho kaMasipala;



- (b) lingabuza nawuphi na umntu nangasiphi na isenzo okanye ukungenziwa kwento ukuba kukrokreleka ukuba loo nto —
- (i) ilityala ngokwalo Mthetho kaMasipala;
  - (ii) yaphula lo Mthetho kaMasipala; okanye
  - (iii) yaphula imvume okanye umqathango wemvume;
- (c) angabuza umntu makunga naso nasiphi na isakhiwo, into, uxwebhu, incwadi okanye irekhodi okanye lihlole naluphi uxwebhu olubhaliweyo okanye olukwisixhobo esi-elektroniki olunokuba negalelo kwiinjongo zala macandelo;
- (d) enze ikopi yalo okanye ucaphulo lwalo ze asuse olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki ekubhekiswe kuzo kumhlathi (c), okanye asuse olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki ukuze aye kwenza iikopi okanye ucaphulo;
- (e) afune loo mntu ukuba akhuphe okanye ase kwindawo echaziweyo ligosa eligunyazisiweyo, naluphi uxwebhu olubhaliweyo okanye olukwisixhobo esielektroniki, incwadi, irekhodi ekubhekiswe kulo kumhlathi (c) ukuze zihlolwe;
- (f) ahlole olo xwebhu, loo ncwadi, elo rekhodi okanye iinkcukacha ezielektroniki okanye enze ikopi okanye ucaphulo;
- (g) afune ingcaciso nangaluphi na ulwazi olukwelo xwebhu, ncwadi rekhodi okanye olukwisixhobo esielektroniki;
- (h) ahlole nayiphi into, iplanti okanye oomatshini abakuloo mhlaba, okanye nawuphi umsebenzi owenziwe kuloo mhlaba okanye nawuphi umqathango osebenza kuloo mhlaba, okanye asuse nayiphi into, iplanti okanye oomatshini okanye inxalenye okanye isampula yabo;
- (i) athathe nayiphi incwadi, irekhodi okanye olunye uxwebhu, iinkcukacha okanye nayiphi into, iplanti okanye oomatshini okanye inxalenye okanye isampula yabo, ezizizinto elibona ukuba zingaluncedo kuphando; okanye
- (j) lithathe nayiphi incwadi, irekhodi okanye olukwisixhobo esielektroniki ekubhekiswe kuyo kumhlathi (c) okanye olunye uxwebhu, iinkcukacha okanye nayiphi into, iplanti okanye oomatshini ekubhekiswe kuyo kumhlathi (c) ekubhekiswe kuyo kumhlathi (h) okanye inxalenye okanye isampula yabo ezizizinto elibona ukuba zingabubungqina kwityala lawo nawuphi na umntu omangalelelwe ityala phantsi kwalo Mthetho

kaMasipala, ukuba ngaba uyafuna umsebenzisi wezo zinto, angenza iikopi zazo phambi kokuba zithathwe.

- (2) Xa igosa eligunyazisiweyo lisuse okanye lithathe nayiphi incwadi, irekhodi okanye olunye uxwebhu, iinkcukacha okanye nayiphi into, iplanti okanye oomatshini okanye amanye amaxwebhu njengoko kuchaziwe apha ngentla, kufuneka anike umnini okanye umntu olawula loo ndawo irisithi.
- (3) Umsebenzi ogunyazisiweyo akanakuchphazeleka kumba oza kuphandwa.

