



MANGAUNG METROPOLITAN MUNICIPALITY

MUNICIPAL LAND USE PLANNING BY-LAW, 2019

To be Promulgated in Local Government Notice No

MANGAUNG METROPOLITAN MUNICIPALITY

MUNICIPAL LAND USE PLANNING BY-LAW, 2015 (REVISED 2019)

To provide for the regulation and control of activities, processes and procedures in respect of spatial planning and land use management; to provide for the categorisation of land development applications; to provide for processes and procedures for land development applications; to provide for the processes and procedures of a Municipal Planning and Appeals Tribunal; and to provide for matters incidental thereto.

PREAMBLE

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

WHEREAS the Municipalities have the obligation in terms of Part B of Schedule 4 of the Constitution to administer matters pertaining to municipal planning; and

WHEREAS municipalities have the right to make and administer by-laws for the effective administration of the matters which it has the right to administer in accordance with section 156(2) of the Constitution; and

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

NOW THEREFORE the Council of Mangaung Metropolitan Municipality enacts the revised Municipal Land Use Planning By-law as follows:

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CHAPTER 1 – INTERPRETATION AND APPLICATION

1. Definitions and Interpretations

- (1) In this By-law, unless the context indicates otherwise-

“Act” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), as published on 5 August 2013 and as may be amended from time to time;

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

“adopt”, in relation to a spatial development framework, land use management scheme, policy or strategy, means the approval thereof by the Municipality, Municipal Council or Municipal Planning Tribunal;

“adjoining owner(s)” means the owner of any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or similar properties;

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

“appeal authority” means the Executive Authority, a committee established in terms of provincial legislation, or a body or institution of the Municipality authorized to deal with appeals in terms of section 86(1);

"applicant" means:

- (a) an owner(s); or
- (b) duly authorized person on behalf of the owner;
of property(ies) or land within the jurisdiction of the Municipality who submits a land development application or combination of land development applications contemplated in section 21 of this By-law;
- (c) a municipality; or
- (d) an organ of state;
under whose control and management, the property(ies) or land falls;

“application” means an application submitted to the Municipality referred to in section 16 of this By-law and a land development application shall have a corresponding meaning;

“approval” means a decision to approve a land development application in terms of this By-law or relevant law by a decision-making person or body and includes any conditions under which the approval was granted;

“authorized employee” means a municipal employee who is authorized by the Municipality to exercise a power or perform a duty in terms of this By-law or to inspect land and buildings in order to enforce compliance with this By-law, the land use management scheme and Deed of Title or the Act and Regulations or such further duties that may by delegation in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), be assigned to him/her;

“bulk service” means the municipal infrastructure associated with external engineering services which are intended to ensure provision of municipal infrastructure services for the benefits of multiple users or the community as a whole;

“building” means a building as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

“capacity” means the extent of availability of a municipal infrastructure service;

“community” means residents, as may be determined by the Municipality, that are living in a particular area;

“conditions of approval” means condition(s) imposed by the Municipality in the approval of a land development application, including any conditions contained in the annexure(s) and/or plans and/or attachment(s) that form part of the approval and/or are referred to in the approval of the land development application; “conditions of establishment” and “conditions of approval” has a

corresponding meaning in the context of an application for township establishment as contemplated in section 23 of this By-law;

“conflict of interest” is a situation wherein a councillor, any municipal official or professional planner, a member of the Municipal Planning Tribunal or any other professional, holding a fiduciary duty to the Municipality has or develops a competing interest, be it professional or personal, which interest will make it difficult to fulfil his or her duties officially even where no unethical or improper act results;

“consent use” means a consent for land use rights as contemplated in the land use management scheme of the Municipality. A consent use can be revoked at any time if it causes any nuisance to the surrounding area or neighbours, in the opinion of the Municipality, or if the circumstances leading to the approval, changed or if the consent use is not exercised for a period of twelve (12) months;

“consolidation”, in relation to land, means the merging of two (2) or more adjacent land parcels into a single land parcel that is capable of being registered in the deeds registry as one (1) property, in terms of a consolidation application as contemplated in this By-law;

“Constitution” means the Constitution of the Republic of South Africa, Act, 1996 (Act 108 of 1996), as may be amended from time to time;

“contact details” means sufficient details including but not limited to a name, surname, telephone number (business or private), e-mail address, postal and residential addresses that will enable a Municipality or organ of state to contact a person for purposes of executing their functions in terms of the Act or this By-law and in so far as it relates to an organ of state, the details of a contact person within the employ of the organ of state;

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

“Council” means the Municipal Council of the Mungaung Metropolitan Municipality;

“date of notification” means the date on which a notice is served or delivered on a person or body as contemplated in section 51 of this By-law or published in the newspapers or Provincial Gazette as the case may be and no notification shall be served, delivered, published or may appear in any newspaper or on the property between 10 December to 10 January of any year or any other date as may be determined by the Municipality;

“day” means a calendar day, provided that when any number of days is prescribed for the doing of any act in terms of this By-law, it must be calculated by excluding the first day and including the last day; provided further that, if the last day falls on a Sunday or public holiday, the number of days must be calculated by excluding the first day and also the Sunday or public holiday; and further if the day on which a notice in terms of this By-law must appear in any newspaper or Provincial Gazette such notice may not appear on a Sunday or public holiday and which shall for purposes of the calculation of days be excluded and as more fully defined in the Interpretation Act, 1957 (Act 33 of 1957);

“department” means a department of the administration of the Municipality in the context of this By-law;

“departure” means a permanent or temporary departure from a permitted land use, process or the provisions of a land use management scheme or spatial development framework;

“development charge” means a financial charge or contribution that is levied by the Municipality, as contemplated in section 92 of this By-law, for the provision, installation, enhancing, upgrading of engineering services, including payment of which will contribute towards the Municipality’s expenditure on capital investment in municipal infrastructure or bulk services and provision of

public transport read with sections 40(7)(b) and 49 of the Act and engineering-, engineering services-, development- contributions shall have a corresponding meaning;

“development-, land use- or land development- application” shall have a corresponding meaning as contemplated in section 35(2) of the Act and Regulation 15 of the Regulations to the Act;

“deviation” in relation to a spatial development framework, means:

- (a) an approval which departs from the provisions of the municipal spatial development framework contemplated in section 22(2) of the Act;
- (b) a deviation from the provisions of the municipal spatial development framework authorised by this By-Law; or
- (c) a deviation from the provisions of a district spatial development framework or local spatial development framework authorised by this By-Law;

and ‘deviate’ has a corresponding meaning;

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

“diagram” means a diagram as defined in the Land Survey Act, 1997 (Act 8 of 1997), but for purposes of this By-law shall be an approved diagram in terms of the Land Survey Act, 1997 (Act 8 of 1997);

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

“engineering services” means a system (internal and external) for the provision of water, electricity, gas, roads, storm water drainage, collection and removal of solid waste or sewerage, required for the purpose of land

development whether provided by the Municipality, any other organ of state or a service provider, or any other person;

“erf” means land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township and includes any particular portion of land laid out as a township which is not intended for a public place, whether or not such township has been recognized, approved, established and proclaimed as such in terms of this By-law or any repealed law;

“external engineering service” means with reference to the Act, an engineering service(s) situated outside the boundaries of a land development area and which is necessary to serve the use and development of the land development area and may include engineering services, which in the opinion of the Municipality, accumulatively impacts and serve the wider area within which the development falls, including, municipal infrastructure services, bulk services, link services; or engineering services which has been classified by agreement as such in terms of this By-law;

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

“heritage resource” means any place or object of cultural significance. Cultural significance means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);

“homeowners’ association”, “property owners association” and/or **“homeowners association”** and/or a **“voluntary association”** means an homeowners’ association established in terms of the relevant legislation, rules and regulations related to the establishment thereof, for purposes of co-ordinated management of an area or community and includes, a body corporate created in terms of the Sectional Titles Act (Act 95 of 1986);

“infrastructure” means municipal services that include:

- (i) potable water and the provision of fire flow;
- (ii) sewerage and wastewater treatment;
- (iii) electricity distribution;
- (iv) municipal roads;
- (v) street lighting;
- (vi) storm water management;
- (vii) solid waste disposal;
- (viii) public transport infrastructure;
- (ix) non-motorised transport infrastructure;
- (x) systems, capital assets and other engineering services assets and processes related to engineering services;

“incomplete” in terms of land development applications means a land development application submitted without the prescribed accompanying documents as may be required by the Municipality or required in terms of the provisions of this By-law;

“interested and affected person/party” means any person or group of persons, legal entity or body that can demonstrate their interest in the land development application in terms of section 45(3) of the Act and with specific reference to town planning principles or development principles;

“internal engineering services” means an engineering service with reference to the Act, within the boundaries of a land development area, which is necessary for the use and development of the land development area and which is to be owned and operated by the Municipality, service provider or other body or which has been classified as such;

“land” includes any improvement on property(ies) or interest in a property(ies);

“land development” means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or

consolidation of land or any relaxation from the land use or uses permitted in terms of an applicable land use management scheme;

“land development application” means one (1) of or a combination of the following applications submitted to the Municipality in terms of this By-law:

- rezoning;
 - consent use, departure, temporary use and relaxation in terms of the land use management scheme;
 - the subdivision and/or consolidation of land;
 - the amendment, suspension or removal of restrictive conditions as defined in the Act;
 - consent of the Municipality in terms of Title Deed conditions;
 - the establishment of a township;
 - the extension of the boundaries of a township;
 - the amendment or cancellation of a general plan; and/or
 - any other land development application in terms of the land use management scheme or national or provincial planning and development legislation within the jurisdiction of the Municipality as may be determined by the Municipality from time to time;
- but excludes any request, allowance or administrative decision in terms of this By-law, national or provincial planning and development legislation, e.g excision;

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

“land use plan” means a plan that indicates existing land uses (legal and illegal);

“layout plan” means a plan indicating information relevant to a land development application and the land intended for development and includes

the relative locations of erven, public places, or roads, subdivision or consolidation, and the purposes for which the erven are intended to be used read with any notation or conditions contained thereon as contemplated in this By-law, as may be amended from time to time;

“Land Survey Act” means the Land Survey Act, 1997 (Act 8 of 1997);

“land use rights” means an adopted land use applicable to land in terms of this By-law or relevant law;

“land use management scheme” means the documents referred to in Chapter 5 of the Act including any amendments to the land use management scheme;

“local authority” and **“Municipality”** have corresponding meanings;

“local spatial development framework” means a local spatial development framework contemplated in section 10;

“Mining” means mining as contemplated in the definitions of the land use management scheme and read with the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002);

“municipal spatial development framework” means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act, 2000 (Act 32 of 2000) and Chapter 4 of the Act;

“Municipal Council” means the Council of the Municipality as contemplated in Section 157 of the Constitution;

“Municipal Manager” means the municipal manager of Mangaung Metropolitan Municipality as appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person acting in that position or to whom authority has been delegated;

“Municipality” means Mangaung Metropolitan Municipality established by the Provincial Notice No. 261 of 28 March 2011. Provincial Notice No.155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and any employee of the Municipality acting in terms of delegated or sub-delegated authority of the Municipality;

“Municipal Planning Tribunal” means a Municipal Planning Tribunal established in terms of section 35 of the Act and section 79 of this By-law and, unless the context otherwise provides;

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

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

“nuisance” means any form of interference or encroachment that impacts negatively on a person’s right to the use and enjoyment of their property that may cause a material inconvenience to that person;

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

“open space” means an area of land set aside and required to be legally protected, in the opinion and to the satisfaction of the Municipality, from development over and above the assignment of land use rights, which shall be for the use and benefit of a community, irrespective of ownership of such land and may include, in the opinion of the Municipality, recreational areas, natural

areas, parks, public and private open space for purposes of compliance with this By-law. It includes both public and private open space;

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

“owner” as is defined in the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and includes the following:-

- (a) in relation to a property referred to in paragraph (a) of the definition of **“property”**, means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of **“property”**, means a person in whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of **“property”**, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of **“property”**, means the organ of state which owns or controls that public service infrastructure,

provided that a person mentioned below may for the purposes of this By-law be regarded by a municipality as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;

- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

“pre-application consultation” means a consultation between an owner or an agent and the Municipality contemplated in section 40;

“proclamation” means a public or official announcement of an approved land use application or spatial development framework or land use management scheme required of the applicant or the Municipality in terms of this By-law, which shall be made in an official and formal manner;

“prescribe” means requirements or provisions in terms of this By-law, or other relevant legislation;

“private open space” means in relation to land area, a portion of land set aside or to be set aside in a scheduled open space, for the use by a community as a recreational area, primarily intended for outdoor living activities which enjoys a reasonable amount of privacy. The intended use of private open space shall be included in the conditions of establishment and title and approved in terms of the provisions of this By-law. Private open space shall not be allowed to be changed to any other land use for a period of at least ten (10) years after the creation thereof as private open space;

“property(ies)” as is defined in the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and includes:

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

“public open space” means in relation to land area, a portion of land set aside or to be set aside in a scheduled open space, for the use and benefit by the general public as a recreational area, primarily intended for outdoor living activities and is owned by or vest in the ownership of a Municipal Council;

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

“public service infrastructure” means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) any other publicly controlled infrastructure as may be prescribed; or

- (i) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (h);

“restrictive condition” means a restrictive condition as contained in the Act read with other relevant legislation;

“rezoning” means the change of the zoning or land use of property(ies) or land as contemplated in a land use management scheme;

“schedule of rights” means a document annexed to the land use management scheme that set out the land use rights and development control measures and conditions applicable to a land parcel;

“sectional title scheme” means a land parcel with a building(s) where individual owners own sections of the building(s) and co-own the common property. A sectional title scheme can be a vertical block of apartments or loose-standing dwelling units which may be attached or detached. A sectional title scheme has a minimum of two (2) sections and can be used for residential or commercial purposes or a mixture of both;

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

“services agreement” means a written agreement which is concluded between an owner of property on which a land development application has been brought in terms of this By-law and the Municipality and includes:

- (a) detailed and specific respective rights and obligations regarding the provision and installation of the external and internal engineering services required for an approved land development, further including the design, provision, installation, financing and maintenance of engineering services;
- (b) the associated development charges;

