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## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

### NOTICE 40 OF 2016

#### MADIBENG LOCAL MUNICIPALITY NOTICE OF APPLICATION FOR THE AMENDMENT OF TOWN PLANNING SCHEME

I, Robert Clifton Streak of the firm URBAN CONSULT, being the authorized agent of the owner of portion 1,2,3,4 of erf 187 River View Estate Ext 1 hereby gives notice in terms of section 56(1) b (i) of the Town Planning and Township Ordinance, 1986 (Ordinance 15 of 1986) read with section 2(2) of the Spatial Planning and land use Management Act, 16 of 2013, that I have applied to the Madibeng Local Municipality for the amendment of the Town Planning Scheme in operation known as the **Peri Urban Town Planning Scheme, 1975** by rezoning the properties described above, situated in Redstone Estate, South of Hartbeespoort dam from " Residential 3 to " Residential 3 with the following conditions- 60 % coverage and 1.2 FAR , 2 storeys)

Particulars of the application will lie for inspection during normal office hours at the Municipal office(s), Van Velden Street, Brits for a period of 28 days from 15 March 2016.

Objections to or representation in respect of the application must be lodged within or made in writing within a period of 28 days from **15 March 2016** at the following address: Municipal Manager, Local Municipality of Madibeng, P.O Box 106 Brits, 0250.

**Address of Agent:** URBAN CONSULT, P.O. Box 95884, WATERKLOOF, 0145, 082 573 0409

15-22

### KENNISGEWING 40 VAN 2016

#### MADIBENG PLAASLIKE MUNISIPALITEIT KENNISGEWING VAN AANSOEK OM WYSIGING VAN DORPSBEPLANNINGSKEMA

Ek, Robert Clifton Streak van die firma URBAN CONSULT synde die gemagtigde agent van die Eienaar van gedeelte 1,2,3,4 van erf 187 River View Estate Ext 1 gee hiermee ingevolge artikel 56(1) b (i) van die Ordonansie op Dorpsbeplanning en Dorpe, 1986 (Ordonnansie 15 van 1986) saamgelees met Artikel 2(2) van die wet of Ruimtelike Beplanning en Grondgebruiks beheer, Wet 16 van 2013 kennis dat ek by die Madibeng Plaaslike Munisipaliteit aansoek gedoen het om die wysiging van die dorpsbeplanningskema in werking bekend as **Buitestedelike Dorpsbeplanningskema, 1975** deur die hersonering van die eiendom hierbo beskryf, geleë in Redstone Estate , Suid van Hartbeespoort Dam, vanaf " Residensieel 3" na " REsidensieel 3 met die volgende voorwaardes – dekking 60% en VOV 1.2 , 2 verdiepings)

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die Munisipale Kantore, Van Velden Straat, Brits, vir 'n tydperk van 28 dae vanaf 15 Maart 2016.

Besware teen of vertoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf 15 Maart 2016 skriftelik by die volgende adres ingedien word: Munisipale Bestuurder, Madibeng Plaaslike Munisipaliteit, Posbus 106, Brits, 0250.

**Adres van Agent:** URBAN CONSULT, Posbus 95884, WATERKLOOF, 0145, 082 573 0409

15-22

**NOTICE 43 OF 2016****NOTICE OF APPLICATION FOR THE AMENDMENT OF THE POTCHEFSTROOM TOWN PLANNING SCHEME 1980 IN TERMS OF SECTION 56(1)(b)(i) OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), READ IN CONJUNCTION WITH SPATIAL PLANNING & LAND USE MANAGEMENT ACT (SPLUMA), ACT 16 OF 2013****POTCHEFSTROOM AMENDMENT SCHEME 2148**

I, **O W Senne** the future owner of Erf 555 Mohadin Extension 1, hereby give notice in terms of Section 56(1)(b)(i) of the Town Planning and Townships Ordinance, 1986, read in conjunction with Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, that I have applied to the Tlokwe City Council for the amendment of the town planning scheme known as Potchefstroom Town Planning Scheme, 1980, as amended, by rezoning of the above mentioned property situated at 95 Sooliman Street, from "Residential 1" to "Residential 3" with Annexure 1694 to make provision for a coverage of 50% and FAR of 0.5.

All relevant documents relating to the application will lie for inspection during normal office hours at the Municipal Manager, Tlokwe City Council Offices, Wolmarans Street, Potchefstroom, from 22 March 2016 to 18 April 2016 Any person who wishes to object to the application or submit representations in respect thereof may lodge the same in writing with the said authorized Local Authority at the room number specified above or at P.O. Box 113, Potchefstroom, 2520 on or before 18 April 2016.

Name and address of the Applicant: O. W. Senne, 173 Ramhitshane Street, Ikageng, Potchefstroom, 2531. Date of first publication: 22 March 2016.

22-29

**KENNISGEWING 43 VAN 2016****KENNISGEWING VAN AANSOEK ON WYSIGING VAN DORPBEPLANINGSKEMA INGEVOLGE ARTIKEL 56(1)(b)(i) VAN DIE ORDINNANSIE OP DORPSBEPLANNING EN DORPE, 1986 (ORDINNANSIE 15 VAN 1986), SAAMGELEES MET SPLUMA, WET 16 VAN 2013****POTCHEFSTROOM WYSIGINGSKEMA 2148**

Ek, **O W Senne** die toekomstige eienaar van Erf 555, Mohadin Uitbreiding 1, gee hiermee ingevolge Artikel 56(1)(b)(i) van die Ordinnansie op Dorpsbeplanning en Dorpe, 1986, saamgelees met SPLUMA, Wet 16 van 2013 kennins dat ek by die Tlokwe Stadsraad aansoek gedoen het om die wysiging van die dorpsbeplanningskema bekend as Potchefstroom Dorpsbeplanningskema, 1980, soos gewysig, deur die hersonering van bogenoemde eiendom geleë te Soolimanstraat 95, vanaf "Residensieel 1" na "Residensieel 3" met Bylae 1694 om voorsiening te maak vir 'n dekking van 50% en FAR van 0.5.

Alle relevante dokumente wat verband hou met die aansoek is beskikbaar vir inspeksie gedurende gewone kantoorure by die kantoor van die genoemde gemagtigde Munisipale Bestuurder, Tlokwe Stadsraad Kantore, Wolmaransstraat, Potchefstroom, vanaf 2 Maart 2016 tot 18 April 2016. Enige persoon wat teen die aansoek beswaar wil maak of vertoeë wil rig, moet sulke besware of vertoeë skriftelik indien by die genoemde Munisipale Bestuurder by bogenoemde adres of by Posbus 113, Potchefstroom, 2520, op of voor 18 April 2016.

Naam en adres van gemagtigde agent: O W Senne, Ramhitshanestraat 173, Ikageng, Potchefstroom, 2531. Datum van eerste publikasie: 22 Maart 2016.

22-29

**NOTICE 44 OF 2016****NOTICE IN TERMS OF SECTION 18(1) OF THE RUSTENBURG LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2015 FOR A CHANGE OF LAND USE RIGHTS, KNOWN AS A REZONING. RUSTENBURG AMENDMENT SCHEME 1486**

I, Dawid Jacobus Bos (ID NO: 571216 5113 08 0), of the firm Maxim Planning Solutions (Pty) Ltd (2002/017393/07), being the authorised agent of the owner of Erf 2171, Rustenburg Extension 8, Registration Division J.Q., North West Province hereby gives notice in terms of Section 18(1)(d) of the Rustenburg Local Municipality Spatial Planning and Land Use Management By-Law, 2015, that I have applied to the Rustenburg Local Municipality for the change of land use rights also known as rezoning with the following proposals: A) The rezoning of the property described above, situated at 19 Piet Grobler Street, Rustenburg Extension 8 from "Residential 1" to " Residential 1" to include a home enterprise, restricted to 60m<sup>2</sup>, as defined in Annexure 1792 to the Scheme. B) All properties situated adjacent to Erf 2171, Rustenburg Extension 8, Registration Division J.Q., North West Province, could thereby be affected by the rezoning application. C) The rezoning entails that a portion of the existing outbuilding be converted and used for a home enterprise, restricted to 60m<sup>2</sup>, for the purposes of medical consulting rooms, as defined in Annexure 1792, with a maximum height of two (2) storeys and a maximum coverage of 50%.

Particulars of the application will lie for inspection during normal office hours at the office of the Municipal Manager, Room 319, Missionary Mpheni House, coner of Nelson Mandela- and Beyers Naude Drive, Rustenburg for the period of 30 days from **22 March 2016**. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or at P.O. Box 16, Rustenburg, 0300 within a period of 30 days from **22 March 2016**.

**Address of authorised agent: Maxim Planning Solutions (Pty) Ltd (2002/017393/07), @ Office Building, 67 Brink Street, Rustenburg, P.O. Box 21114, Proteapark, 0305, Tel: (014) 592-9489. (2/1658/R/L)**

22-29

**KENNISGEWING 44 VAN 2016****KENNISGEWING INGEVOLGE ARTIKEL 18(1) VAN DIE RUSTENBURG PLAASLIKE MUNISIPALITEIT RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUUR VERORDENING, 2015 VIR 'N VERANDERING VAN DIE GRONDGEBRUIKSREGTE, BEKEND AS 'N HERSONERING. RUSTENBURG WYSIGINGSKEMA 1486**

Ek, Dawid Jacobus Bos (ID NR: 571216 5113 08 0), van die firma Maxim Planning Solutions (Edms) Bpk (2002/017393/07), synde die gemagtigde agent van die eienaar van Erf 2171, Rustenburg Uitbreiding 8, Registrasie Afdeling J.Q., Noordwes Provinsie gee hiermee ingevolge Artikel 18(1)(d) van die Rustenburg Plaaslike Munisipaliteit Ruimtelike Beplanning en Grondgebruikbestuur Verordening, 2015 kennis dat ek by Rustenburg Plaaslike Munisipaliteit aansoek gedoen het vir die verandering van grondgebruiksregte ook bekend as hersonering met die volgende voorstelle: A) Die hersonering van die eiendom hierbo beskryf, geleë te Piet Groblerstraat 19, Rustenburg Uitbreiding 8, vanaf "Residensieel 1" na "Residensieel 1" insluitende 'n tuisbedryf, beperk to 60m<sup>2</sup>, soos omskryf in Bylae 1792 tot die Skema. B) Alle eiendomme geleë aanliggend tot Erf 2171, Rustenburg Uitbreiding 8, Registrasie Afdeling J.Q Noordwes Provinsie, kan moontlik deur die hersonering geraak word. C) Die hersonering behels dat 'n gedeelte van die bestaande buite geboue omskep word en gebruik sal word vir 'n tuisbedryf beperk tot 60m<sup>2</sup>, vir die doeleindes van mediese spreekkamers, soos omskryf in Bylae 1792, met 'n maksimum hoogte beperking van twee (2) verdiepings en 'n maksimum dekking van 50%.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor van die Munisipale Bestuurder, Kamer 319, Missionary Mpheni House, hoek van Nelson Mandela-en Beyers Naude Rylaan, Rustenburg vir 'n tydperk van 30 dae vanaf **22 Maart 2016**. Besware teen of verhoë ten opsigte van die aansoek moet binne 'n tydperk van 30 dae vanaf **22 Maart 2016** skriftelik by of tot die Munisipale Bestuurder by bovermelde adres of by Posbus 16, Rustenburg, 0300 ingedien of gerig word.

**Adres van eienaar: Maxim Planning Solutions (Edms) Bpk (2002/017393/07), @ Office Gebou, Brinkstraat 67, Rustenburg, Posbus 21114, Proteapark, 0305, Tel: (014) 592-9489. (2/1658/R/L)**

22-29

**NOTICE 45 OF 2016****GENERAL NOTICE  
NOTICE OF APPLICATION FOR AMENDMENT OF THE GENERAL PLAN OF THE TOWNSHIP  
JOBURTON EXTENSION 19**

The Department of Local Government and Human Settlement hereby gives notice in terms of Section 89(3) read with Section 95 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), that application has been made by Maxim Planning Solutions (Pty) Ltd (2002/017393/07), being the authorised agent of the owner of Erven 18319, 18514, 18520 & 19613 and a portion of Lehalaangone Street, Jouberton Extension 19, for the amendment of the General Plan (SG No. 4100/1998) of the township known as Jouberton Extension 19 by the re-layout of Erven 18319, 18514, 18520 & 19613 and a portion of Lehalaangone Street, Jouberton Extension 19 into:

- Two (2) erven zoned "Institutional";
- Five (5) erven zoned "Municipal";
- One (1) erf zoned partially "Institutional" and partially "Public Open Space";
- Eight (8) erven zoned "Special" for the purposes of uses included in the Business 1 and Residential 2 (maximum density of 80 dwelling units per hectare) use zones and including a vehicle workshop, wholesale trade, light industry and service industry;
- One (1) erf zoned "Public Open Space"; and
- Five (5) streets

The application together with the relevant plans, documents and information will lie for inspection during normal office hours at the office of the Chief Town and Regional Planner, Sub-Directorate: Spatial Planning and Land Use Management, Department of Local Government and Human Settlement, Office 728, 1st Floor, West Wing, Garona Building, University Drive, Mahikeng for a period of 28 days from 22 March 2016.

Objections to or representations in respect of the application must be lodged with or made in writing to the Chief Town and Regional Planner, Sub-Directorate: Spatial Planning and Land Use Management, Department of Local Government and Human Settlement at the above address or at Private Bag X1213, Potchefstroom, 2520, or [mvanheerden@nwpg.gov.za](mailto:mvanheerden@nwpg.gov.za) within a period of 28 days from 22 March 2016.

GO15/8/2/1/17/3  
22-29

**KENNISGEWING 45 VAN 2016****ALGEMENE KENNISGEWING  
KENNISGEWING VAN AANSOEK OM WYSIGING VAN ALGEMENE PLAN VAN DIE DORP  
JOBURTON UITBREIDING 19**

Die Departement van Plaaslike Regering en Menslike Vestiging gee hiermee ingevolge Artikel 89(3) saamgelees met Artikel 95 van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986 (Ordonnansie 15 van 1986), kennis dat aansoek deur Maxim Planning Solutions (Edms) Bpk (2002/017393/07), synde die gemagtigde agent van die eienaar van Erwe 18319, 18514, 18520 & 19613 en 'n gedeelte van Lehalaangonestraat, Jouberton Uitbreiding 19 gedoen is om die wysiging van die Algemene Plan (LG No. 4100/1998) van die dorp bekend as Jouberton Uitbreiding 19 deur die heruitleg van Erwe 18319, 18514, 18520 & 19613 en 'n gedeelte van Lehalaangonestraat, Jouberton Uitbreiding 19 in:

- Twee (2) erwe gesoneer "Inrigting";
- Vyf (5) erwe gesoneer "Munisipaal";
- Een (1) erf gesoneer gedeeltelik "Inrigting" en gedeeltelik "Openbare Oopruimte";
- Agt (8) erwe gesoneer "Spesiaal" vir die doeleindes van gebruikte ingesluit in die Besigheid 1 en Residensieel 2 gebruiksones en ingesluit 'n voertuigwerkswinkel, groothandel, ligte nywerheid en diensnywerheid;
- Een (1) erf gesoneer "Openbare Oopruimte"; en
- Vyf (5) strate

Die aansoek tesame met die betrokke planne, dokumente en inligting lê ter insae gedurende gewone kantoorure by die kantoor van die Hoof Stads- en Streekbeplanner, Sub-Direktoraat: Ruimtelike Beplanning en Grondgebruikbestuur, Departement Plaaslike Regering en Menslike Vestiging, Kantoor 728, 1ste Vloer, Westelike Vleuel, Garona Gebou, Universiteitsrylaan, Mahikeng vir 'n tydperk van 28 dae vanaf 22 Maart 2016.

Besware teen of verhoë ten opsigte van die aansoek moet skriftelik by of tot die Hoof Stads- en Streekbeplanner, Sub-Direktoraat: Ruimtelike Beplanning en Grondgebruikbestuur, Departement Plaaslike Regering en Menslike Vestiging by bovermelde adres of Privaatsak X1213, Potchefstroom, 2520, of [mvanheerden@nwpg.gov.za](mailto:mvanheerden@nwpg.gov.za) binne 'n tydperk van 28 dae vanaf 22 Maart 2016 ingedien of gerig word.

GO15/8/2/1/17/3  
22-29

**NOTICE 46 OF 2016**

**NOTICE OF APPLICATION FOR AMENDMENT OF TOWN-PLANNING SCHEME IN TERMS OF SECTION 56(1)(b)(i) OF THE TOWN-PLANNING AND TOWNSHIP ORDINANCE, 1986 (ORDINANCE 15 OF 1986)**

**KLERKSDORP LAND USE MANAGEMENT SCHEME 961**

I, Joze Maleta, being the agent of the owner of the Remainder of Erf 420 of the Township Neserhof, hereby give notice in terms of Section 56 (1)(b)(i) of the Town-Planning and Townships Ordinance, 1986, read together with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), that I have applied to the City Council of Matlosana for the amendment of the Town-Planning Scheme known as Klerksdorp Land Use Management Scheme 2005, as amended by the rezoning of the Remainder of Erf 420 of the township Neserhof, Klerksdorp, situated adjacent to Bishop Desmond Tutu Street, and Rowe Street, Neserhof, from Public Open Space" to "Residential 2" for 6 dwelling units.

Particulars of the application will lie for inspection during normal office hours at the office of the Municipal Manager, Room 107, Municipal Buildings, Pretoria Street, Klerksdorp for the period of 28 days from 22 March 2016.

Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager, at the above address or at P.O. Box 99, Klerksdorp, 2570, within a period of 28 Days from 22 March 2016.

Address of Agent: J.Maleta, P.O. Box 1372, Klerksdorp, 2570, Tel.: (018) 462-1991

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22-29

**KENNISGEWING 46 VAN 2016**

**KENNISGEWING VAN AANSOEK OM WYSIGING VAN DORPSBEPLANNINGSKEMA INGEVOLGE ARTIKEL 56(1)(b)(i) VAN DIE ORDONNANSIE OP DORPSBEPLANNING EN DORPE, 1998 (ORDONNANSIE 15 VAN 1998)**

**KLERKSDORP GRONDGEBRUIK BESTUURSKEMA 961**

Ek, Joze Maleta, synde die agent van die eienaar van die Restant van Erf 420 van die dorp Neserhof, gee hiermee ingevolge Artikel 56(1)(b)(i) van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986, saamgelees met die Spatial Planning and Land Use Management Wet, 2013 (Wet 16 van 2013), kennis dat ek by die Stadsraad van Matlosana aansoek gedoen het om die wysiging van die Dorpsbeplanningskema bekend as Klerksdorp Grondgebruik Bestuurskema 2005, soos gewysig, deur die hersonering van die Restant van Erf 420 van die dorp Neserhof, geleë aanliggend van Bishop Desmond Tutustraat en Rowestraat, Neserhof, Klerksdorp, van "Openbare Oopruimte na "Residensieël 2" vir 6 wooneenhede.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor van die Munisipale Bestuurder, Kamer 107, Burgersentrum, Pretoriastraat, Klerksdorp, vir 'n tydperk van 28 dae vanaf 22 Maart 2016.

Besware teen of vertoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf 22 Maart 2016, skriftelik by of tot die Munisipale Bestuurder by bovermelde adres of by Posbus 99, Klerksdorp, 2570, ingedien of gerig word.

Adres van Agent: J.Maleta, Posbus 1372, Klerksdorp, 2570, Tel. (018) 462-1991.

22-29

**NOTICE 47 OF 2016****NOTICE IN TERMS OF SECTION 18(1) OF THE RUSTENBURG LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2015 FOR A CHANGE OF LAND USE RIGHTS, KNOWN AS A REZONING. RUSTENBURG AMENDMENT SCHEME 1481**

I, Dawid Jacobus Bos (ID NO: 571216 5113 08 0), of the firm Maxim Planning Solutions (Pty) Ltd (2002/017393/07), being the authorised agent of the owner of Portion 2 of Erf 1458, Rustenburg, Registration Division J.Q., North West Province hereby gives notice in terms of Section 18(1)(d) of the Rustenburg Local Municipality Spatial Planning and Land Use Management By-Law, 2015, that I have applied to the Rustenburg Local Municipality for the change of land use rights also known as rezoning with the following proposals: A) The rezoning of the property described above, situated at 23 Piet Grobler Street, Rustenburg from "Residential 1" to " Residential 1" to include a second dwelling unit and a home enterprise, restricted to 73m<sup>2</sup>, as defined in Annexure 1787 to the Scheme. B) All properties situated adjacent to Portion 2 of Erf 1458, Rustenburg, Registration Division J.Q., North West Province, could thereby be affected by the rezoning application. C) The rezoning entails that a portion of the existing dwelling house be converted and used for a home enterprise, restricted to 73m<sup>2</sup>, for the purposes of medical consulting rooms, as defined in Annexure 1787, with a maximum height of two (2) storeys and a maximum coverage of 50%.

Particulars of the application will lie for inspection during normal office hours at the office of the Municipal Manager, Room 319, Missionary Mpheni House, coner of Nelson Mandela- and Beyers Naude Drive, Rustenburg for the period of 30 days from **22 March 2016**. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or at P.O. Box 16, Rustenburg, 0300 within a period of 30 days from **22 March 2016**.

**Address of authorised agent: Maxim Planning Solutions (Pty) Ltd (2002/017393/07), @ Office Building, 67 Brink Street, Rustenburg, P.O. Box 21114, Proteapark, 0305, Tel: (014) 592-9489. (2/1659/R/L)**

22-29

**KENNISGEWING 47 VAN 2016****KENNISGEWING INGEVOLGE ARTIKEL 18(1) VAN DIE RUSTENBURG PLAASLIKE MUNISIPALITEIT RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUUR VERORDENING, 2015 VIR 'N VERANDERING VAN DIE GRONDGEBRUIKSREGTE, BEKEND AS 'N HERSONERING. RUSTENBURG WYSIGINGSKEMA 1481**

Ek, Dawid Jacobus Bos (ID NR: 571216 5113 08 0), van die firma Maxim Planning Solutions (Edms) Bpk (2002/017393/07), synde die gemagtigde agent van die eienaar van Gedeelte 2 van Erf 1458, Rustenburg, Registrasie Afdeling J.Q., Noordwes Provinsie gee hiermee ingevolge Artikel 18(1)(d) van die Rustenburg Plaaslike Munisipaliteit Ruimtelike Beplanning en Grondgebruikbestuur Verordening, 2015 kennis dat ek by die Rustenburg Plaaslike Munisipaliteit aansoek gedoen het vir die verandering van grondgebruiksregte ook bekend as hersonering met die volgende voorstelle: A) Die hersonering van die eiendom hierbo beskryf, geleë te Piet Groblerstraat 23, Rustenburg, vanaf "Residensieel 1" na "Residensieel 1" insluitende 'n tweede wooneenheid en 'n tuisbedryf, beperk tot 73m<sup>2</sup>, soos omskryf in Bylae 1787 tot die Skema. B) Alle eiendomme geleë aanliggend tot Gedeelte 2 van Erf 1458, Rustenburg, Registrasie Afdeling J.Q Noordwes Provinsie, kan moontlik deur die hersonering geraak word. C) Die hersonering behels dat 'n gedeelte van die bestaande woonhuis omskep word en gebruik sal word vir 'n tuisbedryf beperk tot 73m<sup>2</sup>, vir die doeleindes van mediese spreekkamers, soos omskryf in Bylae 1787, met 'n maksimum hoogte beperking van twee (2) verdiepings en 'n maksimum dekking van 50%.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor van die Munisipale Bestuurder, Kamer 319, Missionary Mpheni House, hoek van Nelson Mandela- en Beyers Naude Rylaan, Rustenburg vir 'n tydperk van 30 dae vanaf **22 Maart 2016**. Besware teen of verhoë ten opsigte van die aansoek moet binne 'n tydperk van 30 dae vanaf **22 Maart 2016** skriftelik by of tot die Munisipale Bestuurder by bovermelde adres of by Posbus 16, Rustenburg, 0300 ingedien of gerig word.

**Adres van eienaar: Maxim Planning Solutions (Edms) Bpk (2002/017393/07), @ Office Gebou, Brinkstraat 67, Rustenburg, Posbus 21114, Proteapark, 0305, Tel: (014) 592-9489. (2/1659/R/L)**

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## PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

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### PROVINCIAL NOTICE 33 OF 2016

#### **NOTICE OF APPLICATION FOR AMENDMENT OF TOWN PLANNING SCHEME IN TERMS OF SECTION 18 OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE, 1985 (ORDINANCE 15 OF 1985) NALEDI TOWN PLANNING SCHEME, 2004 – AMENDMENT SCHEME 05/2016**

Malepa Planning and Projects (PTY) LTD, Registration No, 2007/015316/07, being the authorised agent of the owner of Erf 485 and Erf 486, Stella Town, hereby gives notice in terms of section 18 of the Town Planning and Townships Ordinance, 1985, that we have applied to the Naledi Local Municipality for the amendment of the Town Planning Scheme known as Naledi Town Planning Scheme, 2004, read together with SPLUMA, Act 16 of 2013, as amended, by the rezoning of Portion 1 of Erf 485, Stella Town, from "Residential 1" to "Authority" and Portion 1 of Erf 486, Stella Town, from "Residential 1" to "Authority" and the Remainder of Erf 485, Stella Town, from "Residential 1" to "Transport 2" and the Remainder of Erf 486, Stella Town, from "Residential 1" to "Transport 2", situated adjacent to the corner of Vrede and Mars Street, Stella Town with the consent of the Local Authority.

Particulars of the application will lie for inspection during normal office hours at the office of the Town Planner, Room 2, 19A Market Street, Vryburg, for the period of 28 days from 15 March 2016.

Objections to or representation in respect of the application must be lodged with or made in writing to the Municipal Manager, Naledi Local Municipality at the above address or posted to P.O. Box 35, Vryburg, 8600 within a period of 28 days from 15 March 2016.

**Address of authorised agent: Malepa Planning & Projects (PTY) LTD, Registration No, 2007/015316/07, 101 Anderson Street, Plansentrum, Klerksdorp, 2571, P.O. Box 451, Klerksdorp, 2570, Tel (018) 462 4465**



**PROVINSIALE KENNISGEWING 33 VAN 2016**

**KENNISGEWING VAN AANSOEK OM WYSIGING VAN DORPSBEPLANNINGSKEMA  
INGEVOLGE ARTIKEL 18 VAN DIE ORDONNANSIE OP DORPSBEPLANNING EN DORPE, 1985  
(ORDONNANSIE 15 VAN 1985) NALEDI DORPSBEPLANNINGSKEMA, 2004 -  
WYSIGINGSKEMA 05/2016**

Malepa Planning and Projects (PTY) LTD, Registrasie No, 2007/015316/07, synde die gemagtigde agent van die eienaar van Erf 485 en Erf 486, Stella Dorp, gee hiermee ingevolge artikel 18 van die Ordonnansie op Dorpsbeplanning en Dorpe, 1985, kennis dat ons by die Naledi Plaaslike Munisipaliteit aansoek gedoen het om die wysiging van die dorpsbeplanningskema bekend as die Naledi Dorpsbeplanningskema, 2004, saamgelees met SPLUMA, Wet 16 van 2013, soos gewysig, deur die hersonering van Gedeelte 1 van Erf 485, Stella Dorp, vanaf "Residensieël 1" na "Owerheid" en Gedeelte 1 van Erf 486, Stella Dorp, vanaf "Residensieël 1" na "Owerheid" en die Restant van Erf 485, Stella Dorp, vanaf "Residensieël 1" na "Vervoer 2", Stella Dorp, en die Restant van Erf 486, Stella Dorp, vanaf "Residensieël 1" na "Vervoer 2", geleë aangrensend aan die hoek van Vrede en Mars Straat, Stella Dorp met die toestemming van die Plaaslike Owerheid.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor van die Stadsbeplanner, Kamer No. 2, Market Straat 19A, Vryburg, vir 'n tydperk van 28 dae vanaf 15 Maart 2016.

Besware teen of verhoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf 15 Maart 2016 skriftelik by of tot die Munisipale Bestuurder, Naledi Plaaslike Munisipaliteit by bovermelde adres of by Posbus 35, Vryburg, 8600 ingedien of gerig word.

**Adres van gemagtigde agent: Malepa Planning & Projects (PTY) LTD, Registrasie No, 2007/015316/07, Andersonstraat 101, Plansentrum, Klerksdorp, 2571, Posbus 451, Klerksdorp, 2570, Tel: 018 462 4465**

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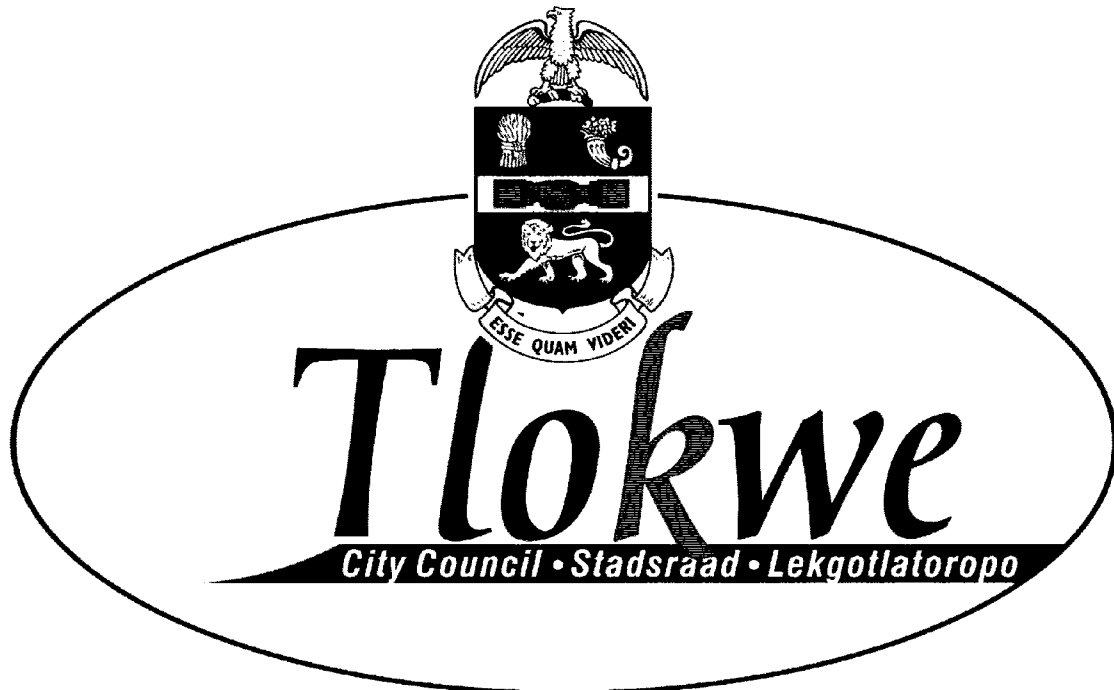
**PROVINCIAL NOTICE 35 OF 2016**

Tlokwe City Council

Notice is hereby given in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) that the Tlokwe City Council adopted the following Tlokwe Town Planning Scheme 2015 which will come into effect on the date of publication hereof in the Provincial Gazette.

**Dr N E BLAAI MOKGETHI  
MUNICIPAL MANAGER**

Notice 12/2016  
/ne



## **TLOKWE TOWN PLANNING SCHEME 2015**

Promulgated under Local Government Notice \_\_\_ dated \_\_\_\_\_

26 November 2015

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**PART I GENERAL****CLAUSE 1 GENERAL PURPOSE OF THIS SCHEME**

The purpose of this Scheme is the co-ordinated and harmonious land use development of the area of jurisdiction of the Tlokwe City Council and its successors in title, in such a way that will most effectively tend to promote the health, safety, good order, amenity, convenience, general welfare, efficiency and economy of the area.

**CLAUSE 2 TITLE OF THIS SCHEME**

This Scheme shall be known as the Tlokwe Town Planning Scheme, 2015.

**CLAUSE 3 SUBSTITUTION OF THIS SCHEME**

This Scheme has been prepared in terms of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) as amended, as well as any future legislation repealing and replacing the ordinance and supersedes the Potchefstroom Town Planning Scheme 1980, together with all previous amendments of the latter scheme.

**CLAUSE 4 RESPONSIBLE AUTHORITY OF THIS SCHEME**

The Tlokwe City Council shall be the Local Authority responsible for enforcing, administering and carrying into effect the provisions of this Scheme.

**CLAUSE 5 AREA OF JURISDICTION OF THIS SCHEME**

The area of jurisdiction to which this Scheme applies is shown on the map in terms of Notice 6781 of the North West Provincial Gazette, dated 24 May 2010 which demarcated the municipal area of the Tlokwe City Council (Nr. NW 402). The Scheme Map attached to this Scheme also circumscribes this area.

**CLAUSE 6 COMPOSITION OF THIS SCHEME**

This Scheme consists of the following components:

- |     |                |   |
|-----|----------------|---|
| 6.1 | Scheme Clauses | Describing the contents, definition of land uses, provisions and conditions of this Scheme.     |
| 6.2 | Schedules      | Containing standard development conditions applicable to the different use zones and land uses. |
| 6.3 | Annexures      | Containing additional conditions relevant to the zoning of a specific property.                 |

- 6.4 Key Map Showing the position of the area of the Scheme Map and, if the Scheme Map is drawn on more than one sheet, the division of the Scheme Map into sheets.
- 6.5 Scheme Map Indicating the area, including all properties, to which this Scheme relates, drawn to scale on one or more sheets.

**CLAUSE 7 PERMISSION GRANTED BEFORE APPROVAL OF THIS SCHEME**

- 7.1 Any consent, permission or approval granted in terms of the provisions of a Town Planning Scheme in operation to use a property or a building, or any rights legally exercised in terms of any other legislation, prior to the effective date of this Scheme, shall be deemed to be a consent, permission or approval granted in terms of the relevant provisions of this Scheme.
- 7.2 Any consent, permission or approval granted shall continue to be in operation subject to the provisions of Section 43 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) as amended, as well as any future legislation repealing and replacing the ordinance to the extent that the same may be in conflict with this Scheme.
- 7.3 Any application pending before the Local Authority in terms of a Town Planning Scheme in operation prior to the effective date of this Scheme shall be dealt with as if this Scheme has not yet been promulgated.

**CLAUSE 8 CONFLICT BETWEEN PROVISIONS OF THIS SCHEME, CONDITIONS OF TITLE AND LEGISLATION**

- 8.1 Any consent, permission or approval granted by the Local Authority in terms of the provisions of this Scheme does not entitle any person the right to use a property or a building, or any rights legally exercised in terms of this Scheme, in any manner or for any purpose which is prohibited by the provisions of any condition registered in the title deed under which such property is held, or imposed by any legislation in respect of such property.
- 8.2 If any land use is permitted in terms of this Scheme but otherwise prohibited in the title deed of such property, it is the responsibility of the owner of such property to:
- 8.2.1 Remove or waive the restriction by following the required procedure provided for in terms of legislation.
- 8.2.2 Submit satisfactory proof to the Local Authority that such restrictive condition has been removed.

**CLAUSE 9 BINDING FORCE OF CONDITIONS**

Where permission was granted in terms of this Scheme to use a property or a building, or any rights legally exercised in terms of this Scheme, and conditions have been imposed, the conditions shall have the same force and effect as if they were part of this Scheme.

## **PART II DEFINITIONS**

### **CLAUSE 10 DEFINITIONS**

For the purpose of this Scheme, unless the context indicates otherwise, or it is otherwise expressly provided, the following words and expressions have the respective meanings hereby assigned to them:

**“adjacent owner”** means the owner of a property abutting or sharing a common boundary with another property, including any owner of a property separated by a street and any such other owners of properties as the Local Authority may specifically identify.

**“adjacent property”** means a property abutting or sharing a common boundary with another property, including a property separated by a street and any such other properties as the Local Authority may specifically identify.

**“agricultural land”** means any land, except land situated in the area of jurisdiction of a municipal council, city council, town council, village council, village management board, village management council, local board, health board or health committee, and land forming part of, in the province of the Cape of Good Hope, a local area established under section 6 (1) (i) of the Divisional Councils Ordinance, 1952 (Ordinance No. 15 of 1952 of that province), and, in the province of Natal, a development area as defined in section 1 of the Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941 of the last-mentioned province), and in the province of the Transvaal, an area in respect of which a local area committee has been established under section 21 (1) of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943 of the Transvaal), but excluding any such land declared by the Minister after consultation with the executive committee concerned and by notice in the Gazette to be agricultural land for the purposes of this Act

**“agricultural use”** means a land use normally or otherwise reasonably associated with agricultural activities, including buildings reasonably necessary for or related to the use on a property and includes the cultivation of crops, irrigation, dry land farming, plantations, orchards, the breeding and keeping of game, livestock, bees, poultry, aquatic and other breeds, but excludes a feeding lot.

**“agri industry”** means an enterprise for the processing of agricultural products on a property where these agricultural products are farmed and where processing is necessary due to the nature, fragility and perishability of such agricultural products and includes a feeding lot and sawmilling, but excludes a service enterprise or service industry.

**“ancillary and subservient use”** means a land use or activity which in the opinion of the Local Authority, supports and complements the main use on the property and which shall not exist on its own when the main use is discontinued.

**“animal establishment”** means a property or a building used for the breeding, boarding, training, keeping or caring of domestic animals, and includes an equestrian centre and petting zoo.

**“annexure”** means the set of documents containing the additional rights and conditions applicable to a property as shown on the Scheme Map, which shall prevail over any other clause or provision of this Scheme.

**“assessment rate”** means a rate on a property envisaged in terms of Section 229(1)(a) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) as amended.

**“average natural ground level”** means the average of the highest and lowest existing natural ground levels immediately abutting the external elevation plane or wall cutting into the ground of a building or vertical division of a building. The Local Authority may:

- (a) Determine the average natural ground level from measurements supplied on a building plan or a site development plan; or
- (b) Deem a level to be the average natural ground level based on measurements interpolated from a contour plan, local height benchmark or other information held by the Local Authority; or
- (c) Require the owner or applicant to commission a registered surveyor to measure levels of the ground or interpolate levels, in order to provide the Local Authority with sufficient information so that it can determine the average natural ground level.