### **Amagunya okungena, okusetsha nokuthatha amaxwebhu**

- 95.**
- (1) Ijaji yeNkundla ePhakamileyo okanye umantyi wesithili ekukho kuwo umhlaba angathi, ngesicelo sikamasipala, akhuphe umsila wengwe wokungena kumhlaba okanye isakhiwo ukuba—
    - (a) imvume yomntu ohlala apho okanye yomnini wendawo ayikwazi kufumaneka emva kwemizamo; okanye
    - (b) injongo yohlolo iya kulibaziseka ukuba kukhe kwaxelela umntu ohlala apho okanye umnini wendawo.
  - (2) Umsila wengwe ungakhutshwa kuphela ukuba kubonakala ukuba iJaji okanye iMantyi ifumene ulwazi phantsi kwesifungo lokuba kukho izizathu zokukholelwa ukuba—
    - (a) umsebenzi ogunyazisiweyo walelwe ukungena kumhlaba okanye kwisakhiwo afanele ukusihlola;
    - (b) umsebenzi ogunyazisiweyo uza kwalelwa ukungena kumhlaba okanye kwisakhiwo afanele ukusihlola;
    - (c) ityala elixelwe kwicandelo 86 liyaqhubeka okanye liqhubekile yaye uhlolo lwesakhwo luza nolwazi oluza kuba negalelo kwelo tyala; okanye
    - (d) uhlolo kufuneka lwenziwe ukulungiselela lo Mthetho kaMasipala.
  - (3) Umsila wengwe kufuneka ugunyazise umasipala ukuba angene kumhlaba okanye kwisakhiwo ukuthatha nayiphi imilinganiselo ekubhekiswe kuyo kwicandelo 94 njengoko kuchaziwe kwiwaranti, kwimeko enye kuphela, yaye ukungena apho kufuneka kwenzeke—
    - (a) ingaphelanga inyanga enye emva komhla wokukhutshwa komsila wengwe; kunye

- (b) nangexesha elamkelekileyo, ngaphandle kwaxa umsila wengwe unongxamiseko.

### **Ukunika ingqalelo isidima nocwangco**

96. Ukungena kumhlaba okanye kwisakhiwonphantsi kwesi Sahluko kufuneka kunike ingqalelo isidima nocwangco, omakubandkanye—
- (a) ilungelo lomntu lokuba aphathwe ngesidima nelokhuselo lwesidima sakhe;
- (b) ilungelo lenkululeko nelokhuseleko laloo mntu; kunye
- (c) nelungelo lomntu elilelakhe labucala njengomntu.

### **Unyanzeliso lwesigwebo senkundla**

97. Nokuba umasipala angafaka isimangalo emthethweni okanye angasifaki esimangalela umntu ngetyala elixelwe kwicandelo 86, yaye noxa kukho icandelo 87, umasipala angafaka isicelo kwiNkundla ePhezulu ukufumana isigqibo esifanelekileyo, kubandakanywa imiyalelo enyanzelisa loo mntu ukuba —
- (a) achithe, asuse okanye atshintshe nasiphi isakhiwo okanye umsebenzi owenziweyo owaphula lo Mthetho kaMasipala;
- (b) ahlaziye umhlaba ochaphazelekayo; okanye
- (c) ayeke ukusebenzisa umhlaba ngokungekho mthethweni.

## **ISAHLUKO X IMIBA GABALALA**

### **Ukuthiywa nokunombolishwa kwezitalato**

98. (1) Ukuba isitrato sidaleke ngenxa yolwamkelo lwesicelo, nokuba sesoluntu okanye sesabucala, umasipala kufuneka avumele ukuthiywa kweso sitrato yaye kufuneka anike inombolo yesitrato kwisiza ngasinye okanye kwiyunithi nganye yomhlaba ekweso sitrato okanye kuloo ndlela.
- (2) Igama eliphakanyisiweyo lesitrato neenombolo kufuneka zingeniswe njengexalenye yesicelo solwahlula-hlulo.
- (3) Ekuqwalaseleni ukuthiywa kwesitrato, umasipala kufuneka athathele ingqalelo imigaqonkqubo echaphazelekayo emalunga nokuthiywa kunye nokunombolishwa kwezitrato.

- (4) Umasipala kufuneka azise uNocanda-Jikelele ngokwamkelwa kwezitrato ezitsha ngenxa yolwamkelwo lwezilungiso okanye ngenxa yokucinywa kolwahlula-hlulo ngokwemiqathango yecandelo 23 yaye uNocanda-Jikelele aqinisekise oku kwiirekhodi ezikwiofisi yakhe ngokuthi enze zilungiso kuzo ukuze zibonise izilungiso okanye ukucinywa kwamagama ezitrato kwiplani eyamkelweyo.