- (c) the standard of such engineering services as determined by the Municipality;
- (d) the classification of engineering services as internal or external services; and
- (e) any matter related to the provision of engineering services in terms of this By-law;

“service certificate” means a written certification that the provision of engineering services as provided in section 49 of the Act has been complied in accordance with the service level agreement and the applicant must also submit proof to the Municipality;

“servitude” means a condition in favour of a property, person or Municipality registered against a title deed of a property(ies) or which has been created through legislation;

“site development plan” means a scaled and dimensioned plan that shows full details of the proposed land development, including the site layout, positioning of buildings and structures, property access, access control measures, parking, servitudes and landscaping;

“site specific circumstances” means any circumstance that is applicable to a specific land parcel;

“social infrastructure” means community facilities such as libraries, recreation facilities, sports facilities, community halls, clinics, parks and open spaces, educational facilities, services and networks that meet social needs and enhance community well-being and **“social facility”** has corresponding meaning;

“spatial development framework” means a spatial development framework referred to in Chapter 4 of the Act and read with sections 23 to 35 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), and this By-law;

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

“subdivision” means a subdivision of a property as contemplated in section 21 of this By-law, the provisions whereof shall apply *mutatis mutandis* to a subdivision of a property registered as a farm portion, or a portion of a farm portion, or an agricultural holding, or a portion of an agricultural holding;

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

“this By-law” means any Section, Schedule, and/or Form to this By-law;

“title deed” means any deed registered in a deeds registry recording ownership of land and includes deeds of grant and ninety-nine (99) year leasehold titles;

“township” means any property(ies), sites and/or land that:

- (a) is laid out or divided or subdivided into or developed or to be developed, as a single property or multiple properties for residential, business, industrial, institutional, educational, community services and/or similar or other purposes or land uses, as may be contained in a land use management scheme;
- (b) are arranged in such a manner as to have the character of what constitutes a township, in the opinion of the Municipality, including:
 - (i) intended or actual single or multiple ownership of erven, land or units, and or multiple land use rights; and/or
 - (ii) which may or may not be intersected or connected by or abut on any public or private street or roadway, in the case of a proposed sectional title scheme; and
 - (iii) public or private streets or roadways shall for the purposes of this definition include a right of way or any land used for purposes of a street, road, or roadway whether surveyed and/or registered, which is only notional in character;

“township register” means an approved subdivision register of a township in terms of the Deeds Registries Act, 1937 (Act 47 of 1937);

“Tribunal” means the Municipal Planning Tribunal established in terms of section 79 of this By-law;

“Undue influence” is an act by any person whether in authority or not, who takes advantage of a position of power over another person, institution or body, resulting in inequity in power between the parties thus vitiating one (1) party’s consent as it is unable to freely exercise his or her independent will;

“zoning” means the division of an area into zones as to restrict the number and types of buildings and their uses in order to facilitate the proper use of land for different purposes. Where the context indicates, the zoning categories and conditions relating thereto contained in a land use management scheme.

- (2) Any reference to erf or rural land refers to the Land Survey Act, 1997, (Act No 8 of 1997).
- (3) Any reference to the male gender includes the female gender and any reference to the plural will include the singular and vice versa, as the context may require.

2. Application of By-law

- (1) This By-Law applies to all land (urban and rural) within the geographical area of the Municipality, including land owned by the state and other organs of state.
- (2) This By-Law binds every owner and every user of land, including the state.
- (3) When considering an apparent conflict between this By-Law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.

- (4) Should there be any conflict in the interpretation of any provision or definition of this By-law and any other national or provincial legislation, this By-law shall prevail, having regard to Section 146, 147, 156(2), and 155(7) read with Schedule 4, Part B of the Constitution.

CHAPTER 2 – SPATIAL PLANNING

3. Spatial Planning Categories

All development frameworks developed for areas in, or associated with, the Free State Province, must be represented spatially. In order to create a uniform system across the Province, the attribute data must be represented according to the primary spatial planning categories set out in Schedule 1 to this By-law.

4. Compilation, Review or Amendment of Municipal Spatial Development Framework

- (1) The Municipality shall draft a municipal spatial development framework in terms of the relevant provisions of the Act, read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) When the Municipality drafts, reviews or amends its municipal spatial development framework in accordance with the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and the Spatial Planning and Land Use Management Act, the Municipality must—
- (a) establish an intergovernmental steering committee to compile or amend its municipal spatial development framework;
 - (b) refer its draft municipal spatial development framework or draft amendment of its municipal spatial development framework to National and Provincial Departments and adjoining municipalities for comment, in accordance with section 7(e)(ii) of the Act; and
 - (c) National and Provincial Departments must provide any input requested by the Municipality within sixty (60) days of receipt of the request for inputs.

- (3) The Municipality must—
- (a) publish a notice in two (2) of the official languages of the Province most spoken in the area in two (2) newspapers circulating in the area concerned of—
 - (i) the intention to compile, review or amend the municipal spatial development framework; and
 - (ii) the process it will follow, in accordance with section 30(3) of the Municipal Systems Act, 2000 (Act 32 of 2000);
 - (b) in writing inform the National and Provincial Departments and adjoining municipalities of—
 - (i) the intention to compile, review or amend the municipal spatial development framework;
 - (ii) its decision in terms of subsection (1)(a) or (b); and
 - (iii) the process it will follow to compile, review or amend the municipal spatial development framework, including the process for public participation; and
 - (c) register relevant interested and affected persons, who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

5. Establishment of Project Committee

- (1) The Municipality must establish a project committee to compile, review or amend its municipal spatial development framework.
- (2) The project committee must at least consist of—
- (a) the Municipal Manager; and
 - (b) municipal employees from at least the following municipal departments:
 - (i) the Integrated Development Planning Office;
 - (ii) the Planning Department;
 - (iii) the Environmental Management Department;
 - (iv) the Engineering Services Department;
 - (v) Centlec

- (vi) the Local Economic Development Department;
- (vii) the Housing Department; and
- (viii) Office of the Chief Financial Officer.

6. Establishment of Inter-Governmental Steering Committee

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

7. Procedure with Inter-Governmental Steering Committee

- (1) If the Municipality establishes an intergovernmental steering committee, the project committee must compile a draft status quo document setting out an assessment of the existing levels of and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comments.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the status quo document and submit it to the Council for adoption.
- (3) The project committee must compile a first draft of the municipal spatial development framework or first draft amendment of the framework and submit it to the intergovernmental steering committee for comments.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the first draft of the municipal

spatial development framework or first draft amendment of the framework in accordance with section 10(2) and (3) and submit it to the Municipal Council to approve the publication thereof for public comments in accordance with section 10(5).

- (5) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment of the framework and submit it to the intergovernmental steering committee for comment.
- (6) After consideration of the comments of the intergovernmental steering committee contemplated in subsection (5), the project committee must complete the final draft of the municipal spatial development framework or final draft amendment of the framework and submit it to the Municipal Council for adoption.
- (7) If the final municipal spatial development framework or final amendment of the municipal spatial development framework contemplated in subsection (6) is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process in accordance with section 10(5) before the final municipal spatial development framework or final amendment of the framework is adopted by the Council.
- (8) The Council or the project committee may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the framework request comments from the intergovernmental steering committee.
- (9) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must give notice thereof in accordance with section 11(4).

8. Procedure without Intergovernmental Steering Committee

- (1) If the Council does not establish an intergovernmental steering committee to compile or amend its municipal spatial development framework, the project committee must—
 - (a) compile a draft status quo document setting out an assessment of the existing levels of development and development challenges in the municipal area and submit it to the Council for adoption;
 - (b) after adoption of the status quo document, compile a draft municipal spatial development framework or draft amendment of the framework in accordance with section 10(2) and (3) and submit it to the Council to approve the publication thereof for public comment in accordance with section 10(5);
 - (c) after approval of the draft municipal spatial development framework or draft amendment of the framework for publication contemplated in subsection (b), submit the draft municipal spatial development framework or draft amendment of the framework to the MEC for comment; and
 - (d) after consideration of the comments received from the public and the MEC, submit a final municipal spatial development framework or final amendment of the framework, with any further amendments, to the Council for adoption.

- (2) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must give notice thereof in accordance with section 11(4).

9. Functions and Duties of the Project Committee

- (1) The members of the project committee must, whilst also considering the requests and proposals of the executive authority/executive mayor/committee of councillors, but based on sound strategic spatial planning principles:
 - (a) compile a municipal spatial development framework or draft an amendment of the municipal spatial development framework for adoption by the Council;
 - (b) provide technical knowledge and expertise to the Council;

- (c) monitor progress and ensure that the compilation of the municipal spatial development framework or drafting of the amendment of the municipal spatial development framework is progressing according to the approved process contemplated in section 4(3)(a)(ii) of this By-law;
 - (d) guide the public participation process and ensure that the registered interested and affected parties remain informed;
 - (e) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment of the framework based on the consideration of the comments received during the process of drafting thereof;
 - (f) oversee the drafting of a report setting out the response of the Municipality to the provincial comments received;
 - (g) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and other organs of state as contemplated in section 24(1) of the Municipal Systems Act, 2000 (Act 32 of 2000);
 - (h) facilitate the integration of other sector plans into the municipal spatial development framework;
 - (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.
- (2) The members of the intergovernmental steering committee must—
- (a) provide the intergovernmental steering committee with the following:
 - (i) technical knowledge and expertise;
 - (ii) input on outstanding information that is required to draft the municipal spatial development framework or an amendment thereof;
 - (iii) information on the locality of projects and budgetary allocations and written comments in terms of section 7;

- (iv) communicate to the intergovernmental steering committee any current or planned projects that have an influence on the municipal area; and
- (v) provide the project committee with written comments in terms of section 7(2) and section 7(6).

10. Municipal Spatial Development Frameworks

- (1) The municipal spatial development framework must be prepared as part of a Municipality's integrated development plan in accordance with the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000).

- (2)
 - (a) The content of the municipal spatial development must comply with section 21 of the Act.
 - (b) Over and above the requirement set out in subsection (a), the Municipality may determine the components of the municipal spatial development framework and any further plans, policies and/or instruments by virtue of which the municipal spatial development framework shall be applied, interpreted and implemented.

- (3) The purpose of the municipal spatial development framework is *inter alia* to:
 - (a) provide detailed spatial planning guidelines and directives pertaining to land use development within the jurisdiction area of the Municipality;
 - (b) provide specific land use planning needs and priorities;
 - (c) provide detailed policy and development parameters for land use planning;
 - (d) 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;
 - (e) provide detail regarding planned new transport and other infrastructure upgrades with spatial implications in the area;
 - (f) guide decision making on land use applications; and
 - (g) identify a funding source and budget for prioritized projects in conjunction with the IDP.

- (4) A municipal spatial development framework does not confer cancel, limit, compromise or infringe on land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (5) The Municipality shall–
- (a) give notice of the proposed draft spatial development framework in the Provincial Gazette and two (2) local newspapers circulating in the area of jurisdiction of the Municipality in English and one (1) other official language commonly spoken in the area;
 - (b) for purposes of notification use any other method of communication it may deem appropriate;
 - (c) invite the public to submit written representations in respect of the proposed draft municipal spatial development framework to the Municipal Council;
and the notices contemplated in subsection (a) shall specifically state that any person wishing to provide comments and/or objections shall-
 - (i) do so within a period of sixty (60) days from the first day of publication of the notice;
 - (ii) provide detailed written comments;
 - (iii) provide their contact details which shall include an address for delivery of registered mail;
 - (iv) detailed grounds of objection; and
 - (v) details of the interest or locus standi of the interested and affected party or objector to the satisfaction of the Municipality.
 - (d) consider all representations received in respect of the proposed draft municipal spatial development frameworks.
- (6) The Municipality may for purposes of public engagement arrange:
- (a) specific consultations with professional bodies, ward communities or other groups; and/or
 - (b) public meetings.

11. Process of Amendment or Review of Municipal Spatial Development Frameworks

- (1) The process to amend the municipal spatial development framework shall comply with section 34 of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) The Municipality may prescribe the form and processes governing an application to amend the municipal spatial development framework other than as a result of the annual review process contemplated in section 34(a) of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (3) When the Municipality drafts or amends its municipal spatial development framework it must advertise the draft document in line with subsection 10(5) above.
- (4) The Municipality must, within twenty-one (21) days of adopting a municipal spatial development framework or an amendment thereof, by notice in two (2) newspapers circulating in the municipal area inform the general public of the approval of a municipal spatial development framework and publish a proclamation notice in the Provincial Gazette in line with section 20 of the Act.

12 Status of the Municipal Spatial Development Framework

- (1) The Tribunal or any other authority required or mandated to make a decision on a land development application in terms of this By-law or any other law relating to land development, may not make a decision which is inconsistent with the municipal spatial planning framework.
- (2) Subject to section 42 of the Act, a Tribunal or any other authority required or mandated to make a decision on a land development application, may depart from the provisions of a municipal spatial development framework only if site specific circumstances justify a departure from the provisions of such municipal spatial development framework and such departure does not materially change the municipal spatial development framework.
- (3) If the departure materially changes the municipal spatial development framework, the Municipality shall in terms of section 11 of this By-law amend the municipal spatial development framework in so far as it relates to the

departure only, in such form as the Municipality may determine without necessarily amending the full municipal spatial development framework, prior to taking a decision which constitutes a departure from the municipal spatial development framework.

- (4) A person/body who takes a decision to deviate from the provisions of the municipal spatial development framework must at the time of making the decision-
 - (a) record in writing the reasons for the deviation; and
 - (b) keep a record of the decision as well as the reason(s) for the deviation.

13. Structure Plans and Local Spatial Development Framework

- (1) The Municipality may adopt a structure plan, and/or local spatial development frameworks, and/or a precinct plan for a specific geographical area in or a portion of the municipal area.
- (2) When the Municipality intends to develop a structure plan and/or local spatial development frameworks, and/or a precinct plan it must comply with section 11 and must—
 - (a) review that structure plan and/or local spatial development frameworks, and/or a precinct plan and make it consistent with the purpose of a municipal spatial development framework;
 - (b) incorporate the provisions of the municipal spatial development framework in a structure plan and/or local spatial development frameworks, and/or a precinct plan.
- (3) The Municipality must withdraw the relevant structure plan by notice in the Provincial Gazette when it adopts a local spatial development framework contemplated in subsection (1).