**“backpackers establishment”** see guest house.

**“basement”** means any portion of a building of which the floor is below the average natural ground level of the ground covered by the building and of which no part of the ceiling is more than one (1) metre above such average natural ground level.

**“bed-and-breakfast establishment”** see guest house.

**“braai room”** means a room which is part of a building, dwelling unit, dwelling house, flatlet or outbuilding on a property, used primarily for entertainment purposes and where food and drinks may be prepared, but excludes a kitchen.

**“builders yard”** means a property or a building used for the storage and sale of building materials and equipment that is commonly used and required for building work, and may include an office use as an ancillary and subservient use.

**“building”** means a building as defined in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) as amended.

**“building line”** means an imaginary line above, on and below ground level of a property usually parallel to and at a fixed distance from any property boundary that demarcates a building restriction area.

**“building restriction area”** means the area on a property where no building, except as permitted by this Scheme may be erected, which is bounded on one side by a building line and on the other side by a property boundary.

**“cafeteria”** means a building or part of a building used for the preparation and sale of food, refreshments, and similar ancillary convenience items for the exclusive use of the employees and their guests, provided it is an ancillary and subservient use.



“**camping site**” means a property used by transient guests for temporary accommodation and parking of caravans, motor homes and tents not exceeding three (3) months per year and must include adequate ablution facilities, a communal kitchen, related buildings and an ancillary and subservient use such as a caretakers flat, and shop. See also recreation resort

“**cemetery**” means a property or a building used for the burial of deceased persons and human ashes, a crematorium, a wall of remembrance, a chapel, an office use and storerooms for the management of the cemetery and an ancillary and subservient use which the Local Authority may deem necessary.

“**clinic**” means a hospital used for day patients only with no facilities for overnight accommodation. See also institution

“**commercial use**” means a property or a building used for wholesale trade, a distribution centre and/or laboratories including a cafeteria, conference facility and an office use as an ancillary and subservient use.

“**conference facility**” means a property or a building used as a lecture hall or training facility including an office use as an ancillary and subservient use. See also place of instruction

“**consent use**” means a land use right that may be obtained by way of consent from the Local Authority and is specified as such in this Scheme.

“**coverage**” means the area of a property covered by buildings measured from the outer surface of the external walls as seen vertically from above and expressed as a percentage of the area of the property, excluding all minor building work as defined in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) as amended. A structure without a roof or covered with canvas or similar fabric, a roof overhang and/or canopy is excluded from the calculation.

“**crematorium**” means a property or a building used for the cremation of human or animal tissue. See also noxious industrial use.

“**days**” means when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.

“**dwelling house**” means a building containing only one dwelling unit for a household, together with such outbuildings as is ordinarily used with a dwelling house, including domestic staff quarters.

“**dwelling unit**” means a self-contained suite of rooms mutually connected and consisting of habitable room(s), bathroom(s), toilet(s) and not more than one kitchen, and may include outbuilding(s) as an ancillary and subservient use to the dwelling unit.

“**effective date**” means the date on which this Scheme shall come into effect, being the date as published in the North West Provincial Gazette.

**“engineering services”** means the infrastructure services such as electricity, water and sewerage systems, roads and storm water systems and all associated structures which the Local Authority may deem necessary for the proper development of a property.

**“engineering services contribution”** means a contribution towards the engineering services as stipulated in the Ordinance as amended.

**“erf”** means a property in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remaining extent thereof as indicated as such on the general plan of a township.

**“existing building”** means a building erected according to building plans approved by the Local Authority or a building considered by the Local Authority to be lawful: Provided that the building operations were completed on or before the effective date, or were commenced within a reasonable time before the effective date, but were only completed thereafter, or were completed according to the conditions imposed by the Local Authority when granting its permission.

**“existing use”** means the continuous lawful use of a property or a building as stipulated in Section 43 of the Ordinance as amended.

**“feeding lot”** means a property or a building used on which or in which cattle, sheep, goats, poultry or other livestock are held for the purpose of nurturing by a feeding method other than natural grazing and without limiting the generality of the foregoing. It includes intensive livestock keeping establishments, piggeries, poultry farms and fish farms. See agri industry.

**“filling station”** means a property or a building used for fuelling, washing, polishing and lubricating of motor vehicles, as well as for emergency repairs to vehicles including a shop with a maximum floor area of 250m<sup>2</sup> accessible to the general public, a confectionary and take-away facility with a kitchen and an automatic teller machine of a financial institution as an ancillary and subservient use, but excluding a public garage, panel beating, spray painting or any major repair work.

**“flatlet”** means a suite of connected rooms with not more than one kitchen in addition to the existing dwelling house on the same property.

**“flood line”** means the flood line referred to in Section 144 of the National Water Act 1998 (Act 36 of 1998) as amended.

**“government purposes”** means a property or a building used for Government offices, depots, workshops, stores, communication centres, police stations, post offices etc. and may include a cafeteria as an ancillary and subservient use for the specific Government Department but excludes industrial use and noxious industrial use.

**“gross leasable area” (GLA)** means the total of the gross floor area occupied by a building at the floor level of each storey: Provided that the following areas shall be excluded from the calculations:

- (a) Unroofed buildings, open roofs and areas occupied by external fire-escapes;
- (b) Parking area and parking bay;
- (c) Accommodation for lift motors and other mechanical or electrical equipment necessary for the proper utilisation of the building;

- (d) Areas reasonably used for the cleaning, maintenance and care of the building, except a dwelling unit for supervisors, caretakers and maintenance personnel.

**“guest house”** means an enterprise managed by the owner or host of a dwelling house, flatlet or dwelling unit which is used for the purpose of supplying lodging and meals to transient guests for compensation and may include business meetings or training sessions by or for guests on the property.

**“habitable room”** means a room designed and erected for human habitation according to the minimum standards prescribed in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) as amended, but does not include a storeroom, kitchen, scullery, toilet, bathroom or a passage.

**“hospital”** means a property or a building used for the care, treatment and overnight accommodation of patients needing specialized treatment or operations and may include operating theatres, X-ray rooms and a dispensing chemist/pharmacy. See institution.

**“hostel”** see residential use.

**“hotel”** means a building that has been registered as a hotel in terms of Section 1 of the Hotels Act, 1965 (Act 70 of 1965) as amended and may include a conference facility and a restaurant as well as an ancillary and subservient use.

**“household”** means a person or a group of interdependent persons functioning as a domestic unit.

**“household enterprise”** means a small scale enterprise for the practise of a profession or occupation, with the aim of deriving an income there from, of which the principal of such enterprise is a full time resident in the dwelling house on the property, in such a way that the residential character and primary use of the dwelling house and environment shall not in any way be harmed or changed. No retail trade shall be permitted from the property.

**“house shop”** means a shop on a property used only for the retail trade in daily convenience goods and prepared and pre-wrapped foods, excluding alcoholic beverages, a tavern, restaurant and place of amusement.

**“industrial use”** means a property or a building used where a product or part of a product is manufactured, mounted, processed, repaired, rebuilt, stored or packed and may include a cafeteria and any other ancillary and subservient use connected to or incidental to the industrial use, but excludes noxious industrial use and public garage.

**“informal settlement”** means a property on which an approved Surveyor General Diagram has been drawn up, where occupation and the use of a property occur and where a permission-to-occupy-procedure exists in expectation of formal township establishment.

**“institution”** means a property or a building used for a charitable institution, clinic, hospital and nursing home, for the care and treatment of patients and may include medical consulting rooms, a dispensing chemist/pharmacy, a cafeteria and shop as an ancillary and subservient use.

**“kitchen”** means a room or part of a room equipped for preparing and cooking meals including the necessary scullery, but excludes a braai room or bar facilities in an entertainment area.

**“land”** see erf and property.

**“loading bay”** means an area, used exclusively for the parking of a delivery vehicle not being for trade or sale, the extent of which area shall comply with the necessary traffic and road engineering standards, used for the loading and off-loading of goods.

**“Local Authority”** means the Tlokwe City Council or its successor in title.

**“loft”** means any upper room in a building directly under the roof, used either for storage, for a specific purpose or to sleep in. The gross leasable area (GLA) shall be included in the calculation of the gross leasable area (GLA) for the building, provided that:

- (a) Should the loft be enclosed from all sides to form a separate room, it shall be considered to be a separate storey, or
- (b) Should at least one side of the loft be open to the room directly below it, it shall be considered to be a mezzanine floor.

**“medical consulting room”** means a property or a building used for medical practitioners, and may include a dispensing chemist/pharmacy not exceeding 40m<sup>2</sup> in extent, but does not include an institution.

**“mezzanine floor”** means any intermediate floor, situated in a storey of a building and which is open to the floor directly below it, with a gross leasable area (GLA) not exceeding 25% of that of the storey in which it is situated, with a ceiling height of at least 2,1 meters above and below the mezzanine floor of which the gross leasable area shall be included in the calculation of the gross leasable area (GLA) for the building.

**“mining and quarrying”** means a property on which minerals, liquids and gasses are extracted and includes underground and surface mines, quarries and the operation of oil and gas wells and all supplemental activities for dressing and beneficiating ores and other crude materials such as crushing, screening, washing, cleaning, grading, milling, flotation, melting, refining, pelleting, topping and other preparation needed to render the material marketable. It also includes all associated works such as rock dumping, tailing dams, workshops and buildings for mining purposes as well as the reclamation of minerals from mine dumps and worked out mines.

**“motor sales mart”** means a property or a building used for the display and sale of roadworthy vehicles, but does not include any form of a workshop, panel-beating or spray-painting.

**“municipal purposes”** means such purposes as what the Local Authority may be authorised to carry out in terms of any law governing municipalities including but not limited to the Local Government Municipal Structures Act, 1998 (Act 117 of 1998) as amended and the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) as amended.

**“nature reserve”** means a public or privately owned national park or environmental conservation area that has been declared a nature reserve in terms of legislation, for the purpose of conserving and managing fauna and flora in a predominantly natural habitat.

**“noxious industrial use”** means a property or a building used for the purpose of carrying on an offensive trade as set out in Item 1 of Schedule 1, as stipulated in the Licenses Ordinance, 1974 (Ordinance 19 of 1974) as amended and may include a crematorium.

**“nursery”** means a property or a building used for the storage, cultivation and sale of plants, trees, seeds and garden accessories, and may include a restaurant as an ancillary and subservient use.

**“nursing home”** means a property or a building used for the post operative and frail care of patients, but excludes operating theatres. See institution.

**“occupant”** means a person who is not the owner of a property but who occupies the property with the approval and knowledge of the owner.

**“office use”** means a property or a building used as offices for professional, clerical, administrative, management, marketing and consulting services.

**“Ordinance”** means the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) including the Town Planning and Townships Regulations as amended, as well as any future legislation repealing and replacing the Ordinance.

**“outbuilding”** means a building(s) other than the main building on a property, which in the opinion of the Local Authority is an ancillary and subservient use to the main building.

**“owner”** means, in relation to a property, the person in whose name that property is registered in a deeds registry, which may include the holder of a registered servitude right or lease and any successor in title of such a person, and/or that person's authorised agent.

**“panhandle”** means the narrow portion of a panhandle property which abuts on a street and is used exclusively for access purposes.

**“panhandle property”** means an L-shaped property consisting of a buildable portion and a panhandle.

**“parking area”** means a property or part of a property which is used solely for the parking of roadworthy vehicles and which area is intended and used for the minimum parking bays required in terms of this Scheme and includes the access and manoeuvring space associated with such parking area.

**“parking bay”** means a bay in a parking area, used exclusively for the parking of roadworthy vehicles not being for trade, sale or repair, the extent of which bay shall be a minimum of 2,5 metres wide and 5,0 metres long (12,5m<sup>2</sup>) and excludes the access and manoeuvring space associated with a parking area.

**“parking garage”** means a building used exclusively for the parking of roadworthy vehicles not being for trade, sale or repair and also excludes a building used as a workshop for the repair of such vehicles.

**“place of amusement”** means a property or a building used for entertainment purposes, provided that the use shall be subject to a license as set out in the Business Act, 1991 (Act 71 of 1991); as amended and provided further that a casino and gambling place shall be subject to a license in terms of the North West Gambling Act, 2001 (Act 2 of 2001) as amended.

**“place of instruction”** means a property or a building used for a crèche, pre-school, school, after-school-care-centre, academy, college, technical institute, university conference facility, gymnasium, public library, museum or any other centre of education or instruction and may include an ancillary and subservient use.

**“place of public worship”** means a property or a building used for religious purposes and includes a religious leader’s dwelling unit, office, place of religious instruction, recreation facility, “social hall and wall of remembrance as an ancillary and subservient use but excludes a cemetery.

**“primary right”** means a land use permitted in a use zone.

**“private open space”** means a private property used as an open space and owned and maintained by a private individual, a company in terms of the Companies Act, 2008 (Act 71 of 2008) as amended or a similar legal entity or association other than a government agency, to which the general public has no right of access, except with the consent of the owner.

**“private street”** means any road owned and maintained by a private individual, a company in terms of the Companies Act, 2008 (Act 71 of 2008) or a similar legal entity or association other than a government agency, to which the general public has no right of access, except with the consent of the owner.

**“property”** means any land registered in the deeds registry office as a separate title. See erf.

**“public garage”** means a property or a building used for the repair and servicing of vehicles, excluding panel-beating and spray-painting and may include a filling station and retail trade of new and used vehicles, spare parts and accessories as an ancillary and subservient use.

**“public open space”** means a property, owned and maintained by the Local Authority and used as an open space to which the general public has a right of access.

**“recreation resort”** means a property or a building used for temporary recreation orientated occupation including a camping site, chalets, hotel, guest house, health farm and spa and an ancillary and subservient use such as a restaurant, conference facility, social hall, wedding chapel, cultural and music events, staff accommodation and natural areas.

**“residential use”** means a property or a building used for a boarding house, tenements or hostel together with an outbuilding ordinarily used therewith but does not include a dwelling unit, dwelling house, flatlet and hotel.

“**restaurant**” means a property or a building used for the preparation, sale and consumption of refreshments and where the kitchen layout shall comply with the health requirements of the Local Authority. It may also include an ancillary and subservient use including a take-away facility and a play area for children, but excludes a place of amusement.

“**retail trade**” means the buying and selling of goods and products to the general public. See shop and wholesale trade.

“**rezoning**” means a change from one category of use zone to another category.

“**riparian land**” means a portion of a property that abuts on the banks of a stream or other natural body of water.

“**road**” see street.

“**rural estate**” means a nature orientated property providing permanent and non-permanent, full title or sectional title occupation, not exceeding more than 10% (percent) of the total area of the property.

“**Scheme**” means the Tlokwe Town Planning Scheme, 2015.

“**scrap-yard**” means a property or a building used for the purposes of a junk yard for the dismantling, stacking, storing, dumping, abandoning and recycling of used materials, scrap metals, scrap vehicles, scrap machinery of whatever description, excluding any radio-active or hazardous materials.

“**secondary right**” means a land use that may be exercised only with the consent from the Local Authority.

“**service enterprise**” means a use which is a personal care or -grooming service incidental to the needs of the community and which will not interfere with the amenity of the surrounding properties or be a nuisance value by virtue of noise, appearance, smell or activities or for any other reason whatsoever.

“**service industry**” means a use which is a service incidental to the needs of the community including the assembly, sub-assembly, repair and maintenance of utilities and which will not interfere with the amenity of the surrounding properties or be a nuisance value by virtue of noise, appearance, smell or activities or for any other reason whatsoever, but excludes a public garage.

“**shop**” means a property or a building used for the purposes of retail trade and includes the necessary accompanying storage and packaging. It may also include a use on the same site which is ordinarily incidental to the conduct of the retail business thereon; provided that the gross leasable area (GLA) of such ancillary and subservient use shall not exceed 10% of the gross leasable area (GLA) of the retail business and provided further that such activity shall not give rise to any disturbance or nuisance.

“**site**” see erf.

“**site density**” means the number of dwelling units that may be developed per hectare on a property.

**“site development plan”** means a plan drawn to scale, which includes information as required by the Local Authority and which reflects fully and clearly how a development gives effect to the approved rights and conditions in force on the property.

**“social hall”** means a property or a building used for cultural activities, social meetings, gatherings, assemblies, dance hall or recreation purposes but excludes a place of amusement.

**“special use”** means a property or a building used for any land use other than one of the land uses specifically defined in this Scheme and/or mentioned in the definitions.

**“sport and recreation”** means a property or a building used for sporting activities such as soccer, rugby, cricket, hockey, tennis, golf, swimming, cycling etc. and may include grandstands, change rooms, ablution facilities and an ancillary and subservient use.

**“storey”** means that part of a building which is situated between the top of any floor and the top of the floor directly above it, or if there is no floor above it, that portion between such floor and the ceiling or roof above it. A mezzanine floor, open work floor, catwalk or gallery shall be regarded to be part of the storey in which it is situated. In relation to a building:

- (a) The ground storey shall be regarded as the storey in which there is situated an entrance to the building from the level of the adjoining ground or, if there is more than one such storey the lower or lowest of these;
- (b) A basement shall be regarded to be any part of the building which is below the level of the ground storey;
- (c) An upper storey shall be regarded to be any storey of the building which is above the ground storey;
- (d) The height expressed in storeys shall be regarded to be that number of storeys which include all storeys other than a basement.

**“street”** means and/or includes the whole or part of any street, road, island, footway, bridge, subway, avenue, lane, sanitary lane or thoroughfare shown on the general plan of a township, or in respect of which the general public has acquired a prescriptive or other permanent right-of-way and shall also include the road reserve.

**“tavern”** means a property or a building used for the combination of a restaurant and a place of amusement.

**“telecommunication structures”** means a property or a building above ground used for the purposes of telecommunication services including any tower, mast, pole, structure or building designed and/or constructed to accommodate telecommunication equipment.

**“temporary use”** means a land use granted to the owner or occupant of a property or a building for a temporary period as determined by the Local Authority.

**“transport depot”** means a property or a building used where vehicles, used for transport services, security services, emergency response services, courier services or taxi services are parked, serviced, repaired and refuelled but excludes a transport terminus.



**“transport terminus”** means a property or a building used as a terminus or gathering place for various forms of transport arriving and departing from different directions or routes and may include wash bays for the vehicles, ablution facilities, shop and restaurant.

**“unrelated person”** means a person who lives on a property or in a building independently from other persons.

**“urban edge”** means a line demarcated by the Spatial Development Framework Plan of the Local Authority indicating the spatial limit beyond which urban development should not be permitted.

**“use zone”** means the zoning of a property indicated by means of a distinguishing notation on the Scheme Map in order to identify the permitted land uses and development controls.

**“veterinary clinic”** means a property or a building used for the treatment and care of animals including overnight facilities with an ancillary and subservient use that includes the sale of veterinary medicines from a dispensing chemist/pharmacy not exceeding 40m<sup>2</sup> and the sale of specialized animal food and ancillary animal products.

**“wall of remembrance”** means a wall where containers with the ashes of the deceased are interred in openings or niches in the wall and thereafter sealed and/or on which an appropriate commemorative plaque can be attached. See place of public worship and cemetery.

**“warehouse”** means a property or a building used for storage.

**“wholesale trade”** means trade which is restricted to the sale of goods or products to retailers. See commercial use.

## **PART III DEVELOPMENT CONTROLS AND PROVISOS**

### **CLAUSE 11 PROVISOS APPLICABLE TO ALL USE ZONES**

- 11.1 Tables stipulating land uses and development controls for the various Use Zones of this Scheme are indicated in the Schedules, which shall be subject to the provisions of this Scheme.
- 11.2 Nothing in this Scheme shall be deemed to prevent the Local Authority from erecting, maintaining, or using any building or work, or any property, in any part of the area of this Scheme, for the purpose of any undertaking which it may be empowered to carry out under any legislation.
- 11.3 No consent shall in any way bind the Local Authority to issue or grant any licence or permit or a further consent, or to exempt any person from the provisions of this Scheme or from any by-laws.
- 11.4 ANNEXURE**
- 11.4.1 Upon approval of an amendment scheme or consent use, the subject property or building shall, in addition to the requirements of this Scheme, be entitled to the use so granted and shall further be subject to such conditions required by the Local Authority as shown on the relevant Annexure to this Scheme, if any.
- 11.4.2 The provisions, conditions and restrictions of an Annexure shall prevail should it be in conflict with any other clause or provision of this Scheme and such Annexure shall be indicated on the Scheme Map.
- 11.5 MIXED LAND USE**
- 11.5.1 For the purpose of this Scheme where a property or a building or proposed building is designed or used for more than one purpose such property or building shall be deemed to be used or designed for its predominant use.
- 11.6 SCREEN WALL AND FENCE**
- 11.6.1 If a property is enclosed with a screen wall or fence, such screen wall, fence or other enclosing material shall be subject to approval by the Local Authority and shall be erected and maintained to the satisfaction of the Local Authority.
- 11.7 STORM WATER MANAGEMENT**
- 11.7.1 Where, in the opinion of the Local Authority, it is impracticable for storm water to be drained from higher lying erven direct to a public street or stream the owner of the lower lying erf shall be obliged to accept and/or permit the passage over the erf of such storm water: Provided that the owners of any higher lying erven, the storm water from which is discharged over any lower lying erf, shall negotiate point of discharge and shall be liable to pay a proportionate share of the cost of any pipeline or drain which the owner of such lower lying erf may find necessary to lay or construct for the purpose of conducting the water so discharged over the erf

## 11.8 LINE-OF-NO-ACCESS

11.8.1 Where access to and from any property to and from any road, street or portion thereof in the area of this Scheme is prohibited, such prohibition shall be indicated by means of a distinctive line-of-no-access on the Scheme Map. No access (ingress or egress) shall be allowed over this line unless the necessary approval of the Local Authority has been obtained, provided that:

- (a) The Local Authority may impose any conditions deemed necessary or desirable.
- (b) Such approval shall not be construed as a relaxation of any restriction on access imposed by any other law, or contained in the title deed of the property or imposed by the Local Authority.

## 11.9 SITE DEVELOPMENT PLAN

11.9.1 A site development plan shall be submitted to the Local Authority for approval prior to the exercising of any land uses allowed on a property in respect of the following development types in all use zones:

- (a) Shopping centres and shopping complexes;
- (b) Business and office park developments;
- (c) Industrial park developments;
- (d) Developments in conservation areas;
- (e) Developments that will be sectionalised;
- (f) Residential developments, excluding the Residential 1 use zone
- (g) Major developments where there are concerns relating to urban form, heritage, traffic or spatial planning in general.

11.9.2 The following provisos shall apply with regard to site development plans:

- (a) Development on a property shall be in accordance with an approved site development plan and no deviation from the approved site development plan shall be allowed unless such deviation was approved beforehand, in writing by the Local Authority;
- (b) If the Local Authority considers it necessary, a transport or traffic impact statement or assessment may be required in conjunction with a site development plan, the extent of which shall be determined by the Local Authority depending on the magnitude of the development;
- (c) If the Local Authority considers it necessary, a storm water impact assessment and/or storm water management plan may be required in conjunction with a site development plan, the extent of which shall be determined by the Local Authority depending on the magnitude of the development;
- (d) In circumstances where a site development plan is required in terms of this Scheme, no application for building plan approval in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) as amended, shall be granted by the Local Authority, unless a site development plan has first been approved;

- (e) An approved site development plan shall be considered as setting additional development conditions applicable to the land use, and any application for amendment shall comply with the requirement of the Local Authority for such amendments; and
- (f) The Local Authority may require amendments of detail to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban form, landscaping, environmental management, engineering services or similar concerns.

11.9.3 A land use in the Agricultural use zone shall in certain cases require a site development plan in terms of Schedule 2.1 Development Controls Use Zone Agricultural to this Scheme.

#### 11.10 ENGINEERING SERVICES CONTRIBUTION

11.10.1 The Local Authority shall, when required to do so, make calculations for contributions in respect of engineering services, open spaces or parks as stipulated in terms of Section 63 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) as amended as well as any future legislation repealing and replacing the ordinance.

### **CLAUSE 12 USE OF LAND AND BUILDINGS**

- 12.1 Subject to the provisions of this Scheme no land use shall be permitted in a use zone other than those stipulated in Schedule 1: Land Uses to this Scheme.
- 12.2 The following notations shall be used in Schedule 1 to this Scheme to indicate the various land uses permitted in all use zones:
  - 12.2.1 ● Land Use Permitted
  - 12.2.2 ■ Land Use permitted with Written Consent
  - 12.2.3 ▲ Land Use permitted with Special Consent
  - 12.2.4 ∅ Land Use regulated primarily through other legislation
  - 12.2.5 TE Land Use requiring a township establishment process

### **CLAUSE 13 TEMPORARY LAND USES**

Nothing in this Scheme shall be deemed to prevent the Local Authority from:

- 13.1 Allowing the occasional letting of a property, owned by the Local Authority, in the area of this Scheme by way of written consent for the purpose of amusement parks, circuses, church gatherings, fairs or fund collections by or for community service organisations or social service organisations, subject to such conditions as the Local Authority may deem necessary or desirable.
- 13.2 Allowing the owner of any property or building by way of written consent to

temporarily use such property or building for purposes not contemplated for that use zone or by any other provision of this Scheme, subject to the following conditions:

- 13.2.1 No building or structure of a permanent nature which may hinder the use of the property for the purpose contemplated in the use zone thereof in this Scheme shall be erected on the property.
- 13.2.2 Any permission granted in terms of this clause shall be valid for such period not exceeding 30 days or as the Local Authority may determine: Provided that the Local Authority may from time to time on the written request of the owner extend such period for a period not exceeding 30 days.
- 13.2.3 The Local Authority may impose any conditions deemed necessary or desirable.

#### **CLAUSE 14 DENSITIES**

- 14.1 Subject to the provisions of this Scheme, the site density of a property may not be exceeded as stipulated in Schedule 2: Development Controls to this Scheme.
- 14.2 Subject to the appropriate calculations, the number of dwelling units allowed on a property, may be rounded-off to the nearest number.

#### **CLAUSE 15 SUBDIVISIONS AND CONSOLIDATIONS**

- 15.1 An application to subdivide and/or consolidate a property shall be submitted to the Local Authority in terms of the applicable legislation.
- 15.2 The Local Authority may, when granting such subdivision and/or consolidation, impose any conditions deemed necessary or desirable.

##### **15.3 MINIMUM ERF SIZE**

Nothing in this Scheme shall be deemed to prevent the Local Authority from:

- 15.3.1 Allowing the subdivision of erven in proclaimed townships in terms of Section 92 and Regulation 35 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) as amended as well as any future legislation repealing and replacing the ordinance, subject to:
  - (a) Allowing the subdivision of Residential 1 erven in Baillie Park, Dassierand, Ferdinand Postmapark, Grimbeekpark, Potchefstroom, Portions of Erf 315 Potchindustria, Van der Hoffpark and their extensions to a minimum erf size of not less than 500m<sup>2</sup> in extent, subject to approved annexures, geological and geotechnical suitability.
  - (b) Allowing the subdivision of Residential 1 erven in Ikageng, Mohadin, Promosa and their extensions, to a minimum erf size of not less than 300m<sup>2</sup> in extent, subject to approved annexures, geological and geotechnical suitability.
  - (c) Allowing the subdivision of Residential 2 erven according to the

density requirements as stipulated in Schedule 2: Development Controls to this Scheme; Provided that the minimum erf size of any subdivided erf shall not be less than 300m<sup>2</sup> in extent, subject to approved annexures, geological and geotechnical suitability.

- (d) Allowing the subdivision of Residential 3 erven according to the density requirements as stipulated in Schedule 2: Development Controls to this Scheme; Provided that the minimum erf size of any subdivided erf shall not be less than 180m<sup>2</sup> in extent, subject to approved annexures, geological and geotechnical suitability.
- 15.3.2 Allowing the subdivision of agricultural holdings within the Urban Edge area of the Local Authority in terms of the Division of Land Ordinance, 1986 (Ordinance 20 of 1986) as amended as well as any future legislation repealing and replacing the ordinance, subject to:
- (a) The subdivision of an agricultural holding into five (5) portions only, including the remaining extent, not exceeding a minimum size of not less than 0,8565 hectare (8 565m<sup>2</sup>) in extent.
- 15.3.3 Allowing the subdivision of farm portions within the Urban Edge area of the Local Authority in terms of the Division of Land Ordinance, 1986 (Ordinance 20 of 1986) as amended as well as any future legislation repealing and replacing the ordinance, subject to:
- (a) The subdivision of a farm portion into five (5) portions only, including the remaining extent, not exceeding a minimum size of not less than 1 hectare (10 000m<sup>2</sup>) in extent.
- 15.3.4 Allowing the subdivision of farm portions outside the Urban Edge area of the Local Authority in terms of the Agricultural Land Act, 1970 (Act 70 of 1970) as amended as well as any future legislation repealing and replacing the act, subject to:
- (a) The subdivision of a farm portion into five (5) portions only, including the remaining extent, not exceeding a minimum size of not less than 1,5 hectare (15 000m<sup>2</sup>) in extent.

#### 15.4 PANHANDLE PROPERTY

Subject to the provisions of this Scheme a panhandle property shall further be subject to the following conditions and standards:

- 15.4.1 The panhandle shall only give access to the panhandle property of which it forms part of.
- 15.4.2 The slope of the panhandle shall not exceed 1:8 unless the necessary approval of the Local Authority was obtained to exceed such slope.
- 15.4.3 The panhandle shall not be less than three (3) metres and not more than eight (8) metres wide along its entire length.
- 15.4.4 The registered owner of the panhandle property shall construct the driveway of the panhandle at his own cost and to the satisfaction of the Local Authority, prior to or simultaneously with the erection of any building

on the panhandle property, and shall thereafter maintain the driveway in a dust free condition at his own cost and to the satisfaction of the Local Authority.

#### **CLAUSE 16** HEIGHT

- 16.1 Subject to the provisions of this Scheme, no building erected on a property may exceed the height in storeys allowed other than that stipulated in Schedule 2: Development Controls to this Scheme.
- 16.2 Basements shall be excluded from the calculations when determining the height of a building, except if the ceiling of such basement is more than one (1) metre above the mean natural ground level of the ground covered by the building.
- 16.3 No account shall be taken of any chimney, ornamental tower, turret or other similar architectural feature or any lift room or room in which mechanical equipment is housed.
- 16.4 No part of a building shall project above a line drawn from a point at street level on the opposite boundary of the street at an angle of 45 degrees to the horizontal (see Figure 1).
- 16.5 If a building is built at the corner of two intersecting streets of unequal width, the permissible height of that part of the building for a distance of sixteen (16) metres, measured from the corner of the intersection, along the narrower street, shall be determined by reference to the width of the wider street.
- 16.6 Any storey which as far as the ground floor is concerned exceeds 6 metres in height and as far as any floor above ground floor is concerned exceeds 4,5 metres in height shall for the purposes of this Scheme be deemed as a pro-rata plurality of storeys.
- 16.7 The Local Authority may with written consent and subject to any relevant conditions it may deem necessary, allow an increase in the number of storeys of a building with one (1) storey if satisfied that such an increase:
- 16.7.1 Is necessary or desirable due to the topography or locality of the site.
  - 16.7.2 Shall contribute to or improve the amenity of the local environment.
  - 16.7.3 Shall not result in a shortage of on-site parking spaces.
  - 16.7.4 Shall in no way compromise or exceed the prescripts contained in Clause 16.4 and 16.6 above.

#### **CLAUSE 17** COVERAGE

- 17.1 Subject to the provisions of this Scheme, no building on a property may exceed the percentage coverage allowed other than that stipulated in Schedule 2: Development Controls to this Scheme.
- 17.2 A verandah and/or balcony shall be excluded from the calculations when determining the coverage of such building where the exterior of the verandah

and/or balcony is not closed off, except with a parapet of not more than one (1) metre in height or a gauze screen.

- 17.3 Any building not covered with a roof shall be excluded from the calculations when determining the coverage of a building.
- 17.4 All covered parking shall be excluded from the calculations when determining the coverage of a property.

#### **CLAUSE 18 BUILDING LINES AND BUILDING RESTRICTION AREAS**

- 18.1 Subject to the provisions of this Scheme, no building on a property may be closer to a property boundary other than the distance in metres stipulated in Schedule 2: Development Controls to this Scheme.
- 18.2 The Local Authority may, if satisfied that such encroachment is in accordance with the relevant building line policy:
- 18.2.1 Allow the encroachment of a building into the building restriction area over the street building line by way of written consent approval.
- 18.2.2 Allow the encroachment of a building into the building restriction area over any side building line by way of site development plan approval.
- 18.3 The surface of a building restriction area on a property shall be open space and shall allow unobstructed access to authorised persons at all times.
- 18.4 The surface of a building restriction area on a property may be landscaped and may also be used for parking purposes.

#### **CLAUSE 19 PARKING AND LOADING**

- 19.1 Subject to the provisions of this Scheme, effective parking bays, manoeuvring spaces and loading bays shall be provided on a property as stipulated in Schedule 3: Minimum Parking Requirements to this Scheme.
- 19.2 The Local Authority may allow the relaxation of parking requirements on a property if satisfied that:
- 19.2.1 Special circumstances are clearly evident in a written motivation of the applicant.
- 19.2.2 Additions undertaken to an existing building, other than a dwelling unit, are of such an extent that no additional parking bays, manoeuvring space or loading bays are necessary.
- 19.3 The Local Authority shall only permit the provision of parking and loading bays to its satisfaction elsewhere than on the property in exceptional cases.
- 19.4 Existing buildings constructed prior to 1 January 1980 shall be excluded from the calculations when determining the number of parking bays needed.
- 19.5 The gross area per parking bay including the necessary manoeuvring space shall



not be less than 25 m<sup>2</sup> and shall apply for all new buildings and/or additions to existing buildings, except for those land uses permitted in the Residential 1 use zone.

- 19.6 No parking bay shall be temporarily or permanently allocated whether it is for payment or not, except for those land uses permitted in the Residential 1 use zone.

## **CLAUSE 20 LAND USES SUBJECT TO ADDITIONAL CONDITIONS**

Subject to the provisions of this Scheme, the following land uses shall be subject to additional conditions:

### **20.1 UNRELATED PERSONS**

- 20.1.1 A maximum of not more than three (3) bedrooms intended for boarding and/or occupation shall be allowed in the outbuildings.
- 20.1.2 The gross leasable area for all outbuildings, including the bedrooms intended for boarding and/or occupation, excluding covered parking, shall not exceed 60m<sup>2</sup> in extent.
- 20.1.3 Neither the owner, nor the unrelated person shall construct or provide an additional kitchen(s) in the outbuildings.
- 20.1.4 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

### **20.2 FLATLET**

- 20.2.1 A building plan shall be submitted for approval to the Local Authority and must be approved prior to the commencement of any building work.
- 20.2.2 The gross leasable area of the flatlet shall not exceed 100m<sup>2</sup> in extent.
- 20.2.3 For the purpose of this Scheme, the flatlet shall not be considered as an additional dwelling unit, and can therefore not be sold separately.
- 20.2.4 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

### **20.3 HOUSEHOLD ENTERPRISE**

- 20.3.1 Not more than three (3) persons in addition to the occupants of a single dwelling unit shall be employed.
- 20.3.2 No display of goods in public shall be permitted and no activity in connection with such Household Enterprise may be visible from any street or road.
- 20.3.3 The maximum area per dwelling unit, storage included, which may be occupied in respect of the Household Enterprise, shall in total not exceed 40m<sup>2</sup> and/or not more than 40% (percent) of the gross leasable area of the dwelling unit, whichever is the lesser.

20.3.4 Permission to practise the Household Enterprise shall apply only to the person to whom it has been granted and only for the period during which such person is occupying the relevant dwelling unit.

20.3.5 No panel-beating and/or spray-painting shall be allowed.

20.3.6 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

#### 20.4 HOUSE SHOP

20.4.1 Not more than three (3) persons in addition to the occupants of a single dwelling unit shall be employed.

20.4.2 The maximum area per dwelling unit, storage included, which may be occupied in respect of the House Shop, shall in total not exceed 40m<sup>2</sup> and/or not more than 40% (percent) of the gross leasable area of the dwelling unit, whichever is the lesser area.

20.4.3 Permission to practise the House Shop shall apply only to the person to whom it has been granted and only for the period during which such person is occupying the relevant dwelling unit.

20.4.4 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

#### 20.5 PUBLIC GARAGE

20.5.1 A screen wall, the extent, material, design, height, position and maintenance thereof, shall be erected to the satisfaction of the Local Authority.

20.5.2 No material or equipment whatsoever shall be stored or stacked:

(a) Higher than the height of the screen wall.

(b) Outside the garage building or screen wall, unless the necessary approval of the Local Authority has therefore been obtained, provided that:

(i) The fuel pumps and/or oil and fuel installations located outside the building and/or screen wall shall be to the satisfaction of the Local Authority.

20.5.3 The area where any vehicle shall be refuelled, repaired or serviced shall be paved to the satisfaction of the Local Authority.

20.5.4 No motor wreckages whatsoever shall be stacked and/or stored on the property.

20.5.5 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

## 20.6 INDUSTRIAL USE

- 20.6.1 The owner or occupant of the property may sell goods which have been wholly or partly manufactured or processed or assembled on the property.
- 20.6.2 The Local Authority may permit the retail trade of other goods not manufactured on the property, provided that:
- (a) Such other goods shall form part of, or be connected with the selling of and/or for use with or together with goods which are wholly or partly manufactured or processed or assembled on the property.
  - (b) A Public Garage shall not be included in the foregoing description.
- 20.6.3 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

## 20.7 RURAL ESTATE

- 20.7.1 The land use footprint of the estate, consisting of the area of the subdivided properties and the adjoining access roads, shall not exceed 10% (percent) of the original farm area.
- 20.7.2 No further subdivision of the estate shall be allowed.
- 20.7.3 All services shall be provided and maintained by the developer and subsequent Home Owners Association, established in terms of the conditions of the Companies Act 2008 (Act 71 of 2008) as amended, to the satisfaction of the Local Authority.
- 20.7.4 The owner of each of the newly formed portions must become and shall remain a member of the Home Owners Association or similar non-profitable company and shall be subject to its memorandums and articles of association until he ceases to be an owner as aforesaid. The portion shall not be transferred to any person that has not become a member of the association.
- 20.7.5 The same architectural style and building materials shall be maintained for all buildings.
- 20.7.6 Fencing or screening of the site shall be erected and maintained to the satisfaction of the Local Authority.
- 20.7.7 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

## 20.8 RECREATION RESORT

- 20.8.1 A resort development shall be linked to a distinct natural or man made resource or attraction and shall provide buildings and/or facilities in a scenic area to create a relaxing environment to people on vacation or day visitors, commensurate with the natural and/or man-made resource carrying capacity.