### **Utshitshiso**

99. IMithetho kaMasipala edweliswe kwiShedyuli 2 iyatshitshiswa.

### **Isihlokwana esifutshane nokuqalisa**

100. (1) Lo Mthetho kaMasipala ubizwa ngokuba nguMthetho kaMasipala woCwangciso loSetyenziso loMhlaba kaMasipala.
- (2) Lo Mthetho kaMasipala uqala ukusebenza ngomhla iLand Use Planning Act eqala ngawo ukusebenza kummandla womasipala.

## ISHEDYULI 1

### UMGAQO WOKUZIPHATHA KWAMALUNGU ESIGQEBA

#### Ukuziphatha gabalala

1. Ilungu leSigqeba ngawo onke amaxesha kufuneka—
  - (a) liziphathe ngokuhambelana nemigaqosiseko yoniko-nkcaza nokungafihlisi;
  - (b) achaze izinto ezimchaphazelayo kuso nasiphi isigqibo esiza kuthathwa kwinkqubo yocwangciso ayinxalenye yaso okanye acelwe ukuba ancedise kuyo;
  - (c) lirhoxe ngokupheleleyo ekuthatheni inxaxheba njengomcebisi kwimiba echaphazela izinto zakhe azenzayo ze aphume kwitsheyimba xa kuxoxwa loo miba, ngaphandle kokuba lo mba woshishino wenziwe esidlangalaleni yaye iBhunga limnike imvume ebhaliweyo yaye limnike igunya lokuba athathe inxaxheba.
2. Ilungu leSigqeba alinakho—
  - (a) ukusebenzisa isikhundla salo okanye amagunya alo njengelungu leSigqeba okanye ulwazi oluyimfihlo olufunyenwe ngexesha lisenza imisebenzi yalo ukuqzenzela inzuzo okanye ukuzuzisa omnye umntu; kunye
  - (b) nokuthatha inxaxheba kwisigqibo apho elo lungu leSigqeba, umlingane walo, iqabane okanye ihlakani leshishini, linento echaphazela lona ngqo okanye lineshishini lalo elenza loo misebenzi.

#### Izipho

3. Ilungu leSigqeba alinakufumana, alinakukhangela okanye linikwe isipho okanye amaqithiqithi anokubonwa njenganefuthe kwindlela ilungu elibona ngayo izinto ezixoxwayo nezigqitywayo njengomcebisi okanye umthathi-sigqibo kwinkqubo yocwangciso.

#### Ifuthe elingafanelekanga

4. Ilungu leSigqeba alinakho—
  - (a) ukusebenzisa igunya leofisi ukufumana impatho eyodwa engazi kuzuzisa uluntu okanye nayiphi na into ekhethekileyo engaziwa luluntu lonke;
  - (b) ukusebenzisa ulwazi oluyimfihlo olufunyenwe ngexesha lisenza imisebenzi yalo ukuqhubela phambili imicimbi yalo;

- (c) ukuchaza ulwazi oluyimfihlo olufunyenwe ngexesha lisenza imisebenzi yalo ngaphandle kokuba kufuneka lenze njalo ngokomthetho okanye ngokweemeko zelo xesha ukuphepha ukuba kungachaphazeleki kakubi abanye abantu; kananjalo

ukwenza isenzo esingafanelekanga ngamabom esiza kubeka ibala kwiSigqeba soCwangciso lweMihlaba kaMasipala, urhulumente ngokubanzi kunye neeprofeshini yabacwangcisi-mihlaba ngokufuna ushishino by stating okanye implying okanye ngokuthi likulungele, liyavuma okanye liyakwazi ukuba nefuthe kwiSigqeba ngendlela engafanelekanga.

## ISHEDYULI 2

### IMITHETHO KAMASIPALA ETSHITSHISWE LICANDELO 99