CHAPTER 3 – LAND USE MANAGEMENT SCHEME

14. Land Use Management Scheme

- (1) The Municipality shall adopt and approve, after public consultation as contemplated in section 15, a single land use management scheme for its entire area of jurisdiction.
- (2) After the public participation, engagements and consultation processes contemplated in section 15, the Municipality shall:
 - (a) review and consider all submissions made in writing or inputs made during any consultations or engagements; and
 - (b) prepare a report, including all information deemed relevant to the Municipal Council, on the submissions made.
- (3) The Council must consider and approve the land use management scheme with or without amendments.
- (4) The Municipality must, within twenty-one (21) days of adopting a land use management scheme or an amendment thereof, by notice in two (2) newspapers circulating in the municipal area inform the general public of the approval of a land use management scheme and publish a proclamation notice in the Provincial Gazette.
- (5) The notice contemplated in subsection (4) may-
 - (a) include a summary of the approved land use management scheme; and
 - (b) indicate a specific date of coming into operation of the approved land use management scheme.

15. Public Participation applicable to the drafting, amendment and review of the Land Use Management Scheme

- (1) The Municipality shall-
 - (a) give notice in the Provincial Gazette and two (2) local newspapers circulating in the area of jurisdiction of the Municipality in English and one (1) other official language commonly spoken in the area; and
 - (b) For purposes of notification use any other method of communication it may deem appropriate;

of a draft land use management scheme; and the notices contemplated in subsection (a) shall specifically state that any person wishing to provide comments and/or objections shall-

- (i) do so within a period of sixty (60) days from the first day of publication of the notice;
- (ii) provide detailed written comments;
- (iii) provide their contact details which shall include an address for delivery of registered mail;
- (iv) detailed grounds of objection; and
- (v) details of the interest or locus standi of the interested and affected party or objector to the satisfaction of the Municipality.

- (2) The Municipality may for purposes of public engagement arrange:
 - (a) specific consultations with professional bodies, ward communities or other groups; and/or
 - (b) public meetings.

16. Content of Land Use Management Scheme

- (1) The land use management scheme adopted and approved in terms of section 14 above must give effect to and be consistent with the municipal spatial development framework and determine the use and development of land within the area of jurisdiction of the Municipality in order to promote:
 - (a) economic growth;
 - (b) social inclusion;
 - (c) efficient land development; and
 - (d) minimal impact on public health, the environment and natural resources.
- (2) A land use management scheme must-
 - (a) include appropriate categories of zoning and regulations for the entire municipal area, including areas not previously subject to a land use management scheme;
 - (b) include scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone, definitions, specific conditions, limitations and general provisions, provisions for

public participation that may be required for purposes of any consent, deviation, temporary uses or relaxation in terms of the land use management scheme;

- (c) include a map indicating the zoning of the municipal area into land use zones;
 - (d) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;
 - (e) take cognisance of any culturally or historically significant land uses and comply with any heritage resources legislation;
 - (f) include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use management scheme;
 - (g) include provisions to promote the inclusion of affordable housing in residential land development;
 - (h) include land use and development incentives to promote the effective implementation of the municipal spatial development framework and other development policies;
 - (i) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
 - (j) give effect to the municipal spatial development framework and integrated development plan.
- (3) The land use management scheme may include provisions relating to-
- (a) the use and development of land with the consent and written consent of the Municipality;
 - (b) specific requirements regarding any special zones identified to address the development priorities of the Municipality; and
 - (c) the variation of conditions of a land use management scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

- (4) Over and above that, which in terms of subsection (2) must be contained in a land use management scheme, the Municipality may determine any other component to be included in the land use management scheme for purposes of it being applied, interpreted and implemented.
- (5) A Land Use Management Scheme Register shall be kept and maintained by the Municipality in a hard copy and/or electronic format in accordance with section 25(2) of the Act.

17. Legal effect of Land Use Management Scheme

- (1) An adopted and approved land use management scheme-
 - (a) has the force of law and all landowners and users of land, including the Municipality, a state-owned enterprise and organs of state within the area of jurisdiction of the Municipality are bound by the provisions of such a land use management scheme;
 - (b) replaces all existing schemes within the area of jurisdiction of the Municipality to which the land use management scheme applies; and
 - (c) provides for land use and development rights.
- (2) Land may be used only for the purposes permitted-
 - (a) by a land use management scheme; or
 - (b) by a town planning scheme or any other applicable town planning legislation, until such scheme or any other applicable town planning legislation is replaced by a land use management scheme as contemplated in section 14 above.
- (3) The Municipality has a duty to enforce the provisions of its land use management scheme and any use of land which is deemed contrary to such land use management scheme shall constitute a criminal offence.
- (4) A land use management scheme developed and approved in terms of section 14 above must address conflict between the land use management scheme adopted and the one it purports to repeal or replace.

18. Amendment or Revision of Land Use Management Scheme

- (1) The Municipality may amend its land use management scheme if the amendment-
 - (a) is in the public interest;
 - (b) to advance, or is in the interest of, a disadvantaged community; and
 - (c) in order to further the vision and development goals and objectives of the Municipality as set out in its integrated development plan and municipal spatial development framework.

- (2) The Municipality may review its land use management scheme in order to achieve consistency with the municipal spatial development framework but must do so at least every five (5) years after the commencement of this By-Law.

- (3) The Municipality must submit a review report to the Municipal Council setting out for the period under review at least –
 - (a) the proposed amendments to the land use management scheme, including proposed overlay zones and the proposals aimed at aligning the land use management scheme with the municipal spatial development framework;
 - (b) the number of deviations from the municipal spatial development framework and the nature and reasons for each deviation;
 - (c) the response to comments received as a result of the public engagement process in section 15(1) and 15(2).

- (4) If the Municipal Council approves the recommendations in the review report, the Municipality must commence a process to amend the land use management scheme accordingly.

- (5) Where the Municipality intends to amend or review the land use management scheme, sections 14(2) up to and including 14(5) and 15 shall apply *mutatis mutandis* to such amendment and revision.

CHAPTER 4 – LAND DEVELOPMENT MANAGEMENT

19. Determination of Zoning

- (1) The owner of land or his agent may apply in terms of section 21(3) to the Municipality for the determination of a zoning as contemplated in the land use management scheme for land within its municipal jurisdiction.
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
 - (a) the lawful use of the land, or the purpose for which it could lawfully be used immediately prior to the commencement of this By-law if it can be determined;
 - (b) the zoning, if any, that is most compatible with that use or purpose and any applicable title condition;
 - (c) any temporary use or consent use that may be required in conjunction with that land use management scheme;
 - (d) in the case of land that was vacant immediately before the commencement of this By-law, the use that is permitted in terms of the title deed conditions or, where more than one (1) land use is so permitted, one (1) of such land uses determined by the Municipality; and
 - (e) where the lawful use of the land and the purpose for which it could lawfully be used immediately before the commencement of this By-law cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (2) cannot be determined, the Municipality must determine a zoning and serve notice of its intention on the owner of the property in accordance with section 53.
- (4) A land use that commenced or exercised unlawfully, whether before or after the commencement of this By-law, constitute a criminal offence and shall only be rectified by means of a land use application.

20. Non-Conforming Uses with Existing Land Use Rights

- (1) A non-conforming use with existing land use rights provides that a land parcel that is used lawfully in terms of an enactment that was applicable at the stage when the particular land use was initiated on the particular land parcel, prior to the introduction of a new zoning for the relevant land parcel, may continue to be used for that purpose when a new zoning comes into effect for the relevant land parcel, even if the existing land use does not comply with such new zoning.
- (2) A non-conforming use with existing land use rights does not constitute an offence in terms of this By-law.
- (3) A non-conforming use with existing land use rights may continue as long as it remains otherwise lawful, subject to the following:
 - (a) if the non-conforming use ceases for any reason for a period of more than twenty-four (24) consecutive months, any subsequent use of the property must conform to the requirements of this By-law, with or without temporary uses;
 - (b) a land use application must be made for the alteration or extension of buildings or structures in respect of the non-conforming use with existing land use rights;
 - (c) the owner bears the onus of proving that the non-conforming use right exists; and
 - (d) the use right is limited to the area of the building or land on which the proven land use right is in existence.
- (4) If an existing building, which constitutes a non-conforming use with existing land use rights, is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the Municipality may grant permission for the reconstruction of such building subject to conditions.

21. Land Development Requiring Approval

- (1) No person may commence or continue with or cause the commencement or continuation of land development without the approval of the Municipality in terms of subsection (2).

- (2) The Municipality has categorized land use change and/or land use reservation applications, as contemplated in section 35(3) of the Act, into two (2) categories;
- (a) Category 1 applications consist of the:
- (i) establishment of a township, division of a township or the amendment of the layout of a township;
 - (ii) amendment of an existing scheme or land use management scheme by the rezoning of land;
 - (iii) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
 - (iv) amendment or cancellation in whole or in part of a general plan as approved by the Surveyor General;
 - (v) subdivision and/or consolidation of any land parcel (other than a subdivision and consolidation which is provided for as a Category 2 application);
 - (vi) permanent closure of any public place;
 - (vii) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use management scheme; and
 - (viii) any consent or approval provided for in any law referred to in section 52(4) of the Regulations of the Act.
- (b) Category 2 applications consist of the:
- (i) subdivision of any land where such subdivision is expressly provided for in a land use management scheme;
 - (ii) creation of any servitude or long-term lease and the consolidation of any land;
 - (iii) simultaneous subdivision, as contemplated in subsection (b)(i) and consolidation of land;
 - (iv) consent of the Municipality for any land use purpose or temporary use or deviation in terms of a land use management scheme, which does not constitute a land development application; and

- (v) Registrar's 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 management scheme in operation.
- (3) The owner of land or his agent may apply to the Municipality in terms of this Chapter and Chapter 5 for its approval in relation to the development of the land concerning:
- (a) an establishment of a township, division of a township or the amendment of the layout of a township in accordance with sections 23(2) and 46 of this By-law;
 - (b) a rezoning of land;
 - (c) a departure to use land for a purpose not provided for in the land use management scheme granted on a temporary basis;
 - (d) a subdivision of land, including the registration of a servitude or lease agreement;
 - (e) a consolidation of land;
 - (f) an amendment, suspension or removal of restrictive conditions in respect of a land parcel;
 - (g) a permission required in terms of the land use management scheme including the excision of agricultural land;
 - (h) an amendment, removal or suspension of conditions in respect of an existing approval;
 - (i) an extension of the validity period of an approval;
 - (j) an approval of an overlay zone as provided for in the land use management scheme;
 - (k) a phasing, amendment or cancellation of a general plan or a part thereof;
 - (l) a permission required in terms of a condition of approval;
 - (m) a determination of a land use management scheme;
 - (o) a closure of a public place or part thereof;
 - (p) a consent use provided for in the land use management scheme; and
 - (q) an occasional use of land.

- (4) In terms of section 52 of the Act an applicant shall refer any land development application which affects a National or Provincial interest respectively to the Minister and/or the MEC for comments, which comments are to be provided within 21 (twenty-one) days as prescribed by the Act.
- (5) Where any action and/or decision to be taken by a National or Provincial Government Department affects municipal planning as contemplated in section 33 of the Act and/or has the purpose of vesting any land use rights and/or creates any land use to be exercised by such National or Provincial Departments, a land development application in terms of this By-law shall be lodged for obtaining the land use rights with the Municipality, in which event the Municipality:
 - (a) shall consider the land development application with reference to Chapter 6 of the Act and specifically sections 33 and 52 thereof; and
 - (b) may, after consultation with the National or Provincial Government Department, determine that a land development application may not be required.
- (6) Where any land development application in terms of section 21(3) of this By-law, which in the opinion of the Municipality, affects a National or Provincial interest as defined in section 52 of the Act, is submitted, such application shall be referred to the Minister or the MEC respectively and the provisions of subsections 52(5) to 52(7) of the Act, shall apply *mutatis mutandis*.
- (7) Subsections (4) to (6) shall be read with subsection 33(1) of the Act in that the National and/or Provincial Departments shall become parties to the application; however, the Municipality shall remain the decision maker of first instance.
- (8) When an applicant or owner exercises a land use right granted in terms of an approval, he shall comply with the conditions of the approval and the applicable provisions of the land use management scheme.
- (9) When the Municipality, on its own initiative, intends to develop land as contemplated in subsection (2), it must submit an application to the Municipal

Planning Tribunal for consideration in accordance with this Chapter and Chapter 5.

22. Continuation of Application after Change of Ownership

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

23. Establishment of Township

- (1) No person shall establish a township except with the written approval of the Municipality.
- (2) The owner of land or his agent, who proposes to establish a township on such land, shall submit an application for approval in accordance with subsection (4) to do so, to the Municipality.
- (3) The application shall comply with the requirements of the Municipality pertaining to pre-application consultation as contemplated in Section 40 of this By-law.
- (4) The application for township establishment shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (5) The application for township establishment shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.

- (6) After an owner of land has submitted an application to establish a township thereon, no person shall-
- (a) enter into any contract whereby any land in such township is sold, exchanged, leased or disposed of in any manner; or
 - (b) erect a building on such land until-
 - (i) the application for approval for the establishment of such township has been approved or refused by the Municipality; or
 - (ii) the applicant has withdrawn the application;
 - (iii) the approval of the application has lapsed;
 - (iv) the Municipality has declared the township an approved township and, in the case of such an owner, who is not a municipality, the Municipality has satisfied itself that the services and amenities that have to be provided in connection with such land in terms of the conditions subject to which the establishment of such township was approved, are available and has issued a certificate to that effect.
- (7) Any contract entered into in conflict as contemplated in section 23(5) shall be of no force or effect.
- (8) (a) An applicant who has been notified in terms of section 66(1), that his/her application has been approved may, within a period of six (6) months from the date of such notice, or such further period as the Municipality may allow, apply to the Municipality for the division/phasing of the township into two or more separate townships; provided that:
- (i) a division of township shall not be a division of engineering services, but only the division of a township and the divisions shall be regarded as separate townships;
 - (ii) each township resulting from the division of a township must be capable of existing as an independent township, for which engineering services shall be provided to the satisfaction of the Municipality;
 - (iii) for the purpose of subsection (ii) above, the Municipality may require that the applicant enter into engineering service agreements and provide guarantees as contemplated in section

91(4) of this By-law which shall apply *mutatis mutandis* to separate townships resulting from a division of township; and

- (iv) the Municipality may after consultation with the applicant determine the order in which each township created through a division of township shall be proclaimed in terms of section 69(1).
- (b) The application contemplated in subsection (8)(a) shall comply with the requirements of the Municipality pertaining to pre-application consultation as contemplated in Section 40 of this By-law, as well as with the prescriptions contained in section 41 read with Schedule 3 of this By-law.
- (c) The application for the division/phasing of the township shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.