- 20.8.2 All services shall be provided and maintained by the developer/landowner to the satisfaction of the Local Authority.
- 20.8.3 The same architectural style and building materials shall be maintained for all buildings.
- 20.8.4 Fencing or screening of the site shall be erected and maintained to the satisfaction of the Local Authority.
- 20.8.5 The Local Authority may impose any additional conditions which are deemed necessary or desirable.

## **PART IV CONSENT USE PROCEDURES**

### **CLAUSE 21 WRITTEN CONSENT**

Any person intending to apply for any written consent of the Local Authority required in terms of this Scheme:

- 21.1 Shall submit such application to the Local Authority in a manner as determined by the Local Authority.
- 21.2 The Local Authority shall take into consideration any objections or representations received and shall notify the applicant and the persons, if any, from whom objections or representations were received, of its decision in writing.
- 21.3 In accordance with the stipulations of the Promotion of Administrative Justice Act, 2002 (Act 3 of 2002) as amended, and where the Local Authority is of the opinion that the general amenity of the neighbourhood is harmed, or a nuisance is created as a result of the activities being exercised, the permission granted shall be withdrawn without compensation payable.

### **CLAUSE 22 SPECIAL CONSENT**

Any person intending to apply for any special consent of the Local Authority required in terms of this Scheme:

- 22.1 Shall submit such application to the Local Authority in a manner as determined by the Local Authority.
- 22.2 In accordance with the stipulations of the Promotion of Administrative Justice Act, 2002 (Act 3 of 2002) as amended, and where the Local Authority is of the opinion that the general amenity of the neighbourhood is harmed, or a nuisance is created as a result of the activities being exercised, the permission granted shall be withdrawn without compensation payable.

### **CLAUSE 23 APPEAL AGAINST A DECISION OF THE LOCAL AUTHORITY**

Appeals against any decision of the Local Authority may be lodged in terms of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) as amended, as well as any future legislation repealing and replacing the ordinance.

### **CLAUSE 24 REGISTER OF CONSENTS AND CONDITIONS**

The Local Authority shall keep a register or record of all town planning scheme amendments and consents in terms of this Scheme, as stipulated in the Regulations to the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) as amended, as well as any future legislation repealing and replacing the ordinance.

## **PART V POWERS OF THE LOCAL AUTHORITY**

### **CLAUSE 25 SERVING OF NOTICES**

Any order, notice or other document, required or authorised to be served in terms of this Scheme must be in a manner as determined by the Local Authority.

### **CLAUSE 26 ENTRY AND INSPECTION OF A PROPERTY**

- 26.1 The Local Authority shall have power, by its duly authorised officers, to enter into and upon such property at all reasonable times, for purposes of any inspection which the Local Authority may deem necessary or desirable for the purposes of this Scheme.
- 26.2 No person shall in any way hinder, obstruct, or interfere with any duly authorised officer of the Local Authority, or cause or, in so far as he has any authority, permit such officer to be hindered, obstructed or interfered with in the exercise of his powers hereby granted.

### **CLAUSE 27 CONTRAVENTION OF THIS SCHEME**

- 27.1 Any person who contravenes or fails to comply with the provisions of this Scheme shall be guilty of an offence.
- 27.2 Any person who wilfully and with intent to defraud furnishes false or misleading information in connection with an application contemplated in terms of this Scheme shall be guilty of an offence.

### **CLAUSE 28 AVAILABILITY OF THIS SCHEME FOR PURPOSES OF INSPECTION**

- 28.1 The Local Authority shall permit any interested person to inspect this Scheme during normal office hours.

TLOKWE TOWN PLANNING SCHEME 2015																							
SCHEDULE 1: LAND USES																							
LAND USES	USE ZONE																						
	USE ZONE CODES	T01	T02	T03	T04	T11	T12	T13	T14	T21	T22	T31	T32	T41	T42	T51	T52	T61	T62	T71	T72	T81	T82
	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	RESIDENTIAL 4	BUSINESS 1	BUSINESS 2	BUSINESS 3	OFFICE	INDUSTRIAL	COMMERCIAL	INSTITUTIONAL	EDUCATIONAL	PUBLIC GARAGE	PARKING	MUNICIPAL	GOVERNMENT	AGRICULTURAL	MINING	PUBLIC OPEN SPACE	PRIVATE OPEN SPACE	PUBLIC ROAD	PRIVATE ROAD	
<b>REFERENCE</b>																							
● Permitted Use																							
■ Written Consent																							
▲ Special Consent																							
∅ Other legislation																							
TE Township Establishment																							
AGRICULTURAL USE																		●	●				
AGRI INDUSTRY																		▲			▲		
ANIMAL ESTABLISHMENT																		▲					
BUILDERS YARD									●	●								▲					
CEMETERY									●	●						■		▲					
COMMERCIAL USE										●	●												
DWELLING HOUSE	●				●	●	●	●			●	●	●	●				●					
DWELLING UNIT		●	●	●	●	●	●	●			▲	▲											
FILLING STATION					▲	▲	▲		●	●				●									
FLATLET	■																	▲					
GOVERNMENT PURPOSES																	●						
GUEST HOUSE												▲	▲					▲					
HOTEL				▲	●	●	●					▲	▲					▲					
HOUSEHOLD ENTERPRISE	■	■	■	■					■			■	■	■				▲					
HOUSE SHOP	■																	▲					
INDUSTRIAL USE									●														
INFORMAL SETTLEMENT										●						●	●	TE					
INSTITUTION			▲	▲	▲	●	●	●			●	●											
MEDICAL CONSULTING ROOM					●	●	●	●															
MINING AND QUARRYING																		●					
MOTOR SALES MART					●	●	▲		●	●				●									
MUNICIPAL PURPOSES																●							
NATURE RESERVE																∅	∅	∅		∅	∅		
NOXIOUS INDUSTRIAL USE									▲														
NURSERY					●	●	●			●								▲					
OFFICE USE					●	●	●	●	●	●	●							▲					
PARKING GARAGE					●	●	▲	▲	●	●	▲	▲	●	●									
PLACE OF AMUSEMENT					●	▲	▲		▲	▲		▲	▲										
PLACE OF INSTRUCTION	▲				●	●	●	●				●						▲					
PLACE OF PUBLIC WORSHIP					●	●	●				●	●						▲					
PRIVATE OPEN SPACE																				●			
PRIVATE STREET																							●
PUBLIC GARAGE					▲	▲	▲		●	▲				●									
PUBLIC OPEN SPACE																							
RECREATION RESORT																		▲					
RESIDENTIAL USE			●	●	●	●	●				●	●											
RESTAURANT					●	●	▲	▲		▲		▲	▲					▲					
RURAL ESTATE																		TE					
SCRAP-YARD									●														
SERVICE ENTERPRISE					●	●	●	●	●	●								▲					
SERVICE INDUSTRY					▲	▲	▲		▲	▲				▲				▲					
SHOP					●	●	▲											▲					
SOCIAL HALL					●	●	▲				●	●						▲					
SPECIAL USE	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
SPORT AND RECREATION									■	■	●	●				●	●	▲	■	●	■		
STREET																						●	●
TAVERN					●	▲	▲																
TELECOMMUNICATION STRUCTURES					▲	▲	▲	▲	▲	●	●	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
TRANSPORT DEPOT									●	●				▲				▲					
TRANSPORT TERMINUS					▲	▲	▲		●	●								▲					
3 UNRELATED PERSONS	●																						
2 ADDITIONAL UNRELATED PERSONS	■																						
VETERINARY CLINIC					●	●	▲	▲		▲								▲					
WAREHOUSE									●	●								▲					

<b>TLOKWE TOWN PLANNING SCHEME 2015</b>																						
<b>SCHEDULE 2: DEVELOPMENT CONTROLS</b>																						
<b>USE ZONE</b>																						
<b>USE ZONE CODES</b>	T01	T02	T03	T04	T11	T12	T13	T14	T21	T22	T31	T32	T41	T42	T51	T52	T61	T62	T71	T72	T81	T82
	RESIDENTIAL 1	RESIDENTIAL 2	RESIDENTIAL 3	RESIDENTIAL 4	BUSINESS 1	BUSINESS 2	BUSINESS 3	OFFICE	INDUSTRIAL	COMMERCIAL	INSTITUTIONAL	EDUCATIONAL	PUBLIC GARAGE	PARKING	MUNICIPAL	GOVERNMENT	AGRICULTURAL #	MINING	PUBLIC OPEN SPACE	PRIVATE OPEN SPACE	PUBLIC ROAD	PRIVATE ROAD
<b>HEIGHT</b>																						
Maximum Storeys	2	2	2	≥3	≥4	3	2	2		3	4	4	2				2					
<b>COVERAGE</b>																						
Maximum %	70	50	50	65	70	70	50	50	70	70	70	70	70				10					
<b>BUILDING LINES</b>																						
Street Boundary Erven > 500m <sup>2</sup> (metres)	3	3	3																			
Street Boundary Erven < 500m <sup>2</sup> (metres)	1	1	1																			
Street Boundary (metres)				3	3	3	3	3	8	5	6	6	5									
Side Boundaries (metres)	2	3	3	3	2	2	2	2	5	2	3	3	2									
<b>SITE DENSITY</b>																						
Maximum Units/ERF	1																					
Maximum Units/HA		25	122	289	>289	289	122	122			289	289										
<b>MINIMUM ERF SIZE (m<sup>2</sup>)</b>																						
Ikageng, Mohadin, Promosa and extensions	300	300	180																			
Baillie Park, Dassierand, Grimbeekpark, Potchefstroom, Portions of Erf 315 Potchindustria, Van der Hoffpark, Ferdinand Postmapark and extensions	500	300	180																			
<b>LANDSCAPING</b>																						
Minimum %		10	10	10	7	7	10	10		7	10	10	7	7								

Notes:

# Refer to Schedule 2.1 Development Controls Use Zone Code T61: Agricultural



## TLOKWE TOWN PLANNING SCHEME 2015

### SCHEDULE 2.1: DEVELOPMENT CONTROLS

#### USE ZONE AGRICULTURAL (T61)

	AGRICULTURAL USE	AGRI INDUSTRY	ANIMAL ESTABLISHMENT	BUILDERS YARD	DWELLING HOUSE	FLATLET	GUEST HOUSE	HOUSEHOLD ENTERPRISE	HOUSE SHOP	INFORMAL SETTLEMENT	MINING AND QUARRYING	NATURE RESERVE	NURSERY	PLACE OF INSTRUCTION	PLACE OF PUBLIC WORSHIP	RECREATION RESORT	RURAL ESTATE (Nodal) §	RURAL ESTATE (Non-Nodal)	SERVICE ENTERPRISE	SERVICE INDUSTRY	SHOP	SOCIAL HALL	SPORT AND RECREATION	TELECOMMUNICATION STRUCTURES	TRANSPORT DEPOT	VETERINARY CLINIC	WAREHOUSE
<b>HEIGHT</b>																											
Maximum storeys	2	2	2	2	2	2	2	2	2	2		2	2	2	2	2	2	2	2	2	2	2	2		2	2	2
<b>COVERAGE</b>																											
Maximum floor area – dwelling units (including outbuildings)						250m <sup>2</sup>											500m <sup>2</sup>	500m <sup>2</sup>									
<b>BUILDING LINES</b>																											
Street boundary (metres)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	3m*	3m*	*	*	*	*	*	*	*	*	*
Side boundaries (metres)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	10m*	6m*	6m*	*	*	*	*	*	*	*	*	*
<b>DEVELOPMENT FOOTPRINT</b>																											
Maximum % of farm																	10%	10%									
<b>DENSITY</b>																											
Minimum property size																	1500m <sup>2</sup>	2000m <sup>2</sup>									
Maximum units/ha (land use footprint)																	<1,33	<1,33									
Maximum dwelling unit/property					1	1											1	1									
Chalets/Houses (units/ha – land use footprint)																¥											
Caravan stands (stands/ha – land use footprint)																¥											
Minimum caravan stand size																120m <sup>2</sup>											
<b>RIPARIAN AREA</b>																											
Minimum % open space (Concentrated in one part)																	30%#	30%#	30%#								
Density of units on waterfront (metres)																	1/10m#	1/75m#	1/75m#								
Minimum length of waterfront (metres)																	100m#	150m#	150m#								
<b>GENERAL</b>																											
Site Development Plan		Yes										Yes				Yes	Yes	Yes									
Geotechnical Report		Yes									Yes					Yes	Yes	Yes									
Services Report		Yes									Yes					Yes	Yes	Yes									
1:100 Flood line		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
EIA Environmental Authorization		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

**Notes:**

\* According to the requirements of the relevant road authority, title deed of the property and Tlokwe City Council Road Master Plan.

§ As per Tlokwe Spatial Development Framework Plan(SDF), as amended.

¥ As per approved Environmental Impact Assessment (EIA).

# To be calculated and indicated on the layout plan of proposed development.

<b>TLOKWE TOWN PLANNING SCHEME 2015</b>		
<b>SCHEDULE 3: MINIMUM PARKING REQUIREMENTS</b>		
<b>LAND USES</b>	<b>PARKING BAYS</b>	<b>LOADING BAYS</b>
AGRICULTURAL USE		
AGRI INDUSTRY	Four (4) per 100m <sup>2</sup> office GLA	As per Site Development Plan
ANIMAL ESTABLISHMENT	Four (4) per 100m <sup>2</sup> office GLA	
BUILDERS YARD	One (1) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
CEMETERY	Four (4) per 100m <sup>2</sup> office GLA	
COMMERCIAL USE	One (1) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
DWELLING HOUSE	One (1) per dwelling unit	
DWELLING UNIT (two or less habitable rooms)	a) One (1) covered per dwelling unit; b) One (1) uncovered per three (3) dwelling units for visitors	
DWELLING UNIT (three or more habitable rooms)	a) One (1) covered and one (1) uncovered per dwelling unit; b) One (1) uncovered per three (3) dwelling units for visitors	
FILLING STATION	a) Four (4) per 100m <sup>2</sup> GLA; b) One (1) per pump	One (1) per 500m <sup>2</sup> or part of GLA
FLATLET	One (1) per dwelling unit	
GOVERNMENT PURPOSES	As per rational design	As per rational design
GUEST HOUSE	a) One (1) per bedroom; b) One (1) per three (3) bedrooms for visitors	One (1) per 500m <sup>2</sup> or part of GLA
HOTEL	a) One (1) per bedroom; b) Six (6) per 100m <sup>2</sup> GLA accessible to the public	One (1) per 500m <sup>2</sup> or part of GLA
HOUSEHOLD ENTERPRISE	One (1) per employee	
HOUSE SHOP	Two (2) per 100m <sup>2</sup> GLA	
INDUSTRIAL USE	Four (4) per 100m <sup>2</sup> office GLA	One (1) per 500m <sup>2</sup> or part of GLA
INFORMAL SETTLEMENT		
INSTITUTION	a) One (1) per 100m <sup>2</sup> GLA; and/or b) One (1) per two (2) beds where applicable	One (1) per 500m <sup>2</sup> or part of GLA
MEDICAL CONSULTING ROOM	Six (6) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
MINING AND QUARRYING	Four (4) per 100m <sup>2</sup> office GLA	As per Site Development Plan
MOTOR SALES MART	Two (2) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
MUNICIPAL PURPOSES	As per rational design	As per rational design
NATURE RESERVE	As per rational design	As per rational design
NOXIOUS INDUSTRIAL USE	One (1) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
NURSERY	One (1) per 100m <sup>2</sup> of property area	Two (2) per nursery
OFFICE USE	Four (4) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
PARKING GARAGE	Four (4) per 100m <sup>2</sup> office GLA	
PLACE OF AMUSEMENT	Six (6) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
PLACE OF INSTRUCTION	One (1) per six (6) seats	One (1) per 500m <sup>2</sup> or part of GLA
PLACE OF PUBLIC WORSHIP	One (1) per six (6) seats	One (1) per 500m <sup>2</sup> or part of GLA
PRIVATE OPEN SPACE		
PRIVATE STREET		
PUBLIC GARAGE	a) Four (4) per 100m <sup>2</sup> GLA; b) One (1) per pump	One (1) per 500m <sup>2</sup> or part of GLA
PUBLIC OPEN SPACE		
RECREATION RESORT	a) One (1) per leasable unit/caravan stand b) Six (6) per 100m <sup>2</sup> public area	
RESIDENTIAL USE	a) One (1) per bedroom; b) One (1) per three (3) bedrooms for visitors	
RESTAURANT	One (1) per four (4) seats	One (1) per 500m <sup>2</sup> or part of GLA
RURAL ESTATE	Two (2) per dwelling unit	
SCRAP-YARD	One (1) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
SERVICE ENTERPRISE	Four (4) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
SERVICE INDUSTRY	Four (4) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
SHOP	Four (4) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
SOCIAL HALL	Six (6) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
SPECIAL USE	As per consent granted	As per consent granted
SPORT AND RECREATION	As per rational design	As per rational design
STREET		
TAVERN	Refer to PLACE OF AMUSEMENT and RESTAURANT	
TELECOMMUNICATION STRUCTURES		
TRANSPORT DEPOT	Four (4) per 100m <sup>2</sup> office GLA	
TRANSPORT TERMINUS	Four (4) per 100m <sup>2</sup> office GLA	One (1) per 500m <sup>2</sup> or part of GLA
UNRELATED PERSONS	a) One (1) per unrelated person; b) One (1) per three (3) unrelated persons for visitors	
VETERINARY CLINIC	Six (6) per 100m <sup>2</sup> GLA	One (1) per 500m <sup>2</sup> or part of GLA
WAREHOUSE	Four (4) per 100m <sup>2</sup> office GLA	One (1) per 500m <sup>2</sup> or part of GLA

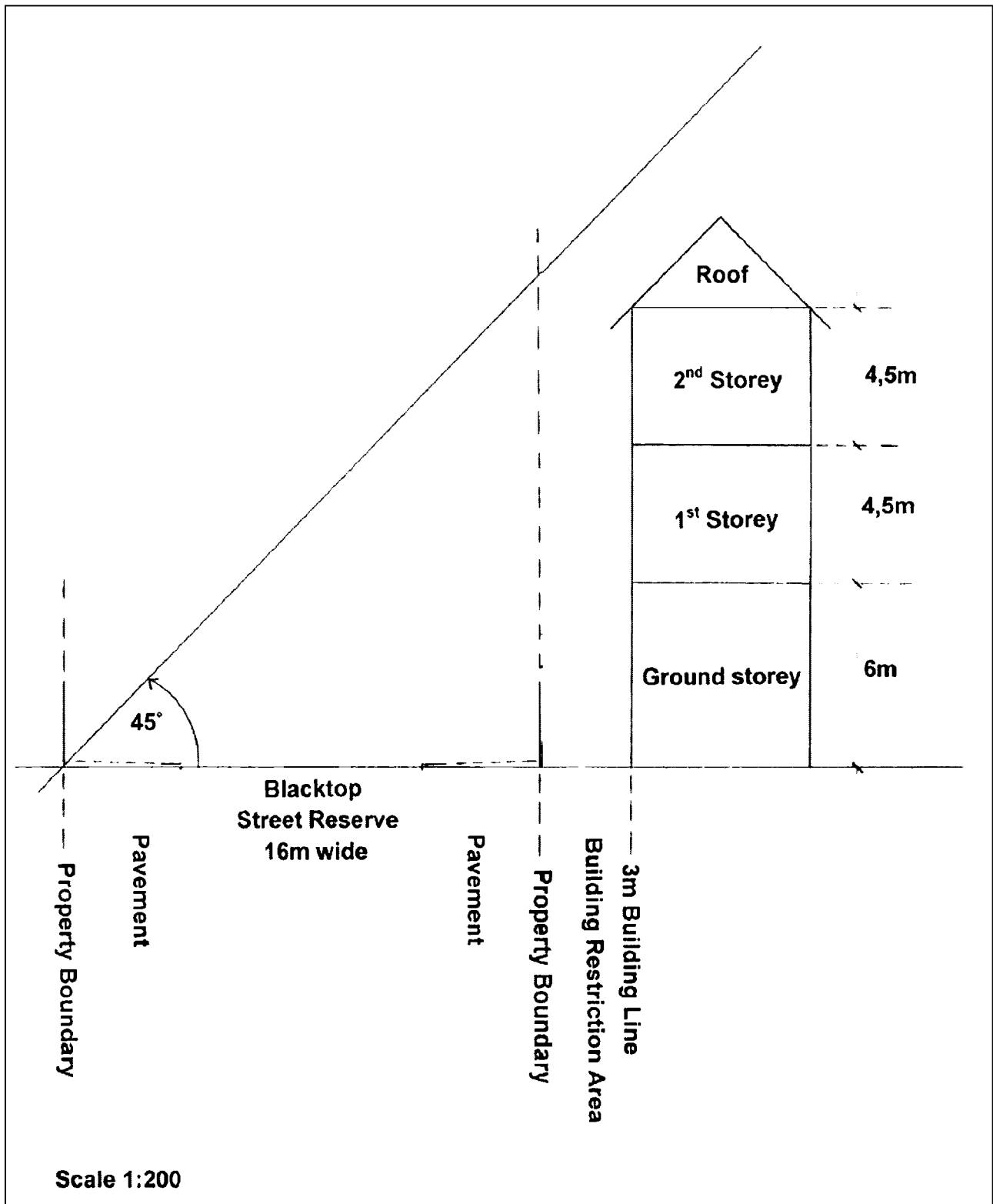


FIGURE 1: RELATIONSHIP BETWEEN BUILDING HEIGHT, STOREYS, BUILDING LINES AND STREET RESERVE

**PROVINCIAL NOTICE 36 OF 2016**

Tlokwe City Council

Notice is hereby given in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) that the Tlokwe City Council adopted the following Spatial Planning and Land Use Management By-Law, which will come into effect on the date of publication hereof in the Provincial Gazette.

**Dr N E BLAAI MOKGETHI**  
**MUNICIPAL MANAGER**

Notice 11/2016  
/ne



# **TLOKWE CITY COUNCIL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW**

## ARRANGEMENT OF SECTIONS

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#### DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

##### Sections

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- 2 Application of By-Law
- 3 Conflict of laws

### CHAPTER 2

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- 5 Contents of municipal spatial development framework
- 6 Intention to prepare, amend or review municipal spatial development framework
- 7 Institutional framework for preparation, amendment or review of municipal spatial development framework
- 8 Preparation, amendment or review of municipal spatial development framework
- 9 Public participation
- 10 Local spatial development framework
- 11 Compilation, amendment or review of local spatial development framework
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- 17 General matters pertaining to land use scheme
- 18 Development of draft land use scheme
- 19 Council approval for publication of draft land use scheme
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- 21 Incorporation of relevant comments
- 22 Preparation of land use scheme
- 23 Submission of land use scheme to Council for approval and adoption
- 24 Publication of notice of adoption and approval of land use scheme
- 25 Submission to Member of Executive Council
- 26 Records
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- 36 Initial screening of nomination by Municipality
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## CHAPTER 1 DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

### 1 Definitions

In this By-Law, unless the context indicates otherwise, a word or expression defined in the Act, the Regulations or provincial legislation has the same meaning as in this By-law and -

“**Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

“**appeal authority**” means the executive authority of the municipality or any other body or institution outside of the municipality authorised by that municipality to assume the obligations of an appeal authority for purposes of appeals lodged in terms of the Act;

“**approved township**” means a township declared an approved township in terms of section 61 of this By-law;

“**By-Law**” means this By-Law and includes the schedules attached hereto or referred to herein.

“**communal land**” means land under the jurisdiction of a traditional council determined in terms of section 6 of the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005) and which was at any time vested in -

- (a) the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or
- (b) the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

“**consent**” means a land use right that may be obtained by way of consent from the municipality and is specified as such in the land use scheme;

“**consolidation**” means the joining of two or more pieces of land into a single entity;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

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

**“Days”** When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.

**“deeds registry”** means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

**“diagram”** means a diagram as defined in the Land Survey Act, 1997 (Act No. 8 of 1997);

**“dolomite land”** is defined as land underlain by dolomite at depths of:

- up to 60m where previous dewatering did not take place, and the local authority has management and monitoring measures in place to control the groundwater levels, or
- a depth of up to 100m where previous dewatering has taken place, or where the local authority has no jurisdiction or control over groundwater levels in the areas under consideration.

**“Dolomite Risk Management Strategy”** refers to the adopted Tlokwe City Council’s Dolomite Risk Management Strategy (DRMS) report which furthermore entails the process of using scientific, planning, engineering and social processes, procedures and measures to manage an environmental hazard, and encompasses policies and procedures set in place to reduce the likelihood of events (sinkholes and subsidences) occurring on dolomite land.

**“Dolomite Risk Management Plan”** refers to the adopted Tlokwe City Council’s Dolomite Risk Management Plan (DRMP)

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

**“hazard”** is a source of potential harm

**“land”** means -

- (a) any erf, agricultural holding or farm portion, and includes any improvements or building on the land and any real right in land, and
- (b) the area of communal land to which a household holds an informal right recognized in terms of the customary law applicable in the area where the land to which such right is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

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

**“Land Development Officer”** means the authorised official defined in regulation 1 of the Regulations of the Act;

**“land use scheme”** means the land use scheme adopted and approved in terms of Chapter 3 of this By-law and for the purpose of this By-law includes an existing scheme until such time as the existing scheme is replaced by the adopted and approved land use scheme.

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

**“municipal area”** means the area of jurisdiction of the Tlokwe City Council in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

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

**“Municipal Planning Tribunal”** means the Tlokwe/Ventersdorp Joint Municipal Planning Tribunal established in terms of section 44 of the By-Law;

**“Municipality”** means the Municipality of Tlokwe City Council or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No 6/2007(Provincial Gazette 6419 of 2007/08/07)in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes a municipal department, the Council, the Municipal Manager or an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

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

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

**“Premier”** means the Premier of the Province of North West;

**“previous planning legislation”** means any planning legislation that is repealed by the Act or the provincial legislation; or any other legislation

**“provincial legislation”** means legislation contemplated in section 10 of the Act promulgated by the Province;

**“Province”** means the Province of North West referred to in section 103 of the Constitution;

**“Public spaces”** means a social space that is generally open and accessible to people and includes roads, road reserves, streets, street reserves, public squares, parks and public parking areas

**“Regulations”** means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015; made in terms of Section 54 of the Act

**“SANS 1936 (2012)”** is the South African National Standards for development on dolomite land

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

**“sinkhole”** is a feature that occurs suddenly and manifests itself as a hole in the ground.

“**spatial development framework**” means the Tlokwe City Council Spatial Development Framework;

“**subdivision**” means the division of a piece of land into two or more portions;

“**subsidence**” is a shallow enclosed depression

“**the Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 and any subsidiary legislation or other legal instruments issued in terms thereof;

“**township register**” means an approved subdivision register of a township in terms of the Deeds Registries Act;

“**traditional communities**” means communities recognised in terms of TRADITIONAL LEADERSHIP AND GOVERNANCE FRAMEWORK ACT 41 OF 2003

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

- (1) This By-law applies to all land within the geographical area of jurisdiction of the Municipality, including land owned by the state.
- (2) This By-law binds every owner and their successor-in-title and every user of land, including the state.

## **3 Conflict of laws**

- (1) This By-law is subject to the relevant provisions of the Act and the provincial legislation.
- (2) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (3) Where a provision of this By-law is in conflict with a provision of the Act or provincial legislation, the Municipality must institute the conflict resolution measures provided for in the Act or in provincial legislation, or in the absence of such measures, the measures provided for in the Intergovernmental Relations Framework Act, 2005 (Act No.13 of 2005); to resolve the conflict and until such time as the conflict is resolved, the provisions of this By-law prevails.
- (4) Where a provision of the land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law prevails.
- (5) Where there is a conflict between this By-law and another By-law of the Municipality, this By-Law prevails over the affected provision of the other By-law in respect of any municipal planning matter.

## **CHAPTER 2**

### **MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK**

## **4 Municipal spatial development framework**

- (1) The Municipality must draft a municipal spatial development framework in accordance with the provisions of sections 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems Act.
- (2) A municipal spatial development framework does not confer or take away land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.

**5 Contents of municipal spatial development framework**

- (1) A municipal spatial development framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Municipal Systems Act and provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for municipal planning.
- (2) Over and above the matters required in terms of subsection (1), the Municipality may determine any further plans, policies and instruments by virtue of which the municipal spatial development framework must be applied, interpreted and implemented.
- (3) A municipal spatial development framework must contain transitional arrangements with regard to the manner in which the municipal spatial development framework is to be implemented by the Municipality.

**6 Intention to prepare, amend or review municipal spatial development framework**

A Municipality which intends to prepare, amend or review its municipal spatial development framework-

- (a) may convene an intergovernmental steering committee and a project committee in accordance with section 7;
- (b) must publish a notice in two of the official languages of the Province most spoken in the municipal area of the Municipality of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act in two newspapers circulating in the area concerned;
- (c) must inform the Member of the Executive Council in writing of -
  - (i) its intention to prepare, amend or review the municipal spatial development framework;
  - (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation; and
- (e) must register relevant stakeholders who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.



## **7 Institutional framework for preparation, amendment or review of municipal spatial development framework**

- (1) The purpose of the intergovernmental steering committee contemplated in section 6(a) is to coordinate the applicable contributions into the municipal spatial development framework and to
  - (a) provide technical knowledge and expertise;
  - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
  - (c) communicate any current or planned projects that have an impact on the municipal area;
  - (d) provide information on the locality of projects and budgetary allocations; and
  - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—
  - (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
  - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.
- (3) The purpose of the project committee contemplated in section 6(a) is to –
  - (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise;
  - (c) monitor progress and ensure that the drafting municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
  - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
  - (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;
  - (f) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;

- (i) if the Municipality decides to establish an intergovernmental steering committee—
  - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
  - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee must consist of –
  - (a) the Municipal Manager or his/her delegate;
  - (b) municipal employees from at least the following municipal departments:
    - (i) the integrated development planning office;
    - (ii) the planning department;
    - (iii) the engineering department;
    - (iv) the local economic development department;
    - (v) the environmental services department; and
    - (vi) the human settlement department.

## **8 Preparation, amendment or review of municipal spatial development framework**

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo document and submit it to the Council for adoption.
- (3) The project committee must prepare a first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and submit it to the Council, together with the report referred to in subsection (5), to approve the publication of a notice referred to in section 9(4) that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.
- (5) The project committee must submit a written report as contemplated in subsection (4) which must at least —

- 
- (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
  - (b) summarise the process of drafting the municipal spatial development framework;
  - (c) summarise the consultation process to be followed with reference to section 9 of this By-law;
  - (d) indicate the involvement of the intergovernmental steering committee, if convened by the Municipality;
  - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
  - (f) indicate the alignment with the national and provincial spatial development frameworks;
  - (g) indicate all sector plans that may have an impact on the municipal spatial development framework;
  - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
  - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
  - (7) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the final municipal spatial development framework or final amendment or review of the municipal spatial development framework and submit it to the Council for adoption.
  - (8) If the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, as contemplated in subsection (6), is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.
  - (9) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision –
    - (a) give notice of its adoption in the media and the *Provincial Gazette*; and
    - (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.

- (10) The municipal spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subsection 9.
- (11) If no intergovernmental steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.

## **9 Public participation**

- (1) Public participation undertaken by the Municipality must contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act.
- (2) In addition to the publication of notices in the *Provincial Gazette* and a newspaper that is circulated in the municipal area, the Municipality may, subject to section 21A of the Municipal Systems Act, use any other method of communication it may deem appropriate.
- (3) The Municipality may for purposes of public engagement on the content of the draft municipal spatial development framework arrange -
  - (a) specific consultations with professional bodies, ward communities or other groups; and
  - (b) public meetings.
- (4) The notice contemplated in section 8(4) must specifically state that any person or body wishing to provide comments must-
  - (a) do so within a period of 60 days from the first day of publication of the notice;
  - (b) provide written comments; and
  - (c) provide their contact details as specified in the definition of contact details.

## **10 Local spatial development framework**

- (1) The Municipality may adopt a local spatial development framework for a specific geographical area of a portion of the municipal area.
- (2) The purpose of a local spatial development framework is to:
  - (a) provide detailed spatial planning guidelines or further plans for a specific geographic area or parts of specific geographical areas and may include precinct plans;
  - (b) provide more detail in respect of a proposal provided for in the municipal spatial development framework or necessary to give effect to the municipal spatial development framework and or its integrated development plan and other relevant sector plans;
  - (c) address specific land use planning needs of a specified geographic area;
  - (d) provide detailed policy and development parameters for land use planning;

- (e) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, biodiversity and environmental issues; or
- (f) guide decision making on land development applications;
- (g) or any other relevant provision that will give effect to its duty to manage municipal planning in the context of its constitutional obligations.

#### **11 Compilation, amendment or review of local spatial development framework**

- (1) If the Municipality prepares, amends or reviews a local spatial development framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.
- (2) The municipality must, within 21 days of adopting a local spatial development framework or an amendment of local spatial development framework, publish a notice of the decision in the media and the Provincial Gazette and submit a copy of the local spatial development framework to the Member of the Executive Council.

#### **12 Effect of local spatial development framework**

- (1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 8(9).
- (2) A local spatial development framework guides and informs decisions made by the Municipality relating to land development, but it does not confer or take away rights.

#### **13 Record of and access to municipal spatial development framework**

- (1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved municipal or local spatial development framework and or any component thereof applicable within the jurisdiction of the Municipality.
- (2) Should anybody or person request a copy of the municipal or local spatial development framework the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved municipal spatial development framework or any component thereof.

#### **14 Departure from municipal spatial development framework**

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
  - (a) a variance that does not materially change the municipal spatial development framework;  
and
  - (b) a unique circumstance pertaining to a discovery of national importance.

- (2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, prior to the Municipal Planning Tribunal taking a decision which would constitute a variance from the municipal spatial development framework.

### **CHAPTER 3 LAND USE SCHEME**

#### **15 Applicability of Act**

Sections 24 to 30 of the Act apply to any land use scheme developed, prepared, adopted and amended by the Municipality.

#### **16 Purpose of land use scheme**

In addition to the purposes of a land use scheme stipulated in section 25(1) of the Act, the Municipality must determine the use and development of land within the municipal area of jurisdiction to which it relates in order to promote -

- (a) harmonious and compatible land use patterns;
- (b) aesthetic considerations;
- (c) sustainable development and densification; and
- (d) the accommodation of cultural customs and practices of traditional communities in land use management; and
- (e) a healthy environment that is not harmful to a person's health.

#### **17 General matters pertaining to land use scheme**

(1) In order to comply with section 24(1) of the Act, the Municipality must -

- (a) develop a draft land use scheme as contemplated in section 18;
- (b) obtain Council approval for publication of the draft land use scheme as contemplated in section 19;
- (c) embark on the necessary public participation process as contemplated in section 20;
- (d) incorporate relevant comments received during the public participation process as contemplated in section 21;
- (e) prepare the land use scheme as contemplated in section 22;

- (f) submit the land use scheme to the Council for approval and adoption as contemplated in section 23;
  - (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in section 24; and
  - (h) submit the land use scheme to the Member of the Executive Council as contemplated in section 25.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (3) Zoning may be made applicable to a land unit or part thereof and must follow cadastral boundaries.
- (4) The land use scheme of the Municipality must take into consideration:
- (a) the Integrated Development Plan in terms of the Municipal Systems Act;
  - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law, and
  - (c) provincial legislation.

#### **18 Development of draft land use scheme**

- (1) Before the Municipality commences with the development of a draft land use scheme, the Council must take resolve to develop and prepare a land use scheme, provided that in its resolution the Council must:
- (a) adopt a process for drafting the land use scheme which complies with the Act, provincial legislation, this Chapter and any other applicable legislation;
  - (b) confirm over and above that which is contained in the applicable legislation the public participation to be followed;
  - (c) determine the form and content of the land use scheme;
  - (d) determine the scale and whether it should be available in an electronic media;
  - (e) determine any other relevant issue that will impact on the drafting and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
  - (f) confirm the manner in which the land use scheme must inter alia set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or must not require a consent or permission from the Municipality for purposes of the use of land.

- (2) After the resolution is taken by the Council, the department responsible for spatial planning and land use management or development planning in the Municipality must develop the draft land use scheme in accordance with the provisions of the Act, provincial legislation and this Chapter.

#### **19 Council approval for publication of draft land use scheme**

- (1) Upon completion of the draft land use scheme, the department responsible for spatial planning and land use management or development planning in the Municipality must submit it to the Council for approval as the draft land use scheme.
- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the department responsible for spatial planning and land use management or development planning in the Municipality and the report must at least –
  - (a) indicate the rationale in the approach to the drafting of the land use scheme;
  - (b) summarise the process of drafting the draft land use scheme;
  - (c) summarise the consultation process to be followed with reference to section 20 of this By-law;
  - (d) indicate the departments that were engaged in the drafting of the draft land use scheme;
  - (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Council;
  - (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.
- (3) If the Council is satisfied with the report and the draft land use scheme, it must approve the draft land use scheme and authorise the public participation thereof in terms of this By-law and the relevant legislation referred to in section 15.

#### **20 Public participation**

- (1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-law and in the event of an amendment of the land use scheme, the matters contemplated in section 28 of the Act.
- (2) Without detracting from the provisions of subsection (1) above the Municipality must -
  - (a) publish a notice in the *Provincial Gazette*; and
  - (b) publish a notice in two local newspapers that is circulated in the municipal area of the municipality in two languages commonly spoken in the area, once a week for two consecutive weeks; and



- (c) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections must:
  - (i) do so within a period of 60 days from the first day of publication of the notice;
  - (ii) provide written comments in the form approved by Council; and
  - (iii) provide their contact details as specified in the definition of contact details.
- (3) The Municipality may for purposes of public engagement arrange -
  - (a) specific consultations with professional bodies, ward communities or other groups; and
  - (b) public meetings.
- (4) The Municipality must inform the Member of the Executive Council in writing of the intention to draft a land use scheme and provide him or her with a copy of the draft land use scheme after it has been approved by the Council as contemplated in section 18.