24 General Plan and Diagrams to be Lodged with Surveyor-General

- (1) An applicant shall, within a period of twelve (12) months from the date of the notification of the approval of a township or within such further period as the Municipality may in each case determine, lodge for approval with the Surveyor-General the general plan and such diagrams as may be required for the establishment of a township.
- (2) If an applicant fails to lodge the general plan and diagrams with the Surveyor-General within the period or extended period determined in sections 72 and 73 of this By-law, the approval of the township shall lapse unless the Tribunal condones such failure after receipt of a condonation application.
- (3) When such general plan and diagrams have been approved by the Surveyor-General, the applicant shall notify the Municipality and the Registrar of Deeds of such approval.
- (4) The application for township establishment must be accompanied by a township name approved by the Municipality and street names as part of the township layout submitted to the Surveyor-General for approval.

25. Lodging of General Plan, Diagrams and Title Deeds with Registrar of Deeds

- (1) An applicant shall, within a period of twenty-four (24) months from the date of the notification of an approval of a township or within such further period as the Municipality may in each case determine, lodge the general plan and diagrams in question together with the title deeds of the land to which it relates with the Registrar of Deeds for registration, and the Registrar of Deeds shall notify the Municipality of the registration.
- (2) If an applicant fails to lodge such documents with the Registrar of Deeds or to obtain registration thereof within the period or further period contemplated in subsection (1) the approval of the township shall lapse unless the Tribunal condones such failure after receipt of a condonation application.

26. Proclamation of Approved Township

- (1) A services agreement between the owner of land and the Municipality shall be signed within a period of six (6) months after the approval of the township by the Municipality.
- (2) The conditions contained in the services agreement must be implemented and completed within a period of twenty-four (24) months after signing of the services agreement. Extension may be granted by the Municipality for a period not exceeding twelve (12) months or any further period determined by the Municipality in special circumstances.
- (3) Proclamation of the township may only take place after the conditions contained in the services agreement were met and a certificate has been issued by the relevant departments stating that civil and electrical services were constructed according to specifications of the Municipality.
- (4) If an applicant fails to comply with the provisions of this section, the approval of the township and any development right shall lapse.

- (5) (a) After the provisions of sections 24 and 25 have been complied with, the township shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.
- (b) The proclamation notice shall contain-
 - (i) the conditions of establishment and of title upon which the application for the township establishment has been approved; and
 - (ii) the Municipality may by proclamation rectify any error or omission in a proclamation notice in subsection (5)(a).
- (6) The applicant shall be liable for all costs of any rectification notice in subsection (5)(b)(ii).
- (7) An erf or land parcel in the township may only be sold, exchanged, leased or disposed of to a third party after the proclamation of the township.
- (8) No transfer of land to a third party will be effected prior to proof being provided that all social facilities as specified in the conditions of establishment was transferred to the relevant authorities.

27. Amendment or Cancellation of a General Plan

- (1) When the Municipality is satisfied that it is desirable to amend or cancel a general plan in the interest of the development of a township, or public interest, it may, on application, grant approval for the alteration, amendment or total or partial cancellation of the general plan representing the layout of such township, either unconditionally or subject to such conditions as it may determine.
- (2) The owner of the relevant land parcel or his agent, may apply for the approval of the Municipality for the amendment or cancellation of a general plan and such application shall be submitted to the Municipality in duplicate in such form determined and amended from time to time, and shall be accompanied by such plans, documents, information and fees as may be prescribed or determined by the Municipality.

- (3) When a general plan of a township is totally or partially cancelled by the Surveyor-General, in terms of the Land Survey Act, 1997, (Act No 8 of 1997), the land uses and conditions of title, are simultaneously cancelled and the land use and status revert to the initial zoning.

28. Ownership of Public Places and Land Required for Parks, Public Open Spaces, Social Facilities and Municipal Engineering Services

- (1) An approval of a land development application which provides for the use of land for residential purposes may be subject to the provision of land for parks, public open spaces, social facilities or municipal engineering services by the applicant.
- (2) The land required for parks, public open spaces or social facilities must be provided within the land area to which the land development application relates: Provided that the Municipality may consider an alternative land area for the provision of parks, public open spaces or social facilities where it is more feasible to do so.
- (3) The ownership of land contemplated in subsection (1) vest in the Municipality upon registration of the township by the Registrar of Deeds.
- (4) The Municipality may in terms of conditions imposed under section 75 determine that land contemplated in subsection (1), be transferred to the Municipality upon registration of the township or subdivision of or a part thereof by the Registrar of Deeds.
- (5) Proof must be provided to the Municipality that before proclamation, an application for transfer of the land contemplated in subsection (1) to the Municipality was submitted to the Registrar of Deeds.
- (6) The provision of subsections (1) to (4) shall apply *mutatis mutandis* to land development applications contemplated in section 33 of this By-law.

29. Services Arising from Township Establishment

- (1) Subsequent to the approval of an application for township establishment in terms of this By-law, the owner of any land parcel originating from the establishment of the township must—
- (a) allow without compensation that the following be conveyed across the relevant land parcel in favour and in respect of other land parcels originating from the establishment of the township:
 - (i) gas mains;
 - (ii) electricity cables;
 - (iii) telephone cables;
 - (iv) television cables;
 - (v) other electrical infrastructure;
 - (vi) main and other water pipes;
 - (vii) foul sewers;
 - (viii) storm water pipes;
 - (ix) ditches and channels;
 - (x) public roads;
 - (xi) electrical substations; and
 - (xii) any other civil, electrical and communication infrastructure relating to the provision of bulk infrastructure and communication networks.
 - (b) allow the following on the relevant land parcel 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 parcel at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in sub-sections (a) or (b); and;
 - (d) receive material or permit excavation on the land parcel as may be required to allow use of the full width of an abutting street and to provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land parcel, unless he elects to build retaining walls to the satisfaction of, and within a period to be determined by, the Municipality.

- (2) The rights created in subsection (1)(a) and (b) must be secured by a servitude registered in the Deeds Office against the Title Deeds of the relevant land parcels if the services are not conveyed within the building lines applicable to the land.

30. Certification by Municipality

- (1) A person may not apply to the Registrar of Deeds to register the transfer of any erf or land parcel within a newly established township, unless the Municipality has issued the required Service Certificates for municipal services in terms of this section.
- (2) The Municipality may not issue a certificate to transfer a land parcel in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
 - (a) a conveyancer's certificate confirming that money due by the transferor of land to an homeowners' association established in respect of that land has been paid, or that provision has been made to the satisfaction of the homeowners' association for the payment thereof;
 - (b) proof of payment of any contravention penalty or proof of compliance with an instruction in a compliance notice issued in terms of Chapter 8;
 - (c) proof that the land use and buildings constructed on the land parcel comply with the requirements of the land use management scheme and any other legislation;
 - (d) proof that all common property, arising from the subdivision has been transferred to the homeowners' association as contemplated in subsection (3)(e) of Schedule 2; and
 - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with in all respects.

31. Homeowners' Associations

- (1) The Municipality may, when approving an application for a subdivision of land, impose

conditions relating to the compulsory establishment of an homeowners' association by the applicant for an area determined in the conditions in accordance with Schedule 2 to this By-law.

32. Homeowners' Association Ceases to Function

- (1) If an homeowners' 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 homeowners' association; or
 - (c) subject to the amendment of title conditions pertaining to the homeowners' association, remove any obligations in respect of an homeowners' association.

- (2) In determining which option to follow, the Municipality must have regard to—
 - (a) the purpose of the homeowners' association;
 - (b) who will take over the maintenance of infrastructure for which the homeowners' association is responsible; and
 - (c) the effect of the dissolution of the homeowners' association on the members and the community concerned.

33. Rezoning of Land

- (1) The Municipality may, on its own initiative, amend its land use management scheme by rezoning any land considered necessary by the Municipality to achieve the developmental goals and objectives of the municipal spatial development framework, to;
 - (a) provide a public service or to provide a public recreational space; or
 - (b) substitute a zoning or part thereof for a zoning in terms of which the land is not necessarily zoned in accordance with the use thereof or existing use rights.

- (2) The owner of land or his agent, who wishes to rezone the said land parcel, shall submit an application to the Municipality in accordance with subsections (3) and (4).
- (3) The application for rezoning shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (4) The application for rezoning shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (5) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (6) A rezoning application may only be submitted on a land parcel that forms part of a township register which was opened through a township establishment process.
- (7) A rezoning application may be submitted on agricultural land to establish a single land use (e g filling stations, lodge, guest farm, solar farms, quarries, mine activity).
- (8) A land use management scheme may be made applicable to a land parcel referred to in subsection (7) or part thereof, and zoning need not follow cadastral boundaries, subject to delineation of a defined area.
- (9) The rezoning approval shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.

34. Closure of Public Places

- (1) The Municipality may, on own initiative or on application, permanently close a public place or any portion thereof in accordance with Chapter 4.

- (2) An applicant who requires the closure of a public place, whether permanently or temporarily, must apply to the Municipality in terms of section 21(3) of this By-law.
- (3) The application contemplated in subsection (2) shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (4) If any person lodges a claim against the Municipality for loss or damage that he has allegedly suffered due to wrongdoing on the part of the Municipality when it permanently closed a public place, the Municipal Manager must—
 - (a) require proof of negligence or any other wrongdoing on the part of the Municipality which resulted in the loss or damage; and
 - (b) before any claim is validated, 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.
- (5) The Municipality may pay a claim if—
 - (a) the circumstances of loss or damage reveal that the Municipality acted wrongfully;
 - (b) the claimant has proved his loss or damage;
 - (c) the claimant has provided proof of a fair and reasonable quantum;
 - (d) no claim has been made and paid by personal insurance covering the same loss;
 - (e) any other relevant additional adjoining as requested by the authorized employee has been received; and
 - (f) the Council has approved the claim.
- (6) The ownership of the land comprised in any public place or portion thereof that is permanently closed in terms of this section continues to vest in the Municipality, unless the Municipality determines otherwise.

- (7) The Municipality may, without complying with Chapter 4, temporarily close a public place—
 - (a) for the purpose of, or pending, the construction, reconstruction, maintenance or repair of the public place; for the purpose of, or pending, the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure,
 - (b) works or service alongside, on, across, through, over or under the public place;
 - (c) if the street or place is in a state that is dangerous to the public;
 - (d) by reason of an emergency or public event that requires special measures for the control of traffic or special provision for the accommodation of crowds; or
 - (e) for any other reason that renders the temporary closing of the public place necessary or desirable.
- (8) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse its records to reflect the closure of the public place.
- (9) The approval in terms of subsection (1) shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.

35. Subdivision or Consolidation of Land

- (1) No person may subdivide or consolidate land without the approval of the Municipality in terms of section 21(3).
- (2) The owner of land or his agent, who wishes to subdivide or consolidate the said land parcel, shall submit an application to the Municipality in accordance with subsections (3) and (4).
- (3) The application for subdivision or consolidation shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.

- (4) The application for subdivision or consolidation shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (5) An applicant must demonstrate that each subdivision can be adequately served with civil engineering services and acceptable access to a public street or right of way, as part of the submission of a subdivision application.
- (6) A copy of the approval must accompany the diagram that is submitted to the Surveyor-General's office.
- (7) If a Municipality approves a subdivision or 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 subdivision or consolidation;
 - (b) the conditions of approval contemplated in section 69; and
 - (c) the approved subdivision or consolidation plan.
- (8) If a Municipality approves a subdivision or consolidation, the Municipality must amend the land use management scheme (after registration with the Surveyor-General and Registrar of Deeds) in terms of Chapter 4 and, where applicable, the register accordingly.
- (9) The approval in terms of subsection (1) shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.

36. Lapsing of Approved Subdivision and Consolidation

- (1) Subject to subsection (2), an approved subdivision or consolidation of land parcels lapses if the subdivision or consolidation is not registered in terms of the Deeds Registries Act, 1937 (Act 47 of 1937) within three (3) years of the date of the approval of the subdivision or consolidation.
- (2) If the subdivision or consolidation of land parcels forms part of land development that has been approved in terms of this By-law subject to longer

validity periods, the applicant may apply for an extension of the period referred to in subsection (1).

- (3) If the Municipality approves an extension contemplated in subsection (2), the extended period together with the period contemplated in subsection (1) may not exceed five (5) years.
- (4) If an approval of a subdivision or consolidation lapses in terms of subsection (1)—
 - (a) the Municipality must—
 - (i) amend the land use management scheme and, where applicable, the register;
 - (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 and/or consolidation has lapsed.

37. Amendment, Suspension or Removal of Restrictive Conditions of Title

- (1) The Municipality may, on its own initiative or on application in terms of section 21(3), by notice in the Provincial Gazette amend, suspend or remove a restrictive condition.
- (2) The owner of land or his agent, who wishes to have a restrictive condition amended, suspended or removed, shall submit an application to the Municipality in accordance with subsections (3) and (4).
- (3) The application contemplated in subsection (2) shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (4) The application for amendment, suspension or removal of a restrictive condition shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (5) The Municipality may amend, suspend or remove a restrictive condition—

- (a) permanently;
 - (b) for a period specified in the notice; or
 - (c) subject to conditions specified in the notice.
- (6) In addition to the procedures set out in Chapter 4, the owner must—
- (a) submit the original title deed to the Municipality or a certified copy thereof; and
 - (b) where applicable, submit the bondholder's consent to the application.
- (7) The Municipality may require that the notice of an application in terms of subsection (4) to be served on—
- (a) all organs of state that may have an interest in the title deed restriction;
 - (b) every holder of a bond encumbering the land;
 - (c) a person whose rights or legitimate expectations will materially and adversely be affected by the approval of the application; and
 - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (8) 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 land parcel forming the subject of the application;
 - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is amended, suspended or removed;
 - (d) the social benefit of the restrictive condition remaining in place in its existing form;
 - (e) the social benefit of the amendment, suspension or removal of the restrictive condition;

- (f) whether the amendment, suspension or removal of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights; and
 - (g) that due consideration be given to the potential impact that the suspension or removal of a restrictive condition will have on the provision of municipal services. The Municipality retains the right to require the submission of services reports and/or traffic impact studies if it is suspected that such services can be adversely affected by the approval of an application.
- (9) The approval in terms of subsection (1) shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.

38. Endorsements in Connection with Amendment, Suspension or Removal of Restrictive Conditions

- (1) After compliance with section 37(9), the applicant must, submit the following to the Registrar of Deeds:
- (a) the original title deed;
 - (b) the original letter of approval; and
 - (c) a copy of the notice contemplated in section 37(9).
- (2) The Registrar of Deeds and the Surveyor-General (if applicable) must make the appropriate entries in, and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, to reflect the amendment, suspension or removal of the restrictive condition.

CHAPTER 5 – APPLICATION PROCEDURES

39. Procedures for Applications

- (1) An applicant must comply with the procedures in this Chapter, Chapter 3 and Schedule 3 of this By-law, and all applications must be consistent and give effect to Chapter 2 of the Act.

- (2) The application procedures are distinctive to the different types of applications referred to in section 21 and Schedule 3.
- (3) Category 1 and 2 applications as contemplated in section 21(3) should be submitted to the Municipality.
 - (a) Category 1 applications must be submitted with a comprehensive application.
 - (b) Category 2 applications must be submitted with an abridged application.

40. Pre-Application Consultation

- (1) The Municipality may require an owner of land or his agent who intends to submit an application in terms of section 21(2) to meet with the authorized employee(s) for a pre-application consultation before the application is submitted to the Municipality in order to determine the information to be submitted with the application, in relation to the following.
 - (a) Category 1 applications; and
 - (b) any other application where the Municipality deem necessary.
- (2) The Municipality may make guidelines for determining-
 - (a) whether an application requires a pre-application consultation,
 - (b) the nature of the information that is required,
 - (c) the employees from the Municipality or other organs of state that must attend the meeting and
 - (d) the procedures to be followed.
- (3) The Municipality must keep minutes of the proceedings of a pre-application consultation.
- (4) The Municipality must also allow consultation on the request of the applicant or his agent with regards to subsection (1) to (3).
- (5) The Municipality is not obliged to accept an application if no pre-application consultation has taken place.

41. Information Required

- (1) An application contemplated in section 21, must be accompanied by the following documents:
 - (a) comprehensive or abridged application form, as contemplated in Schedule 3, Part A and B, completed and signed by the applicant;
 - (b) if the applicant is an agent, a power of attorney authorizing the applicant to make the application on behalf of the owner;
 - (c) if the owner of the land is a company, close corporation, trust, body corporate or homeowners' association, proof that the person is authorized to act on behalf of the company, close corporation, trust, body corporate or a homeowners' association by means of a resolution;
 - (d) if the land upon which the township is to be established is subject to a mortgage bond, the written consent of the bondholder;
 - (e) a comprehensive motivation, based on the criteria for consideration of the application referred to in section 74 with at least but not limited to the following information:
 - (i) detailed description and explanation of the proposed application and intended land use rights;
 - (ii) reference to the objective and principles contained in section 7 of the Act;
 - (iii) reference to the integrated development plan and municipal spatial development framework, and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or departs based on specific circumstances of the property(ies) from it, as well as the desirability thereof;
 - (iv) the development context of the area and impact of the development on the surrounding properties; and
 - (v) availability and provision of infrastructure and social facilities, and which amenities will be transferred to the Municipality (if required); and
 - (vi) as required in terms of section 42 of the Act indicate the following:
 - (aa) the public interest;

- (bb) the constitutional and transformation imperatives and the related duties of the State;
 - (cc) the facts and circumstances relevant to the application;
 - (dd) the respective rights and obligations of all those affected;
 - (ee) the state and impact of engineering services, social infrastructure and open space requirements; and
 - (ff) the effect of the land development application on the environment and environmental legislation and heritage resource (if applicable) and heritage legislation;
- (e) conditions of establishment or schedule of rights (if applicable);
 - (f) a copy of the title deed indicating all existing title conditions;
 - (g) copy of the zoning certificate; .
 - (h) if required by the Municipality, a conveyancer's certificate indicating that no restrictive condition in respect of the application is contained in the title deed;
 - (i) where applicable, the minutes of any pre-application consultations;
 - (j) a list of surrounding property owners;
 - (k) Town Planning Clearance Certificate, stating that all rates and taxes in respect of the subject property has been paid in full; and
 - (l) proof of payment of application fees in accordance with a quotation received from the Municipality;
 - (m) should any other legislation or authority require any other actions, proof of compliance to such prerequisites.
- (2) Additional to the application form as contemplated in subsection (1)(a) the following plans, maps and documents, compiled in accordance with sections 42(2) to 42(10), must form part of a comprehensive application for operational and administrative efficiency, unless the Municipality has, in writing, indicated differently:
- (a) Orientation locality map;
 - (b) Land use management scheme zoning extract;
 - (c) Land use map;
 - (d) Detail layout map;
 - (e) Site development plan;

- (f) Aerial photograph;
 - (g) Extract of approved spatial development frameworks;
 - (h) Services reports regarding civil engineering services, electrical services;
 - (i) An approved Traffic Impact Study (if warranted);
 - (j) An approved environmental authorization by relevant authority commonly referred to as Environmental Impact Assessment (EIA) Report (if warranted);
 - (k) A permit or comments issued by the Provincial Heritage Resources Authority pertaining to a heritage resource (if applicable);
 - (l) Water, Sanitation, Roads and Stormwater Analysis Report with comments from the relevant Sub-directorates;
 - (m) Comments from SANRAL, Free State Roads Department, ESKOM and any other external affected entities, where applicable; and
 - (n) Electrical comments from Centlec (if warranted).
- (3) Additional to the application form as contemplated in subsection (1)(a) the following plans, maps and documentation, compiled in accordance with sections 42(2) to 42(10), must form part of an abridged application, unless the Municipality has, in writing, indicated differently:
- (a) Orientation locality map;
 - (b) Basic layout map
 - (c) Land use management scheme zoning extract;
 - (d) Extract of Approved Spatial Development Frameworks;
 - (e) Proposed Conditions of Establishment and of Title (in the event of applications for township establishment);
 - (f) A permit or comments issued by the Provincial Heritage Resources Authority pertaining to a heritage resource (if applicable); and
 - (g) Schedule of proposed new street names (in the event of applications for township establishment).
- (4) The Municipality may add or remove any information requirements for a particular application as recorded in the pre-application consultation contemplated in section 40.

- (5) The Municipality may make guidelines regarding the submission of additional information and procedural requirements.

42. Application Standards

- (1) Applications that do not comply with the provisions of this section are deemed to be incomplete and must be dealt with in accordance with section 46(2).

- (2) An orientation locality map should be at least clearly readable A3 sized map indicating the application area in relation to the surrounding properties and must include the following basic details:
 - (a) True north, scale, key and heading "Orientation Locality Map";
 - (b) The approximate location of the land parcel involved in the application, relative to the nearest town for farming areas and the;
 - (c) immediate residential neighbourhoods for urban areas;
 - (d) Boundary of the Local Municipality, including the names of adjacent Local Municipality for applications near the border of the aforementioned;
 - (e) Roads, indicated whether they are main roads, highways, national roads or provincial roads if near or adjacent to the application area;
 - (f) Size and location of the particular land portion applicable to the application;
 - (g) Any other applicable particulars to give more clarity to the application; and
 - (h) In the case of electronic maps, a pdf should be submitted from the original drawing.

- (3) A basic layout map of at least 1:2000 in scale must include the following details:
 - (a) True north, scale, key and heading "Basic Layout Map";
 - (b) Erf boundaries, street names (if applicable), including neighbouring erf or farm numbers;
 - (c) The location of existing buildings on the application area and surrounding properties, if the application has an influence on them;
 - (d) Detail regarding the proposed development, including proposed subdivision and consolidation boundaries;
 - (e) Detail regarding relative internal engineering services;

- (f) Any physical restrictions on the land parcel or neighbouring land parcels that might influence the application (if applicable);
 - (g) The maximum, minimum, ruling and average erf sizes of the proposed erven; and
 - (h) Any other applicable particulars to give more clarity to the application.
- (4) A land use management scheme zoning map extract of at least 1:2000 in scale must include an extract of the Municipality's official land use management scheme map with the following detail:
- (a) The scale, true north, key and heading "Land Use Management Scheme Zoning Map Extract";
 - (b) All land parcels and existing zonings thereof within a radius of 500m from the outside boundary of the application area, as well as of all undeveloped land parcels (vacant) for applications within Urban Areas; and
 - (c) All land parcels and existing zonings of adjacent farms for applications within Rural Areas.
- (5) A land use map of at least 1:2000 in scale must be included where the existing land uses differ from the relative zonings of the application area, or if it is requested by the Municipality. A land use map must include the following:
- (a) The scale, true north, key and heading "Land Use Map";
 - (b) All existing land uses found within a radius of 500m from the outside boundary of the application area, as well as all undeveloped land parcels for applications within Urban Areas; and
 - (c) All land parcels and existing land uses of adjacent farms for applications within Rural Areas.
- (6) A detail layout map must be included for any application that necessitates such detail for consideration. A detailed map must be at least on a 1:2000 scale and must indicate at least the following details:
- (a) The scale, true north, key and heading "Detail Layout Map";
 - (b) The Detail Layout plan must indicate the map number and all amendments shall have consecutive numbers;

- (c) Contours with 1 m or 2m height differences up to the outside of the Layout boundary;
 - (d) A slope analysis in accordance with civil engineering regulations in terms of roads and buildings;
 - (e) 1:50-year and or 1:100-year flood-line signed on the plan by a practising registered professional engineer. If neither flood-line is applicable this must also be indicated on the plan;
 - (f) Other physical restrictions that might influence the layout (e.g. hills, valleys, wetlands, rivers, rocky outcrops).
 - (g) All existing services within and surrounding the application area;
 - (h) All existing surrounding social facilities with catchment area using network analyses in accordance with the minimum standards for social facilities;
 - (i) Road layout on adjacent land parcels;
 - (j) The proposed erven;
 - (k) The maximum, minimum, ruling and average erf sizes of the proposed erven;
 - (l) Sufficient measurements to indicate the sizes of the proposed erven;
 - (m) The erven numbered consecutively;
 - (n) The name of the person or firm that prepared the layout, including Professional Registration number;
 - (o) If contours, indicated on the map, were prepared by another person or firm, the particular registered professional engineer should also be mentioned;
 - (p) Co-coordinates together with grid references if requested;
 - (q) The proposed new streets names for new township establishments; and
 - (r) A list of the proposed zonings distinguished by means of different colours, the colour code shall be in accordance with the scheme regulations, indicating the different uses, amount of erven for each use, areas per use and areas expressed as a percentage of the total area of the subdivision. The surface area shall be expressed in m² or hectares.
- (7) A site development plan must be included for any application that can have an influence on interested and affected parties and must include the following:

- (a) The scale, true north, key and heading "Site Development Plan";
 - (b) Existing buildings/structures on the land parcel and on directly adjacent land parcels;
 - (c) All existing services within and surrounding the application area; and
 - (d) All proposed buildings/structures, building lines, building restrictions, access, formal and informal thoroughfares, parking bays, landscaped areas and any other detail that can give more clarity to the application.
- (8) An aerial photograph should accompany a detailed layout plan on the same scale, with the layout over-lay on it.
- (9) All maps should be compiled using the Hartebeesthoek 1994 coordinate system for town level maps and Lambert Conical Conform with the appropriate standard parallels for municipal level maps.
- (10) All maps and plans must be printed in colour with a minimum dot per inch (dpi) of 300.
- (11) All maps and plans for e-lodgement must be uploaded in pdf format with a minimum dot per inch (dpi) of 300.
- (12) All text documents for e-lodgement must be uploaded in pdf format with a minimum dot per inch (dpi) of 150.
- (13) The Municipality can at any time insist on adding details to application standards if the application necessitates such detail for consideration, in accordance with section 47(1).

43. Application Fees

- (1) An applicant must pay the application fees determined by the Municipality before submitting an application in terms of this By-law.

- (2) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application contemplated in section 21.

44. Grounds for Refusing to Accept Application

- (1) The Municipality may refuse to accept an application if—
- (a) the Municipality has previously decided on the application;
 - (b) the Municipality is already in the process of considering another application involving one (1) or more of the subject properties, without such former application having been officially withdrawn by the applicant;
 - (c) there is no proof of payment of the applicable fees;
 - (d) the application is not in the form required by the Municipality or does not contain the documents required for the submission of the application as set out in section 41 of this By-law;
 - (e) the application documentation contains misrepresentations that may impact on the meaningful consideration of the application;
 - (f) simultaneous applications for amendment of the municipal spatial development framework and rezoning / township establishments are made; and
 - (g) any application submitted contrary to the procedure as specified in the municipal spatial development framework or any policy document.

45. Receipt of Application and Request for Further Information, Documentation, Plans or Additional Fees

- (1) The Municipality must—
- (a) screen applications for completeness and if found to be incomplete, the application must not be accepted for consideration and be returned to the Applicant;
 - (b) record the receipt of an application, in writing or by affixing a stamp on the application, on the day of receipt; and
 - (c) within twenty-one (21) days of receipt of the application, notify the applicant in writing of any outstanding information, documentation, plans or additional fees that are required.

46. Provision of Further Information, Documentation or Plans and Payment of Fees

- (1) The applicant must provide the Municipality with the requested information, documentation or plans or payment of the requested additional fees contemplated in sections 45(1)(c) and 56(1) for the completion of the application within thirty (30) days of the request therefor or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality shall refuse to consider the application if the applicant fails to provide the requested information, documentation or plans or pay the additional fees within the periods contemplated in subsection (1).
- (3) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (2) and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (2) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider in terms of subsection (2), the applicant must submit a new application and pay the applicable application fees.