## **21 Incorporation of relevant comments**

- (1) Within 60 days after completion of the public participation process outlined in section 20 the department responsible for spatial development and land use management or development planning in the Municipality must –
  - (a) review and consider all submissions made in writing or during any engagements; and
  - (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
    - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
    - (ii) all persons and or bodies that made submissions must be notified of the time, date and place of the hearing as may be determined by the Municipality not less than 30 days prior to the date determined for the hearing, by electronic means or registered post;
    - (iii) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.
- (2) The department responsible for spatial development and land use management or development planning in the Municipality must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in subsection (1).

**22 Preparation of land use scheme**

The department responsible for spatial development and land use management or development planning in the Municipality must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section 20(2), the Municipality must follow a further consultation and public participation process in terms of section 20(2) of this By-law, before the land use scheme is adopted by the Council.

**23 Submission of land use scheme to Council for approval and adoption**

- (1) The department responsible for spatial development and land use management or development planning in the Municipality must -
  - (a) within 60 days from the closing date for objections contemplated in section 20(2)(c)(i), or
  - (b) if a further consultation and public participation process is followed as contemplated in section 22, within 60 days from the closing date of such further objections permitted in terms of section 22 read with section 20(2)(c)(i),

submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.

- (2) The Council must consider and adopt the land use scheme with or without amendments.

**24 Publication of notice of adoption and approval of land use scheme**

- (1) The Council must, within 60 days of its decision referred to in section 23, give notice of its decision to all persons or bodies who gave submissions on the land use scheme, and publish such notice in the media and the *Provincial Gazette*.
- (2) The date of publication of the notice referred to in subsection (1), in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

**25 Submission to Member of Executive Council**

After the land use scheme is published in terms of section 24 the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.

**26 Records**

- (1) The Municipality must in hard copy or electronic media and or data base keep record in the land use scheme register referred to in section 28 of the land use rights in relation to each erf or portion of land and which information is regarded as part of its land use scheme.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal area of the Municipality.
- (3) Should anybody or person request a copy of the approved land use scheme, the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved land use scheme or any component thereof: Provided that if the Municipality is of the opinion that in order to provide the said copy it will take officials unreasonably away from their substantive duties such request for a copy can be dealt with in terms of the Promotion of Access to Information Act, 2000.

**27 Contents of land use scheme**

- (1) The contents of a land use scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –
  - (a) a zoning for all properties within the geographic area of jurisdiction of the Municipality in accordance with a category of zoning as approved by Council;
  - (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
  - (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
  - (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
  - (e) servitudes for municipal services and access arrangements for all properties;
  - (f) provisions applicable to all properties relating to storm water;
  - (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;

- (h) zoning maps as approved by Council that depicts the zoning of every property in Municipality's geographical jurisdiction area as updated from time to time in line with the land use rights approved or granted; and
  - (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (2) The land use scheme may –
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
  - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

## **28 Register of amendments to Land Use Scheme**

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

- (a) Date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) township/farm name;
- (e) erf or farm number;
- (f) portion/remainder;
- (g) property description;
- (h) existing zoning;
- (i) square metres granted;
- (j) density;
- (k) floor area ratio;
- (l) height (storeys/meters);
- (m) coverage;
- (n) building line;
- (o) parking requirements;
- (p) amendment scheme number;
- (q) annexure number;
- (r) item number;

- (s) item date;
- (t) decision (approved/not approved);
- (u) decision date.
- (v) promulgation date and notice number
- (w) engineering contribution

## **29 Consolidation of amendment scheme**

- (1) The Municipality may of its own accord in order to consolidate an amendment scheme or several amendment schemes, map(s), annexure(s) or schedule(s) of the approved land use scheme, of more than one property, prepare a certified copy of documentation as the Municipality may require, for purposes of consolidating the said amendment scheme(s), which consolidated amendment scheme must from the date of the signing thereof, be in operation; provided that:
  - (a) such consolidation must not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights and may include a provision for consolidation of property for purposes of consolidating land use schemes; provided that if a consolidation is required, the Municipality only do so after consultation with the owner(s).
  - (b) after the Municipality has signed and certified a consolidation amendment scheme, it must publish it in the *Provincial Gazette*.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
- (3) The provisions of sections 15 to 28 apply, with the necessary changes, to the review or amendment of an existing land use scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

## **CHAPTER 4**

### **INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS**

#### **Part A: Division of Functions**

## **30 Division of functions between Municipal Planning Tribunal and Land Development Officer**

- (1) For purposes of section 35(3) of the Act, the following categories of applications defined in section 54 of this By-law must be considered and determined -

- (a) by the Municipal Planning Tribunal:
    - (i) All category 1 applications; and
    - (ii) all opposed category 2 applications;
  - (b) by the Land Development Officer:
    - (i) All category 2 applications that are not opposed.
- (2) For the purposes of subsection (1), an opposed application means an application on which objections/representations were received within the objection period of the public participation process .

### **Part B: Assessment to establish Municipal Planning Tribunal**

#### **31 Municipal assessment prior to establishment of Municipal Planning Tribunal**

- (1) The decision of a municipality to –
- (a) establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act; or
  - (b) agree to the establishment of a Municipal Planning Tribunal by a district municipality as contemplated in section 34(2) of the Act; or
  - (c) establish a Municipal Planning Tribunal for its municipal area,

must be preceded by an assessment of the factors referred to in sub regulation (2).

- (2) The assessment referred to in sub regulation (1) includes, amongst others, the following factors -
- (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
  - (b) the ability of the municipality to effectively implement the provisions of the Act;
  - (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
  - (d) the development pressures in the municipal area.

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

#### **32 Establishment of Municipal Planning Tribunal for local municipal area**

- (1) Subject to the provisions of Part D of this Chapter, the Tlokwe/Ventersdorp Joint Municipal Planning Tribunal is hereby established for the municipal area of Tlokwe City Council, in compliance with section 35 of the Act.
- (2) The provisions of subsection (1) do not apply if, after the assessment contemplated in section 31, the municipality decides to establish a joint Municipal Planning Tribunal or a district Municipal Planning Tribunal.

### **33 Composition of Municipal Planning Tribunal for local municipal area**

- (1) The Municipal Planning Tribunal consists of at least 13 members made up as follows
  - (a) three officials in the full-time service of the Municipality;
  - (b) two persons registered as a professional planner with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
  - (c) two persons registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
  - (d) two persons with financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
  - (e) two persons either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
  - (f) an environmental assessment practitioner registered with a voluntary association; and
  - (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (2) The officials referred to in subsection (1)(a) must have at least five years' experience in the field in which they are performing their services.
- (3) The persons referred to in subsection (1)(b) to (g) must –
  - (a) demonstrate knowledge of spatial planning, land use management and land development or the law related thereto;
  - (b) have at least five years' practical experience in the discipline within which they are registered or in the case of a person referred to in subsection (1)(g) in the discipline in which he or she is practising;
  - (c) demonstrate leadership in his or her profession or vocation or in community organisations.

### **34 Nomination procedure**

- (1) The Municipality must -
  - (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and

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

### **35 Submission of nomination**

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



**36 Initial screening of nomination by Municipality**

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of section 35.
- (2) The nominations that are incomplete or do not comply with the provisions of section 35 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 35 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
  - (a) was not duly nominated;
  - (b) is disqualified from appointment as contemplated in section 38 of the Act;
  - (c) does not possess the knowledge or experience as required in terms of section 33(3); or
  - (d) is not registered with the professional councils or voluntary bodies contemplated in section 33(1), if applicable,

the nomination must be rejected and must not be considered by the evaluation panel contemplated in section 37.

- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 37.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

**37 Evaluation panel**

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

**38 Appointment of members to Municipal Planning Tribunal by Council**

- (1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.

- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson from the officials refer to in section 32(1)(a) and a deputy chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 43, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

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

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

after giving the member an opportunity to be heard.

- (4) An official of a municipality contemplated in section 33(1)(a) who serves on the Municipal Planning Tribunal –
  - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;

- (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
  - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality must immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of section 33(1)(b) to (g) to the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
  - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
  - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
  - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
  - (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
  - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Municipal Planning Tribunal must sign the Code of Conduct contained in Schedule 4 before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and must conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Municipal Planning Tribunal, in the execution of their duties, must comply with the provisions of the Act, provincial legislation, this By-law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

#### **40 Vacancy**

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 33(2).

- (2) A member who is appointed by virtue of subsection (1) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

#### **41 Proceedings of Municipal Planning Tribunal for municipal area of jurisdiction**

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

#### **42 Tribunal of record**

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.
- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon request and payment of the fee approved by the Council and in terms of the Promotion of Access to information Act 2 of 2000 and the By-law on furnishing information.

#### **43 Commencement date of operations of Municipal Planning Tribunal for local municipal area**

- (1) The Municipal Manager must within 30 days of the first appointment of members to the Municipal Planning Tribunal -
  - (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and

- (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in section 38(4).
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

#### **Part D: Establishment of Joint Municipal Planning Tribunal**

##### **44 Agreement to establish joint Municipal Planning Tribunal**

- (1) If, after the assessment contemplated in section 31, the Municipality decides to establish a joint Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the other Municipalities that have indicated that they would be party to a joint Municipal Planning Tribunal.
- (2) The parties to the discussion contemplated in subsection (1) must, as soon as practicable, conclude an agreement that complies with the requirements of the Act.
- (3) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

##### **45 Status of decision of joint Municipal Planning Tribunal**

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

##### **46 Applicability of Part C, F and G to joint Municipal Planning Tribunal**

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

#### **Part E: Establishment of District Municipal Planning Tribunal**

##### **47 Agreement to establish district Municipal Planning Tribunal**

- (1) If requested by a district municipality and after the assessment contemplated in section 31, the Municipality decides to establish a district Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the other Municipalities in the district and conclude the necessary agreement that complies with the requirements of the Act.
- (2) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

**48 Composition of district Municipal Planning Tribunals**

- (1) A district Municipal Planning Tribunal must consist of -
  - (a) at least three officials of each participating municipality in the full-time service of the municipalities; and
  - (b) persons who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (2) No municipal councillor of a participating municipality may be appointed as a member of a district Municipal Planning Tribunal.

**49 Status of decision of district Municipal Planning Tribunal**

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

**50 Applicability of Part C, F and G to district Municipal Planning Tribunal**

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

**Part F: Decisions of Municipal Planning Tribunal****51 General criteria for consideration and determination of application by Municipal Planning Tribunal or Land Development Officer**

- (1) When the Municipal Planning Tribunal or Land Development Officer considers an application it must have regard to the following:
  - (a) the application submitted in terms of this By-law;
  - (b) the procedure followed in processing the application;
  - (c) the desirability of the proposed utilisation of land and any guidelines issued by the Member of the Executive Council regarding proposed land uses;
  - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
  - (e) the response by the applicant to the comments referred to in paragraph (d);
  - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;

- (g) a written assessment by a professional planner as defined in section 1 of the Planning Profession Act, 2002, in respect of land development applications to be considered and determined by the Municipal Planning Tribunal.
  - (h) the integrated development plan and municipal spatial development framework;
  - (i) the applicable local spatial development frameworks adopted by the Municipality;
  - (j) the applicable structure plans;
  - (k) the applicable policies of the Municipality that guide decision-making;
  - (l) the provincial spatial development framework;
  - (m) where applicable, the regional spatial development framework;
  - (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
  - (o) the matters referred to in section 42 of the Act;
  - (p) the relevant provisions of the land use scheme.
  - (q) the site-specific dolomite status with mitigation measures as recommended by a competent person (Geo-professional and Engineer)
  - (r) the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan -
- (a) is consistent with the development rules of the zoning;
  - (b) is consistent with the development rules of the overlay zone;
  - (c) complies with the conditions of approval; and
  - (d) complies with this By-law.
  - (e) is within the permissible land use, if affected by dolomite, as per SANS 1936 (2012) and the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
- (a) the Municipality must not approve a building plan if the site development plan has not been approved; and
  - (b) the Municipality must not approve a building plan that is inconsistent with the approved site development plan.
- (4) The written assessment of a professional planner contemplated in subsection (1)(g) must include such registered planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use

scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

## **52 Conditions of approval**

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



- (s) the delimitation of development parameters or land uses that are set for a particular zoning;
  - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
  - (u) the setting of dates by which particular conditions must be met;
  - (v) the circumstances under which certain land uses will lapse;
  - (w) requirements relating to engineering services as contemplated in Chapter 7;
  - (x) requirements for an occasional use that must specifically include –
    - (i) parking and the number of ablution facilities required;
    - (ii) maximum duration or occurrence of the occasional use; and
    - (iii) parameters relating to a consent use in terms of the land use scheme;
  - (y) a site-specific Dolomite Risk Management Strategy and Dolomite Risk Management Plan.
- (3) If a Municipal Planning Tribunal or Land Development Officer imposes a condition contemplated in subsection (2)(a), an engineering services agreement subject to Clause 117(1) must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
- (5) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
  - (b) conservation purposes;
  - (c) energy conservation;
  - (d) climate change; or
  - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal or Land Development Officer must not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.

- (8) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (10) If the Municipal Planning Tribunal or Land Development Officer approves a land development or use application subject to conditions, it must specify which conditions must be complied with before approval of building plans, site development plans, the sale, development or transfer of the land.

### **53 Reference to Municipal Planning Tribunal**

Any reference to a Municipal Planning Tribunal in this Part is deemed to be a reference to a Joint Municipal Planning Tribunal or a district Municipal Planning Tribunal.

## **CHAPTER 5**

### **DEVELOPMENT MANAGEMENT**

#### **Part A: Categories of Applications**

### **54 Categories of land use and land development applications**

- (1) The categories of land development and land use management applications for the Municipality, as contemplated in section 35(3) of the Act, are as follows –

#### Category 1

- (a) the establishment of a township or the extension of the boundaries of a township, opposed and not opposed;
- (b) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as Category 2 application;
- (c) permanent closure of any public space; after Council's approval;
- (d) all opposed Category 2 applications;
- (e) applications that deviate from Council's policies;
- (f) applications to subdivide land in terms of the Subdividing of Agriculture Land Act, 1970 (Act 70 of 1970).

#### Category 2

- (a) the amendment of an existing scheme or land use scheme by the rezoning of land;
- (b) the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
- (c) the amendment or cancellation in whole or in part of a general plan of a township;
- (d) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
- (e) any consent or approval provided for in any law identified in the SPLUMA;

- (f) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;
- (g) the consolidation of any land;
- (h) the simultaneous subdivision, under circumstances contemplated in subparagraph (a) and consolidation of land;
- (i) the consent of the municipality for any land use purpose or departure or deviation in terms of a land use scheme or existing scheme which does not constitute a land development application;
- (j) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation;
- (k) special and written consents;
- (l) building line infringements in terms of Council Policy;
- (m) the acquisition and approval of Site Development Plan;
- (n) permanent closure of any public space; after Council's approval.

#### **55 Application for land development required**

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality.
- (2) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme, site development plan, building plans and any other applicable legislation.

### **Part B: Establishment of Township or Extension of Boundaries of Township**

#### **56 Application for establishment of township**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
  - (a) the conditions of approval in a statement of conditions in the form approved by the Council;
  - (b) the statement of conditions which conditions shall be known as conditions of establishment for the township; and
  - (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-law.

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- (3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, contain the following:
- (a) Specify those conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;
  - (b) the conditions of establishment relating to the township that must remain applicable to the township;
  - (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
  - (d) third party conditions as required by the Registrar of Deeds;
  - (e) the conditions to be incorporated into the land use scheme by means of an amendment scheme.
  - (f) if a non-profit company is to be established for purposes of maintaining or transfer of erven within the township to them the conditions that must apply;
  - (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.
  - (h) Existing and newly required servitudes
  - (i) Dolomite standards as per the SANS 1936 (2012) and the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan.
- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (3) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application.
- (5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality.

- (6) Without detracting from the provisions of subsection (5) and (6) the municipality may require the applicant or the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

#### **57 Division or phasing of township**

- (1) An applicant who has been notified in terms of section 109 that his or her application has been approved may, within a period of eight months from the date of the notice, or such further period as the Municipality may allow, not exceeding 3, apply to the Municipality for the division of the township into two or more separate townships. but subject thereto that the township register has not been registered in the Deeds Office
- (2) On receipt of an application in terms of subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor General.
- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the application in writing thereof and of any conditions imposed.
- (4) The applicant must, within a period of 3 months from the date of the notice contemplated in subsection (3), submit to the Municipality such plans, diagrams or other documents and furnish such information as may be required in respect of each separate township.
- (5) On receipt of the documents or information contemplated in subsection (4) the Municipality must notify the Surveyor-General, and the Registrar of Deeds in writing of the approval of the application and such notice must be accompanied by a copy of the plan of each separate township.

#### **58 Lodging of layout plan for approval with the Surveyor-General.**

- (1) An applicant who has been notified in terms of section 109 that his or her application has been approved, must, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application lapses.
- (2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 56(2) and (3) of the conditions of establishment together with a stamped and approved layout plan.
- (3) The Municipality may for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.

- (4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General must notify the Municipality that he or she is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the application lapses.
- (5) After an applicant has been notified that his or her application has been approved, the municipality may:
  - (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General;
  - (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;

consent to the amendment of such documents, unless the amendment is, in its opinion, so material as to constitute a new application for the establishment of a township.

#### **59 Compliance with pre-proclamation conditions**

- (1) The applicant must provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the schedule to the approval of a township establishment application have been complied with.
- (2) The Municipality must certify that all the conditions that have to be complied with by the applicant or owner as contemplated in section 56(2) and (3) have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).
- (4) The municipality may agree to an extension of time as contemplated in subsection (1), after receiving a written application from the applicant for an extension of time: Provided that such application provides motivation for the extension of time.

#### **60 Opening of Township Register**

- (1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 58 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) For purposes of subsection (1) the Registrar must not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 56(3).

- (3) The plans, diagrams and title deeds contemplated in subsection (1) must be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.
- (4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar must not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 61.

#### **61 Proclamation of approved township.**

After the provisions of sections 57, 58, 59 and 60 have been complied with and the Municipality is satisfied that the township is in its area of jurisdiction, the Municipality shall, by notice in the *Provincial Gazette*, declare the township an approved township and it must, in an annexure to such notice, set out the conditions on which the township is declared an approved township.

### **Part C: Rezoning of land**

#### **62 Application for amendment of a land use scheme by rezoning of land**

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) The Municipality shall, after expiring of the 21 days contemplated in Section 129 and if no appeal was lodged, give notice by publication in the *Provincial Gazette* of the approval of the application, which is an amendment scheme. Such scheme shall come into operation on the date of publication of the notice.
- (3) A rezoning approval lapses after a period of one year, from the date of approval if, within that one year period or shorter period the conditions of approval have not been met;
- (4) The rezoning approval lapses after a period of 2 years from the date that the approval comes into operation as contemplated in subsection (2), if within that 2 year period;
  - (a) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments;
  - (b) the zoning is not exercised in accordance with the approval thereof; or
  - (c) the following requirements are not met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and

- (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (5) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies.
- (6) If a rezoning approval lapses notice to that effect be published in the Provincial Gazette.
- (7) The rezoning must comply with the permissible land use, if affected by dolomite, as per SANS 1936 (2012) and the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan.

**Part D: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land**

**63 Requirements for amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land**

- (1) The Municipality may, of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) In addition to the procedures set out in Chapter 6, the owner must—
  - (a) submit the original title deed to the Municipality or a certified copy thereof; and
  - (b) submit the bondholder's consent to the application, where applicable.
- (4) The Municipality must cause a notice of its intention to consider an application under subsection (1) to be served on—
  - (a) all organs of state that may have an interest in the title deed restriction;
  - (b) every holder of a bond encumbering the land;
  - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
  - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
  - (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;



- (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
- (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
- (d) the social benefit of the restrictive condition remaining in place in its existing form;
- (e) the social benefit of the removal or amendment of the restrictive condition; and
- (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

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

- (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in section 63(1), submit the following to the Registrar of Deeds:
  - (a) a copy of the original title deed;
  - (b) a copy of the original letter of approval; and
  - (c) a copy of the notification of the approval.
- (2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in section 63(1), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

### **Part E: Amendment or Cancellation in Whole or in Part of a General Plan of a Township**

#### **65 Notification of Surveyor General**

- (1) After the Municipal Planning Tribunal has approved or refused an application for the alteration, amendment or cancellation of a general plan, the municipality must forthwith notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.
- (2) An applicant who has been notified that his or her application has been approved must, within a period of 6 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he or she fails to do so the application lapses.

- (3) Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General must notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the municipality must notify the applicant, and thereupon the application lapses.
- (4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1927, altered or amended the general plan or has totally or partially cancelled it, he or she must notify the municipality.
- (5) On receipt of the notice contemplated in subsection (4) the municipality must publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality must, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.
- (6) The municipality must provide the Registrar of Deeds with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subsection (5).

#### **66 Effect of amendment or cancellation of general plan**

Upon the total or partial cancellation of the general plan of a township -

- (a) the township or part thereof ceases to exist as a township; and
- (b) the ownership of any public place or street re-vests in the township owner.

### **Part F: Subdivision and Consolidation**

#### **67 Application for subdivision**

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 71.
- (2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.
- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, if the erf concerned is smaller than the minimum permitted erf size or exceeds permissible density or if the land concerned is not zoned for such subdivision.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.

- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the Municipality's decision to approve the subdivision;
  - (b) the conditions of approval contemplated in subsection (3) and section 52; and
  - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of 6 months, from the date of approval of the subdivision, comply with the following requirements:
  - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (4);
  - (b) completion of the installation of engineering services in accordance with the conditions contemplated in subsection (3) or other applicable legislation;
  - (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 52 for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
  - (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (7) A confirmation from the Municipality in terms of subsection (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.
- (8) If the erf is affected by dolomite, the subdivision must be within the permissible land use density prescribed in SANS 1936 (2012), the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan.

#### **68 Confirmation of subdivision**

- (1) Upon compliance with section 67(6), the subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof under section 67(6), the zonings indicated on the approved subdivision plan as confirmed cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 67(6) 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 section 67(6).

#### **69 Lapsing of subdivision and extension of validity periods**

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with subsection 67(6).
- (2) An applicant may apply for an extension of the period to comply with subsection 67(6) or must comply with subsection (4).
- (3) An extension contemplated in subsection (2) may not be unreasonably withheld by the Municipality and may be granted for a period not exceeding 6 months and if after the expiry of the extended period the requirements of subsection 67(6) has not been complied with, the subdivision may lapse and subsection (6) applies.
- (4) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 12 months.
- (5) If only a portion of the general plan, contemplated in subsection 67(6)(a) complies with subsection 67(6)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses under subsection (1) —
  - (a) the Municipality must—
    - (i) amend the zoning map and, where applicable, the register accordingly; and
    - (ii) notify the Surveyor-General accordingly; and
  - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

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

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

- (4) An approval of a subdivision in respect of which an amendment or cancellation is approved in terms of subsection (1), remains valid for the remainder of the period contemplated in section 67(6) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

## **71 Exemption of subdivisions and consolidations**

- (1) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:
- (a) if the subdivision or consolidation arises from the implementation of a court ruling;
  - (b) if the subdivision or consolidation arises from an expropriation;
  - (c) the registration of a servitude or lease agreement for the provision or installation of—
    - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
    - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
  - (d) 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.
  - (e) the granting of a right of habitation or usufruct.
- (2) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter.
- (3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 67 to 70.

## **72 Services arising from subdivision**

Subsequent to the granting of an application for subdivision in terms of this By-law the owner of any land unit originating from the subdivision must—

- (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:
- (i) gas mains;
  - (ii) electricity cables;
  - (iii) telephone cables;
  - (iv) television cables;

- (v) other electronic infrastructure;
  - (vi) main and other water pipes;
  - (vii) foul sewers;
  - (viii) storm water pipes; and
  - (ix) ditches and channels;
- (b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:
- (i) surface installations such as mini-substations;
  - (ii) meter kiosks; and
  - (iii) service pillars;
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs (a) and (b); and
- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.
- (e) Registered a servitude over the land in order to protect the existing services and future planned services including Roads and road widening.

### 73 Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 71.
- (2) A copy of the application must accompany the diagram which is to be submitted to the Surveyor-General's office.
- (3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the decision to approve the consolidation;
  - (b) the conditions of approval contemplated in section 52; and
  - (c) the approved consolidation plan.
- (4) If the Municipality approves a consolidation, the Municipality must amend the cadastre map and, where applicable, the register accordingly.

- (5) No application for consolidation involving a change of zoning may be considered by the Municipality, if the erf concerned is smaller than the minimum permitted erf size or exceeds permissible density or if the land concerned is not zoned for such consolidation or if the erf is affected by dolomite and the consolidation does not comply with the permissible land use density.

#### **74 Lapsing of consolidation and extension of validity periods**

- (1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within 6 months of the approval, the consolidation approval lapses, unless the consolidation of land units form part of a land use application which has been approved for a longer period.
- (2) An applicant may apply for an extension of the period to comply with subsection (1) and the granting of an extension may not be unreasonably withheld.
- (3) An extension contemplated in subsection (2) may be granted for a further period not exceeding 6 months and if after the expiry of the extended period the requirements of subsection (1) have not been complied with, the consolidation lapses and subsection (5) applies.
- (4) If the Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 12 months.
- (5) If an approval of a consolidation lapses under subsection (1) the Municipality must—
- (a) amend the cadastre map and, where applicable, the register accordingly; and
  - (b) notify the Surveyor-General accordingly; and
  - (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the consolidation has lapsed.

### **Part G: Permanent Closure of Public Place**

#### **75 Closure of public place**

- (1) The Municipality may on own initiative or on application close a public place or any portion thereof permanently in accordance with the procedures in Chapter 6.
- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered as a result of the wrong doing on the part of the Municipality as a result of the closure of a public place, an employee duly authorised by the Municipality must—

- (a) require proof of negligence 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 loss or damage reveal that the Municipality acted negligently;
  - (b) the circumstances of the loss are not inconsistent with this By-law;
  - (c) the claimant has proved his or her loss or damage;
  - (d) the claimant has provided the proof of a fair and reasonable quantum;
  - (e) no claim has been made and paid by personal insurance covering the same loss; and
  - (f) any other relevant additional information as requested by the authorised employee has been received.
- (5) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (6) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—
- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
  - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
  - (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
  - (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
  - (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.
- (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.



**76 Application for consent use**

- (1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in section 52.
- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 52.
- (4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subsection (1) lapses after a period of one year from the date that the approval comes into operation if, within that one year period -
  - (a) the consent use is not utilised in accordance with the approval thereof; or
  - (b) the following requirements are not met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
    - (ii) commencement with the construction of the building contemplated in subparagraph (i).

**Part I: Traditional Use****77 Application for traditional use**

- (1) An applicant who wishes to amend the use of communal land located in the area of a traditional council where such amendment will have a high impact on the community must apply to the Municipality for the amendment of the land use in the manner provided for in Chapter 6.
- (2) For the purpose of this section, "high impact" means a land use that could negatively impact on the health and welfare of the community.

**Part J: Temporary Use****78 Application for temporary use**

- (1) Temporary use applications are applications that do not result in an amendment of the land use scheme and are:

- (a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
  - (b) any other application for temporary use submitted in accordance with the By-laws of the Municipality.
- (2) An applicant may apply to the Municipality-
- (a) to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone for a period not exceeding 30 days or such shorter period as may be determined by the Municipality, -
- in the manner provided for in Chapter 6.
- (3) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 60 days and the granting of the extension may not be unreasonably withheld by the Municipality.
  - (4) A temporary departure contemplated in subsection (2) may not be granted more than once in respect of a particular use on a specific land unit.
  - (5) A temporary departure contemplated in subsection (2) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert to its previous lawful use upon the expiry of the period contemplated in subsection (2).

#### **Part K: General Matters**

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

- (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vest in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed in terms of section 52 determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved subdivision plan, be transferred to the Municipality upon confirmation of the subdivision or a part thereof.

#### **80 Restriction of transfer and registration**

- (1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any land development application, the owner must, at his or her cost and to the satisfaction of the Municipality, survey and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.

- (2) No Erf/Erven and/or units in a land development area, may be alienated or transferred into the name of a purchaser nor must a Certificate of Registered Title be registered in the name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:
- (a) All engineering services have been designed and constructed to the satisfaction of the Municipality, including guarantees for services having been provided to the satisfaction of the Municipality as may be required; and
  - (b) all engineering services and development charges have been paid or an agreement has been entered into to pay the development charges in monthly instalments; and
  - (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
  - (d) all conditions of the approval of the land development application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance there of within 3 months of having certified to the Registrar in terms of this section that registration may take place; and
  - (e) that the Municipality is in a position to consider a final building plan; and
  - (f) that all the properties have either been transferred or must be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.
  - (g) the dolomite status/classification and implicating mitigation measures are known.

### **81 First transfer**

- (1) Where an owner of land to which a land development application relates is required to transfer land to:
- (a) the Municipality; or
  - (b) an owners' association,

by virtue of a condition set out in the conditions to the approval of a land development application contemplated in section 52, the land must be so transferred at the expense of the applicant, within a period of 6 months from the date of the land use rights coming into operation in terms of section 52, or within such further period as the Municipality may allow, but in any event prior to any registration or transfer of any erf, portion, opening of a sectional title scheme or unit within the development.

### **82 Certification by Municipality**

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.
- (2) The Municipality must not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—

- (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
- (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
- (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
- (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred to the owners' association as contemplated in Schedule 5 and Section 81;
- (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.
- (f) proof of the dolomite status/classification and implicating mitigation measures are known.

### **83 National and provincial interest**

- (1) In terms of section 52 of the Act an applicant must refer any application which affects national or provincial interest respectively to the Minister and the Member of the Executive Council for comments, which comments are to be provided within 21 days as prescribed in section 52(5) of the Act.
- (2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national or provincial interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister or the Member of the Executive Council respectively and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.
- (3) The Municipal Planning Tribunal or Land Development Officer as the case may be, as contemplated in this By-law and the Act, may direct that an application before it, be referred to the Minister and the Member of the Executive Council, if such an application in their opinion affects national or provincial interest and the provisions of sections 52(5) to (7) apply with the necessary changes.
- (4) Subsections (1) to (3) must be read with section 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance.

## **CHAPTER 6 GENERAL APPLICATION PROCEDURES**

### **84 Applicability of Chapter**

This Chapter applies to all applications submitted to the Municipality in terms of Chapter 5.

**85 Procedures for making application**

An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter 5 of this By-law.

**86 Information required**

- (1) An application must be accompanied by the following documents:
  - (a) an approved application form, completed and signed by the applicant and the owner;
  - (b) if the applicant is not the owner of the land, a power of attorney signed by the owner authorising the applicant to make the application on behalf of the owner and if the owner is married in community of property a power of attorney signed by both spouses;
  - (c) if the owner of the land is a company, close corporation, trust, body corporate or owners' association, proof, by means of a resolution that the person is authorised to act on behalf of the company, close corporation, trust, body corporate or owners' association;
  - (d) the relevant bondholder's consent;
  - (e) a written motivation for the application based on the criteria for consideration of the application;
  - (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;
  - (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
  - (h) in the case of an application for the subdivision/consolidation of land, copies of the subdivision/consolidation plan showing the following:
    - (i) Reserved erf numbers from the SG;
    - (ii) the location of the proposed land units;
    - (iii) all existing structures on the property and abutting properties;
    - (iv) the existing access points;
    - (v) all servitudes;
    - (vi) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
    - (vii) the street furniture;
    - (viii) the light, electrical and telephone poles;
    - (ix) the electrical transformers and mini substations; and electrical connection points

- (x) the storm water channels and catch pits;
  - (xi) the sewerage and water lines and connection points;
  - (xii) any significant natural features; and
  - (xiii) the scale and all distances and areas;
  - (i) any other plans, diagrams, documents or information that the Municipality may require;
  - (j) proof of payment of application fees;
  - (k) proof that there is an existing connection to the municipal sewerage and water systems;
  - (l) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds, including Notarial Deeds referred to in the title deeds, if any; and
  - (m) a certificate of a conveyancer indicating that no restrictive condition in respect of the application is contained in such title deeds.; and
  - (n) the dolomite status/classification with mitigation measures.
- (2) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

#### **87 Application fees**

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

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

The Municipality may refuse to accept an application if—

- (a) the municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not complete and in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 86.

#### **89 Receipt of complete application**

The Municipality must—

- (a) record the receipt of a complete application in writing or by affixing a stamp on the application on the day of receipt and issue proof of receipt to the applicant; and thereafter

- (b) notify the applicant that notice of application can be given as contemplated in Section 92, 93, 94 and 96.

#### **90 Withdrawal of application**

- (1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the Municipality.
- (2) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney that authorised another person to make an application on his or her behalf.

#### **91 Notice of applications in terms of integrated procedures**

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
  - (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of other legislation;
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
  - a) cause public notice of the application to be given in terms of sections 92, 93, 94 or 96; and
  - (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application,
 unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subsection (1), is considered to be public notice in terms of this By-law.
- (4) The applicant shall give the required notice of an application in the media.
- (5) The applicant must provide proof that the notice has been published as required.

#### **92 Notification of application in media**

- (1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:
  - (a) an application for 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 edge as reflected in its municipal spatial development framework;
- (c) the closure of a public place;
- (d) an application in respect of a restrictive condition;
- (e) Township establishment;

by publishing a notice of the application once in the Provincial Gazette and once a week for two consecutive weeks 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.

- (2) The Municipality must cause notice to be given in the media, in accordance with this By-Law, of the following applications:
  - (a) Special consent
  - (b) Other applications that will materially affect the public interest or the interests of the community if approved

by publishing a notice of the application, once a week for two consecutive weeks 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.

- (3) The applicant shall give the required notice of an application in the media.
- (4) The applicant must provide proof that the notice has been published as required.

### **93 Serving of notices**

- (1) When the Municipality intends to consider any of the following, it must at least cause a notice to be served as contemplated in section 93(2) of its intention:
  - (a) a determination of a zoning on the initiative to the municipality;
  - (b) Township Establishment;
  - (c) Closure of a public places;
  - (d) Removal of restrictive title conditions;
  - (e) Consent use;
  - (f) The subdivision of land larger than five hectares inside the outer limit of urban edge as reflected in its municipal spatial development framework;
- (2) Notice of an application contemplated in section 93(1) must be served—
  - (a) in accordance with section 115 of the Municipal Systems Act;
  - (b) in at least two of the official languages of the Province most spoken in the area concerned;



- (c) on each owner of an abutting property, including a property separated from the property concerned by a road;
  - (d) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (3) Notice of an application contemplated in section 93(1) (b), (d), (e) and (f) must be given to every service provider, organ of state, person or body who, in the opinion of the local authority may have an interest in the application, by forwarding a copy of the relevant application to every such service provider, department, organ of state, person or body who may, within a period of 60 days from the date on which a copy of an application was forwarded to him or it, comment in writing thereon.
- (4) 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.
- (5) The applicant shall attend to the serving of a notice of an application contemplated in subsections (1) and (3).
- (6) The applicant must provide proof that the notice has been served as required except in the case of written consent applications where no notice is to be served but where the applicant must provide the written comments of the abutting property owners together with his application.
- (7) The date of notification in respect of a notice served in terms of this section—
- (a) when it has been served by certified or registered post is the date of registration of the notice; and
  - (b) when it has been delivered to that person personally is the date of delivery to that person;
  - (c) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years is the date on which it has been left with that person; or
  - (d) when it has been posted in a conspicuous place on the property or premises to which it relates is the date that it is posted in that place.

#### **94 On Site Notice of Application**

- (1) The Municipality must cause notice to be given on site, in accordance with this By-Law, of the following applications:
- (a) Township Establishment
  - (b) An application for rezoning or a rezoning on the initiative of the municipality
  - (c) Special Consent
  - (d) Closure of public space

- (e) Removal of restrictive Title Conditions
- (2) On Site notice of the application must be given by the applicant by:
  - (a) displaying a notice contemplated in section 95 of a size of at least 60cm by 42cm (A2 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that -
    - (i) the notice must be displayed for a minimum of 21 days during the period that the public may submit objection/representations in respect of an application;
    - (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality –
      - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
      - (bb) at least two photos of the notice, one from nearby and one from across the street.

#### **95 Content of notice**

When notice of an application must be given in terms of sections 92 and 94 or served in terms of section 93, the notice must contain the following information:

- (a) the name, identity number, and name of firm or company, a physical address and contact details of the applicant;
- (b) identify the land or land unit to which the application relates by giving the property description (erf number) and the physical address (street name and number);
- (c) state nature, intent and purpose of the application;
- (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- (e) state the contact details of the relevant municipal employee;
- (f) invite members of the public to submit written representations or objections together with the reasons therefor in respect of the application;
- (g) state in which manner representations or objections may be submitted;
- (h) state the due date by when the objections/representations must be submitted which must be 30 days from the date on which the notice was given;
- (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections or representations.

**96 Additional methods of public notice**

- (1) If the Municipality considers notice in accordance with sections 92, 93 or 94 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or require an applicant to follow one or more of the following methods to give additional public notice of an application:
  - (a) to convene a meeting for the purpose of informing the affected members of the public of the application;
  - (b) to broadcast information regarding the application on a local radio station in a specified language;
  - (c) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
  - (d) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
  - (e) to obtain letters of consent or objection to the application.

**97 Additional information**

- (1) The Municipality may at any time request additional information/documentation from the applicant in respect of an application submitted in terms of Chapter 5 of this By-Law, if such information/documentation is in the opinion of the municipality material to the consideration of an application.
- (2) The applicant must provide the Municipality with the information or documentation as contemplated in subsection (1) within 30 days of the request therefor or within the further period agreed to between the applicant and the Municipality.
- (3) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in subsection (2).
- (4) The Municipality must notify the applicant in writing of the refusal to consider the application 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 (4) to refuse to consider the application.
- (6) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (4), the applicant must make a new application and pay the applicable application fees.