47. Confirmation of Complete Application

- (1) The Municipality must notify the applicant in writing that the application is complete within twenty-one (21) days of receipt of the requested information, documentation or plans or additional fees required by it under section 45(1) or if further information is required as a result of the additional information received.
- (2) The application must be advertised within twenty-eight (28) days after the notification as contemplated in subsection (1).

- (3) If the Municipality fails to notify the applicant as contemplated in subsection (1) and section 45(1)(c), it can be regarded that the application is complete and that the Municipality will proceed with the finalisation thereof according to the prescribed processes.

48. Withdrawal of Application or Authorization

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

49. Notice of Applications in terms of Integrated Procedures

- (1) The Municipality may, on written request and motivation by an applicant, before notice is given of an application, determine that—
 - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
 - (b) public notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of another law.
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b), an agreement must be entered into between the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within twenty-one (21) days of having notified the applicant that an application is complete, give notice of the application by simultaneously-
 - (a) causing public notice of the application to be given in terms of section 51(1); and

- (b) forwarding a copy of the notice together with the application concerned to every municipal department, service provider and organ of state that has an interest in the application, unless the Municipality has determined that a procedure in terms of another law, as contemplated in subsection (1), is considered to be public notice in terms of this By-law.
- (4) The Municipality may require the applicant to give the required notice of an application in the newspapers in accordance with section 50.
- (5) If an applicant has given notice of the application at the request of the Municipality and in the prescribed format, the applicant must furnish the Municipality with proof that a copy of the application has been served to every municipal department, service provider and organ of state that have an interest in the application.

50. Notification of Application in Newspapers and Public Notice

- (1) Category 1 applications, as contemplated in section 21(2)(a), must give public notice in accordance with the By-law.
 - (a) Notice of the application in the newspapers must be given by:
 - (i) Publishing a notice in the Provincial Gazette; and
 - (ii) Publishing a notice of the application in two (2) newspapers with general circulation in the area in at least two (2) of the official languages of the Province most applicable in the area concerned.
 - (b) Displaying a notice of a size of at least 60 centimetres by 42 centimetres (60cm x 42cm)(A3) on every boundary of the land parcel abutting a public street or at any other conspicuous and easily accessible place on the erf or farm portion, provided that–
 - (i) the notice must be readable from all street or road boundaries and be displayed for a minimum of thirty (30) days that the public may comment on the application.

- (c) A copy of the notice must be sent by registered mail or delivered by hand to each owner of a property that abuts the land development application area as well as every property within a 50m (urban areas) and 150m (rural areas) radius from the land development area and adjacent street, not later than the date of the first publication.
- (i) The diagrams below indicate which adjoining owner(s) of properties surrounding the land development application area must be notified by means of a notice:

Diagram A: Land development area in the centre of the block

	x	x	x	
	X	X	X	
	X	A	X	
STREET				
	X	X	X	
	x	x	x	

Diagram B: Land development area on a corner of two (2) streets

X	X	STREET	X	X	
X	X		X	X	X
X	X		A	X	X
			STREET		
X	X		X	X	X
X	X		X	X	X
X	X		X	X	

- (ii) Land parcels marked with “A” represent the land development area (application property);
- (iii) Land parcels marked with “X” represent the properties who must receive a notice;
- (iv) Represent the position of the site notices on the land development area.
- (d) The applicant must within seven (7) days of the last day of the notice period submit to the Municipality proof of advertisement by submitting-
- (i) an affidavit/declaration that the site notice was displayed and maintained on the site for the prescribed period;

- (ii) at least two (2) photos of the notice, one (1) from close-up and one (1) where the notice and full extent of a boundary can be seen;
 - (iii) a copy of the registered posting delivery; and
 - (iv) a copy of the newspaper advertisements.
- (2) Subsections (1)(b) to (1)(d) shall be *mutatis mutandis* applicable to the public notice process of Category 2 applications.
- (3) The following apply to the public notice contemplated in subsection (1) and (2):
 - (a) The public have a period of thirty (30) days from the date of notice to submit comments or objections to the Municipality;
 - (b) The applicant must within seven (7) days of the last day of the notice period provide proof of the public notices to the Municipality in accordance with subsection (1)(d);
 - (c) The applicant must within twenty-eight (28) days from being notified, cause public notice; failure thereof, the application will be regarded as incomplete and will lapse.
 - (d) No public notices shall be advertised within the public holiday/s period/s or between 10 December to 10 January of any year or any other date as may be determined by the Municipality.

51. Serving of Notices

- (1) Notice of an application contemplated in section 50 must be served—
 - (a) in accordance with section 115 of the Municipal Systems Act, 2000 (Act 32 of 2000);
 - (b) in at least two (2) of the official languages of the Province most spoken in the area concerned; and
 - (c) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) The Municipality must at least cause a notice contemplated in section 50 to be served of all applications anticipated in section 21(2)(a) of this By-law.

- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law and that is not listed in subsection (2).
- (4) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (5) If an applicant has served a notice at the request of the Municipality, the applicant must furnish the Municipality with proof that the notice has been served as required within seven (7) days of the date the notice has been served.
- (6) The date of notification in respect of a notice served in terms of this section—
 - (a) when it was served by registered post, is the date of registration of the notice; and
 - (b) when it was delivered to that person personally, is the date of delivery to that person;
 - (c) when it was left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen (16) years, is the date on which it was left with that person; or
 - (d) when it was displayed in a conspicuous place on the property or premises to which it relates, is the date that it is posted in that place.

52. Content of Notice

- (1) When notice of an application must be given in terms of section 50 or served in terms of section 51 or 53, the notice must—
 - (a) provide the full names of the applicant, if authorized representative, the full names and organisation of the representative;
 - (b) identify the land or land parcel to which the application relates by giving the property description and the physical address;
 - (c) state the intent and purpose of the application;
 - (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;

- (e) state the name and contact details of the person to whom comments, objections or representations must be addressed;
- (f) invite members of the public to submit written comments, objections or representations, together with the reasons therefor, in respect of the application;
- (g) state in which manner comments, objections or representations may be submitted;
- (h) state the date by which the comments, objections or representations must be submitted, which date may not be less than thirty (30) days from the date on which the notice was given; state that any person who cannot write may during office hours come to an address stated in the notice where a named staff member of the Municipality will assist those persons by transcribing their objections, comments or representations.

53. Additional Methods of Public Notice

- (1) The Municipality may, on its own initiative or on request, require the applicant to employ one (1) or more of the following methods to give additional public notice of any application in terms of this By-law:
 - (a) displaying a notice of a size of at least 60 centimetres by 42 centimetres (60cm x 42cm)(A3) on every boundary of the land parcel abutting a public street or at any other conspicuous and easily accessible place on the erf or farm portion, provided that—
 - (i) the notice must be readable from all street or road boundaries and be displayed for a minimum of thirty (30) days that the public may comment on the application; and
 - (ii) the applicant must, within seven (7) days from the last day of display of the notice, submit to the Municipality—
 - (aa) an affidavit/declaration that the site notice was displayed and maintained on the site for the prescribed period;
 - (bb) at least two (2) photos of the notice, one (1) from close-up and one (1) where the notice and full extent of a boundary can be seen;
 - (b) convening a meeting for the purpose of informing the affected members of the public of the application;

- (c) broadcasting information regarding the application on a local radio station in a specified language;
 - (d) holding an open day or public meeting to notify and inform the affected members of the public of the application;
 - (e) provide the Municipality with the application in the required electronic format to be published on the Municipality's website for the duration of the period within which the public may comment on the application; or
 - (f) obtaining letters of consent or objection to the application.
 - (g) by serving a copy of the notice on every adjoining owner, provided that
 - (i) the applicant must within twenty-one (21) days of the last day of notice submit to the Municipality a copy of the registered posting delivery.
- (2) The Municipality must give additional public notice contemplated in subsection (1) if it is considered that notice in accordance with sections 49 or 50 to be ineffective or if it is expected that the public notice would be ineffective.
- (3) Additional public notice can be given simultaneously with notice given in accordance with sections 49 or 50 or thereafter.
- (4) If an applicant has given additional public notice of an application on behalf of the Municipality, the applicant must provide proof that the additional public notice has been given as required within seven (7) days that the additional public notice has been given.
- (5) Both Category 1 and Category 2 applications, as contemplated in sections 21(2)(a) and 21(2)(b) must give additional notice in terms of subsection (1)(a) and 1(g).

54. Requirements for Petitions

- (1) All petitions must clearly state—
- (a) the contact details of the authorized representative of the signatories of the petition;
 - (b) the full name and physical address of each signatory; and
 - (c) the objections, comments or representations and reason, therefore.

- (2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

55. Requirements for Objections, Comments or Representations

- (1) Any person may in response to a notice received in terms of sections 49, 50 or 53 object, comment or make representations in accordance with this section.
- (2) Any objections, comments or representations received as a result of a notice process must be in writing and addressed to the person mentioned in the notice and must be submitted within the time period stated in the notice and in the manner set out in this section.
- (3) The objections, comments or representations must:
 - (a) provide the name of the person or institution concerned;
 - (b) provide detailed written comments;
 - (c) provide their contact details which shall include an address for delivery of registered mail or where the person or body concerned will accept notice or service of documents;
 - (c) details of the interest or locus standi of the interested and affected party or objector to the satisfaction of the Municipality; and
 - (d) detailed reason for the objections, comments or representations.
- (4) The reasons for any objections, comments or representations must be set out in sufficient detail in order to—
 - (a) indicate the facts and circumstances that explain the objection, comment or representation;
 - (b) demonstrate the undesirable effect which the outcome of the application will have; or
 - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.

- (5) The Municipality must refuse to accept an objection, comment or representation received after the closing date for objections, comments or representation or if the objection, comment or representation does not comply with subsection (3).

56. Furnishing of Comments and Information

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

57. Amendments Prior to and Post Approval

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

- (3) After an applicant has been notified that his/her land development application has been approved, he/she may:
- (i) within sixty (60) days from the date of such notification of approval; and
 - (ii) before a notice has been placed in the Provincial Gazette, as required in terms of this By-law or any other legislation, to bring the land development rights into operation; and
 - (iii) before the registration of any property created as a result of a land development application for subdivision or consolidation, in terms of this By-law or other legislation; and
 - (iv) before the registration of any registration transaction required as a result of the approval of a land development application in terms of this By-law or other relevant legislation;
- apply for the amendment of the land development application in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law and he/she shall at the same time pay the Municipality such fees as may be levied.
- (4) The Municipality shall not approve an application for amendment in terms of subsection (3) if the amendment of the land development application is so material as to constitute a new land development application. A new land development application shall be submitted in this instance.

58. Further Public Notice

- (1) The Municipality may require that notice of an application be given again if more than eighteen (18) months has elapsed since the first public notice of the application and if the Municipality has not considered the application.
- (2) The Municipality may, at any stage during the processing of the application—
- (a) require notice of an application to be given or served again in terms of section 49, 50 or 53; and
 - (b) an application to be re-sent to municipal departments for comment, if new information comes to its attention which is material to the consideration of the application.

59. Liability for Cost of Notice

The applicant is liable for the costs of giving and serving notice of an application in terms of sections 49, 50, 53 and 58.

60. Right of an Applicant to Reply

- (1) Copies of all objections, comments or representations submitted to the Municipality must be given to the applicant within fourteen (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 twenty-one (21) days from the date of the provision of the objections, comments or representations, as contemplated in subsection (1), submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.
- (3) The applicant may, before the expiry of the twenty-one-day period referred to in subsection (2), apply to the Municipality for an extension of the period to submit a written reply.
- (4) If the applicant does not submit comments within the period of twenty-one (21) days, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations submitted to the Municipality additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the additional information within the period contemplated in subsection (5), section 46(2) to (5), read with the necessary changes, applies.

61. Written Assessment of Application

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

62. Decision-Making Period

- (1) If the power to take a decision in respect of an application is delegated to an authorized employee and no integrated process in terms of another law is being followed, the authorized employee must decide on the application within sixty (60) days calculated from—
 - (a) the last day of submission of comments, objections or representations if no comments, objections or representations as contemplated in section 52(1)(h), were submitted; or
 - (b) the last day of the submission of the applicant's reply to comments, objections or representations submitted as contemplated in sections 60(2) and (3); or
 - (c) the last day of the submission of additional information as contemplated in section 60(5) or (d) within such further period agreed to between the applicant and the Municipality.

- (2) If the power to take a decision is not delegated to an authorized employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the application within hundred and twenty (120) days calculated from the dates contemplated in subsections (1)(a) to (d).

63. Failure to Act Within Time Period

- (1) An applicant may lodge an appeal to the Appeal Authority if the authorized employee or the Municipal Planning Tribunal fails to decide on an application within the period referred to in section 62.

- (2) Subject to sections 46(2) and 47(2), an applicant may not appeal to the Appeal Authority if the authorized employee or the Municipal Planning Tribunal fails to decide on an application due to the fact that all required information to decide on the matter is not available.

64. Powers to Conduct Routine Inspections

- (1) An employee authorized by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of

assessing an application in terms of this By-law and to prepare a written assessment contemplated in section 61.

- (2) When conducting an inspection, the authorized employee may: -
 - (a) request that any record, document or item be produced to assist in the inspection;
 - (b) copies of, or take extracts from any document produced by virtue of subsection (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; and
 - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorized employee who is conducting an inspection as contemplated in subsection (1).
- (4) The authorized employee must, upon request, produce identification showing that he is authorized 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.

65. Determination of Application

- (1) An authorized employee, or if such an employee is not in the employ of the Municipality or they cannot afford to solicit the services of such an authorized employee, the Municipality shall make use of the Provincial or National Technical advisers employed in the directorates responsible for Spatial Planning and Land Use Management in these two (2) spheres or the Tribunal authorized in terms of section 74 may in respect of a Category 2 application contemplated in subsection 21(2)(b)—
 - (a) approve, in whole or in part, or refuse that application;
 - (b) upon the approval of that application, impose conditions under section 75, including conditions related to the provision of engineering services and the payment of a development charge;

- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By- law and provincial legislation;
 - (d) conduct any necessary investigation;
 - (e) give directions relevant to its functions to any person in the service of the Municipality or municipal entity; and
 - (f) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law.
- (2) An approval comes into effect only after the expiry of the period contemplated in section 87(2) within which an appeal must be lodged.
- (3) If an appeal has been lodged, the Municipality must notify the applicant in writing whether or not the operation of the approval of the application is suspended as contemplated in section 88(14).