**98 Requirements for petitions**

- (1) All petitions must, in addition to the provisions of section 99(4), clearly state—

- (a) the contact details of the authorised representative of the signatories of the petition;
  - (b) the full name and physical address of each signatory; and
  - (c) the objection and reasons for the objection.
- (2) Notice to the person contemplated in subsection (1)(a), constitutes notice to all the signatories to the petition.

### **99 Requirements for objections or representations**

- (1) A person may, in response to a notice received in terms of sections 92, 93, 94, or 96 object or submit representations in accordance with this section.
- (2) Any objection or representation received as a result of a public notice process must be in writing and duly signed and addressed to the municipal manager mentioned in the notice within the time period stated in the notice and in the manner set out in this section.
- (3) The objection must state the following:
- (a) the name of the person or body concerned;
  - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
  - (c) the interest of the body or person in the application;
  - (d) the reason for the objection or representation.
- (4) The reasons for any objection or representation must be set out in sufficient detail in order to—
- (a) indicate the facts and circumstances which explains the objection or representation;
  - (b) demonstrate the undesirable effect which the application will have on the area;
  - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must not accept any objection or representation received after the closing date of the period allowed for the submission of objections/representations.

### **100 Amendments prior to approval**

- (1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof—
- (a) at the applicant's own initiative;
  - (b) as a result of objections and representations made during the public notification process; or
  - (c) at the request of the Municipality.

- (2) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resent to municipal departments, organs of state and service providers, or that an application be submitted afresh.
- (3) Amendments to applications as a result of objections and representations made during the public notification process must be submitted to objectors/representors for further comments or withdrawal of objections within a period of thirty days.

#### **101 Further public notice**

- (1) The Municipality may require that fresh notice of an application be given if more than 18 months has lapsed since the first public notice of the application and if the application has not been considered by the Municipality.
- (2) The Municipality may, at any stage during the processing of the application—
  - (a) require notice of an application to be republished or to be served again; and
  - (b) require an application to be resent to municipal departments for comment,if new information comes to its attention which is material to the consideration of the application.

#### **102 Cost of notice**

The applicant is liable for the costs of giving notice of an application.

#### **103 Applicant's right to reply**

- (1) Copies of all objections or representations lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 30 days from the date of the provision of the objections or representations, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections or comments.
- (3) The applicant may before the expiry of the 30 day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections or representations lodged with a Municipality, additional information regarding the application is required by the Municipality, the information must be

supplied within the further period as may be agreed upon between the applicant and the Municipality.

- (6) If the applicant does not provide the information within the timeframes contemplated in subsection (5), section 97 with the necessary changes, shall apply.

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

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with section 104(2) and recommend to the decision-maker whether the application must be approved or refused.
- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

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

- (1) When the power to take a decision is delegated to an authorised employee and no integrated process in terms of another law is being followed, the authorised employee must decide on the application within 60 days of the closing date for the submission of comments as contemplated in Section 93(3).
- (2) When the power to take a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the application within 120 days of the closing date for the submission of applicants reply on objections or representations.

#### **106 Failure to act within time period**

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of these By-Laws and the applicant or interested person may report the non-performance of the Municipal Planning Tribunal or Land Development Officer to the municipal manager, who must report it to the municipal council and mayor.

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

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in section 104.
- (2) When conducting an inspection, the authorised employee may—
  - (a) request that any record, document or item be produced to assist in the inspection;

- (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
  - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
  - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

#### **108 Determination of application**

The Municipality may in respect of any application submitted in terms of this Chapter -

- (a) approve, in whole or in part, or refuse any application submitted to it in accordance with this By-law;
- (b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of a Municipality or municipal entity;
- (f) decide any question concerning its own jurisdiction;
- (g) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law;

#### **109 Notification of decision**

- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision of the decision and their right to appeal if applicable.
- (2) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.

**110 Duties of agent of applicant**

- (1) The agent must ensure that all information furnished to the Municipality is accurate.
- (2) The agent must ensure that no misrepresentations are made.
- (3) The provision of inaccurate, false or misleading information is an offence.

**111 Errors and omissions**

- (1) The Municipality may at any time, with the written consent of the applicant or, if applicable, any party to the application, correct an error in the wording of its decision provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition of its approval.

**112 Withdrawal of approval**

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of approval.
- (2) Prior to doing so, the Municipality must serve a notice on the owner—
  - (a) informing the owner of the alleged breach of the condition;
  - (b) instructing the owner to rectify the breach within a specified time period;
  - (c) allowing the owner to make representations on the notice within a specified time period.

**113 Procedure to withdraw an approval**

- (1) The Municipality may withdraw an approval granted—
  - (a) after consideration of the representations made in terms of section 112(2)(c); and
  - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 112(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the activity immediately.
- (3) The approval is withdrawn from date of notification of the owner.

**114 Exemptions to facilitate expedited procedures**



The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
  - (i) the provision of housing with the assistance of a state subsidy; or
  - (ii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law

## **CHAPTER 7**

### **ENGINEERING SERVICES AND DEVELOPMENT CHARGES**

#### **Part A: Provision and Installation of Engineering Services**

##### **115 Responsibility for providing engineering services**

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.
- (3) The Municipality is responsible for the installation and provision of external engineering services, subject to the payment of development charges first being received, unless the engineering services agreement referred to in section 117 provides otherwise.

##### **116 Installation of engineering services**

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

- (4) The Municipality must, where any private roads, private open spaces or any other private facilities or engineering services are created or to be constructed with the approval of any land development application set the standards for the width and or any other matter required to provide sufficient access and engineering services; including but not limited to:
  - (a) roadways for purposes of sectional title schemes to be created;
  - (b) the purpose and time limit in which private roads, private engineering services and private facilities are to be completed;
- (5) The engineering services should comply with the SANS 1936 (2012) standards, the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan.

#### **117 Engineering services agreement**

- (1) An applicant of a land development application and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.
- (2) The engineering services agreement must –
  - (a) classify the services as internal engineering services, external engineering services or private engineering services;
  - (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services, whether private engineering services or not, and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
  - (c) provide for the inspection and handing over of internal engineering services to the Municipality or the inspection of private internal engineering services;
  - (d) determine that the risk and ownership in respect of such services must pass to the Municipality or the owners' association as the case may be, when the Municipality is satisfied that the services are installed to its standards;
  - (e) require the applicant to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
  - (f) provide for the following responsibilities after the internal services have been handed over to the Municipality or the owners' association:
    - (i) when normal maintenance by the relevant authority or owners' association must commence;
    - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
    - (iii) the rights of the relevant authority or owners' association if the applicant fails to rectify

- any defects within a reasonable period after having been requested to do so;
- (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
  - (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
  - (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
  - (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
    - (i) a water-borne sewerage pipe terminating at a sewer connection;
    - (ii) a water-pipe terminating at a water meter; and
    - (iii) an electricity house connection cable terminating on the relevant erf; and
  - (k) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others –
    - (i) water reticulation;
    - (ii) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
    - (iii) roads and storm-water drainage;
    - (iv) electricity reticulation (high and low tension);
    - (v) street lighting.
  - (l) clearly determine the relevant design specification according to the SANS 1936 (2012), the Tlokwe Dolomite Risk Management Strategy and Dolomite Risk Management Plan for services installed in dolomite affected areas.
- (3) The engineering services agreement may –
- (a) require that performance guarantees be provided, or otherwise, with the provision that -
    - (i) the obligations of the parties with regard to such guarantees are clearly stated;
    - (ii) such guarantee is irrevocable during its period of validity; and
    - (iii) such guarantee is transferable by the person to whom such guarantee is expressed to be payable; and
- (4) Where only basic services are to be provided initially, the timeframes and the responsibility of the

parties for the upgrading (if any) of services must be recorded in the engineering services agreement.

#### **118 Abandonment or lapsing of land development application**

Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 117 lapses and if the owner had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

#### **119 Internal and external engineering services**

For the purpose of this Chapter:

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

### **Part B: Development Charges**

#### **120 Payment of development charge**

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -
  - (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme; and
  - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.

- (2) If a land development application is approved by the Municipal Planning Tribunal or the Land Development Officer subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the owner of the land to which the scheme relates, must, be informed of the amount of the development charge and must, subject to section 121, pay the development charge to the Municipality.
- (3) An owner who is required to pay a development charge in terms of this By-law must pay such development charge to the Municipality before:
  - (a) any land use right is exercised;
  - (b) any connection is made to the municipal bulk infrastructure;
  - (c) a written statement contemplated in section 118 of the Municipal System Act is furnished in respect of the land;
  - (d) a building plan is approved in respect of:
    - (i) the proposed alteration of or addition to an existing building on the land;
    - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
  - (e) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

#### **121 Offset of development charge**

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services and, if applicable, the cost of internal infrastructure where additional capacity is required by the Municipality, against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.
- (2) The owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) If the cost of the installation of the external engineering services exceeds the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.

- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 117.

#### **122 Payment of development charge in instalments**

The Municipality may -

- (a) in the circumstances contemplated in section 120(3)(a),(b),(d) and (e) allow payment of the development charge contemplated in section 120 in instalments over a period not exceeding 12 months;
- (b) allow payment of the development charge contemplated in section 120(3)(a),(b),(d) and (e) to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest.

#### **123 Refund of development charge**

No development charge paid to the Municipality in terms of section 120 or any portion thereof must be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 118 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

#### **124 General matters relating to contribution charges**

- (1) Notwithstanding any provision to the contrary, where a development charge and/or contribution for open space is paid to the Municipality, such funds must, in terms of the provisions of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), be kept separate and only applied by the Municipality towards the improvement and expansion of the services infrastructure or the provision of open space or parking, as the case may be, to the benefit and in the best interests of the general area where the land area is situated or in the interest of a community that occupies or uses such land area.
- (2) The Municipality must annually prepare a report on the development charges paid to the Municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and must submit such report and statement to the Premier.

**APPEAL PROCEDURES**  
**PART A: MANAGEMENT OF AN APPEAL AUTHORITY**

**125 Presiding officer of appeal authority**

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

**126 Bias and disclosure of interest**

- (1) No presiding officer or member of an appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the Land Development Officer and he or she made the decision that is the subject of the appeal.
- (2) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in sub regulations (5) and (6) must recuse himself or herself from the appeal hearing.
- (3) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.
- (4) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.
- (5) For the purpose of this Chapter "conflict of interest" means any factor that may impair or reasonable give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.
- (6) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following:
  - (a) A person with whom the presiding officer or member has a personal, familiar or professional relationship;
  - (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
  - (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer's or member's participation in the adjudication of the matter would be inappropriate.

**127 Registrar of appeal authority**

- (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of subregulation (1), a municipal council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority and if it so

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appoints or designates a person or an official, that person or official has delegated authority as contemplated in section 56 of the Act.

- (3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the municipal council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.
- (4) Any person appointed under subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

### **128 Powers and duties of registrar**

- (1) The registrar is responsible for managing the administrative affairs of the appeal authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the appeal authority and to ensure accessibility and maintenance of the dignity of the appeal authority.
- (2) The duties of the registrar include –
  - (a) the determination of the sitting schedules of the appeal authority;
  - (b) assignment of appeals to the appeal authority;
  - (c) management of procedures to be adhered to in respect of case flow management and the finalisation of any matter before the appeal authority;
  - (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
  - (e) the establishment of a master registry file for each case which must record –
    - (i) the reference number of each appeal;
    - (ii) the names of the parties;
    - (iii) all actions taken in connection with the preparation of the appeal for hearing;
    - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
    - (v) the date of the hearing of the appeal;
    - (vi) the decision of the appeal authority;
    - (vii) whether the decision was unanimous or by majority vote; and
    - (viii) any other relevant information.
- (3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.
- (4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

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**PART B: APPEAL PROCESS****129 Commencing of appeal**

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

**130 Notice of appeal**

- (1) A Notice of Appeal must clearly indicate:
  - (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
  - (b) where applicable, whether the appeal is against any conditions of approval of an application and which conditions;
  - (c) the grounds of appeal including any findings of fact or conclusions of law;
  - (d) a clear statement of the relief sought on appeal;
  - (e) any issues that the appellant wants the appeal authority to consider in making its decision; and
  - (f) a motivation of an award for costs.
- (2) An appellant may, within seven days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

**131 Notice to oppose an appeal**

A notice to oppose an appeal must be delivered to the registrar of the relevant appeal authority within 21 days from the commencement date of the appeal, and must clearly indicate:

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

**132 Screening of appeal**

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

- (a) It complies with the form approved by the Council;
  - (b) it is submitted within the required time limit; and,
  - (c) the appeal authority has jurisdiction over the appeal.
- (2) If a Notice of Appeal does not comply with the form approved by the Council, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.
- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.
- (5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.
- (6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.
- (7) The provisions of this section apply, with the necessary changes, to a notice to oppose an appeal contemplated in section 131.

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**PART C: PARTIES TO AN APPEAL****133 Parties to appeal**

- (1) The parties to an appeal before an appeal authority are:
  - (a) the appellant who has lodged the appeal with the appeal authority in accordance with section 51(1) of the Act;
  - (b) the applicant, if the applicant is not the appellant as contemplated in paragraph (a);
  - (c) the Municipal Planning Tribunal that or the Land Development Officer who made the decision;
  - (d) any person who has been made a party to the proceeding by the appeal authority after a petition to the appeal authority under section 45(2) of the Act to be granted intervener status.

**134 Intervention by interested person**

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or Land Development Officer and might therefore be affected by the judgement of the appeal authority.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –
  - (a) does not collude with any of the appellants; and
  - (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.
- (3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.

**PART D: JURISDICTION OF APPEAL AUTHORITY****135 Jurisdiction of appeal authority**

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

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

**136 Written or oral appeal hearing by appeal authority**

- (1) An appeal may be heard by an appeal authority by means of a written hearing and if it appears to the appeal authority that the issues for determination of the appeal cannot adequately be determined in the absence of the parties by considering the documents or other material lodged with or provided to it, by means of an oral hearing.

**137 Representation before appeal authority**

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

**138 Opportunity to make submissions concerning evidence**

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

**PART E: HEARINGS OF APPEAL AUTHORITY**

**139 Notification of date, time and place of hearing**

- (1) The appeal authority must notify the parties of the date, time and place of a hearing at least 14 days before the hearing commences.
- (2) The appeal authority will provide notification of the hearing to the appellant at the appellant's address for delivery.

**140 Hearing date**

A hearing will commence on a date determine by the registrar, which hearing may not take place later than 60 days from the date on which the completed notice of appeal was delivered to the appeal authority provided that the interested parties were informed of the hearing date at least 30 days prior to the hearing date. The parties can agree to an extension of the date

**141 Adjournment**

- (1) If a party requests an adjournment more than one day prior to the hearing, the party must obtain the written consent of the other party and the presiding officer of the appeal authority.
- (2) The party requesting an adjournment must deliver to the appeal authority a completed form including reasons for the request.
- (3) The appeal authority will notify the parties in writing of the decision of the presiding officer of the appeal authority.
- (4) If the presiding officer of the appeal authority or the other party does not consent to the request for an adjournment, the hearing will not be adjourned.
- (5) If a party requests an adjournment within one day prior to the hearing, the request must be made to the appeal authority at the hearing and may be made notwithstanding that a prior request was not consented to.

**142 Urgency and condonation**

- (1) The registrar may –
  - (a) on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
  - (b) on good cause shown, condone any failure by any party to an appeal to comply with these Regulations or any directions given in terms hereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person;
- (2) Every application for condonation made in terms of this regulation must be –
  - (a) served on the registrar;
  - (b) accompanied by a memorandum setting forth the reasons for the failure concerned; and
  - (c) determined by the presiding officer in such manner as he or she considers proper.
- (3) Where a failure is condoned in terms of subregulation (1)(b), the applicant for condonation must comply with the directions given by the registrar when granting the condonation concerned.

**143 Withdrawal of appeal**

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

## **PART F: ORAL HEARING PROCEDURE**

### **144 Location of oral hearing**

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

### **145 Presentation of each party's case**

- (1) Each party has the right to present evidence and make arguments in support of that party's case.
- (2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Land Development Officer.

### **146 Witnesses**

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

### **147 Proceeding in absence of party**

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

### **148 Recording**

Hearings of the appeal authority must be recorded.



**149 Oaths**

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

**150 Additional documentation**

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

**PART G: WRITTEN HEARING PROCEDURE****151 Commencement of written hearing**

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

**152 Presentation of each party's case in written hearing**

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given seven days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Land Development Officer.
- (4) The Municipal Planning Tribunal or the Land Development Officer has seven days in which to provide a submission in response.
- (5) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

**153 Extension of time**

- (1) If a party wishes to request an extension of the time established to provide a written submission, this request must be in writing to the appeal authority in advance of the date on which the submission is due.
- (2) Any request for an extension must be accompanied by the reasons for the request.
- (3) Following receipt of a request for an extension of time, the appeal authority will issue a decision in writing to the parties.

**154 Adjudication of written submissions**

- (1) Following receipt of any written submissions from the parties, the registrar must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.
- (2) If no written submissions are received from the parties, the registrar will forward the existing appeal record to the appeal authority for adjudication.
- (3) Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.
- (4) The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given seven days to provide a written submission in response.

**PART H: DECISION OF APPEAL AUTHORITY****155 Further information or advice**

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

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

**156 Decision of appeal authority**

- (1) The appeal authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or Land Development Officer and may include an award of costs.
- (2) The presiding officer must sign the decision of the appeal authority and any order made by it.

**157 Notification of decision**

The registrar must notify the parties of the decision of the appeal authority in terms of section 156 , together with the reasons therefor within seven days after the appeal authority handed down its decision.

**158 Directives to municipality**

- (1) The appeal authority must, in its decision, give directives to the municipality concerned as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the municipality as far as implementation of the decision is concerned.
- (2) Where an appeal authority upholds a decision on a development application, the Municipal Manager must, within 21 days of the decision, take the necessary steps to have the decision published in the *Provincial Gazette*.

**PART I: GENERAL**

**159 Expenditure**

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

**CHAPTER 9  
COMPLIANCE AND ENFORCEMENT**

**160 Enforcement**

The Municipality must comply and enforce compliance with—

- (a) the provisions of this By-law;
- (b) the provisions of a land use scheme;
- (c) conditions imposed in terms of this By-law or previous planning legislation; and
- (d) title deed conditions.

**161 Offences and penalties**

(1) Any person who—

- (a) contravenes or fails to comply with section 56 and subsection (2);

- (b) fails to comply with a compliance notice issued in terms of section 165;
- (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
- (d) supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
- (e) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
- (f) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee;
- (g) upon registration of the first land unit arising from a township establishment or a subdivision, fails to transfer all common property, including private roads and private places origination from the subdivision, to the owners' association,

is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.

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

#### **162 Service of compliance notice**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 161.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—

- (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or
  - (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).
  - (4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.
  - (5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised work.
  - (6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the compliance notice.

### **163 Content of compliance notices**

- (1) A compliance notice must—
  - (a) identify the person to whom it is addressed;
  - (b) describe the activity concerned and the land on which it is being carried out;
  - (c) state that the activity is illegal and inform the person of the particular offence contemplated in section 161 which that person allegedly has committed or is committing through the carrying on of that activity;
  - (d) the steps that the person must take and the period within which those steps must be taken;
  - (e) anything which the person may not do, and the period during which the person may not do it;
  - (f) provide for an opportunity for a person to lodge representations contemplated in terms of section 164 with the contact person stated in the notice;
  - (g) issue a warning to the effect that—
    - (i) the person could be prosecuted for and convicted of an offence contemplated in section 161;
    - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
    - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;

- (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
  - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;
- (2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 164.

#### **164 Representations in respect of compliance notice**

- (1) Any person or owner who receives a compliance notice in terms of section 162 may submit written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) Subject to the consideration of any representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
  - (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

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

If a person fails to comply with a compliance notice the Municipality may—

- (a) lay a criminal charge against the person;
- (b) apply to an applicable court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
- (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and then act in terms of section 162.

#### **166 Urgent matters**

- (1) In cases where an activity must be stopped urgently, the Municipality may dispense with the procedures set out above and issue a compliance notice calling upon the person or owner to cease immediately.
- (2) If the person or owner fails to cease the activity immediately, the Municipality may apply to any applicable court for an urgent interdict or any other relief necessary.

**167 Subsequent application for authorisation of activity**

- (1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 162 to demolish the building work.
- (2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

**168 Power of entry for enforcement purposes**

- (1) An authorised employee may, with the permission of the occupier or owner of land, at any reasonable time, and without a warrant, and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.
- (2) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of this By-law.
- (3) An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

**169 Power and functions of authorised employee**

- (1) In ascertaining compliance with this By-law as contemplated in section 160, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.
- (2) An authorised employee must not have a direct or indirect personal or private interest in the matter to be investigated.

**170 Warrant of entry for enforcement purposes**

- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
  - (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
  - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in subsection (1) may be issued by a judge of any applicable court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—

- (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
  - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
  - (c) there are reasonable grounds for suspecting that a contravention contemplated in section 161 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
  - (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must specify which of the acts mentioned in section 169 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in section 169 as specified in the warrant on one occasion only, and that entry must occur—
- (a) within one month of the date on which the warrant was issued; and
  - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

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

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—

- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right to freedom and security of the person; and
- (c) the right to a person's personal privacy.

#### **172 Court order**

Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 161, the Municipality may apply to an applicable court for an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned;
- (c) compelling that person to cease with the unlawful activity; or
- (d) any other appropriate order.



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## CHAPTER 10 TRANSITIONAL PROVISIONS

### 173 Transitional provisions

- (1) Any land development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, must be dealt with in terms of that legislation or if repealed in terms of its transitional arrangements or in the absence of any other provision, in terms of this By-law, read with section 2(2) and section 60 of the Act;
- (2) Where on the date of the coming into operation of an approved land use scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a land use scheme in terms of this By-law read with section 26 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of this subsection (3), be continued after that date read with the provisions of a Town Planning Scheme or land use scheme.
- (3) The right to continue using any land or building by virtue of the provisions of subsection (2) must;
  - (a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;
  - (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (2);
  - (c) where on the date of the coming into operation of an approved land use scheme -
    - (i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;
    - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved land use scheme, the building must for a period of 15 years from that date be deemed to comply with that provision.
  - (d) where a period of 15 years has, in terms of subsection (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard must, for the purposes of those subsections, be had to an approved scheme which comes into operation after that date.
  - (e) within one year from the date of the coming into operation of an approved land use scheme -

- (i) the holder of a right contemplated in subsection (2) may notify the Municipality in writing that he is prepared to forfeit that right;
  - (ii) the owner of a building contemplated in subsection (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection;.
- (4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (2)(a), such allegation is deemed to be correct until the contrary is proved.
  - (5) Where any land use provisions are contained in any title deed, deed of grant or 99 year leasehold, which did not form part of a town planning scheme, such land use provisions apply as contemplated in subsection (2).
  - (6) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the land use scheme or town planning scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

#### **174 Determination of zoning**

- (1) Notwithstanding the provisions of section 173(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
  - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
  - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
  - (c) any departure or consent use that may be required in conjunction with that zoning;
  - (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
  - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and give notice of its intention to do so in terms of section 95.

- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, shall not be deemed to be the lawful land use.

## **CHAPTER 11 GENERAL PROVISIONS**

### **175 Delegations**

Any power conferred in this By-law on the Municipality may be delegated by the municipality subject to section 56 of the Act and section 59 of the Local Government: Municipal Systems Act.

### **176 Repeal of by-laws**

The *(insert the name of the applicable by-laws)* are hereby repealed.

### **177 Fees payable**

Any fee payable to the Municipality in terms of this By-Law is determined annually in terms of section 24(2) of the Municipal Finance Management Act, 2003 read with sections 74 and 75A of the Municipal Systems Act and forms part of the By-Law to constitute the Tariff Structure of the Municipality.

### **178 Short title and commencement**

- (1) This By-law is called the Tlokwe City Council Municipal By-law on Spatial Planning and Land Use Management.
- (2) This By-law comes into operation on the date of publication in the *Provincial Gazette* .

**SCHEDULE 1**

**INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE TLOKWE VENTERSDORP JOINT MUNICIPAL PLANNING TRIBUNAL**

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Tlokwe City Council and Ventersdorp Local Municipality hereby invites nominations for officials or employees of the to be appointed to the Joint Tlokwe Ventersdorp Municipal Planning Tribunal for its first term of office.

The period of office of members will be five years calculated from the date of appointment of such members by the Tlokwe City Council and Ventersdorp Local Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto with at least five years' experience.

Each nomination must be in writing and must contain the following information:

- (a) The name, address and identity number of the nominee;
- (b) The designation or rank of the nominee in the organ of state or non-governmental organisation;
- (c) A short curriculum vitae of the nominee (not exceeding two pages);
- (d) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Nominations must be sent to:

The Municipal Manager  
Tlokwe City Council  
P.O. Box 113

**POTCHEFSTROOM**

2520

For Attention: Mr BJ Robbertse

For Enquiries: Mr BJ Robbertse

Tel: 018 299 5103

\_\_\_\_\_  
\* I, .....(full names of nominee),

ID No (of nominee) .....,

hereby declare that –

- (a) I am available to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me OR I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);

- 
- (b) there is no conflict of interest OR I have the following interests which may conflict with the Tlokwe Ventersdorp Joint Municipal Planning Tribunal which I have completed on the declaration of interest form (*delete the option not applicable*);
  - (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and I authorise the Tlokwe City Council to verify any record in relation to such disqualification or requirement.
  - (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Tlokwe Ventersdorp Joint Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

**CLOSING DATE: (INSERT DATE)**

\_\_\_\_\_  
Signature of Nominee

\_\_\_\_\_  
Full Names of Nominee

\_\_\_\_\_  
Signature of Person signing on behalf of the Organ of State or Non-Governmental Organisation

\_\_\_\_\_  
Full Names of Person signing on behalf of the Organ of State or Non-Governmental Organisation

## SCHEDULE 2

### CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE TLOKWE VENTERSDORP JOINT MUNICIPAL PLANNING TRIBUNAL

#### CLOSING DATE: (INSERT DATE)

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Tlokwe City Council and Ventersdorp Local Municipality hereby call for nominations for members of the public to be appointed to the Tlokwe Ventersdorp Joint Municipal Planning Tribunal for its first term of office.

The period of office of members will be five years calculated from the date of appointment of such members by the Tlokwe City Council and Ventersdorp Local Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

\*Professionals contemplated in Section 33(1)(b) – (f) of the By-law are:

- # Professional Planners
- # Professional Engineers
- # Auditors
- # Admitted Attorneys and Advocates
- # Environmental Assessment Practitioners

Each nomination must be in writing and must contain the following information:

- (a) The name and address of the nominator, who must be a natural person and a person may nominate himself or herself;
- (b) The name, address and identity number of the nominee;
- (d) Motivation by the nominator for the appointment of the nominee to the Tlokwe Ventersdorp Joint Municipal Planning Tribunal (no less than 50 words and no more than 250 words);
- (e) A short curriculum vitae of the nominee (not exceeding two pages);
- (f) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Please note that failure to comply with the above requirements will result in the disqualification of the nomination.

Nominations must be sent to:

The Municipal Manager

Tlokwe City Council

P.O. Box 113

**POTCHEFSTROOM**

2520

For Attention: Mr BJ Robbertse

For Enquiries: Mr BJ Robbertse

Tel: 018 299 5103

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\* I, .....(full names of nominee),

ID No (of nominee) .....,

hereby declare that –

- (a) I am available to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal .;
- (b) there is no conflict of interest OR I have the following interests which may conflict with the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and I authorise the Tlokwe City Council to verify any record in relation to such disqualification or requirement;
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Tlokwe Ventersdorp Joint Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

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Signature of Nominee

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Full Names of Nominee

**SCHEDULE 3  
DISCLOSURE OF INTERESTS FORM**

I, the undersigned,

Full names: \_\_\_\_\_  
 Identity Number: \_\_\_\_\_  
 Residing at: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

do hereby declare that -

- (a) the information contained herein fall within my personal knowledge and are to the best of my knowledge complete, true and correct, and
- (b) that there is no conflict of interest between myself and the \_\_\_\_\_ Municipal Planning Tribunal; or
- (c) I have the following interests which may conflict or potentially conflict with the interests of the \_\_\_\_\_ Municipal Planning Tribunal;

CONFLICTING INTERESTS

- (d) the non-executive directorships previously or currently held and remunerative work, consultancy and retainer ship positions held as follows:

1. NON-EXECUTIVE DIRECTORSHIP	
Name of Company	Period
1.	
2.	
3.	
4.	
5.	

2. REMUNERATIVE WORK, CONSULTANCY & RETAINERSHIPS			
Name of Company & Occupation	Type of Business	Rand amount per month	Period
1.			
2.			
3.			
4.			
5.			



<b>3. CRIMINAL RECORD</b>	
<b>Type of Offence</b>	<b>Dates/Term of Sentence</b>
1.	

- (e) I am South African citizen or a permanent resident in the Republic
- (f) I am not a Member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a court of law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a tribunal for a breach of any provision of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Land Use Planning By-Laws, 2015 enacted by the \_\_\_\_\_ Municipality.;
- (l) I have not been found guilty of misconduct, incapacity or incompetence; or
- (m) I have not failed to comply with the provisions of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Land Use Planning By-Laws, 2015 enacted by the \_\_\_\_\_ Municipality.

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

**SWORN** to and **SIGNED** before me at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_.

The deponent having acknowledged that he knows and understands the contents of this affidavit, that the contents are true, and that he or she has no objection to taking this oath and that he or she considers the oath to be binding on his or her conscience.

\_\_\_\_\_  
**COMMISSIONER OF OATHS**

FULL NAMES: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**SCHEDULE 4**  
**CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

I, the undersigned,

Full names: \_\_\_\_\_  
Identity Number: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

do hereby declare that I will uphold the Code of Conduct of the Tlokwe Ventersdorp Joint Municipal Planning Tribunal contained hereunder:

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**General conduct**

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

**Gifts**

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

**Undue influence**

4. A member of the Municipal Planning Tribunal must not—

- (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
- (b) use confidential information acquired in the course of his or her duties to further a personal interest;
- (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
- (d) commit a deliberately wrongful act that reflects adversely on the Municipal Planning Tribunal, the 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 Municipal Planning Tribunal by improper means.

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## SCHEDULE 5 OWNERS' ASSOCIATIONS

### General

1. The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
2. An owners' association that comes into being by virtue of sub item 1 is a juristic person and must have a constitution.
3. The constitution of an owners' association must at least provide for—
  - (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
  - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
  - (c) the regulation of at least one yearly meeting with its members;
  - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
  - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
  - (f) enforcement of conditions of approval or management plans;
  - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
  - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
4. The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
5. The constitution of an owners' association may be amended when necessary provided that an amendment that affects the Municipality or a provision referred to in sub item 3 is approved by the Municipality.
6. An owners' association which comes into being by virtue of sub item 1 -
  - (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
  - (b) is upon registration of the first land unit, automatically constituted.
7. The design guidelines contemplated in sub item 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
8. If an owners' association fails to meet any of its obligations contemplated in subitem 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subitem 6(a), the amount of any expenditure incurred by it in respect of those actions.
9. The amount of any expenditure so recovered is, for the purposes of subitem 8, considered to be expenditure incurred by the owners' association.

**Owners' association ceases to function**


1. If an owners' association ceases to function or carry out its obligations, the Municipality may—
  - (a) take steps to instruct the association to hold a meeting and to reconstitute itself;
  - (b) subject to the amendment of the conditions of approval remove the obligation to establish an owners' association; or
  - (c) subject to amendment of title conditions pertaining to the owners' association remove any obligations in respect of an owners' association.
2. In determining which option to follow, the Municipality must have regard to—
  - (a) the purpose of the owners' association;
  - (b) who will take over the maintenance of infrastructure which the owners' association is responsible for, if at all; and
  - (c) the impact of the dissolution or the owners' association on the members and the community concerned.

PROVINCIAL NOTICE 37 OF 2016

APPOINTMENT OF THE NORTH WEST TOURISM BOARD MEMBERS

I **Desbo Francinah Sebonta Mohono** Member of the Executive Council responsible for Tourism in the North west, guided by section 7(8) of the North West tourism Act, 2 of 2015, hereby publish the names of the North West Tourism Board as follows:

Mr. Mogashoa Keseilwe David, Dr. Motshegare Kesolofetse Olivia, Dr. Nkagisang Monyane Gabriel, Ms. Sefularo Christina Carolina Kgomotso, Mr. Reetsang Willie Isaac, Adv. Kgoroadira Karabo Bareng, Mr. Modiselle Isaac Ramokatela.

Given under my hand  at Molleteng on this day 02 of November 2015

**Member of the Executive Council responsible for Tourism**

PROVINCIAL NOTICE 38 OF 2016

**NOTICE IN TERMS OF SECTION 18(1) OF THE RUSTENBURG LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2015 FOR A CHANGE OF LAND UDE RIGHTS KNOWN AS A REZONING. RUSTENBURG AMENDMENT SCHEME 1485**

I, Jan-Nolte Ekkerd (ID NR: 700723 5093 08 3) of the firm NE Town Planning CC (Reg Nr: 2008/2492644/23), being the authorised agent of the owner of **Portion 394 (a portion of portion 349) of Erf 2430 Rustenburg, Registration Division J.Q., North West Province** hereby give notice in terms of Section 18 (1)(d) of the Rustenburg Local Municipality Spatial Planning and Land Use Management By-Law, 2015, that I have applied to the **Rustenburg Local Municipality** for the change of land use rights also known as rezoning. A) The rezoning of the property described above, situated at Violet Street, Karlienpark, from "Residential 1" to "Residential 2" as defined in Annexure 1791 to the Scheme. B) The adjacent properties as well as properties in the area, could thereby be affected. C) The rezoning from "Residential 1" to "Residential 2" entails that a new building consisting of 4 dwelling units will be built on the property as defined in the Annexure to the Scheme. Annexure 1791 contains the following development parameters: Max Height: 2 Storeys, Max Coverage: 65% Max F.A.R: 0.7, density: 60 dwelling units per hectare.

Particulars of the application is available for inspection during normal office hours at the office of the Municipal Manager **Room 319, at the Missionary Mpheni House, cnr. of Nelson Mandela and Beyers Naude Drives, Rustenburg** for the period of 30 days from **22 March 2016**. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or at **P.O. Box 16, Rustenburg, 0300** within a period of 30 days from **22 March 2016**.

Address of owner: **P/a NE Town Planning CC, P.O. Box 5717, RUSTENBURG, 0300**  
Tel: **(014) 5922777**, Fax: **(014) 5921640**

**PROVINSIALE KENNISGEWING 38 VAN 2016**

**KENNISGEWING INGEVOLGE ARTIKEL 18 (1) VAN DIE RUSTENBURG PLAASLIKE MUNISIPALITEIT RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUURS VERORDENING, 2015 VIR 'N VERANDERING VAN DIE GRONDGEBRUIKSREGTE BEKEND AS 'N HERSONERING.**

**RUSTENBURG WYSIGINGSKEMA 1485**

Ek, Jan-Nolte Ekkerd (ID NR: 700723 5093 08 3), van die firma NE Town Planning BK (Reg Nr: 2008/2492644/23), synde die gemagtigde agent van die eienaar van **Gedeelte 394 (gedeelte van gedeelte 349) van Erf 2430, Rustenburg, Registrasie Afdeling J.Q., Noordwes Provinsie** gee hiermee ingevolge, Artikel 18 (1) (d) van die Rustenburg Plaaslike Munisipaliteit Ruimtelike Beplanning en Grondgebruikbestuur Verordening, 2015 kennis dat ek by **Rustenburg Plaaslike Munisipaliteit** aansoek gedoen het om wysiging van die Dorpsbeplanningskema bekend as **Rustenburg Grondgebruiksbestuursskema, 2005** vir die verandering van grondgebruiksregte ook bekend as hersonering. A) Die Hersonering van die eiendom hierbo beskryf, geleë te Violet Straat, Karlienpark, vanaf "Residensieel 1" na "Residensieel 2", soos omskryf in Bylae 1791 tot die Skema. B) Die aanliggende eiendomme asook die eiendomme in die omgewing, kan moontlik daardeur geraak word. C) Die hersonering van "Residensieel 1" na "Residensieel 2" behels dat 'n nuwe gebou wat bestaan uit 4 wooneenhede op die eiendom opgerig gaan word soos omskryf in die Bylae tot die Skema. Bylae 1791 bevat die volgende ontwikkelings parameters: Maks Hoogte: 2 Verdiepings, Maks Dekking: 65%, Maks V.O.V: 0.7, Digtheid: 60 Wooneenhede per hektaar.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoorure by die kantoor van die Munisipale Bestuurder **Kamer 319, Missionary Mpheni House, h/v Nelson Mandela en Beyers Naude Lane, Rustenburg** vir 'n tydperk van 30 dae vanaf **22 Maart 2016**. Besware teen of verhoë ten opsigte van die aansoek moet binne 'n tydperk van 30 dae vanaf **22 Maart 2016** skriftelik by of tot die Munisipale Bestuurder by bovermelde adres of by **Posbus 16, Rustenburg, 0300** ingedien of gerig word.

Adres van eienaar: **P/a NE Stadsbeplanners BK, Posbus 5717, RUSTENBURG, 0300**

Tel: **(014) 5922777**, Faks: **(014) 5921640**

**PROVINCIAL NOTICE 39 OF 2016**

**TLOKWE CITY COUNCIL**

**DECLARATION THAT THE TONWSHIP OF IKAGENG EXTENSION 8, HAS BEEN ESTABLISHED**

**1. CONDITIONS OF ESTABLISHMENT**

**1.1 Name**

The name of the township shall be Ikageng Extension 8.

**1.2 Lay-out / Design**

The township shall consist of erven and streets as indicated on GENERAL PLAN S.G.No. 2972/2014.

**1.3 Access**

Access to the township will be from Mogotsi Street via multiple corridor roads.

**2. CONDITIONS TO BE COMPLIED WITH PRIOR TO THE REGISTRATION OF THE ERVEN IN THE TOWNSHIP**

**2.1 Provision and installation of external and internal services**

2.1.1 The township establisher must make the necessary arrangements with the Tlokwe City Council Local Municipality in relation to the provision and installation of water, electricity and sanitation services as well as the building of streets and storm water drainage in the township.