66. Notification of Decision

- (1) The Municipality must, within twenty-one (21) days of its decision, in writing notify the applicant and any person whose rights are affected by the determination of the decision and their right to appeal if applicable.
- (2) A notice contemplated in subsection (1) must inform an applicant that an approval comes into operation only after the expiry of the period contemplated in section 87(2) within which an appeal must be lodged if no appeal has been lodged.
- (3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him of the decision of the Municipality.

67. Duties of an Agent

- (1) An agent must ensure that he has the contact details of the owner who authorized him to act on his behalf.

- (2) An agent may not provide information or make a statement in support of an application which information or statement he knows or believes to be misleading, false or inaccurate.
- (3) An agent is duty bound to make a full disclosure to his client regarding legislation that governs an application, the potential implications of the application, as well as known aspects that may hinder the approval of an application.

68. Errors and Omissions

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

69. Proclamation of Land Use Approvals

- (1) (a) After proof has been provided that-
 - (i) the provisions of sections 91, 92 and 93 of this By-law read with section 40(7) of the Act, with regards to conditions related to payment of development charges and/or contributions, the provision of engineering services and the provision of open spaces (if applicable) has been complied with; and
 - (ii) the conditions of approval have been fulfilled;the land use approval shall be proclaimed by notice in the provincial gazette.
 - (b) The applicant shall, on his own cost, advertise the proclamation notice in the provincial gazette on instruction of the Municipality.
- (2) The provisions of subsection (1) shall apply *mutatis mutandis* to all land development applications in terms of this By-law.

70. 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 or if such approval proves to have unforeseen negative consequences as far as the general interest is concerned.
- (2) Before the withdrawal of a consent use approval, the Municipality must serve a notice on the owner—
 - (a) informing the owner of the alleged breach of the condition;
 - (b) instructing the owner to rectify the breach within a specified time period;
 - (c) inviting the owner to make representations on the notice within a specified time period.

71. Procedure to Withdraw an Approval

- (1) The Municipality may withdraw, in terms of Section 70, an approval granted—
 - (a) after consideration of the representations made by virtue of section 70(2)(c); and
 - (b) if the condition is still being breached and not being complied with at the end of the time period specified in terms of section 70(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the unlawful use immediately.
- (3) The approval is withdrawn from the date of notification of the owner.

72. Lapsing of Land Use Approvals

- (1) An applicant shall, within a period of twelve (12) months or such further period as the Municipality may determine, which period shall not exceed five (5) years as contemplated in section 43(2) of the Act,-
 - (i) provide proof that he has complied with the provisions of sections 91 and 92 of this By-law read with section 40(7) of the Act, with regard to conditions related to payment of development charges and/or

contributions, the provision of engineering services and the provision of parks and open spaces;

- (ii) complied with the conditions of approval which conditions must be complied with prior to the land use rights being adopted, coming into operation or exercised; and
- (iii) provide a copy of the promulgation advertisement in the provincial gazette;

failing which the land use application shall lapse.

73. Applications for Extension of Validity Periods

- (1) The Municipality may approve an application for the extension of a validity period imposed in terms of this By-law, on a date before the expiry of the validity period of a land use approval, provided that the application for the extension of the period was submitted before the expiry of the validity period.
- (2) When the Municipality considers an application in terms of subsection (1), it must have regard to the following:
 - (a) whether the circumstances prevailing at the time of the original approval have materially changed; and
 - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed.
- (3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 21(3) must be submitted for consideration before or simultaneously with the application for the extension of a validity period.
- (4) The extended validity period takes effect on and is calculated from the expiry date of the period applicable to the original approval or from the expiry date of the previous extended validity period approved in terms of this By-law.

CHAPTER 6 – CRITERIA FOR DECISION-MAKING

74. General Criteria for Consideration of Applications

- (1) When the Municipality considers an application, it must have regard to the following:
 - (a) the application submitted in terms of this By-law to be lodged to the Municipal Manager;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed use of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;
 - (d) the objection, comment or representation in response to the notice of the application and the comment received from organs of state and municipal departments;
 - (e) the response by the applicant, if any, to the objection, comment or representation referred to in subsection (d);
 - (f) Investigations carried out in terms of other laws that are relevant to the consideration of the application;
 - (g) the integrated development plan and municipal spatial development framework;
 - (h) the integrated development plan and spatial development framework of the district municipality, where applicable;
 - (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 national spatial development framework and provincial spatial development framework;
 - (m) where applicable, a regional spatial development framework contemplated in section 18 of the Act;
 - (n) the policies, principles, and the 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 development principles, norms and standards referred to in Chapter 2 of the Act;

- (q) the applicable provisions of the land use management scheme;
 - (r) public interest;
 - (s) the constitutional transformation imperatives and the related duties of the State;
 - (t) the facts and circumstances relevant to the application;
 - (u) the respective rights and obligations of all those affected;
 - (v) the state and effect of engineering services, social infrastructure and open space requirements; and
 - (w) any factors that may be prescribed, including timeframes for making decisions.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) is consistent with the development rules of the land use management scheme;
 - (b) is consistent with the development rules of the overlay zone;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.

75. Conditions of Approval

- (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed use of land.
- (2) Conditions imposed in accordance with subsection (1) may, *inter alia*, include conditions relating to—
- (a) the provision of engineering services and infrastructure and the conclusion of a Services Agreement with the Municipality to this effect;
 - (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 homeowners' association in respect of the approval of a subdivision;
- (l) the provision of land needed by other organs of state;
- (m) the endorsement in terms of section 31 of the Deeds Registries Act, 1937 (Act 47 of 1937) in respect of public places where the ownership thereof vests in the Municipality;
- (n) the registration of public places in the name of the Municipality;
- (o) the transfer of ownership to the Municipality of land needed for other public purposes;
- (p) the implementation of a township establishment in phases;
- (q) requirements of other organs of state;
- (r) the submission of a construction management plan to manage the influence of the construction of a new building on the surrounding properties or on the environment;
- (s) agreements to be entered into in respect of certain conditions;
- (t) the phasing of a development, including lapsing clauses relating to such phasing;
- (u) the delimitation of development parameters or land uses that are set for a particular zoning;
- (v) the setting of a validity period, if the Municipality determined a shorter validity period as contemplated in this By-laws;
- (w) the setting of a period within which a particular condition must be met;
- (x) requirements relating to engineering services as contemplated in section 90;
- (y) requirements for an occasional use, which must include—
 - (i) parking and the number of ablution facilities required;
 - (ii) the maximum duration or occurrence of the occasional use; and

- (iii) parameters relating to a consent use in terms of the zoning;
 - (z) the rehabilitation of mining land.

- (3) If the Municipality imposes a condition contemplated in subsection (2)(a) or (x), a services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.

- (4) 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.

- (5) 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.

- (6) An homeowners' association or homeowners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this By-law is regarded as an homeowners' association that came into being by virtue of a condition imposed by the Municipality in accordance with this By-law.

- (7) The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.

- (8) Conditions requiring a standard to be met must specifically refer to an approved or published standard.

- (9) No conditions may be imposed that rely on a third party for fulfilment.
- (10) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) The Municipality may, on its own initiative or on application, amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.
- (12) A site development plan must be submitted as proof when sectional title deeds, township establishments and amendments of the general plan are concerned as a condition of approval.

76. Technical and Other Advisers

- (1) The Municipality in terms of section 39 of the Act co-opts the Provincial Directorate of COGTA responsible for Spatial Planning as Provincial Technical Advisers in the following capacities –
 - (a) Registered Professional Town and Regional Planners; or
 - (b) Administrative Professionals.
- (2) The Municipality may, in terms of section 39 of the Act co-opt the National Directorate of the Department of Rural Development and Land Reform responsible for Spatial Planning as a Provincial Technical Advisers in the following capacities –
 - (a) Registered Professional Town and Regional Planners; or
 - (b) Registered GISc Practitioners
- (3) The Municipality in terms of section 39 of the Act co-opts the National Directorate of the Department of Rural Development and Land Reform responsible for National Geomatic Management as a Provincial Technical Advisers in the following capacities –
 - (a) Registered Professional Land Surveyors.

- (4) The Municipality in terms of section 39 of the Act co-opts the Municipal Infrastructure Support Agency of the National Department of Cooperative Governance as a Provincial Technical Advisers in the following capacities –
 - (a) Registered Professional Town and Regional Planners
 - (b) Registered Professional Engineers.

CHAPTER 7 – MUNICIPAL PLANNING DECISION-MAKING STRUCTURES

77. Municipal Planning Decision-Making Structures

- (1) Applications are decided by—
 - (a) an authorized employee who has been authorized by the Municipality to consider and determine the applications contemplated in subsection 78(1);
 - (b) the Municipal Planning Tribunal, where the powers and duties to consider and determine an application has not been delegated to an authorized employee contemplated in section 78(2); and
 - (c) the Appeal Authority where an appeal has been lodged against a decision of the authorized employee or the Municipal Planning Tribunal.

78. Consideration of Applications

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

- (3) The Municipal Planning Tribunal may not take a decision contrary to the land development policies of the Municipality.
- (4) In line with section 7, the Land Use Planning Directorate must first apply to Council for amendment of the relevant policy and provide a comprehensive motivation for such an amendment.

79. Establishment of Municipal Planning Tribunal

- (1) The Municipality must—
 - (a) establish a Municipal Planning Tribunal for its municipal area.
- (2) A notice must be published in the Provincial Gazette and must provide for—
 - (a) the composition of the Municipal Planning Tribunal;
 - (b) the terms and conditions of appointment of members of the Municipal Planning Tribunal; and;
 - (c) the determination of rules and proceedings of the Municipal Planning Tribunal.

80. Composition of Municipal Planning Tribunal for Municipal Area

- (1) A Municipal Planning Tribunal established in terms of subsection 79(1)(a) of this By-law, must consist of the following members:
 - (a) number of members who are employees, to be determined by Council resolution, who are appointed on full-time basis by the Municipality; and
 - (i) number of members who are not municipal employees or councillors and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto, appointed by the Municipality.
 - (b) a Land Development Officer in the full time employ of the Municipality, with the necessary qualifications, skills and knowledge of spatial planning, land use management and land development.
- (2) The members of the Municipal Planning Tribunal referred to in subsection (1)(b) may be appointed only after the Council, by notice in the Provincial Gazette and in other media that the Council considers appropriate, has invited interested

parties to submit within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed.

- (3) Nominations, in respect of the notice placed in terms of subsection (2), must be submitted within thirty (30) days of the publication date, accompanied by the following:
 - (a) personal details of the applicant or nominee;
 - (b) particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 36(1)(b) of the Act;
 - (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
 - (d) a sworn declaration by the applicant or nominee that he is not disqualified in terms of section 38 of the Act;
 - (e) a disclosure of the information contemplated in section 38(3) and (4) of the Act; and
 - (f) Permission from the applicant or nominee to verify the information provided by him.
- (4) The Council must appoint members of the Municipal Planning Tribunal within thirty (30) days of the expiry date of the notice, as contemplated in subsection (2).
- (5) The Council must designate from among the members contemplated in subsection (1)(a)—
 - (a) a chairperson; and
 - (b) another member as deputy chairperson, to act as chairperson of the Municipal Planning Tribunal when the chairperson is absent or unable to perform his duties.
- (6) The Municipal Manager must, within thirty (30) days of the first appointment of members to a Municipal Planning Tribunal—
 - (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and

- (b) after receipt of the confirmation referred to in sub-section (a), publish a notice in the Provincial Gazette of the date that the Municipal Planning Tribunal will commence its operation.
- (7) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (4).

81. Term of Office and Conditions of Service of Members of Municipal Planning Tribunal for Municipal Area

- (1) A member of the Municipal Planning Tribunal is appointed for a term of five (5) years which may be renewable once.
- (2) The term of office and conditions of service of members of Municipal Planning Tribunal is contemplated in Schedule 4 to this By-law.
- (3) The office of a member becomes vacant if—
 - (a) the member is absent from two (2) consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) the member resigns in writing to the chairperson of the Municipal Planning Tribunal;
 - (c) the member is removed from the Municipal Planning Tribunal under subsection (3); or the member dies.
- (4) The Council may, after having given the member an opportunity to be heard, remove a member of the Municipal Planning Tribunal if—
 - (a) sufficient grounds exist for his removal;
 - (b) a member contravenes the code of conduct referred to in section 83;
 - (c) a member becomes subject to a disqualification from membership of the Municipal Planning Tribunal as referred to in section 38(1) of the Act.
- (5) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 80(1)(a) or, in the case of a member contemplated in section 80(1)(b), in terms of section 80(2).

- (6) A member who is appointed by virtue of subsection (4) holds office for the unexpired portion of the period for which the member he replaces was appointed.
- (7) Members of the Municipal Planning Tribunal referred to in section 80(1)(b) must be appointed on the terms and conditions and must be paid the remuneration and allowances and be reimbursed for expenses as determined by the relevant legislation.
- (8) The Council must publish a notice in terms of section 80(2), ninety (90) days before the expiry of every term of office, as contemplated in subsection (1).

82. Meetings of Municipal Planning Tribunal for Municipal Area

- (1) The Municipal Planning Tribunal contemplated in section 79(1)(a) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—
 - (a) the convening of meetings;
 - (b) preparation and distribution of agendas (c) the procedure at meetings including-
 - (i) formal meeting procedures
 - (ii) Apologies
 - (iii) attendance, and
 - (c) the frequency of meetings.
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of its members present at the meeting.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of the Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his deliberative vote as a member of the Municipal Planning Tribunal.

- (4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the rules of the Municipal Planning Tribunal.

83. Code of Conduct for Members of the Municipal Planning Tribunal for Municipal Area

- (1) The code of conduct contemplated in Schedule 5 applies to every member of the Municipal Planning Tribunal.