2.1.2 The township establisher shall install and provide internal engineering services in the township.

2.1.3 The Tlokwe City Council Local Municipality shall install and provide external engineering services to the township.

**2.2 Obligations regarding services and guarantees**

The township establisher must within a period of twelve (12) months or such an extended time period as that the Tlokwe City Council Local Municipality may determine, fulfil his obligations with regard to the provision of water, electricity and sanitation services as well as the construction of roads and storm water and the installation of systems therefore, as beforehand agreed between the township establisher and the Tlokwe City Council Local Municipality. No erven may be alienated or transferred in the name of the buyer before the Tlokwe City Council Local Municipality confirmed that sufficient guarantees/cash contributions is delivered by the township establisher to the Tlokwe City Council Local Municipality for the provision of services.

**2.3 Engineering services**

**2.3.1 Storm water drainage and street construction**

2.3.1.1 On request of the Tlokwe City Council Local Municipality the township establisher shall submit a detailed scheme, complete with plans, sections and specifications, compiled by a registered professional civil engineer approved by the Tlokwe City



Council Local Municipality, for the storage and drainage of storm water through the township by proper disposal works and for the installation, tarmacing, curbing and canalisation of streets there-in, together with the provision of such retaining walls as the Tlokwe City Council Local Municipality may deem necessary, for approval.

- 2.3.1.2 When required by the Tlokwe City Council Local Municipality, the township establisher shall, for his own account, carry out the approved scheme to the satisfaction of the Tlokwe City Council Local Municipality under supervision of a registered professional civil engineer, approved by the Tlokwe City Council Local Municipality.
- 2.3.1.3 The township establisher is responsible for the maintenance of streets and storm water services in the township to the satisfaction of the Tlokwe City Council Local Municipality until such streets and storm water conduits have been taken over by the Tlokwe City Council Local Municipality.
- 2.3.1.4 Designs and specifications shall be done in accordance with the conditions of the Tlokwe City Council Local Municipality taking into consideration:
- 2.3.1.4.1 "Guidelines for the provision of engineering services and facilities in residential township development (National Housing Council revised May, 1995)", as amended from time to time,
- 2.3.1.4.2 SANS 1200, Standardized specifications for Civil Engineering Construction,
- 2.3.1.4.3 The Ordinance on Town Planning and Townships, 1986 (Ordinance 15 of 1986),
- 2.3.1.4.4 The requirements of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and
- 2.3.1.4.5 Clause 12(1)(b) of the Potchefstroom Town Planning Scheme 1980 where the latter reads as follows:

"Where, in the opinion of the local authority it is impracticable for storm water to be drained from higher lying erven direct to a public street or stream the owner of the lower lying erf shall be obliged to accept and/or permit the passage over the erf of such storm water: Provided that the owners of any higher lying erven, the storm water from which is discharged over any lower lying erf, shall negotiate point of discharge and shall be liable to pay a proportionate share of the cost of any pipeline or drain which the owner of such lower lying erf may find necessary to lay or construct for the purpose of conducting the water so discharged over the erf."

### **2.3.2 Water and sewerage**

- 2.3.2.1 The township establisher, through an approved professional engineer, is responsible for the design and construction of the water provision and sewerage systems in accordance with the requirements and specifications of the Tlokwe City Council Local Municipality, taking into consideration:
- 2.3.2.1.1 "Guidelines for the provision of engineering services and facilities in residential township development (National Housing Board, revised May 1995)", as amended from time to time,
- 2.3.2.1.2 SANS 1200, Standardised specifications for Civil Engineering Construction,
- 2.3.2.1.3 The Ordinance on Town Planning and Townships, 1986 (Ordinance 15 of 1986), and

2.3.2.1.4 The requirements of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977).

2.3.2.2 The township establisher is responsible for the maintenance of the water and sewerage services in the township to the satisfaction of the Tlokwe City Council Local Municipality, until such services have been taken over by the Tlokwe City Council Local Municipality.

### **2.3.3 Electricity**

2.3.3.1 If a private contractor perform the installation of electricity of the township, the township establisher shall appoint a professional engineer that will be responsible for the design and construction of the electricity distribution network and where medium tension installation forms part of the reticulation system the network installation shall be done in accordance with the following:

2.3.3.1.1 "Guidelines for the provision of engineering services and facilities in residential township development (National Housing Board, revised May 1995)", as amended from time to time,

2.3.3.1.2 SANS Code 0142, as amended from time to time, and

2.3.3.1.3 The Ordinance on Town Planning and Townships, 1986 (Ordinance 15 of 1986).

2.3.3.2 The township establisher is responsible for the maintenance of the electricity services in the township to the satisfaction of the Tlokwe City Council Local Municipality, until such services have been taken over by the Tlokwe City Council Local Municipality.

### **2.3.4 Refuse removal**

2.3.4.1 The township establisher is responsible for the maintenance of the refuse removal services in the township to the satisfaction of the Tlokwe City Council Local Municipality, until such services have been taken over by the Tlokwe City Council Local Municipality.

### **2.5 Demolition of buildings and structures**

The township establisher must, at his expense, demolish all existing buildings and structures that are located within building line reserves, side spaces or over mutual boundaries of proposed erven to the satisfaction of the Tlokwe City Council Local Municipality, when required by the Tlokwe City Council Local Municipality to do so.

### **2.6 Conditions of the Department of Agriculture, Conservation, Environment and Rural Development**

The township establisher shall comply with all conditions as stipulated letter NWP-NON/EIA/08/2011, dated 25 November 2011

### **2.7 Telkom SA (Ltd)**

The township establisher shall comply with all conditions as stipulated letter MISC F 22/2011, dated 8 July 2011

### **2.8 Conditions of the Department of Transport, Roads and Community Safety**

The township establisher shall comply with all conditions as stipulated in the letter of comment, dated 17 August 2011.

### 3. DISPOSAL OF EXISTING CONDITIONS OF TITLE

All erven shall be subject to existing conditions of title and servitudes, if any in accordance with and as proven by a land surveyor certificate.

#### 3.1 The following conditions do not affect the township due to the location thereof.

A. GEDEELTE 2 van die gemelde plaas TOWN AND TOWNLANDS OF POTCHEFSTROOM 435, Registrasie Afdeling IQ, Transvaal (waarvan die eiendom hierkragtens gehou 'n gedeelte uitmaak) is ONDERHEWIG aan die volgende:

- (a) CERTAIN Deed of Agreement of Sale and Exchange entered into at Pretoria on the 10<sup>th</sup> day of July, 1905, between the Government of the Transvaal and the Council of the Municipality of Potchefstroom relative to the sale to the Government of the Land known as the Mooibank Settlement and a piece of adjoining land called "NOYJONS", copy whereof is annexed to the Town Lands Amendment Ordinance 1905, and referred to therein as the Second Schedule and particularly in Clause 1 of the said Agreement whereby the Government is entitled to one-third (1/3<sup>rd</sup>) share of the water which the Council of the Municipality of Potchefstroom is entitled to take from the Mooi River.
- (b) The right, confirmed by Executive Council resolution Article 114 of 1866, to build a dam in the Mooi River and to construct a water furrow over the TOWNLANDS OF POTCHEFSTROOM leading to the farm HAASKRAAL 460 IQ District Potchefstroom, situate adjoining the said townlands, for the purpose of irrigating its lands granted to the owners of the Western Portion of the said farm HAASKRAAL according to the Volksraad Resolution Article 83 of 1883 (R5401/82).

This Deed shall also be subject to all rights and servitudes which now affect or at any time hereafter may be found to affect the title to the land held hereunder or to be binding on the State in respect of the said land as at the 15<sup>th</sup> June, 1907.

B. Daardie deel van die eiendom hierkragtens gehou, aangedui deur die figuur ABCDEFGHJKLMdcbaR op Kaart LG 837/1999 geheg aan Sertifikaat van Verenigde Titel T22729/2000, (waarvan die eiendom hierkragtens gehou 'n gedeelte uitmaak) is ONDERHEWIG aan die volgende voorwaardes:

- (a) Kragtens Notariële Akte van Serwituut K3790/88S is die binnegemelde eiendom ONDERHEWIG aan die reg aan ESKOM verleen om elektrisiteit te vervoer, tesame met bykomende regte, en onderhewig aan voorwaardes, soos meer ten volle sal blyk uit genoemde Serwituutakte, die hartlyne van welke serwituut aangedui word deur die lyne ab en cd op Kaart LG 833/1999 geheg aan Sertifikaat van Verenigde Titel T22729/2000.
- (b) Die voormalige Resterende Gedeelte van die plaas TOWN AND TOWNLANDS OF POTCHEFSTROOM 435, Registrasie Afdeling IQ Groot as sodanig 9698,2283 hektaar (waarvan die gedeelte aangetoon deur die figuur ABCDEFGHJKLMNPA op Kaart LG 837/1999 geheg aan Sertifikaat van Verenigde Titel T22729/2000 deel uitmaak), is kragtens Notariële Akte van Serwituut K522/1937-S gedateer 2 Augustus 1937 en soos gewysig deur Notariële Akte van Serwituut K100/1938-S gedateer 28 Januarie 1938, ONDERHEWIG aan die reg aan ESKOM verleen om elektrisiteit te vervoer,

tesame met bykomende regte, en onderhewig aan voorwaardes, soos meer ten volle sal blyk uit genoemde Serwituutaktes; die middellyn van welke serwituut aangedui word deur die lyn t',u', op Kaart LG A10751/85.

- (c) Die voormalige Resterende Gedeelte van die plaas TOWN AND TOWNLANDS OF POTCHEFSTROOM voormeld, groot as sodanig 8993,0645 hektaar (waarvan die gedeelte aangetoon deur die figuur ABCDEFGHJKLMNPA op Kaart LG 837/1999 geheg aan Sertifikaat van Verenigde Titel T22729/2000 deel uitmaak), is kragtens Notariële Akte van Serwituut K112/1972-S gedateer 8 Februarie 1972 ONDERHEWIG aan die reg aan ESKOM verleen om elektrisiteit te vervoer, oor die eiendom hierkragtens gehou, tesame met bykomende regte, en onderhewig aan voorwaardes, soos meer ten volle sal blyk uit genoemde Serwituutakte.

#### 4. CONDITIONS OF TITLE

##### 4.1 Conditions imposed by the Tlokwe City Council Local Municipality in terms of the conditions of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986)

###### 4.1.1 All erven

All erven with the exception of Erven 20465 to 20476 and Erven 20462 to 20464 are subject to the following conditions:

- 4.1.1.1 The erf is subject to a servitude, 2 metres wide, in favour of the Tlokwe City Council Local Municipality, for sewerage and other municipal purposes, along any two of the boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude of 2 metres wide for municipal purposes across the access portion of the erf, if and when required by the Tlokwe City Council Local Municipality, provided that the Tlokwe City Council Local Municipality may relax or grant exemption from the required servitudes.
- 4.1.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large rooted trees shall be planted within the area of such servitude or within 2 metres thereof.
- 4.1.1.3 The Tlokwe City Council Local Municipality shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of the construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the Tlokwe City Council Local Municipality.
- 4.1.1.4 Proposals to overcome unfavourable soil conditions shall be incorporated into all building plans submitted for approval. All buildings shall be constructed in accordance with such preventative measures. The Tlokwe City Council Local Municipality accepts no liability for any claims whatsoever which may result from the unfavourable soil conditions, for it remains the responsibility of the owner to satisfy him or herself that the foundation solution as proposed for the erven in the township is sufficient.

**5. CONDITIONS THAT IN ADDITION TO THE EXISTING PROVISIONS OF THE TOWN PLANNING SCHEME, IN RESPECT OF ARTICLE 125 OF THE TOWN PLANNING AND TOWNSHIPS ORDINANCE 1986 (ORDINANCE 15 OF 1986), NEED TO BE INCLUDED IN THE TOWN PLANNING SCHEME**

**5.1 Zonings**

5.1.1 Erven 20352 to 20461

The use zone of the erf is "Residential 1" with a density of one dwelling unit per erf.

5.1.2 Erf 20351

The use of the erf zone is "Business 1".

5.1.3 Erven 20462 to 20464

The use zone of the erf is "Public Open Space".

5.1.4 Erf 20350

The use zone of the erf is "Municipal".

5.1.5 Erven 20465 to 20476

The use zone of the erf is "Public Road".

**5.2 Building lines**

The following street building lines shall be applicable to the erven in the township:

5.2.1 Bordering all streets: Three (3) metres

**5.4 Soil Conditions**

5.4.1 In order to overcome the proven detrimental soil conditions on the erf, the foundation and other structural aspects of the building shall be designed by a competent professional engineer and the details of such design shall be shown on the building plans submitted to the Tlokwe City Council Local Municipality for approval unless it is proved to the Tlokwe City Council Local Municipality that such measures are unnecessary or that the same purpose can be achieved by other more effective means.

5.4.2 The following wording must be included on all building plans submitted to the Tlokwe City Council Local Municipality for approval:

"a. The approval of this building plan by the Tlokwe City Council Local Municipality does not imply that the design and precautions to prevent, to control or to combat the possible consequences of possible unfavourable soil conditions are necessarily sufficient.

b. It remains the exclusive responsibility of the owner to satisfy him or herself that the design and precautions are sufficient.

**DR NE BLAAI-MOKGETHI  
MUNICIPAL MANAGER**


PROVINCIAL NOTICE 40 OF 2016

PUBLIC NOTICE

APPOINTMENT OF THE NORTH WEST TOURISM BOARD MEMBERS

I **Desbo Francinah Sebonta Mohono** Member of the Executive Council responsible for Tourism in the North west, guided by section 7(8) of the North West tourism Act, 2 of 2015, hereby publish the names of the North West Tourism Board as follows:

Mr. Mogashoa Keseilwe David, Dr. Motshegare Kesolofetse Olivia, Dr. Nkagisang Monyane Gabriel, Ms. Sefularo Christina Carolina Kgomotso, Mr. Reetsang Willie Isaac, Adv. Kgoroadira Karabo Bareng, Mr. Modiselle Isaac Ramokatela.

Given under my hand  at MaLibereng on this day 02 of November 2015

**Member of the Executive Council responsible for Tourism**

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 65 OF 2016

**NOTICE IN TERMS OF SECTION 5(5) OF THE GAUTENG REMOVAL OF RESTRICTIONS ACT, 1996 (ACT No 3 OF 1996), READ WITH SECTION (2) OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (ACT 16 OF 2013) FOR A SIMULTANEOUS REMOVAL OF RESTRICTION AND CONSENT USE APPLICATION**

We, MM TOWN PLANNING SERVICES, being the authorised agent of the owner/s hereby give notice in terms of section 5(5) of the Gauteng Removal of Restrictions Act, 1996, read with Section (2) of the Spatial Planning and Land Use Management Act (Act 16 Of 2013), that we have applied to the MIDVAAL LOCAL MUNICIPALITY for the REMOVAL of CONDITIONS (b) – (i) contained in the Title Deed pertaining to **HD 45 GLEN DOANLD AH, MIDVAAL, GP**, and the simultaneous application for the CONSENT USE for the following purposes: 2<sup>ND</sup> DWELLING. Particulars of the application will lie for inspection during normal office hours at the office of the Municipal Manager, Midvaal Local Municipality, c/o Development Planning, at the Civic Centre Building, Mitchell Street, Meyerton, for a period of 28 days from **23 MARCH 2016**. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager, at the aforementioned address or at PO Box 9, Meyerton, 1960, within a period of 28 days from **23 MARCH 2016**. MM TOWN PLANNING SERVICES: 59 HF VERWOERD ST, HEIDELBERG, 1441 / PO Box 296, HEIDELBERG, 1438/ Tel No 016-349 2948/ 082 4000 909 [info@townplanningservices.co.za](mailto:info@townplanningservices.co.za)

**PLAASLIKE OWERHEID KENNISGEWING 65 VAN 2016****KENNISGEWING INGEVOLGE ARTIKEL 5(5) VAN DIE GAUTENG OPHEFFING VAN BEPERKINGSWET, 1996 (WET 3 VAN 1996), GELEES SAAM MET ARTIKEL 2 VAN DIE WET OP RUIMTELIKE BEPLANNING EN GRONDGEBRUIKSBESTUUR, (WET 16 VAN 2013) VIR DIE GELYKTYDIGE OPHEFFING VAN BEPERKENDE VOORWAARDES EN VERGUNNINGSGEBRUIK AANSOEK**

Ons, MM TOWN PLANNING SERVICES, synde die gematigde agent van die eienaar/s, gee hiermee kennis, ingevolge artikel 5(5) van die Gauteng Opheffing van Beperkingswet, 1996, gelees saam met Artikel 2 van die Wet Op Ruimtelike Beplanning en Grondgebruiksbestuur, (Wet 16 van 2013), dat ons by die MIDVAAL PLAASLIKE MUNISIPALITEIT aansoek gedoen het vir die OPHEFFING van voorwaardes (b) – (i) vervat in die Titel Akte van **HOEWE 45 GLEN DONALD LH, MIDVAAL, GAUTENG**, en die gelyktydige VERGUNNINGSGEBRUIK ten doel vir die oprigting van 'n 2<sup>DE</sup> WONING. Besonderhede van die aansoek lê ter insae gedurende gewone kantoor ure by die kantoor van die Munisipale Bestuurder, Ontwikkellings Beplanning, Midvaal Plaaslike Munisipaliteit, Mitchell Straat, Meyerton, vir 'n tydperk van 28 dae vanaf **23 MAART 2016**. Besware teen of versoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf **23 MAART 2016** skriftelik by die Munisipale Bestuurder, p/a Posbus 9, Meyerton 1960, ingedien of gerig word. MM TOWN PLANNING SERVICES: 59 HF VERWOERD STR, HEIDELBERG, 1441 / Posbus 296, HEIDELBERG, 1438/ Tel No 016-349 2948/ 082 4000 909 [info@townplanningservices.co.za](mailto:info@townplanningservices.co.za)

23-30

**LOCAL AUTHORITY NOTICE 66 OF 2016****RUSTENBURG AMENDMENT SCHEME 1274**

Notice is hereby given in terms of the provisions of section 57(1)(a) of the Town Planning and Township Ordinance, 1986, that the Rustenburg Local Municipality has approved the amendment of the Rustenburg Land Use Management Scheme, 2005, by the rezoning of Erven 436 and 437, Waterval East Extension 58, from "Residential 2" with a density of 20 dwelling units per hectare and "Special" for Offices respectively to "Special" for the purposes of Offices, Shops, Vehicle Sales lots, Vehicle Workshops, Places of refreshments and "Existing Public Roads" restricted to conditions as per Annexure 1577 to the Scheme. The erven will also be consolidated and re-subdivided and will be known as Portions 1 to 4 and the Remainder of Erf 496 Waterval East Extension 58. Map 3 and scheme clauses of the amendment of the scheme are filed with the Regional Director, North West Provincial Administration, Private Bag X1213, POTCHEFSTROOM, 2520, and the Municipal Manager, Room 620, Missionary Mpheni House, Beyers Naude Drive, Rustenburg, and are open for inspection at all reasonable times. This amendment is known as Rustenburg Amendment Scheme 1274 and shall come into operation within 56 days from the date of the publication hereof.

Missionary Mpheni House  
PO Box 16  
Rustenburg  
0300

**PLAASLIKE OWERHEID KENNISGEWING 66 VAN 2016**

**RUSTENBURG WYSIGINGSKEMA 1274**

Kennis geskied hiermee ingevolge die bepalings van artikel 57 (1)(a) van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986, dat die Rustenburg Plaaslike Munisipaliteit die wysiging van die Rustenburg Grondgebruiksbeheer Skema, 2005, goedgekeur het deur die hersonering van Erwe 436 en 437, Waterval East Uitbreiding 58, van "Residensieël 2" met 'n digtheid van 20 wooneenhede per hektaar en "Spesiaal" vir Kantore onderskeidelik na "Spesiaal" vir die doeleindes van Kantore, Winkels, Motor Verkoopslokale, Motor Werkswinkels, Verversingsplekke en "Bestaande Openbare Strate", beperk tot die voorwaardes soos vervat in Bylae 1577 tot die Skema. Die erwe sal verder ook gekonsolideer en heronderverdeel word en sal voortaan bekend staan as Gedeeltes 1 tot 4 en die Resterende Gedeelte van Erf 496 Waterval East Uitbreiding 58. Kaart 3 en die skemaklousules van die wysigingskema word in bewaring gehou deur die Streekdirekteur, Noordwes Provinsiale Administrasie, Privaatsak X1213, POTCHEFSTROOM 2520, en die Munisipale Bestuurder, Kamer 620, Missionary Mpheni House, Beyers Naude Drive, Rustenburg, en is te alle redelike tye ter insae beskikbaar. Hierdie wysiging staan bekend as Rustenburg Wysigingskema 1274 en sal in werking tree binne 56 dae vanaf datum van publikasie hiervan.

Missionary Mpheni House  
Posbus 16  
Rustenburg  
0300

**LOCAL AUTHORITY NOTICE 67 OF 2016**

**TLOKWE CITY COUNCIL**

**POTCHEFSTROOM AMENDMENT SCHEME 1797**

It is hereby notified in terms of the provisions of Section 125(1) of the Town Planning and Townships Ordinance, 1986, that the Tlokwe City Council has approved an amendment scheme with regard to the land in the Township Ikageng Extension 8 being an amendment of the Potchefstroom Town Planning Scheme, 1980.

Map 3 and the scheme clauses of the amendment scheme are filed with the Directorate, Department of Developmental Local Government and Housing, North West Provincial Administration, Potchefstroom and the Municipal Manager, Dan Tloome Complex, corner of Sol Plaatjie Avenue and Wolmarans Street, P O Box 113, Potchefstroom, and are open for inspection during normal office hours.

This amendment is known as Potchefstroom Amendment Scheme 1797.

**DR NE BLAAI-MOKGETHI  
MUNICIPAL MANAGER**

Notice 27/2016/fk



**LOCAL AUTHORITY NOTICE 68 OF 2016****REMOVAL OF RESTRICTIONS ACT, 1967****REMOVAL OF RESTRICTIONS OF PORTION 104 (A PORTION OF PORTION 2) OF THE FARM TOWN AND TOWNLANDS OF POTCHEFSTROOM 435, REGISTRATION DIVISION I.Q**

It is hereby notified that application has been made in terms of Section 3(1) of the Removal of Restrictions Act, 1967 (Act No. 84 of 1967) by H & W Town Planners, Potchefstroom, for :

- the removal of Condition 1 p.3 in Deed of Transfer T 21314/13 with the purpose to utilize the erf to its full potential and to construct a dwelling unit.

The application and relative documents are open for inspection at the offices of the Chief town Planner: Spatial Planning, Department Local Government and Human Settlement, office 728, First Floor, West Wing Garona Building, University Drive, Mahikeng and the office of the Municipal Manager, Potchefstroom Local Municipality, for a period of 28 days, from **22 March 2016**

Objections to the application may be lodged in writing with the Deputy Director, Department of Developmental Local Government and Housing at the above address or to Private Bag X1213, Potchefstroom 2520 or by e-mail to [mvanheerden@nwpg.gov.za](mailto:mvanheerden@nwpg.gov.za) on or before **19 April 2016** and shall reach this office not later than 14:00 on the said date.

GO 15/4/2/1/26/169

22-29

**PLAASLIKE OWERHEID KENNISGEWING 68 VAN 2016****WET OP OPHEFFING VAN BEPERKINGS, 1967****DIE OPHEFFING VAN TITEL VOORWAARDES VAN GEDEELTE 104 ('N GEDEELTE VAN GEDEELTE 2) VAN DIE PLAAS TOWN AND TOWNLANDS OF POTCHEFSTROOM 435 REGISTRASIE AFDELING I.Q:**

Hierby word bekend gemaak dat ingevolge die bepalings van artikel 3(1) van die Wet op Opheffing van Beperkings, 1967 (Wet No. 84 van 1967) aansoek gedoen is deur H & W Stadsbeplanners, Potchefstroom vir :

- die opheffing van voorwaarde 1 p.3 in Akte van Transport T 21314/13 met die doel om die erf tot die volle potensiaal te ontwikkel deur 'n wooneenheid daarop op te rig.

Die aansoek en die betrokke dokumentasie is ter insae by die kantoor van die Hoof Stadsbeplanner: Ruimtelike Beplanning en Grondgebruik beheer, Plaaslike Regering en Behuising, Kantoor 728, 1ste vloer, Westelike Vleuel, Garona Gebou, Universiteitsweg, Mahikeng, en in die kantoor van die Munisipale Bestuurder, Potchefstroom Stadsraad vir 'n tydperk van 28 dae vanaf **22 Maart 2016**

Besware teen die aansoek kan skriftelik by Hoof Stadsbeplanner: Ruimtelike Beplanning en Grondgebruik Beheer, Plaaslike Regering en Behuising, Kantoor 728, 1ste Vloer, Westelike Vleuel, Garona Gebou, Universiteitsweg, Mahikeng, of Privaatsak X1213, Potchefstroom, 2520 of per e-pos na [mvanheerden@nwpg.gov.za](mailto:mvanheerden@nwpg.gov.za) voor of op **19 April 2016** ingedien word en moet die kantoor nie later as 14:00 op genoemde datum bereik nie.

GO 15/4/2/1/26/169

22-29

**LOCAL AUTHORITY NOTICE 69 OF 2016**

**CITY OF MATLOSANA  
PROPOSED CLOSURE OF ERF 19613, JOUBERTON EXTENSION 19, AS PARK**

It is hereby notified in terms of the provisions of Section 67 read with Section 68 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939) as amended, that it is the intention of the City of Matlosana to permanently close Erf 19613, Jouberton Extension 19, situated adjacent to Erf 18319, Jouberton Extension 19, South of the N12, between Alabama and Jouberton, approximately 1,1523 ha in extent, as public open space.

A copy of a plan indicating the location of the said portion of land will lie for inspection during normal office hours at the office of the Records Section, Basement Floor, Klerksdorp Civic Centre, Klerksdorp, for the period of 30 days from 22 March 2016.

Any person who has any objection to the proposed closing of the portion of land or who may have any claim for compensation if such closing be carried out, must lodge such objection or claim with the undersigned in writing not later than Friday 22 April 2016.

**S.G. MABUDA, ACTING MUNICIPAL MANAGER, CITY OF MATLOSANA, P.O. BOX 99, KLERKSDORP, 2570,  
NOTICE NUMBER 8/6/34(c)**

**PLAASLIKE OWERHEID KENNISGEWING 69 VAN 2016**

**STAD VAN MATLOSANA  
VOORGESTELDE SLUITING VAN ERF 19613, JOUBERTON UITBREIDING 19, AS PARK**

Hierby word kennis ooreenkomstig die bepalings van Artikel 67 saamgelees met Artikel 68 van die Ordonnansie op Plaaslike Bestuur, 1939 (Ordonnansie 17 van 1939), soos gewysig, gegee dat die Stad van Matlosana van voornemens is om Erf 19613, Jouberton Uitbreiding 19, geleë aanliggend tot Erf 18319, Jouberton Uitbreiding 19, Suid van die N12, tussen Alabama en Jouberton, ongeveer 1,1523 ha groot, permanent as openbare oop ruimte te sluit.

'n Afskrif van die plan waarop die ligging van die voormelde grondgedeelte aangedui word sal gedurende gewone kantoorure beskikbaar wees by die Rekords Afdeling, Kelder Verdieping, Klerksdorp Burgersentrum, Klerksdorp, vir 'n tydperk van 30 dae vanaf 22 Maart 2016.

Enigeen wat beswaar teen die voorgestelde sluiting van die grondgedeelte het of wat enige eis om skadvergoeding sal hê indien die sluiting uitgevoer word, moet sodanige beswaar of eis nie later as Vrydag 22 April 2016 skriftelik by die ondergetekende indien.

**S.G. MABUDA, WAARNEMENDE MUNISIPALE BESTUURDER, STAD VAN MATLOSANA, POSBUS 99,  
KLERKSDORP, 2570, KENNISGEWINGNOMMER 8/6/34(c)**

**LOCAL AUTHORITY NOTICE 70 OF 2016**

**CITY OF MATLOSANA  
PROPOSED CLOSURE OF A PORTION OF LEHALAANGONE STREET, SITUATED BETWEEN ERVEN 18319  
AND 18514, JOUBERTON EXTENSION 19, AS STREET**

Notice is hereby given in terms of the provisions of Section 67 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939), as amended, that it is the intention of the City of Matlosana to permanently close a portion of Lehalaangone Street, situated between Erven 18319 and 18514, Jouberton Extension 19, South of the N12, between Alabama and Jouberton, approximately 8 843m<sup>2</sup> in extent, as Street.

A copy of a plan indicating the locality of the said portion of land will lie for inspection during normal office hours at the Records Section, Basement Floor, Klerksdorp Civic Centre, Klerksdorp, for a period of 30 days from 22 March 2016.

Any person who has any objection to the proposed closing of the portion of land or who may have any claim for compensation if such closing be carried out, must lodge objection or claim with the undersigned in writing not later than Friday 22 April 2016.

**S.G. MABUDA, ACTING MUNICIPAL MANAGER, CITY OF MATLOSANA, P.O. BOX 99, KLERKSDORP, 2570,  
NOTICE NUMBER 8/6/34(c)**

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**PLAASLIKE OWERHEID KENNISGEWING 70 VAN 2016**

**STAD VAN MATLOSANA  
VOORGESTELDE SLUITING VAN 'N GEDEELTE VAN LEHALAANGONESTRAAT, GELEË TUSSEN ERWE 18319  
EN 18514, JOUBERTON UITBREIDING 19, AS STRAAT**

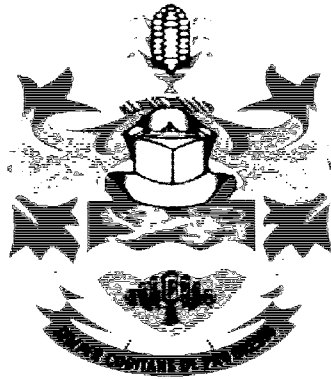
Hierby word kennis ooreenkomstig die bepalings van Artikel 67 van die Ordonnansie op Plaaslike Bestuur, 1939 (Ordonnansie 17 van 1939) soos gewysig, gegee dat die Stad van Matlosana van voornemens is om 'n gedeelte van Lehalaangonestraat, geleë tussen Erwe 18319 and 18514, Jouberton Uitbreiding 19, Suid van die N12, tussen Alabama en Jouberton, ongeveer 8 843m<sup>2</sup> groot, permanent as Straat, te sluit.

'n Afskrif van die plan waarop die ligging van die voormelde grondgedeelte aangedui word sal gedurende gewone kantoorure beskikbaar wees by die Rekords Afdeling, Kelder Verdieping, Klerksdorp Burgersentrum, Klerksdorp, vir 'n tydperk van 30 dae vanaf 22 Maart 2016.

Enigeen wat beswaar teen die voorgestelde sluiting van die grondgedeelte het of wat enige eis om skadevergoeding sal hê indien die sluiting uitgevoer word, moet sodanige beswaar of eis nie later as Vrydag 22 April 2016 skriftelik by die ondergetekende indien.

**S.G. MABUDA, WAARNEMENDE MUNISIPALE BESTUURDER, STAD VAN MATLOSANA, POSBUS 99,  
KLERKSDORP, 2570, KENNISGEWINGNOMMER 8/6/34(c)**

**LOCAL AUTHORITY NOTICE 71 OF 2016**



**VENTERSDORP  
SPATIAL PLANNING AND  
LAND USE MANAGEMENT  
BY-LAW**

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## CHAPTER 1 DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

### 1 Definitions

In this By-Law, unless the context indicates otherwise, a word or expression defined in the Act, the Regulations or provincial legislation has the same meaning as in this By-law and -

“**Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013);

“**appeal authority**” means the executive authority of the municipality or any other body or institution outside of the municipality authorised by that municipality to assume the obligations of an appeal authority for purposes of appeals lodged in terms of the Act;

“**approved township**” means a township declared an approved township in terms of section 61 of this By-law;

“**By-Law**” means this By-Law and includes the schedules attached hereto or referred to herein.

“**communal land**” means land under the jurisdiction of a traditional council determined in terms of section 6 of the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005) and which was at any time vested in -

- (a) the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or
- (b) the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971);

“**consent**” means a land use right that may be obtained by way of consent from the municipality and is specified as such in the land use scheme;

“**consolidation**” means the joining of two or more pieces of land into a single entity;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

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

“**Days**” When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day

happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.

**“diagram”** means a diagram as defined in the Land Survey Act, 1997 (Act No. 8 of 1997);

**“deeds registry”** means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

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

**“land”** means -

- (a) any erf, agricultural holding or farm portion, and includes any improvements or building on the land and any real right in land, and
- (b) the area of communal land to which a household holds an informal right recognized in terms of the customary law applicable in the area where the land to which such right is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

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

**“Land Development Officer”** means the authorised official defined in regulation 1 of the Regulations of the Act;

**“land use scheme”** means the land use scheme adopted and approved in terms of Chapter 3 of this By-law and for the purpose of this By-law includes an existing scheme until such time as the existing scheme is replaced by the adopted and approved land use scheme.

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

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

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

**“Municipal Planning Tribunal”** means the Tlokwe/Ventersdorp Joint Municipal Planning Tribunal established in terms of section 44 of the By-Law;

**“Municipality”** means the Municipality of Ventersdorp or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No 6/2007 (Provincial Gazette 6419 of 2007/08/07) in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes a municipal department, the Council, the Municipal Manager or an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

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

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

“**Premier**” means the Premier of the Province of North West;

“**previous planning legislation**” means any planning legislation that is repealed by the Act or the provincial legislation; or any other legislation

“**provincial legislation**” means legislation contemplated in section 10 of the Act promulgated by the Province;

“**Province**” means the Province of North West referred to in section 103 of the Constitution;

“**Public spaces**” means a social space that is generally open and accessible to people and includes roads, road reserves, streets, street reserves, public squares, parks and public parking areas

“**Regulations**” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015; made in terms of Section 54 of the Act

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

“**spatial development framework**” means the Ventersdorp Spatial Development Framework;

“**subdivision**” means the division of a piece of land into two or more portions;

“**the Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 and any subsidiary legislation or other legal instruments issued in terms thereof;

“**township register**” means an approved subdivision register of a township in terms of the Deeds Registries Act;

“**traditional communities**” means communities recognised in terms of TRADITIONAL LEADERSHIP AND GOVERNANCE FRAMEWORK ACT 41 OF 2003

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

- (1) This By-law applies to all land within the geographical area of jurisdiction of the Municipality, including land owned by the state.
- (2) This By-law binds every owner and their successor-in-title and every user of land, including the state.

## **3 Conflict of laws**

- (1) This By-law is subject to the relevant provisions of the Act and the provincial legislation.
- (2) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (3) Where a provision of this By-law is in conflict with a provision of the Act or provincial legislation, the Municipality must institute the conflict resolution measures provided for in the Act or in provincial legislation, or in the absence of such measures, the measures provided for in the Intergovernmental Relations Framework Act, 2005 (Act No.13 of 2005); to resolve the conflict and until such time as the conflict is resolved, the provisions of this By-law prevails.
- (4) Where a provision of the land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law prevails.
- (5) Where there is a conflict between this By-law and another By-law of the Municipality, this By-Law prevails over the affected provision of the other By-law in respect of any municipal planning matter.

## **CHAPTER 2**

### **MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK**

## **4 Municipal spatial development framework**

- (1) The Municipality must draft a municipal spatial development framework in accordance with the provisions of sections 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems Act.
- (2) A municipal spatial development framework does not confer or take away land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.

**5 Contents of municipal spatial development framework**

- (1) A municipal spatial development framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Municipal Systems Act and provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for municipal planning.
- (2) Over and above the matters required in terms of subsection (1), the Municipality may determine any further plans, policies and instruments by virtue of which the municipal spatial development framework must be applied, interpreted and implemented.
- (3) A municipal spatial development framework must contain transitional arrangements with regard to the manner in which the municipal spatial development framework is to be implemented by the Municipality.

**6 Intention to prepare, amend or review municipal spatial development framework**

A Municipality which intends to prepare, amend or review its municipal spatial development framework-

- (a) may convene an intergovernmental steering committee and a project committee in accordance with section 7;
- (b) must publish a notice in two of the official languages of the Province most spoken in the municipal area of the Municipality of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act in two newspapers circulating in the area concerned;
- (c) must inform the Member of the Executive Council in writing of -
  - (i) its intention to prepare, amend or review the municipal spatial development framework;
  - (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation; and
- (e) must register relevant stakeholders who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

## **7 Institutional framework for preparation, amendment or review of municipal spatial development framework**

- (1) The purpose of the intergovernmental steering committee contemplated in section 6(a) is to coordinate the applicable contributions into the municipal spatial development framework and to
  - (a) provide technical knowledge and expertise;
  - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
  - (c) communicate any current or planned projects that have an impact on the municipal area;
  - (d) provide information on the locality of projects and budgetary allocations; and
  - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—
  - (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
  - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.
- (3) The purpose of the project committee contemplated in section 6(a) is to –
  - (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise;
  - (c) monitor progress and ensure that the drafting municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
  - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
  - (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;
  - (f) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;

- (i) if the Municipality decides to establish an intergovernmental steering committee—
  - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
  - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee must consist of –
  - (a) the Municipal Manager or his/her delegate;
  - (b) municipal employees from at least the following municipal departments:
    - (i) the integrated development planning office;
    - (ii) the planning department;
    - (iii) the engineering department;
    - (iv) the local economic development department;
    - (v) the environmental services department; and
    - (vi) the human settlement department.

## **8 Preparation, amendment or review of municipal spatial development framework**

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo document and submit it to the Council for adoption.
- (3) The project committee must prepare a first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and submit it to the Council, together with the report referred to in subsection (5), to approve the publication of a notice referred to in section 9(4) that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.
- (5) The project committee must submit a written report as contemplated in subsection (4) which must at least –
  - (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;



- 
- (b) summarise the process of drafting the municipal spatial development framework;
  - (c) summarise the consultation process to be followed with reference to section 9 of this By-law;
  - (d) indicate the involvement of the intergovernmental steering committee, if convened by the Municipality;
  - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
  - (f) indicate the alignment with the national and provincial spatial development frameworks;
  - (g) indicate all sector plans that may have an impact on the municipal spatial development framework;
  - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
  - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
  - (7) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the final municipal spatial development framework or final amendment or review of the municipal spatial development framework and submit it to the Council for adoption.
  - (8) If the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, as contemplated in subsection (6), is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.
  - (9) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision –
    - (a) give notice of its adoption in the media and the *Provincial Gazette*; and
    - (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.
  - (10) The municipal spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subsection 9.

- (11) If no intergovernmental steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.

## **9 Public participation**

- (1) Public participation undertaken by the Municipality must contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act.
- (2) In addition to the publication of notices in the *Provincial Gazette* and a newspaper that is circulated in the municipal area, the Municipality may, subject to section 21A of the Municipal Systems Act, use any other method of communication it may deem appropriate.
- (3) The Municipality may for purposes of public engagement on the content of the draft municipal spatial development framework arrange -
- (a) specific consultations with professional bodies, ward communities or other groups; and
  - (b) public meetings.
- (4) The notice contemplated in section 8(4) must specifically state that any person or body wishing to provide comments must-
- (a) do so within a period of 60 days from the first day of publication of the notice;
  - (b) provide written comments; and
  - (c) provide their contact details as specified in the definition of contact details.

## **10 Local spatial development framework**

- (1) The Municipality may adopt a local spatial development framework for a specific geographical area of a portion of the municipal area.
- (2) The purpose of a local spatial development framework is to:
- (a) provide detailed spatial planning guidelines or further plans for a specific geographic area or parts of specific geographical areas and may include precinct plans;
  - (b) provide more detail in respect of a proposal provided for in the municipal spatial development framework or necessary to give effect to the municipal spatial development framework and or its integrated development plan and other relevant sector plans;
  - (c) address specific land use planning needs of a specified geographic area;
  - (d) provide detailed policy and development parameters for land use planning;
  - (e) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, biodiversity and environmental issues; or

- (f) guide decision making on land development applications;
- (g) or any other relevant provision that will give effect to its duty to manage municipal planning in the context of its constitutional obligations.

#### **11 Compilation, amendment or review of local spatial development framework**

- (1) If the Municipality prepares, amends or reviews a local spatial development framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.
- (2) The municipality must, within 21 days of adopting a local spatial development framework or an amendment of local spatial development framework, publish a notice of the decision in the media and the Provincial Gazette and submit a copy of the local spatial development framework to the Member of the Executive Council.

#### **12 Effect of local spatial development framework**

- (1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 8(9).
- (2) A local spatial development framework guides and informs decisions made by the Municipality relating to land development, but it does not confer or take away rights.

#### **13 Record of and access to municipal spatial development framework**

- (1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved municipal or local spatial development framework and or any component thereof applicable within the jurisdiction of the Municipality.
- (2) Should anybody or person request a copy of the municipal or local spatial development framework the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved municipal spatial development framework or any component thereof.

#### **14 Departure from municipal spatial development framework**

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
  - (a) a variance that does not materially change the municipal spatial development framework;  
and
  - (b) a unique circumstance pertaining to a discovery of national importance.

- (2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, prior to the Municipal Planning Tribunal taking a decision which would constitute a variance from the municipal spatial development framework.

### **CHAPTER 3 LAND USE SCHEME**

#### **15 Applicability of Act**

Sections 24 to 30 of the Act apply to any land use scheme developed, prepared, adopted and amended by the Municipality.

#### **16 Purpose of land use scheme**

In addition to the purposes of a land use scheme stipulated in section 25(1) of the Act, the Municipality must determine the use and development of land within the municipal area of jurisdiction to which it relates in order to promote -

- (a) harmonious and compatible land use patterns;
- (b) aesthetic considerations;
- (c) sustainable development and densification; and
- (d) the accommodation of cultural customs and practices of traditional communities in land use management; and
- (e) a healthy environment that is not harmful to a person's health.

#### **17 General matters pertaining to land use scheme**

(1) In order to comply with section 24(1) of the Act, the Municipality must -

- (a) develop a draft land use scheme as contemplated in section 18;
- (b) obtain Council approval for publication of the draft land use scheme as contemplated in section 19;
- (c) embark on the necessary public participation process as contemplated in section 20;
- (d) incorporate relevant comments received during the public participation process as contemplated in section 21;
- (e) prepare the land use scheme as contemplated in section 22;
- (f) submit the land use scheme to the Council for approval and adoption as contemplated in section 23;

- (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in section 24; and
  - (h) submit the land use scheme to the Member of the Executive Council as contemplated in section 25.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (3) Zoning may be made applicable to a land unit or part thereof and must follow cadastral boundaries.
- (4) The land use scheme of the Municipality must take into consideration:
- (a) the Integrated Development Plan in terms of the Municipal Systems Act;
  - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law, and
  - (c) provincial legislation.

#### **18 Development of draft land use scheme**

- (1) Before the Municipality commences with the development of a draft land use scheme, the Council must take resolve to develop and prepare a land use scheme, provided that in its resolution the Council must:
- (a) adopt a process for drafting the land use scheme which complies with the Act, provincial legislation, this Chapter and any other applicable legislation;
  - (b) confirm over and above that which is contained in the applicable legislation the public participation to be followed;
  - (c) determine the form and content of the land use scheme;
  - (d) determine the scale and whether it should be available in an electronic media;
  - (e) determine any other relevant issue that will impact on the drafting and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
  - (f) confirm the manner in which the land use scheme must inter alia set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or must not require a consent or permission from the Municipality for purposes of the use of land.
- (2) After the resolution is taken by the Council, the department responsible for spatial planning and land use management or development planning in the Municipality must develop the draft land use scheme in accordance with the provisions of the Act, provincial legislation and this Chapter.

**19 Council approval for publication of draft land use scheme**

- (1) Upon completion of the draft land use scheme, the department responsible for spatial planning and land use management or development planning in the Municipality must submit it to the Council for approval as the draft land use scheme.
- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the department responsible for spatial planning and land use management or development planning in the Municipality and the report must at least –
  - (a) indicate the rationale in the approach to the drafting of the land use scheme;
  - (b) summarise the process of drafting the draft land use scheme;
  - (c) summarise the consultation process to be followed with reference to section 20 of this By-law;
  - (d) indicate the departments that were engaged in the drafting of the draft land use scheme;
  - (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Council;
  - (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.
- (3) If the Council is satisfied with the report and the draft land use scheme, it must approve the draft land use scheme and authorise the public participation thereof in terms of this By-law and the relevant legislation referred to in section 15.

**20 Public participation**

- (1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-law and in the event of an amendment of the land use scheme, the matters contemplated in section 28 of the Act.
- (2) Without detracting from the provisions of subsection (1) above the Municipality must -
  - (a) publish a notice in the *Provincial Gazette*; and
  - (b) publish a notice in two local newspapers that is circulated in the municipal area of the municipality in two languages commonly spoken in the area, once a week for two consecutive weeks; and
  - (c) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections must:
    - (i) do so within a period of 60 days from the first day of publication of the notice;
    - (ii) provide written comments in the form approved by Council; and

- (iii) provide their contact details as specified in the definition of contact details.
- (3) The Municipality may for purposes of public engagement arrange -
  - (a) specific consultations with professional bodies, ward communities or other groups; and
  - (b) public meetings.
- (4) The Municipality must inform the Member of the Executive Council in writing of the intention to draft a land use scheme and provide him or her with a copy of the draft land use scheme after it has been approved by the Council as contemplated in section 18.

## **21 Incorporation of relevant comments**

- (1) Within 60 days after completion of the public participation process outlined in section 20 the department responsible for spatial development and land use management or development planning in the Municipality must –
  - (a) review and consider all submissions made in writing or during any engagements; and
  - (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
    - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
    - (ii) all persons and or bodies that made submissions must be notified of the time, date and place of the hearing as may be determined by the Municipality not less than 30 days prior to the date determined for the hearing, by electronic means or registered post;
    - (iii) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.
- (2) The department responsible for spatial development and land use management or development planning in the Municipality must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in subsection (1).

## **22 Preparation of land use scheme**

The department responsible for spatial development and land use management or development planning in the Municipality must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section

20(2), the Municipality must follow a further consultation and public participation process in terms of section 20(2) of this By-law, before the land use scheme is adopted by the Council.

**23 Submission of land use scheme to Council for approval and adoption**

- (1) The department responsible for spatial development and land use management or development planning in the Municipality must -
  - (a) within 60 days from the closing date for objections contemplated in section 20(2)(c)(i), or
  - (b) if a further consultation and public participation process is followed as contemplated in section 22, within 60 days from the closing date of such further objections permitted in terms of section 22 read with section 20(2)(c)(i),

submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.

- (2) The Council must consider and adopt the land use scheme with or without amendments.

**24 Publication of notice of adoption and approval of land use scheme**

- (1) The Council must, within 60 days of its decision referred to in section 23, give notice of its decision to all persons or bodies who gave submissions on the land use scheme, and publish such notice in the media and the *Provincial Gazette*.
- (2) The date of publication of the notice referred to in subsection (1), in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

**25 Submission to Member of Executive Council**

After the land use scheme is published in terms of section 24 the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.



## 26 Records

- (1) The Municipality must in hard copy or electronic media and or data base keep record in the land use scheme register referred to in section 28 of the land use rights in relation to each erf or portion of land and which information is regarded as part of its land use scheme.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal area of the Municipality.
- (3) Should anybody or person request a copy of the approved land use scheme, the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved land use scheme or any component thereof. Provided that if the Municipality is of the opinion that in order to provide the said copy it will take officials unreasonably away from their substantive duties such request for a copy can be dealt with in terms of the Promotion of Access to Information Act, 2000.

## 27 Contents of land use scheme

- (1) The contents of a land use scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –
  - (a) a zoning for all properties within the geographic area of jurisdiction of the Municipality in accordance with a category of zoning as approved by Council;
  - (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
  - (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
  - (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
  - (e) servitudes for municipal services and access arrangements for all properties;
  - (f) provisions applicable to all properties relating to storm water;
  - (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;

- (h) zoning maps as approved by Council that depicts the zoning of every property in Municipality's geographical jurisdiction area as updated from time to time in line with the land use rights approved or granted; and
  - (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (2) The land use scheme may –
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
  - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

## **28 Register of amendments to Land Use Scheme**

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

- (a) Date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) township/farm name;
- (e) erf or farm number;
- (f) portion/remainder;
- (g) property description;
- (h) existing zoning;
- (i) square metres granted;
- (j) density;
- (k) floor area ratio;
- (l) height (storeys/meters);
- (m) coverage;
- (n) building line;
- (o) parking requirements;
- (p) amendment scheme number;
- (q) annexure number;
- (r) item number;

- (s) item date;
- (t) decision (approved/not approved);
- (u) decision date.
- (v) promulgation date and notice number
- (w) engineering contribution

## **29 Consolidation of amendment scheme**

- (1) The Municipality may of its own accord in order to consolidate an amendment scheme or several amendment schemes, map(s), annexure(s) or schedule(s) of the approved land use scheme, of more than one property, prepare a certified copy of documentation as the Municipality may require, for purposes of consolidating the said amendment scheme(s), which consolidated amendment scheme must from the date of the signing thereof, be in operation; provided that:
  - (a) such consolidation must not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights and may include a provision for consolidation of property for purposes of consolidating land use schemes; provided that if a consolidation is required, the Municipality only do so after consultation with the owner(s).
  - (b) after the Municipality has signed and certified a consolidation amendment scheme, it must publish it in the *Provincial Gazette*.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
- (3) The provisions of sections 15 to 28 apply, with the necessary changes, to the review or amendment of an existing land use scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

## **CHAPTER 4**

### **INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS**

#### **Part A: Division of Functions**

## **30 Division of functions between Municipal Planning Tribunal and Land Development Officer**

- (1) For purposes of section 35(3) of the Act, the following categories of applications defined in section 54 of this By-law must be considered and determined -

- (a) by the Municipal Planning Tribunal:
    - (i) All category 1 applications; and
    - (ii) all opposed category 2 applications;
  - (b) by the Land Development Officer:
    - (i) All category 2 applications that are not opposed.
- (2) For the purposes of subsection (1), an opposed application means an application on which objections/representations were received within the objection period of the public participation process .

### **Part B: Assessment to establish Municipal Planning Tribunal**

#### **31 Municipal assessment prior to establishment of Municipal Planning Tribunal**

- (1) The decision of a municipality to –
- (a) establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act; or
  - (b) agree to the establishment of a Municipal Planning Tribunal by a district municipality as contemplated in section 34(2) of the Act; or
  - (c) establish a Municipal Planning Tribunal for its municipal area,
- must be preceded by an assessment of the factors referred to in sub regulation (2).
- (2) The assessment referred to in sub regulation (1) includes, amongst others, the following factors -
- (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
  - (b) the ability of the municipality to effectively implement the provisions of the Act;
  - (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
  - (d) the development pressures in the municipal area.

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

#### **32 Establishment of Municipal Planning Tribunal for local municipal area**

- (1) Subject to the provisions of Part D of this Chapter, the Tlokwe/Ventersdorp Joint Municipal Planning Tribunal is hereby established for the municipal area of Tlokwe City Council, in compliance with section 35 of the Act.
- (2) The provisions of subsection (1) do not apply if, after the assessment contemplated in section 31, the municipality decides to establish a joint Municipal Planning Tribunal or a district Municipal Planning Tribunal.

### 33 Composition of Municipal Planning Tribunal for local municipal area

- (1) The Municipal Planning Tribunal consists of at least 13 members made up as follows
  - (a) three officials in the full-time service of the Municipality;
  - (b) two persons registered as a professional planner with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
  - (c) two persons registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
  - (d) two persons with financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
  - (e) two persons either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
  - (f) an environmental assessment practitioner registered with a voluntary association; and
  - (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (2) The officials referred to in subsection (1)(a) must have at least five years' experience in the field in which they are performing their services.
- (3) The persons referred to in subsection (1)(b) to (g) must –
  - (a) demonstrate knowledge of spatial planning, land use management and land development or the law related thereto;
  - (b) have at least five years' practical experience in the discipline within which they are registered or in the case of a person referred to in subsection (1)(g) in the discipline in which he or she is practising;
  - (c) demonstrate leadership in his or her profession or vocation or in community organisations.

### 34 Nomination procedure

- (1) The Municipality must -
  - (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and
  - (b) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal

Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations.

- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule 1 together with any other information deemed necessary by the Municipality.
- (3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations must be in the form contemplated in Schedule 2 and –
  - (a) must be published in one local newspaper that is circulated in the municipal area of the Municipality in two official languages commonly spoken in the municipal area;
  - (b) may be submitted to the various professional bodies which registers persons referred to in section 33(1) with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
  - (c) may advertise the call for nominations on the municipal website; and
  - (d) utilise any other method and media it deems necessary to advertise the call for nominations.

### **35 Submission of nomination**

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

**36 Initial screening of nomination by Municipality**

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of section 35.
- (2) The nominations that are incomplete or do not comply with the provisions of section 35 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 35 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
  - (a) was not duly nominated;
  - (b) is disqualified from appointment as contemplated in section 38 of the Act;
  - (c) does not possess the knowledge or experience as required in terms of section 33(3); or
  - (d) is not registered with the professional councils or voluntary bodies contemplated in section 33(1), if applicable,

the nomination must be rejected and must not be considered by the evaluation panel contemplated in section 37.

- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 37.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

**37 Evaluation panel**

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

**38 Appointment of members to Municipal Planning Tribunal by Council**

- (1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.

- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson from the officials refer to in section 32(1)(a) and a deputy chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 43, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

### **39 Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area**

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

after giving the member an opportunity to be heard.

- (4) An official of a municipality contemplated in section 33(1)(a) who serves on the Municipal Planning Tribunal –
  - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
  - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;



- (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality must immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of section 33(1)(b) to (g) to the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
- (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
- (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
- (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
- (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
- (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Municipal Planning Tribunal must sign the Code of Conduct contained in Schedule 4 before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and must conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Municipal Planning Tribunal, in the execution of their duties, must comply with the provisions of the Act, provincial legislation, this By-law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

#### **40 Vacancy**

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

**41 Proceedings of Municipal Planning Tribunal for municipal area of jurisdiction**

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

**42 Tribunal of record**

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.
- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon request and payment of the fee approved by the Council and in terms of the Promotion of Access to information Act 2 of 2000 and the By-law on furnishing information.

**43 Commencement date of operations of Municipal Planning Tribunal for local municipal area**

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

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**Part D: Establishment of Joint Municipal Planning Tribunal****44 Agreement to establish joint Municipal Planning Tribunal**

- (1) If, after the assessment contemplated in section 31, the Municipality decides to establish a joint Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the other Municipalities that have indicated that they would be party to a joint Municipal Planning Tribunal.
- (2) The parties to the discussion contemplated in subsection (1) must, as soon as practicable, conclude an agreement that complies with the requirements of the Act.
- (3) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

**45 Status of decision of joint Municipal Planning Tribunal**

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

**46 Applicability of Part C, F and G to joint Municipal Planning Tribunal**

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

**Part E: Establishment of District Municipal Planning Tribunal****47 Agreement to establish district Municipal Planning Tribunal**

- (1) If requested by a district municipality and after the assessment contemplated in section 31, the Municipality decides to establish a district Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the other Municipalities in the district and conclude the necessary agreement that complies with the requirements of the Act.
- (2) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

**48 Composition of district Municipal Planning Tribunals**

- (1) A district Municipal Planning Tribunal must consist of -
  - (a) at least three officials of each participating municipality in the full-time service of the municipalities; and

- (b) persons who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (2) No municipal councillor of a participating municipality may be appointed as a member of a district Municipal Planning Tribunal.

#### **49 Status of decision of district Municipal Planning Tribunal**

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

#### **50 Applicability of Part C, F and G to district Municipal Planning Tribunal**

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

### **Part F: Decisions of Municipal Planning Tribunal**

#### **51 General criteria for consideration and determination of application by Municipal Planning Tribunal or Land Development Officer**

- (1) When the Municipal Planning Tribunal or Land Development Officer considers an application it must have regard to the following:
  - (a) the application submitted in terms of this By-law;
  - (b) the procedure followed in processing the application;
  - (c) the desirability of the proposed utilisation of land and any guidelines issued by the Member of the Executive Council regarding proposed land uses;
  - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
  - (e) the response by the applicant to the comments referred to in paragraph (d);
  - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
  - (g) a written assessment by a professional planner as defined in section 1 of the Planning Profession Act, 2002, in respect of land development applications to be considered and determined by the Municipal Planning Tribunal.
  - (h) the integrated development plan and municipal spatial development framework;
  - (i) the applicable local spatial development frameworks adopted by the Municipality;

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- (j) the applicable structure plans;
  - (k) the applicable policies of the Municipality that guide decision-making;
  - (l) the provincial spatial development framework;
  - (m) where applicable, the regional spatial development framework;
  - (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
  - (o) the matters referred to in section 42 of the Act;
  - (p) the relevant provisions of the land use scheme.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan -
- (a) is consistent with the development rules of the zoning;
  - (b) is consistent with the development rules of the overlay zone;
  - (c) complies with the conditions of approval; and
  - (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
- (a) the Municipality must not approve a building plan if the site development plan has not been approved; and
  - (b) the Municipality must not approve a building plan that is inconsistent with the approved site development plan.
- (4) The written assessment of a professional planner contemplated in subsection (1)(g) must include such registered planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

**52 Conditions of approval**

- (1) When the Municipal Planning Tribunal or Land Development Officer approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
  - (a) the provision of engineering services and infrastructure;
  - (b) the cession of land or the payment of money;
  - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
  - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
  - (e) settlement restructuring;
  - (f) agricultural or heritage resource conservation;
  - (g) biodiversity conservation and management;
  - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
  - (i) energy efficiency;
  - (j) requirements aimed at addressing climate change;
  - (k) the establishment of an owners' association in respect of the approval of a subdivision;
  - (l) the provision of land needed by other organs of state;
  - (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality or the registration of public places in the name of the municipality, and the transfer of ownership to the municipality of land needed for other public purposes;
  - (n) the implementation of a subdivision in phases;
  - (o) requirements of other organs of state.
  - (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
  - (q) agreements to be entered into in respect of certain conditions;
  - (r) the phasing of a development, including lapsing clauses relating to such phasing;
  - (s) the delimitation of development parameters or land uses that are set for a particular zoning;
  - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;

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- (u) the setting of dates by which particular conditions must be met;
  - (v) the circumstances under which certain land uses will lapse;
  - (w) requirements relating to engineering services as contemplated in Chapter 7;
  - (x) requirements for an occasional use that must specifically include –
    - (i) parking and the number of ablution facilities required;
    - (ii) maximum duration or occurrence of the occasional use; and
    - (iii) parameters relating to a consent use in terms of the land use scheme;
- (3) If a Municipal Planning Tribunal or Land Development Officer imposes a condition contemplated in subsection (2)(a), an engineering services agreement subject to Clause 117(1) must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
- (5) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
  - (b) conservation purposes;
  - (c) energy conservation;
  - (d) climate change; or
  - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal or Land Development Officer must not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.
- (8) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.

- (10) If the Municipal Planning Tribunal or Land Development Officer approves a land development or use application subject to conditions, it must specify which conditions must be complied with before approval of building plans, site development plans, the sale, development or transfer of the land.

### **53 Reference to Municipal Planning Tribunal**

Any reference to a Municipal Planning Tribunal in this Part is deemed to be a reference to a Joint Municipal Planning Tribunal or a district Municipal Planning Tribunal.

## **CHAPTER 5**

### **DEVELOPMENT MANAGEMENT**

#### **Part A: Categories of Applications**

### **54 Categories of land use and land development applications**

- (1) The categories of land development and land use management for the Municipality, as contemplated in section 35(3) of the Act, are as follows –

#### Category 1

- (a) the establishment of a township or the extension of the boundaries of a township, opposed and not opposed;
- (b) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as Category 2 application;
- (c) permanent closure of any public space; after Council's approval;
- (d) all opposed Category 2 applications;
- (e) applications that deviate from Council's policies;
- (f) applications to subdivide land in terms of the Subdividing of Agriculture Land Act, 1970 (Act 70 of 1970).

#### Category 2

- (a) the amendment of an existing scheme or land use scheme by the rezoning of land;
- (b) the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
- (c) the amendment or cancellation in whole or in part of a general plan of a township;
- (d) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
- (e) any consent or approval provided for in any law identified in the SPLUMA;
- (f) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;
- (g) the consolidation of any land;
- (h) the simultaneous subdivision, under circumstances contemplated in subparagraph (a) and consolidation of land;



- (i) the consent of the municipality for any land use purpose or departure or deviation in terms of a land use scheme or existing scheme which does not constitute a land development application;
- (j) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation;
- (k) special and written consents in terms of LUMS;
- (l) building line infringements in terms of Council Policy;
- (m) the acquisition and approval of Site Development Plan;
- (n) permanent closure of any public space; after Council's approval.

#### **55 Application for land development required**

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality.
- (2) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme, site development plan, building plans and any other applicable legislation.

### **Part B: Establishment of Township or Extension of Boundaries of Township**

#### **56 Application for establishment of township**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
  - (a) the conditions of approval in a statement of conditions in the form approved by the Council;
  - (b) the statement of conditions which conditions shall be known as conditions of establishment for the township; and
  - (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-law.
- (3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, contain the following:
  - (a) Specify those conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;

- (b) the conditions of establishment relating to the township that must remain applicable to the township;
  - (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
  - (d) third party conditions as required by the Registrar of Deeds;
  - (e) the conditions to be incorporated into the land use scheme by means of an amendment scheme.
  - (f) if a non-profit company is to be established for purposes of maintaining or transfer of erven within the township to them the conditions that must apply;
  - (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.
  - (h) Existing and newly required servitudes
- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (3) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application.
- (5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality.
- (6) Without detracting from the provisions of subsection (5) and (6) the municipality may require the applicant or the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

#### **57 Division or phasing of township**

- (1) An applicant who has been notified in terms of section 109 that his or her application has been approved may, within a period of eight months from the date of the notice, or such further period as the Municipality may allow, not exceeding 3, apply to the Municipality for the division of the

township into two or more separate townships. but subject thereto that the township register has not been registered in the Deeds Office

- (2) On receipt of an application in terms of subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor General.
- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the application in writing thereof and of any conditions imposed.
- (4) The applicant must, within a period of 3 months from the date of the notice contemplated in subsection (3), submit to the Municipality such plans, diagrams or other documents and furnish such information as may be required in respect of each separate township.
- (5) On receipt of the documents or information contemplated in subsection (4) the Municipality must notify the Surveyor-General, and the Registrar of Deeds in writing of the approval of the application and such notice must be accompanied by a copy of the plan of each separate township.

#### **58 Lodging of layout plan for approval with the Surveyor-General.**

- (1) An applicant who has been notified in terms of section 109 that his or her application has been approved, must, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application lapses.
- (2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 56(2) and (3) of the conditions of establishment together with a stamped and approved layout plan.
- (3) The Municipality may for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.
- (4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General must notify the Municipality that he or she is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the application lapses.
- (5) After an applicant has been notified that his or her application has been approved, the municipality may:

- (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General;
- (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;

consent to the amendment of such documents, unless the amendment is, in its opinion, so material as to constitute a new application for the establishment of a township.

#### **59 Compliance with pre-proclamation conditions**

- (1) The applicant must provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the schedule to the approval of a township establishment application have been complied with.
- (2) The Municipality must certify that all the conditions that have to be complied with by the applicant or owner as contemplated in section 56(2) and (3) have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).
- (4) The municipality may agree to an extension of time as contemplated in subsection (1), after receiving a written application from the applicant for an extension of time: Provided that such application provides motivation for the extension of time.

#### **60 Opening of Township Register**

- (1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 58 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) For purposes of subsection (1) the Registrar must not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 56(3).
- (3) The plans, diagrams and title deeds contemplated in subsection (1) must be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.
- (4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar must not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 61.

**61 Proclamation of approved township.**

After the provisions of sections 57, 58, 59 and 60 have been complied with and the Municipality is satisfied that the township is in its area of jurisdiction, the Municipality shall, by notice in the *Provincial Gazette*, declare the township an approved township and it must, in an annexure to such notice, set out the conditions on which the township is declared an approved township.

**Part C: Rezoning of land****62 Application for amendment of a land use scheme by rezoning of land**

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) A rezoning approval lapses after a period of one year, from the date of approval if, within that one year period or shorter period the conditions of approval have not been met;
- (3) The rezoning approval lapse after a period of 2 years from the date that the approval comes into operation with that 2 year period;
  - (a) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments;
  - (b) the zoning is not exercised in accordance with the approval thereof; or
  - (c) the following requirements are not met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
    - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (4) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies.
- (5) If a rezoning approval lapses notice to that effect be published in the Provincial Gazette.

**Part D: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land**

**63 Requirements for amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land**

- (1) The Municipality may, of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) In addition to the procedures set out in Chapter 6, the owner must—
  - (a) submit the original title deed to the Municipality or a certified copy thereof; and
  - (b) submit the bondholder's consent to the application, where applicable.
- (4) The Municipality must cause a notice of its intention to consider an application under subsection (1) to be served on—
  - (a) all organs of state that may have an interest in the title deed restriction;
  - (b) every holder of a bond encumbering the land;
  - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
  - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
  - (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
  - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
  - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
  - (d) the social benefit of the restrictive condition remaining in place in its existing form;
  - (e) the social benefit of the removal or amendment of the restrictive condition; and
  - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

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

- (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in section 63(1), submit the following to the Registrar of Deeds:
  - (a) a copy of the original title deed;
  - (b) a copy of the original letter of approval; and
  - (c) a copy of the notification of the approval.
- (2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in section 63(1), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

**Part E: Amendment or Cancellation in Whole or in Part of a General Plan of a Township****65 Notification of Surveyor General**

- (1) After the Municipal Planning Tribunal has approved or refused an application for the alteration, amendment or cancellation of a general plan, the municipality must forthwith notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.
- (2) An applicant who has been notified that his or her application has been approved must, within a period of 6 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he or she fails to do so the application lapses.
- (3) Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General must notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the municipality must notify the applicant, and thereupon the application lapses.
- (4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1927, altered or amended the general plan or has totally or partially cancelled it, he or she must notify the municipality.

- (5) On receipt of the notice contemplated in subsection (4) the municipality must publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality must, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.
- (6) The municipality must provide the Registrar of Deeds with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subsection (5).

#### **66 Effect of amendment or cancellation of general plan**

Upon the total or partial cancellation of the general plan of a township -

- (a) the township or part thereof ceases to exist as a township; and
- (b) the ownership of any public place or street re-vests in the township owner.

### **Part F: Subdivision and Consolidation**

#### **67 Application for subdivision**

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 71.
- (2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.
- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, if the erf concerned is smaller than the minimum permitted erf size or exceeds permissible density or if the land concerned is not zoned for such subdivision.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the Municipality's decision to approve the subdivision;
  - (b) the conditions of approval contemplated in subsection (3) and section 52; and
  - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of 6 months, from the date of approval of the subdivision, comply with the following requirements:
  - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (4);



- (b) completion of the installation of engineering services in accordance with the conditions contemplated in subsection (3) or other applicable legislation;
  - (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 52 for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
  - (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (7) A confirmation from the Municipality in terms of subsection (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

#### **68 Confirmation of subdivision**

- (1) Upon compliance with section 67(6), the subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof under section 67(6), the zonings indicated on the approved subdivision plan as confirmed cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 67(6) 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 section 67(6).

#### **69 Lapsing of subdivision and extension of validity periods**

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with subsection 67(6).
- (2) An applicant may apply for an extension of the period to comply with subsection 67(6) or must comply with subsection (4).
- (3) An extension contemplated in subsection (2) may not be unreasonably withheld by the Municipality and may be granted for a period not exceeding 6 months and if after the expiry of the extended period the requirements of subsection 67(6) has not been complied with, the subdivision may lapse and subsection (6) applies.

- (4) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 12 months.
- (5) If only a portion of the general plan, contemplated in subsection 67(6)(a) complies with subsection 67(6)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses under subsection (1) —
  - (a) the Municipality must—
    - (i) amend the zoning map and, where applicable, the register accordingly; and
    - (ii) notify the Surveyor-General accordingly; and
  - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

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

- (1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
- (2) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed.
- (3) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
- (4) An approval of a subdivision in respect of which an amendment or cancellation is approved in terms of subsection (1), remains valid for the remainder of the period contemplated in section 67(6) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

#### **71 Exemption of subdivisions and consolidations**

- (1) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:
  - (a) if the subdivision or consolidation arises from the implementation of a court ruling;
  - (b) if the subdivision or consolidation arises from an expropriation;
  - (c) the registration of a servitude or lease agreement for the provision or installation of—
    - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;

- (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
- (d) 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.
- (e) the granting of a right of habitation or usufruct.
- (2) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter.
- (3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 67 to 70.

## **72 Services arising from subdivision**

Subsequent to the granting of an application for subdivision in terms of this By-law the owner of any land unit originating from the subdivision must—

- (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:
  - (i) gas mains;
  - (ii) electricity cables;
  - (iii) telephone cables;
  - (iv) television cables;
  - (v) other electronic infrastructure;
  - (vi) main and other water pipes;
  - (vii) foul sewers;
  - (viii) storm water pipes; and
  - (ix) ditches and channels;
- (b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:
  - (i) surface installations such as mini-substations;
  - (ii) meter kiosks; and
  - (iii) service pillars;
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs (a) and (b); and

- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.
- (e) Registered a servitude over the land in order to protect the existing services and future planned services including Roads and road widening.

### **73 Consolidation of land units**

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 71.
- (2) A copy of the application must accompany the diagram which is to be submitted to the Surveyor-General's office.
- (3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the decision to approve the consolidation;
  - (b) the conditions of approval contemplated in section 52; and
  - (c) the approved consolidation plan.
- (4) If the Municipality approves a consolidation, the Municipality must amend the cadastre map and, where applicable, the register accordingly.
- (5) No application for consolidation involving a change of zoning may be considered by the Municipality, if the erf concerned is smaller than the minimum permitted erf size or exceeds permissible density or if the land concerned is not zoned for such consolidation.

### **74 Lapsing of consolidation and extension of validity periods**

- (1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within 6 months of the approval, the consolidation approval lapses, unless the consolidation of land units form part of a land use application which has been approved for a longer period.
- (2) An applicant may apply for an extension of the period to comply with subsection (1) and the granting of an extension may not be unreasonably withheld.
- (3) An extension contemplated in subsection (2) may be granted for a further period not exceeding 6 months and if after the expiry of the extended period the requirements of subsection (1) have not been complied with, the consolidation lapses and subsection (5) applies.

- (4) If the Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 12 months.
- (5) If an approval of a consolidation lapses under subsection (1) the Municipality must—
  - (a) amend the cadastre map and, where applicable, the register accordingly; and
  - (b) notify the Surveyor-General accordingly; and
  - (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the consolidation has lapsed.

### **Part G: Permanent Closure of Public Place**

#### **75 Closure of public place**

- (1) The Municipality may on own initiative or on application close a public place or any portion thereof permanently in accordance with the procedures in Chapter 6.
- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered as a result of the wrong doing on the part of the Municipality as a result of the closure of a public place, an employee duly authorised by the Municipality must—
  - (a) require proof of negligence 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 loss or damage reveal that the Municipality acted negligently;
  - (b) the circumstances of the loss are not inconsistent with this By-law;
  - (c) the claimant has proved his or her loss or damage;
  - (d) the claimant has provided the proof of a fair and reasonable quantum;
  - (e) no claim has been made and paid by personal insurance covering the same loss; and
  - (f) any other relevant additional information as requested by the authorised employee has been received.
- (5) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.

- (6) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—
  - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
  - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
  - (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
  - (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
  - (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

#### **Part H: Consent Use**

##### **76 Application for consent use**

- (1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in section 52.
- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 52.
- (4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subsection (1) lapses after a period of one year from the date that the approval comes into operation if, within that one year period -
  - (a) the consent use is not utilised in accordance with the approval thereof; or
  - (b) the following requirements are not met:

- (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
- (ii) commencement with the construction of the building contemplated in subparagraph (i).

#### **Part I: Traditional Use**

##### **77 Application for traditional use**

- (1) An applicant who wishes to amend the use of communal land located in the area of a traditional council where such amendment will have a high impact on the community must apply to the Municipality for the amendment of the land use in the manner provided for in Chapter 6.
- (2) For the purpose of this section, "high impact" means a land use that could negatively impact on the health and welfare of the community.

#### **Part J: Temporary Use**

##### **78 Application for temporary use**

- (1) Temporary use applications are applications that do not result in an amendment of the land use scheme and are:
  - (a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
  - (b) any other application for temporary use submitted in accordance with the By-laws of the Municipality.
- (2) An applicant may apply to the Municipality-
  - (a) to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone for a period not exceeding 12 months or such shorter period as may be determined by the Municipality, -in the manner provided for in Chapter 6.
- (3) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 24 months and the granting of the extension may not be unreasonably withheld by the Municipality.
- (4) A temporary departure contemplated in subsection (2) may not be granted more than once in respect of a particular use on a specific land unit.
- (5) A temporary departure contemplated in subsection (2) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further

construction or demolition, revert to its previous lawful use upon the expiry of the period contemplated in subsection (2).

#### **Part K: General Matters**

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

- (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vest in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed in terms of section 52 determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved subdivision plan, be transferred to the Municipality upon confirmation of the subdivision or a part thereof.

#### **80 Restriction of transfer and registration**

- (1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any land development application, the owner must, at his or her cost and to the satisfaction of the Municipality, survey and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.
- (2) No Erf/Erven and/or units in a land development area, may be alienated or transferred into the name of a purchaser nor must a Certificate of Registered Title be registered in the name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:
  - (a) All engineering services have been designed and constructed to the satisfaction of the Municipality, including guarantees for services having been provided to the satisfaction of the Municipality as may be required; and
  - (b) all engineering services and development charges have been paid or an agreement has been entered into to pay the development charges in monthly instalments; and
  - (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
  - (d) all conditions of the approval of the land development application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance thereof within 3 months of having certified to the Registrar in terms of this section that registration may take place; and
  - (e) that the Municipality is in a position to consider a final building plan; and
  - (f) that all the properties have either been transferred or must be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.



**81 First transfer**

- (1) Where an owner of land to which a land development application relates is required to transfer land to:
  - (a) the Municipality; or
  - (b) an owners' association,

by virtue of a condition set out in the conditions to the approval of a land development application contemplated in section 52, the land must be so transferred at the expense of the applicant, within a period of 6 months from the date of the land use rights coming into operation in terms of section 52, or within such further period as the Municipality may allow, but in any event prior to any registration or transfer of any erf, portion, opening of a sectional title scheme or unit within the development.

**82 Certification by Municipality**

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.
- (2) The Municipality must not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
  - (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
  - (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
  - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
  - (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred to the owners' association as contemplated in Schedule 5 and Section 81;
  - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

**83 National and provincial interest**

- (1) In terms of section 52 of the Act an applicant must refer any application which affects national or provincial interest respectively to the Minister and the Member of the Executive Council for comments, which comments are to be provided within 21 days as prescribed in section 52(5) of the Act.

- (2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national or provincial interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister or the Member of the Executive Council respectively and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.
- (3) The Municipal Planning Tribunal or Land Development Officer as the case may be, as contemplated in this By-law and the Act, may direct that an application before it, be referred to the Minister and the Member of the Executive Council, if such an application in their opinion affects national or provincial interest and the provisions of sections 52(5) to (7) apply with the necessary changes.
- (4) Subsections (1) to (3) must be read with section 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance.

## **CHAPTER 6**

### **GENERAL APPLICATION PROCEDURES**

#### **84 Applicability of Chapter**

This Chapter applies to all applications submitted to the Municipality in terms of Chapter 5.

#### **85 Procedures for making application**

An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter 5 of this By-law.

#### **86 Information required**

- (1) An application must be accompanied by the following documents:
  - (a) an approved application form, completed and signed by the applicant and the owner;
  - (b) if the applicant is not the owner of the land, a power of attorney signed by the owner authorising the applicant to make the application on behalf of the owner and if the owner is married in community of property a power of attorney signed by both spouses;
  - (c) if the owner of the land is a company, close corporation, trust, body corporate or owners' association, proof, by means of a resolution that the person is authorised to act on behalf of the company, close corporation, trust, body corporate or owners' association;
  - (d) the relevant bondholder's consent;
  - (e) a written motivation for the application based on the criteria for consideration of the application;

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- (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;
  - (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
  - (h) in the case of an application for the subdivision/consolidation of land, copies of the subdivision/consolidation plan showing the following:
    - (i) Reserved erf numbers from the SG;
    - (ii) the location of the proposed land units;
    - (iii) all existing structures on the property and abutting properties;
    - (iv) the existing access points;
    - (v) all servitudes;
    - (vi) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
    - (vii) the street furniture;
    - (viii) the light, electrical and telephone poles;
    - (ix) the electrical transformers and mini substations; and electrical connection points
    - (x) the storm water channels and catch pits;
    - (xi) the sewerage and water lines and connection points;
    - (xii) any significant natural features; and
    - (xiii) the scale and all distances and areas;
  - (i) any other plans, diagrams, documents or information that the Municipality may require;
  - (j) proof of payment of application fees;
  - (k) proof that there is an existing connection to the municipal sewerage and water systems;
  - (l) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds, including Notarial Deeds referred to in the title deeds, if any; and
  - (m) a certificate of a conveyancer indicating that no restrictive condition in respect of the application is contained in such title deeds.; and
- (2) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

## **87 Application fees**

- (1) An applicant must pay the application fees approved by the Council prior to submitting an application in terms of this By-law.

- (2) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.

**88 Grounds for refusing to accept application**

The Municipality may refuse to accept an application if—

- (a) the municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not complete and in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 86.

**89 Receipt of complete application**

The Municipality must—

- (a) record the receipt of a complete application in writing or by affixing a stamp on the application on the day of receipt and issue proof of receipt to the applicant; and thereafter
- (b) notify the applicant that notice of application can be given as contemplated in Section 92, 93, 94 and 96.

**90 Withdrawal of application**

- (1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the Municipality.
- (2) The owner of land must in writing inform the Municipality if he or she has withdrawn the power of attorney that authorised another person to make an application on his or her behalf.

**91 Notice of applications in terms of integrated procedures**

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
  - (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of other legislation;
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.

- (3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
  - a) cause public notice of the application to be given in terms of sections 92, 93, 94 or 96; and
  - (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application,unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subsection (1), is considered to be public notice in terms of this By-law.
- (4) The applicant shall give the required notice of an application in the media.
- (5) The applicant must provide proof that the notice has been published as required.

## 92 Notification of application in media

- (1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:
  - (a) an application for 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 edge as reflected in its municipal spatial development framework;
  - (c) 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;
  - (d) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical urban edge, including existing urban land use approvals, of the existing urban edge;
  - (e) the closure of a public place;
  - (f) an application in respect of a restrictive condition;
  - (g) Special consent;
  - (h) Township establishment;
  - (i) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Notice of the application in the media must be given by—
  - (a) publishing a notice of the application, once in the Provincial Gazette and once a week for two consecutive weeks 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; except for a consent use application where notice of the application in the media must be given in accordance with the provisions of the Land Use Management Scheme; or

- (b) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.
- (3) The applicant shall give the required notice of an application in the media.
- (4) The applicant must provide proof that the notice has been published as required.

### **93 Serving of notices**

- (1) When the Municipality intends to consider any of the following, it must at least cause a notice to be served as contemplated in section 93(2) of its intention:
  - (a) a determination of a zoning on the initiative to the municipality;
  - (b) Township Establishment;
  - (c) Closure of a public places;
  - (d) Removal of restrictive title conditions;
  - (e) Special consent for a business activity on agricultural zoned land;
  - (f) the subdivision of land larger than five hectares inside the outer limit of urban edge as reflected in its municipal spatial development framework;
  - (g) Draft Scheme
- (2) Notice of an application contemplated in section 93(1) must be served—
  - (a) in accordance with section 115 of the Municipal Systems Act;
  - (b) in at least two of the official languages of the Province most spoken in the area concerned;
  - (c) on each owner of an abutting property, including a property separated from the property concerned by a road;
  - (d) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (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.
- (4) The applicant shall attend to the serving of a notice of an application contemplated in subsection (1).
- (5) The applicant must provide proof that the notice has been served as required.
- (6) The date of notification in respect of a notice served in terms of this section—
  - (a) when it has been served by certified or registered post is the date of registration of the notice; and
  - (b) when it has been delivered to that person personally is the date of delivery to that person;

- (c) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years is the date on which it has been left with that person; or
- (d) when it has been posted in a conspicuous place on the property or premises to which it relates is the date that it is posted in that place.

#### **94 On Site Notice of Application**

- (1) The Municipality must cause notice to be given on site, in accordance with this By-Law, of the following applications:
  - (a) Township Establishment
  - (b) An application for rezoning or a rezoning on the initiative of the municipality
  - (c) Special Consent
  - (d) Closure of public space
  - (e) Removal of restrictive Title Conditions
- (2) On Site notice of the application must be given by the applicant by:
  - (a) displaying a notice contemplated in section 95 of a size of at least 60cm by 42cm (A2 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that -
    - (i) the notice must be displayed for a minimum of 21 days during the period that the public may submit objection/representations in respect of an application;
    - (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality –
      - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
      - (bb) at least two photos of the notice, one from nearby and one from across the street.

#### **95 Content of notice**

When notice of an application must be given in terms of sections 92 and 94 or served in terms of section 93, the notice must contain the following information:

- (a) the name, identity number, and name of firm or company, a physical address and contact details of the applicant;
- (b) identify the land or land unit to which the application relates by giving the property description (erf number) and the physical address (street name and number);

- (c) state nature,intent and purpose of the application;
- (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- (e) state the contact details of the relevant municipal employee;
- (f) invite members of the public to submit written representations or objections together with the reasons therefor in respect of the application;
- (g) state in which manner respresentations or objections may be submitted;
- (h) state the due date by when the objections/representations must be submitted which must be 30 days from the date on which the notice was given;
- (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections or representations.

**96 Additional methods of public notice**

- (1) If the Municipality considers notice in accordance with sections 92, 93 or 94 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or require an applicant to follow one or more of the following methods to give additional public notice of an application:
  - (a) to convene a meeting for the purpose of informing the affected members of the public of the application;
  - (b) to broadcast information regarding the application on a local radio station in a specified language;
  - (c) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
  - (d) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
  - (e) to obtain letters of consent or objection to the application.

**97 Additional information**

- (1) The Municipality may at any time request additional information/documentation from the applicant in respect of an application submitted in terms of Section 5 of this By-Law, if such information/documentation is in the opinion of the municipality material to the consideration of an application.



- (2) The applicant must provide the Municipality with the information or documentation as contemplated in subsection (1) within 30 days of the request therefor or within the further period agreed to between the applicant and the Municipality.
- (3) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in subsection (2).
- (4) The Municipality must notify the applicant in writing of the refusal to consider the application 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 (4) to refuse to consider the application.
- (6) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (4), the applicant must make a new application and pay the applicable application fees.

#### **98 Requirements for petitions**

- (1) All petitions must, in addition to the provisions of section 99(4), clearly state—
  - (a) the contact details of the authorised representative of the signatories of the petition;
  - (b) the full name and physical address of each signatory; and
  - (c) the objection and reasons for the objection.
- (2) Notice to the person contemplated in subsection (1)(a), constitutes notice to all the signatories to the petition.

#### **99 Requirements for objections or representations**

- (1) A person may, in response to a notice received in terms of sections 92, 93 or 94, object or submit representations in accordance with this section.
- (2) Any objection or representation received as a result of a public notice process must be in writing and duly signed and addressed to the municipal manager mentioned in the notice within the time period stated in the notice and in the manner set out in this section.
- (3) The objection must state the following:
  - (a) the name of the person or body concerned;
  - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
  - (c) the interest of the body or person in the application;
  - (d) the reason for the objection or representation.

- (4) The reasons for any objection or representation must be set out in sufficient detail in order to—
  - (a) indicate the facts and circumstances which explains the objection or representation;
  - (b) demonstrate the undesirable effect which the application will have on the area;
  - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must not accept any objection or representation received after the closing date of the period allowed for the submission of objections/representations.

#### **100 Amendments prior to approval**

- (1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof—
  - (a) at the applicant's own initiative;
  - (b) as a result of objections and representations made during the public notification process; or
  - (c) at the request of the Municipality.
- (2) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resent to municipal departments, organs of state and service providers, or that an application be submitted afresh.
- (3) Amendments to applications as a result of objections and representations made during the public notification process must be submitted to objectors/representors for further comments or withdrawal of objections within a period of thirty days.

#### **101 Further public notice**

- (1) The Municipality may require that fresh notice of an application be given if more than 18 months has elapsed since the first public notice of the application and if the application has not been considered by the Municipality.
- (2) The Municipality may, at any stage during the processing of the application—
  - (a) require notice of an application to be republished or to be served again; and
  - (b) require an application to be resent to municipal departments for comment,if new information comes to its attention which is material to the consideration of the application.

**102 Cost of notice**

The applicant is liable for the costs of giving notice of an application.

**103 Applicant's right to reply**

- (1) Copies of all objections or representations lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 30 days from the date of the provision of the objections or representations, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections or comments.
- (3) The applicant may before the expiry of the 30 day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections or representations lodged with a Municipality, additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the information within the timeframes contemplated in subsection (5), section 97 with the necessary changes, shall apply.

**104 Written assessment of application**

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with section 104(2) and recommend to the decision-maker whether the application must be approved or refused.
- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

**105 Decision-making period**

- (1) When the power to take a decision is delegated to an authorised employee and no integrated process in terms of another law is being followed, the authorised employee must decide on the application within 60 days of the closing date for the submission of representations or objections.
- (2) When the power to take a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide

on the application within 120 days of the closing date for the submission of applicants reply on objections or representations.

#### **106 Failure to act within time period**

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of these By-Laws and the applicant or interested person may report the non-performance of the Municipal Planning Tribunal or Land Development Officer to the municipal manager, who must report it to the municipal council and mayor.

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

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in section 104.
- (2) When conducting an inspection, the authorised employee may—
  - (a) request that any record, document or item be produced to assist in the inspection;
  - (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
  - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
  - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

#### **108 Determination of application**

The Municipality may in respect of any application submitted in terms of this Chapter -

- (a) approve, in whole or in part, or refuse any application submitted to it in accordance with this By-law;
- (b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;

- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of a Municipality or municipal entity;
- (f) decide any question concerning its own jurisdiction;
- (g) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law;

#### **109 Notification of decision**

- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the decision of the decision and their right to appeal if applicable.
- (2) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.

#### **110 Duties of agent of applicant**

- (1) The agent must ensure that all information furnished to the Municipality is accurate.
- (2) The agent must ensure that no misrepresentations are made.
- (3) The provision of inaccurate, false or misleading information is an offence.

#### **111 Errors and omissions**

- (1) The Municipality may at any time, with the written consent of the applicant or, if applicable, any party to the application, correct an error in the wording of its decision provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition of its approval.
- (2) The Municipality may, of its own accord or on application by an applicant or interested party, upon good cause being shown, condone an error in the procedure provided that such condonation does not have material adverse impact on or unreasonably prejudice any party.

#### **112 Withdrawal of approval**

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of approval.
- (2) Prior to doing so, the Municipality must serve a notice on the owner—

- (a) informing the owner of the alleged breach of the condition;
- (b) instructing the owner to rectify the breach within a specified time period;
- (c) allowing the owner to make representations on the notice within a specified time period.

### **113 Procedure to withdraw an approval**

- (1) The Municipality may withdraw an approval granted—
  - (a) after consideration of the representations made in terms of section 112(2)(c); and
  - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 112(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the activity immediately.
- (3) The approval is withdrawn from date of notification of the owner.

### **114 Exemptions to facilitate expedited procedures**

The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
  - (i) the provision of housing with the assistance of a state subsidy; or
  - (ii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law

## **CHAPTER 7**

### **ENGINEERING SERVICES AND DEVELOPMENT CHARGES**

#### **Part A: Provision and Installation of Engineering Services**

### **115 Responsibility for providing engineering services**

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.
- (3) The Municipality is responsible for the installation and provision of external engineering services, subject to the payment of development charges first being received, unless the engineering services agreement referred to in section 117 provides otherwise.

**116 Installation of engineering services**

- (1) The applicant must provide and install the internal engineering services, including private internal engineering services, in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant must lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.
- (2) The Municipality must have regard to such standards as the Minister or the Member of the Executive Council may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.
- (3) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.
- (4) The Municipality must, where any private roads, private open spaces or any other private facilities or engineering services are created or to be constructed with the approval of any land development application set the standards for the width and or any other matter required to provide sufficient access and engineering services; including but not limited to:
  - (a) roadways for purposes of sectional title schemes to be created;
  - (b) the purpose and time limit in which private roads, private engineering services and private facilities are to be completed;

**117 Engineering services agreement**

- (1) An applicant of a land development application and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.
- (2) The engineering services agreement must –
  - (a) classify the services as internal engineering services, external engineering services or private engineering services;
  - (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services, whether private engineering services or not, and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
  - (c) provide for the inspection and handing over of internal engineering services to the Municipality or the inspection of private internal engineering services;
  - (d) determine that the risk and ownership in respect of such services must pass to the Municipality or the owners' association as the case may be, when the Municipality is satisfied that the services are installed to its standards;

- (e) require the applicant to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
- (f) provide for the following responsibilities after the internal services have been handed over to the Municipality or the owners' association:
  - (i) when normal maintenance by the relevant authority or owners' association must commence;
  - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
  - (iii) the rights of the relevant authority or owners' association if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
- (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
- (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
- (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
- (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
  - (i) a water-borne sewerage pipe terminating at a sewer connection;
  - (ii) a water-pipe terminating at a water meter; and
  - (iii) an electricity house connection cable terminating on the relevant erf; and
- (k) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others –
  - (i) water reticulation;
  - (ii) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
  - (iii) roads and storm-water drainage;
  - (iv) electricity reticulation (high and low tension);
  - (v) street lighting.



- (3) The engineering services agreement may –
- (a) require that performance guarantees be provided, or otherwise, with the provision that -
    - (i) the obligations of the parties with regard to such guarantees are clearly stated;
    - (ii) such guarantee is irrevocable during its period of validity; and
    - (iii) such guarantee is transferable by the person to whom such guarantee is expressed to be payable; and
- (4) Where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading (if any) of services must be recorded in the engineering services agreement.

#### **118 Abandonment or lapsing of land development application**

Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 117 lapses and if the owner had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

#### **119 Internal and external engineering services**

For the purpose of this Chapter:

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

## **Part B: Development Charges**

### **120 Payment of development charge**

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -
  - (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme; and
  - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If a land development application is approved by the Municipal Planning Tribunal or the Land Development Officer subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the owner of the land to which the scheme relates, must, be informed of the amount of the development charge and must, subject to section 121, pay the development charge to the Municipality.
- (3) An owner who is required to pay a development charge in terms of this By-law must pay such development charge to the Municipality before:
  - (a) any land use right is exercised;
  - (b) any connection is made to the municipal bulk infrastructure;
  - (c) a written statement contemplated in section 118 of the Municipal System Act is furnished in respect of the land;
  - (d) a building plan is approved in respect of:
    - (i) the proposed alteration of or addition to an existing building on the land;
    - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
  - (e) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

### **121 Offset of development charge**

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

- (2) The owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) If the cost of the installation of the external engineering services exceeds the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.
- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 117.

### **122 Payment of development charge in instalments**

The Municipality may -

- (a) in the circumstances contemplated in section 120(3)(a),(b),(d) and (e) allow payment of the development charge contemplated in section 120 in instalments over a period not exceeding 12 months;
- (b) allow payment of the development charge contemplated in section 120(3)(a),(b),(d) and (e) to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest.

### **123 Refund of development charge**

No development charge paid to the Municipality in terms of section 120 or any portion thereof must be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 118 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

### **124 General matters relating to contribution charges**

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

interests of the general area where the land area is situated or in the interest of a community that occupies or uses such land area.

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

## **CHAPTER 8**

### **APPEAL PROCEDURES**

#### **PART A: MANAGEMENT OF AN APPEAL AUTHORITY**

##### **125 Presiding officer of appeal authority**

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

##### **126 Bias and disclosure of interest**

- (1) No presiding officer or member of an appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the Land Development Officer and he or she made the decision that is the subject of the appeal.
- (2) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in sub regulations (5) and (6) must recuse himself or herself from the appeal hearing.
- (3) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.
- (4) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.
- (5) For the purpose of this Chapter "conflict of interest" means any factor that may impair or reasonable give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.
- (6) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following:
  - (a) A person with whom the presiding officer or member has a personal, familiar or professional relationship;
  - (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or

- (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer's or member's participation in the adjudication of the matter would be inappropriate.

#### **127 Registrar of appeal authority**

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

#### **128 Powers and duties of registrar**

- (1) The registrar is responsible for managing the administrative affairs of the appeal authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the appeal authority and to ensure accessibility and maintenance of the dignity of the appeal authority.
- (2) The duties of the registrar include –
  - (a) the determination of the sitting schedules of the appeal authority;
  - (b) assignment of appeals to the appeal authority;
  - (c) management of procedures to be adhered to in respect of case flow management and the finalisation of any matter before the appeal authority;
  - (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
  - (e) the establishment of a master registry file for each case which must record –
    - (i) the reference number of each appeal;
    - (ii) the names of the parties;
    - (iii) all actions taken in connection with the preparation of the appeal for hearing;
    - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
    - (v) the date of the hearing of the appeal;
    - (vi) the decision of the appeal authority;

- (vii) whether the decision was unanimous or by majority vote; and
  - (viii) any other relevant information.
- (3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.
- (4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

## **PART B: APPEAL PROCESS**

### **129 Commencing of appeal**

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

### **130 Notice of appeal**

- (1) A Notice of Appeal must clearly indicate:
- (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
  - (b) where applicable, whether the appeal is against any conditions of approval of an application and which conditions;
  - (c) the grounds of appeal including any findings of fact or conclusions of law;
  - (d) a clear statement of the relief sought on appeal;
  - (e) any issues that the appellant wants the appeal authority to consider in making its decision; and
  - (f) a motivation of an award for costs.
- (2) An appellant may, within seven days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

### **131 Notice to oppose an appeal**

A notice to oppose an appeal must be delivered to the registrar of the relevant appeal authority within 21 days from the commencement date of the appeal, and must clearly indicate:

- (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
- (b) whether any conditions of approval of an application are opposed and which conditions;
- (c) whether the relief sought by the appellant is opposed;

- (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute;
- (e) a clear statement of relief sought on appeal.

### **132 Screening of appeal**

- (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:
  - (a) It complies with the form approved by the Council;
  - (b) it is submitted within the required time limit; and,
  - (c) the appeal authority has jurisdiction over the appeal.
- (2) If a Notice of Appeal does not comply with the form approved by the Council, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.
- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.
- (5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.
- (6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.
- (7) The provisions of this section apply, with the necessary changes, to a notice to oppose an appeal contemplated in section 132.

### **PART C: PARTIES TO AN APPEAL**

#### **133 Parties to appeal**

- (1) The parties to an appeal before an appeal authority are:
  - (a) the appellant who has lodged the appeal with the appeal authority in accordance with section 51(1) of the Act;
  - (b) the applicant, if the applicant is not the appellant as contemplated in paragraph (a);
  - (c) the Municipal Planning Tribunal that or the Land Development Officer who made the decision;
  - (d) any person who has been made a party to the proceeding by the appeal authority after a petition to the appeal authority under section 45(2) of the Act to be granted intervener status.

#### **134 Intervention by interested person**

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or Land Development Officer and might therefore be affected by the judgement of the appeal authority.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –
  - (a) does not collude with any of the appellants; and
  - (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.
- (3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.

### **PART D: JURISDICTION OF APPEAL AUTHORITY**

#### **135 Jurisdiction of appeal authority**

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

- (a) the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and



- (b) the merits of the land development or land use application.

**136 Written or oral appeal hearing by appeal authority**

- (1) An appeal may be heard by an appeal authority by means of a written hearing and if it appears to the appeal authority that the issues for determination of the appeal cannot adequately be determined in the absence of the parties by considering the documents or other material lodged with or provided to it, by means of an oral hearing.

**137 Representation before appeal authority**

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

**138 Opportunity to make submissions concerning evidence**

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

**PART E: HEARINGS OF APPEAL AUTHORITY**

**139 Notification of date, time and place of hearing**

- (1) The appeal authority must notify the parties of the date, time and place of a hearing at least 14 days before the hearing commences.
- (2) The appeal authority will provide notification of the hearing to the appellant at the appellant's address for delivery.

**140 Hearing date**

A hearing will commence on a date determine by the registrar, which hearing may not take place later than 60 days from the date on which the completed notice of appeal was delivered to the appeal authority provided that the interested parties were informed of the hearing date at least 30 days prior to the hearing date. The parties can agree to an extension of the date

#### **141 Adjourment**

- (1) If a party requests an adjourment more than one day prior to the hearing, the party must obtain the written consent of the other party and the presiding officer of the appeal authority.
- (2) The party requesting an adjourment must deliver to the appeal authority a completed form including reasons for the request.
- (3) The appeal authority will notify the parties in writing of the decision of the presiding officer of the appeal authority.
- (4) If the presiding officer of the appeal authority or the other party does not consent to the request for an adjourment, the hearing will not be adjourned.
- (5) If a party requests an adjourment within one day prior to the hearing, the request must be made to the appeal authority at the hearing and may be made notwithstanding that a prior request was not consented to.

#### **142 Urgency and condonation**

- (1) The registrar may –
  - (a) on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
  - (b) on good cause shown, condone any failure by any party to an appeal to comply with these Regulations or any directions given in terms hereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person;
- (2) Every application for condonation made in terms of this regulation must be –
  - (a) served on the registrar;
  - (b) accompanied by a memorandum setting forth the reasons for the failure concerned; and
  - (c) determined by the presiding officer in such manner as he or she considers proper.
- (3) Where a failure is condoned in terms of subregulation (1)(b), the applicant for condonation must comply with the directions given by the registrar when granting the condonation concerned.

#### **143 Withdrawal of appeal**

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

## **PART F: ORAL HEARING PROCEDURE**

### **144 Location of oral hearing**

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

### **145 Presentation of each party's case**

- (1) Each party has the right to present evidence and make arguments in support of that party's case.
- (2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Land Development Officer.

### **146 Witnesses**

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

### **147 Proceeding in absence of party**

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

### **148 Recording**

Hearings of the appeal authority must be recorded.

**149 Oaths**

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

**150 Additional documentation**

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

**PART G: WRITTEN HEARING PROCEDURE**

**151 Commencement of written hearing**

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

**152 Presentation of each party's case in written hearing**

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given seven days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Land Development Officer.
- (4) The Municipal Planning Tribunal or the Land Development Officer has seven days in which to provide a submission in response.
- (5) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

**153 Extension of time**

- (1) If a party wishes to request an extension of the time established to provide a written submission, this request must be in writing to the appeal authority in advance of the date on which the submission is due.
- (2) Any request for an extension must be accompanied by the reasons for the request.
- (3) Following receipt of a request for an extension of time, the appeal authority will issue a decision in writing to the parties.

**154 Adjudication of written submissions**

- (1) Following receipt of any written submissions from the parties, the registrar must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.
- (2) If no written submissions are received from the parties, the registrar will forward the existing appeal record to the appeal authority for adjudication.
- (3) Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.
- (4) The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given seven days to provide a written submission in response.

**PART H: DECISION OF APPEAL AUTHORITY****155 Further information or advice**

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

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

**156 Decision of appeal authority**

- (1) The appeal authority may confirm, vary or revoke the decision of the Municipal Planning Tribunal or Land Development Officer and may include an award of costs.
- (2) The presiding officer must sign the decision of the appeal authority and any order made by it.

**157 Notification of decision**

The registrar must notify the parties of the decision of the appeal authority in terms of section 156 , together with the reasons therefor within seven days after the appeal authority handed down its decision.

**158 Directives to municipality**

- (1) The appeal authority must, in its decision, give directives to the municipality concerned as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the municipality as far as implementation of the decision is concerned.
- (2) Where an appeal authority upholds a decision on a development application, the Municipal Manager must, within 21 days of the decision, take the necessary steps to have the decision published in the *Provincial Gazette*.

**PART I: GENERAL**

**159 Expenditure**

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

**CHAPTER 9  
COMPLIANCE AND ENFORCEMENT**

**160 Enforcement**

The Municipality must comply and enforce compliance with—

- (a) the provisions of this By-law;
- (b) the provisions of a land use scheme;
- (c) conditions imposed in terms of this By-law or previous planning legislation; and
- (d) title deed conditions.

**161 Offences and penalties**

(1) Any person who—

- (a) contravenes or fails to comply with section 56 and subsection (2);
- (b) fails to comply with a compliance notice issued in terms of section 165;
- (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;

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

#### **162 Service of compliance notice**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 161.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—
  - (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or
  - (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.

**CONTINUES ON PAGE 258 - PART 3**



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

### **163 Content of compliance notices**

- (1) A compliance notice must—
  - (a) identify the person to whom it is addressed;
  - (b) describe the activity concerned and the land on which it is being carried out;
  - (c) state that the activity is illegal and inform the person of the particular offence contemplated in section 161 which that person allegedly has committed or is committing through the carrying on of that activity;
  - (d) the steps that the person must take and the period within which those steps must be taken;
  - (e) anything which the person may not do, and the period during which the person may not do it;
  - (f) provide for an opportunity for a person to lodge representations contemplated in terms of section 164 with the contact person stated in the notice;
  - (g) issue a warning to the effect that—
    - (i) the person could be prosecuted for and convicted of an offence contemplated in section 161;
    - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
    - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
    - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
    - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;

- (2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 164.

#### **164 Representations in respect of compliance notice**

- (1) Any person or owner who receives a compliance notice in terms of section 162 may submit written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) Subject to the consideration of any representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
  - (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

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

If a person fails to comply with a compliance notice the Municipality may—

- (a) lay a criminal charge against the person;
- (b) apply to an applicable court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
- (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and then act in terms of section 162.

#### **166 Urgent matters**

- (1) In cases where an activity must be stopped urgently, the Municipality may dispense with the procedures set out above and issue a compliance notice calling upon the person or owner to cease immediately.
- (2) If the person or owner fails to cease the activity immediately, the Municipality may apply to any applicable court for an urgent interdict or any other relief necessary.

#### **167 Subsequent application for authorisation of activity**

- (1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 162 to demolish the building work.

- (2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

#### **168 Power of entry for enforcement purposes**

- (1) An authorised employee may, with the permission of the occupier or owner of land, at any reasonable time, and without a warrant, and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.
- (2) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of this By-law.
- (3) An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

#### **169 Power and functions of authorised employee**

- (1) In ascertaining compliance with this By-law as contemplated in section 160, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.
- (2) An authorised employee must not have a direct or indirect personal or private interest in the matter to be investigated.

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

- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
  - (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
  - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in subsection (1) may be issued by a judge of any applicable court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
  - (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
  - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;

- (c) there are reasonable grounds for suspecting that a contravention contemplated in section 161 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
  - (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must specify which of the acts mentioned in section 169 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in section 169 as specified in the warrant on one occasion only, and that entry must occur—
- (a) within one month of the date on which the warrant was issued; and
  - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

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

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—

- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right to freedom and security of the person; and
- (c) the right to a person's personal privacy.

#### **172 Court order**

Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 161, the Municipality may apply to an applicable court for an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned;
- (c) compelling that person to cease with the unlawful activity; or
- (d) any other appropriate order.

## CHAPTER 10 TRANSITIONAL PROVISIONS

### 173 Transitional provisions

- (1) Any land development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, must be dealt with in terms of that legislation or if repealed in terms of its transitional arrangements or in the absence of any other provision, in terms of this By-law, read with section 2(2) and section 60 of the Act;
- (2) Where on the date of the coming into operation of an approved land use scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a land use scheme in terms of this By-law read with section 26 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of this subsection (3), be continued after that date read with the provisions of a Town Planning Scheme or land use scheme.
- (3) The right to continue using any land or building by virtue of the provisions of subsection (2) must;
  - (a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;
  - (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (2);
  - (c) where on the date of the coming into operation of an approved land use scheme -
    - (i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;
    - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved land use scheme, the building must for a period of 15 years from that date be deemed to comply with that provision.
  - (d) where a period of 15 years has, in terms of subsection (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard must, for the purposes of those subsections, be had to an approved scheme which comes into operation after that date.
  - (e) within one year from the date of the coming into operation of an approved land use scheme -
    - (i) the holder of a right contemplated in subsection (2) may notify the Municipality in writing that he is prepared to forfeit that right;

- (ii) the owner of a building contemplated in subsection (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection;
- (4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (2)(a), such allegation is deemed to be correct until the contrary is proved.
- (5) Where any land use provisions are contained in any title deed, deed of grant or 99 year leasehold, which did not form part of a town planning scheme, such land use provisions apply as contemplated in subsection (2).
- (6) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the land use scheme or town planning scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

#### **174 Determination of zoning**

- (1) Notwithstanding the provisions of section 173(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
  - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
  - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
  - (c) any departure or consent use that may be required in conjunction with that zoning;
  - (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
  - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and give notice of its intention to do so in terms of section 95.
- (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, shall not be deemed to be the lawful land use.

**CHAPTER 11**  
**GENERAL PROVISIONS**

**175 Delegations**

Any power conferred in this By-law on the Municipality may be delegated by the municipality subject to section 56 of the Act and section 59 of the Local Government: Municipal Systems Act.

**176 Repeal of by-laws**

The *(insert the name of the applicable by-laws)* are hereby repealed.

**177 Fees payable**

Any fee payable to the Municipality in terms of this By-Law is determined annually in terms of section 24(2) of the Municipal Finance Management Act, 2003 read with sections 74 and 75A of the Municipal Systems Act and forms part of the By-Law to constitute the Tariff Structure of the Municipality.

**178 Short title and commencement**

- (1) This By-law is called the Ventersdorp Municipal By-law on Spatial Planning and Land Use Management.
- (2) This By-law comes into operation on the date of publication in the *Provincial Gazette* .



**SCHEDULE 1****INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE TLOKWE VENTERSDORP JOINT MUNICIPAL PLANNING TRIBUNAL**

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Tlokwe City Council and Ventersdorp Local Municipality hereby invites nominations for officials or employees of the to be appointed to the Joint Tlokwe Ventersdorp Municipal Planning Tribunal for its first term of office.

The period of office of members will be five years calculated from the date of appointment of such members by the Tlokwe City Council and Ventersdorp Local Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto with at least five years' experience.

Each nomination must be in writing and must contain the following information:

- (a) The name, address and identity number of the nominee;
- (b) The designation or rank of the nominee in the organ of state or non-governmental organisation;
- (c) A short curriculum vitae of the nominee (not exceeding two pages);
- (d) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Nominations must be sent to:

The Municipal Manager

Tlokwe City Council

P.O. Box 113

**POTCHEFSTROOM**

2520

For Attention: Mr BJ Robbertse

For Enquiries: Mr BJ Robbertse

Tel: 018 299 5103

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\* I, .....(full names of nominee),

ID No (of nominee) .....,

hereby declare that –

- (a) I am available to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me OR I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) there is no conflict of interest OR I have the following interests which may conflict with the Tlokwe Ventersdorp Joint Municipal Planning Tribunal which I have completed on the declaration of interest form (*delete the option not applicable*);

- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and I authorise the Tlokwe City Council to verify any record in relation to such disqualification or requirement.
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Tlokwe Ventersdorp Joint Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

**CLOSING DATE: (INSERT DATE)**

\_\_\_\_\_  
Signature of Nominee

\_\_\_\_\_  
Full Names of Nominee

\_\_\_\_\_  
Signature of Person signing on behalf of the Organ of State or Non-Governmental Organisation

\_\_\_\_\_  
Full Names of Person signing on behalf of the Organ of State or Non-Governmental Organisation

**SCHEDULE 2****CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE TLOKWE VENTERSDORP JOINT MUNICIPAL PLANNING TRIBUNAL****CLOSING DATE: (INSERT DATE)**

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Tlokwe City Council and Ventersdorp Local Municipality hereby call for nominations for members of the public to be appointed to the Tlokwe Ventersdorp Joint Municipal Planning Tribunal for its first term of office.

The period of office of members will be five years calculated from the date of appointment of such members by the Tlokwe City Council and Ventersdorp Local Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

\*Professionals contemplated in Section 33(1)(b) – (f) of the By-law are:

- # Professional Planners
- # Professional Engineers
- # Auditors
- # Admitted Attorneys and Advocates
- # Environmental Assessment Practitioners

Each nomination must be in writing and must contain the following information:

- (a) The name and address of the nominator, who must be a natural person and a person may nominate himself or herself;
- (b) The name, address and identity number of the nominee;
- (d) Motivation by the nominator for the appointment of the nominee to the Tlokwe Ventersdorp Joint Municipal Planning Tribunal (no less than 50 words and no more than 250 words);
- (e) A short curriculum vitae of the nominee (not exceeding two pages);
- (f) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Please note that failure to comply with the above requirements will result in the disqualification of the nomination.

Nominations must be sent to:

The Municipal Manager

Tlokwe City Council

P.O. Box 113

**POTCHEFSTROOM**

2520

For Attention: Mr BJ Robbertse

For Enquiries: Mr BJ Robbertse

Tel: 018 299 5103

---

\* I, .....(full names of nominee),

ID No (of nominee) .....,

hereby declare that –

- (a) I am available to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal .;
- (b) there is no conflict of interest OR I have the following interests which may conflict with the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Tlokwe Ventersdorp Joint Municipal Planning Tribunal and I authorise the Tlokwe City Council to verify any record in relation to such disqualification or requirement;
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Tlokwe Ventersdorp Joint Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

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Signature of Nominee

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Full Names of Nominee

**SCHEDULE 3  
DISCLOSURE OF INTERESTS FORM**

I, the undersigned,

Full names: \_\_\_\_\_  
 Identity Number: \_\_\_\_\_  
 Residing at: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

do hereby declare that -

- (a) the information contained herein fall within my personal knowledge and are to the best of my knowledge complete, true and correct, and
- (b) that there is no conflict of interest between myself and the \_\_\_\_\_ Municipal Planning Tribunal; or
- (c) I have the following interests which may conflict or potentially conflict with the interests of the \_\_\_\_\_ Municipal Planning Tribunal;

CONFLICTING INTERESTS

- (d) the non-executive directorships previously or currently held and remunerative work, consultancy and retainer ship positions held as follows:

1. NON-EXECUTIVE DIRECTORSHIP	
Name of Company	Period
1.	
2.	
3.	
4.	
5.	

2. REMUNERATIVE WORK, CONSULTANCY & RETAINERSHIPS			
Name of Company & Occupation	Type of Business	Rand amount per month	Period
1.			
2.			
3.			
4.			
5.			

3. CRIMINAL RECORD

Type of Offence	Dates/Term of Sentence
1.	

- (e) I am South African citizen or a permanent resident in the Republic
- (f) I am not a Member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a court of law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a tribunal for a breach of any provision of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Land Use Planning By-Laws, 2015 enacted by the \_\_\_\_\_ Municipality.;
- (l) I have not been found guilty of misconduct, incapacity or incompetence; or
- (m) I have not failed to comply with the provisions of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Land Use Planning By-Laws, 2015 enacted by the \_\_\_\_\_ Municipality.

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

**SWORN** to and **SIGNED** before me at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_.

The deponent having acknowledged that he knows and understands the contents of this affidavit, that the contents are true, and that he or she has no objection to taking this oath and that he or she considers the oath to be binding on his or her conscience.

\_\_\_\_\_  
**COMMISSIONER OF OATHS**

FULL NAMES: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**SCHEDULE 4**  
**CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

I, the undersigned,

Full names: \_\_\_\_\_  
Identity Number: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

do hereby declare that I will uphold the Code of Conduct of the Tlokwe Ventersdorp Joint Municipal Planning Tribunal contained hereunder:

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**General conduct**

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

**Gifts**

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

**Undue influence**

4. A member of the Municipal Planning Tribunal must not—

- (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
- (b) use confidential information acquired in the course of his or her duties to further a personal interest;
- (c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
- (d) commit a deliberately wrongful act that reflects adversely on the Municipal Planning Tribunal, the 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 Municipal Planning Tribunal by improper means.

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

**Date:** \_\_\_\_\_



## SCHEDULE 5 OWNERS' ASSOCIATIONS

### General

1. The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
2. An owners' association that comes into being by virtue of sub item 1 is a juristic person and must have a constitution.
3. The constitution of an owners' association must at least provide for—
  - (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
  - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
  - (c) the regulation of at least one yearly meeting with its members;
  - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
  - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
  - (f) enforcement of conditions of approval or management plans;
  - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
  - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
4. The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
5. The constitution of an owners' association may be amended when necessary provided that an amendment that affects the Municipality or a provision referred to in sub item 3 is approved by the Municipality.
6. An owners' association which comes into being by virtue of sub item 1 -
  - (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
  - (b) is upon registration of the first land unit, automatically constituted.
7. The design guidelines contemplated in sub item 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
8. If an owners' association fails to meet any of its obligations contemplated in subitem 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subitem 6(a), the amount of any expenditure incurred by it in respect of those actions.
9. The amount of any expenditure so recovered is, for the purposes of subitem 8, considered to be expenditure incurred by the owners' association.

**Owners' association ceases to function**

1. If an owners' association ceases to function or carry out its obligations, the Municipality may—
  - (a) take steps to instruct the association to hold a meeting and to reconstitute itself;
  - (b) subject to the amendment of the conditions of approval remove the obligation to establish an owners' association; or
  - (c) subject to amendment of title conditions pertaining to the owners' association remove any obligations in respect of an owners' association.
2. In determining which option to follow, the Municipality must have regard to—
  - (a) the purpose of the owners' association;
  - (b) who will take over the maintenance of infrastructure which the owners' association is responsible for, if at all; and
  - (c) the impact of the dissolution of the owners' association on the members and the community concerned.