84. Code of Conduct for Registered and Professional Planners involved in the Applications before the Municipal Planning Tribunal for Municipal Area and Identification of Planning Professions Work

- (1) The code of conduct in Schedule 5, as referred to in section 22(1) of Chapter 5 of the Planning Professional Act (Act No; 36 of 2002) - Government Gazette, notice 1230 of 2013 applies to every member of the South African Council for Planners participating in the Municipal Planning Tribunal processes.
- (2) Members as defined above, are required and expected to display at all material times, the highest level of ethical, professional integrity and honesty in their interaction with land use and development applications.
- (3) Any deviation and proven indiscretion must be reported to the South African Council for Planners and must be dealt with in accordance with the provisions of the code of conduct referred to in section 84(b)(1) of this By-law.
- (4) In accordance with section 16 of the Planning Professional Act (Act No; 36 of 2002) the Council will identify work reserved for professional and registered planners in order to maintain standards within the industry.
- (5) According to section 16(3) of the Planning Professional Act (Act No; 36 of 2002) a person who is not registered in terms of the Act may not:
 - (a) perform any kind of work reserved for any category of registered persons;

- (b) pretend to be, or in any manner hold himself out or allow himself or herself out or allow himself or herself to be held out as a person registered in terms of this Act;
- (c) however, the above-mentioned should be read in conjunction with section 16(5) of the Planning Professional Act (Act No; 36 of 2002).

85. Administrator for Municipal Planning Tribunal for Municipal Area

- (1) The Municipal Manager must appoint an employee as the Administrator and other staff for the Municipal Planning Tribunal in terms of the Municipal Systems Act, 2000 (Act 32 of 2000).

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

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

86. Functioning of Municipal Planning Tribunal for Municipal Area

- (1) The meetings of the Municipal Planning Tribunal contemplated in section 82(4) must be held at the times and places as the chairperson may determine.
- (2) The meetings of the Municipal Planning Tribunal must be held at least once per month if there are applications to consider.
- (3) If the chairperson and the deputy chairperson fail to attend a meeting of the Municipal Planning Tribunal, the members who are present at the meeting must elect one from among them to preside at that meeting.
- (4) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application wishes to make a verbal representation at a meeting of the Municipal Planning Tribunal, he must submit a written request to the Administrator, at least fourteen (14) days before that meeting.
- (5) The Chairperson may approve a request to make a verbal representation subject to reasonable conditions.

87. Appeals

- (1) The Executive Committee or Executive Mayor is the Appeal Authority in respect of decisions contemplated in section 66(1) and a failure to decide on an application as contemplated in section 63(1).
- (2) A person whose rights are affected by a decision of the Municipal Planning Tribunal or an authorized employee may appeal in writing, stating reasons, to the Municipal Manager within twenty-one (21) days of notification of the decision, as contemplated in section 50(1) in the Act.

- (3) An applicant may appeal verbally or in writing to the Municipal Manager in respect of the failure of the Municipal Planning Tribunal or an authorized employee to take a decision within the period contemplated in section 62(1) of (2), any time after the expiry of the applicable period contemplated in section 63.

88. Procedures for Appeal

- (1) An appeal that is not lodged within the applicable period contemplated in section 87 or that does not comply with this section, is invalid.
- (2) An appeal must set out the grounds on which the appellant believes the decision-maker erred in coming to the conclusion it did or the decision-maker failed to take a decision.
- (3) An applicant who lodges an appeal must simultaneously serve notice of the appeal on any person who commented or made representations on, or objected to, the application concerned.
- (4) The notice must be served in accordance with section 115 of the Municipal Systems Act, 2000 (Act 32 of 2000) and the additional requirements as may be determined by the Municipality.
- (5) The notice must invite persons to object, comment or make a representation on the appeal within twenty-one (21) days of being notified of the appeal.
- (6) The appellant must submit proof of the notification contemplated in subsections (3) and (4) to the Municipality within fourteen (14) days of the date of notification.
- (7) If a person other than the applicant lodges an appeal, the Municipality must give notice of the appeal to the applicant within fourteen (14) days of receipt thereof.

- (8) An applicant who has received notice of an appeal in terms of subsection (7) may comment on the appeal within twenty-one (21) days of being notified.
- (9) The Municipality may refuse to accept any comments on an appeal after the closing date for those comments.
- (10) The Municipality: -
 - (a) may request National and Provincial departments to comment in writing on an appeal within sixty (60) days of receipt of the request; and
 - (b) must notify and request the National and Provincial departments to comment on an appeal in respect of the following applications within sixty (60) days of receipt of the request:
 - (i) a development outside the Municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (ii) if the Municipality has no approved municipal spatial development framework, a; development outside the physical edge, including existing urban land use approvals, of the existing urban area
 - (iii) a rezoning of land zoned for agricultural or conservation purposes;
 - (iv) any development or category of land use applications as may be prescribed by legislation and national and provincial policies.
- (11) The authorized employee must draft a report assessing an appeal and must submit it to the Municipal Manager within: -
 - (a) thirty (30) days of the closing date for comments requested in terms of subsection (8) if no comments were requested in terms of subsection (10); or
 - (b) within thirty (30) days of the closing date for comments requested in terms of subsection (10).
- (12) The Appeal Authority must decide on an appeal within sixty (60) days of receipt of the assessment report contemplated in subsection (11).
- (13) The parties to an appeal must be notified in writing of the decision of the Appeal Authority within twenty-one (21) days from the date of the decision.

- (14) The Municipality must—
- (a) on receipt of an appeal in terms of this section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and
 - (b) if a decision on the appeal upholds an approval, notify the applicant in writing that he may act on the approval.
- (15) The operation of the approval of a land use application that is the subject of an appeal is suspended pending the decision of the appeal authority on the appeal, as contemplated in subsection (14).
- (16) If an appeal is lodged only against conditions imposed in terms of section 75, the Municipality may determine that the approval of the land use application is not suspended.
- (17) The appeal authority must designate a presiding officer and a registrar for an appeal lodged, a group of appeals or a time-period to deal with appeals.
- (18) The presiding officer will act as the chairperson of the appeal process and the registrar as the secretariat of the appeal process.

89. Hearing of Appeal Authority

- (1) The appeal authority must notify the relevant parties of the date, time and place of the hearing, five (5) days prior to the hearing.
- (2) A hearing must commence within fifteen (15) days after the completed notice of appeal has been delivered to the appeal authority, unless otherwise stated by the appeal authority.
- (3) An appellant or any respondent may at any time before the appeal hearing withdraw an appeal or opposition to an appeal and must give notice of such withdrawal to the registrar and all other parties to the appeal.

- (4) The hearing of the appeal authority may take place as an oral hearing or a written hearing.

- (5) Procedural arrangements for an oral hearing include that:
 - (a) an oral hearing must take place in an area within the jurisdiction of the Municipality excluding the office of the Municipal Planning Tribunal or the official authorized in terms of section 77(1);
 - (b) the appellant will first present his case, followed by the Municipal Planning Tribunal or the official authorized in terms of section 77(1);
 - (c) each party has the right to call witnesses to give evidence;
 - (d) if a party does not appear at an oral hearing, the appeal authority may proceed in the absence of the party, after it was determined if the absent party was notified. If the party was not notified the hearing cannot proceed and the presiding officer must reschedule the hearing;
 - (e) hearings of the appeal authority may be recorded;
 - (f) witnesses and parties are required to give evidence under oath or confirmation;
 - (g) any additional documentation not included in the appeal record should be provided three (3) days before the hearing to the appeal authority;
 - (h) the registrar must distribute the documentation to all parties to the appeal authority and members of the appeal authority;
 - (i) if the additional documentation, as contemplated in subsection (g) is not provided at least three (3) days prior to the hearing, it may be provided at the hearing, where the party must bring copies of the additional documentation for the members of the appeal authority;
 - (j) if the additional documentation, as contemplated in subsection (g), is substantive or voluminous, the other party may request an adjournment.

- (6) Procedural arrangements for a written hearing include that:
 - (a) each party must be provided an opportunity to provide written submissions to support their case;
 - (b) the appellant will be given seven (7) days to provide a written submission;

- (c) upon receipt of the appellant's written submission the appeal authority must forward it to the Municipal Planning Tribunal or the official authorized in terms of section 77(1);
- (d) the Municipal Planning Tribunal or the authorized official has seven (7) days in which to provide the written response, if no written submission is received it will be deemed that the party has declined the opportunity;
- (e) an extension of time maybe requested in writing in advance of the due date for submissions, accompanied by reasons for the request of extension;
- (f) following receipt of a request the appeal authority must issue a written decision to all parties;
- (g) following receipt of any written submissions the registrar must forward the appeal record to the appeal authority, including written submissions;
- (h) if no written submissions are received from the parties the registrar will forward the existing appeal record to the appeal authority for adjudication;
- (i) the presiding officer of the appeal authority will decide whether to accept the late written submissions;
- (j) the appeal authority issues a decision in writing to all other parties, who have seven (7) days to respond.

90. Decision of Appeal Authority

- (1) After hearing all parties, the appeal authority:
 - (a) may request any further information from any party;
 - (b) may postpone the matter for a reasonable period; and
 - (c) must within twenty-one (21) days after the last day of the hearing, issue its decision with reasons
- (2) The appeal authority may confirm, amend or rescind the decision of the Municipal Planning Tribunal or official authorized in terms of section 77(1) and may include an award of costs.
- (3) The presiding officer must sign the decision of the appeal authority and any order made by it.

- (4) The registrar must notify the parties of the decision of the appeal authority within seven (7) days, together with reasons.
- (5) The appeal authority must, in its decision, give directives to the Municipality as to how such a decision must be implemented.
- (6) Where an appeal is upheld, the municipal manager must within twenty-one (21) days of the decision publish the decision in the Provincial Gazette.

CHAPTER 8 – PROVISION OF ENGINEERING SERVICES

91. Responsibility for Provision of Engineering Services

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

- (5) If necessary, to maintain the functionality of the Municipality's long-term plans, the Municipality may require an applicant, when installing an external engineering service, to install a service in excess of the capacity of service of service required for the land development.
 - (a) If the Municipality requires the applicant to install an external engineering service, the fair and reasonable cost of doing so may be set off against the applicant's development charge liability.
 - (b) An applicant is liable for the full development cost for installing external engineering services to meet the capacity of services required for the land development even if the costs exceed the developmental charges for all phases of the development.

- (6) Areas under traditional leadership: -
 - (a) A traditional council may conclude a service level agreement with the Municipality in whose municipal area that traditional council is located, subject to the provisions of any relevant national and provincial legislation, provided that the traditional council may not make a land development decision.
 - (b) If a traditional council does not conclude a service level agreement with the Municipality as contemplated in (a), that the traditional council is responsible for providing proof of the allocation of land in terms of customary law applicable in that traditional area to the applicant of a land development and land use application.

- (7) Expansion of the Urban Edge:
 - (a) in cases of expanding the Urban Edge, the Head of Engineering services in conjunction with the Chief Financial Officer and Municipal Manager should provide written consent for the provision of external engineering services in the geographical area concerned;
 - (b) all applications for expansion of the urban edge should be accompanied with a comprehensive Engineering report on the availability of external engineering services to the satisfaction of the Head Engineering Services for consideration.

92. Development Charges

- (1) The applicant must pay development charges to the Municipality in respect of the provision of an external engineering service.
- (2) The external engineering service for which development charges is payable must be set out in a policy adopted by the Municipality.
- (3) The amount of the development charges payable by an applicant must be calculated in accordance with the policy adopted by the Municipality.
- (4) The date by which a development charges must be paid, and the means of payment must be specified in the conditions of approval.
- (5) The comments from Engineering services to the Municipal Planning Tribunal should include if a services agreement is required for a land development application.
- (6) The comments should include the finalization of services agreements applicable to rezoning within a period of three (3) months after approval by the Municipal Planning Tribunal.
- (7) The comments should include the finalization of services agreements applicable to township establishments within a period of six (6) months after approval of the Municipal Planning Tribunal.
- (8) Payment of development charges must be done within;
 - (a) three (3) months for rezoning applications from the date of approval by Municipal Planning Tribunal; and
 - (b) six (6) months from the date of approval for township establishments
- (9) The development charges imposed are subject to escalation at the rate calculated in accordance with the policy on development charges.

- (10) The Municipality must annually submit a report to the Council on the amount of development charges paid to the Municipality, together with a statement of the expenditure of the amount and the purpose of the expenditure.
- (11) When determining the contribution contemplated in sections 75(4) and (5), the Municipality must have regard to provincial norms and standards and—
 - (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
 - (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
 - (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
 - (d) money in respect of contributions contemplated in subsection 75(4) paid in the past by the owner of the land concerned; and
 - (e) money in respect of contributions contemplated in subsection 75(4) to be paid in the future by the owner of the land concerned.

93. Land for Parks, Open Spaces and Other Uses

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

- (5) Private open spaces established within a land use application shall not be allowed to be changed to any other land use for a period of at least ten (10) years after the creation thereof as private open space.

CHAPTER 9 - ENFORCEMENT

94. Enforcement

- (1) The Municipality must ensure compliance with—
 - (a) the provisions of this By-law;
 - (b) the provisions of a land use management scheme;
 - (c) conditions imposed in terms of this By-law or previous planning legislation; and (d) conditions of Deed of Title.
- (2) The Municipality may not do anything that is in conflict with subsection (1).

95. Offences and Penalties

- (1) Any person who—
 - (a) contravenes or fails to comply with section 92(1);
 - (b) fails to comply with a compliance notice served in terms of section 96(2);
 - (c) uses land in a manner other than prescribed by a land use management scheme without the approval of the Municipality;
 - (d) upon registration of the first land parcel arising from a subdivision, fails to transfer all common property arising from the subdivision to the homeowners' association;
 - (e) supplies particulars, information or answers in an application, or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
 - (f) falsely professes to be an authorized employee or the interpreter or assistant of an authorized employee;
 - (g) hinders or interferes with an authorized employee in the exercise of any power, or the performance of any duty, of that employee; or

(h) make any illegal amendments to or falsify resolutions of the Municipal Planning Tribunal;

is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of ten (10) years or to both a fine and such imprisonment.

(2) An owner who permits his land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of a land use management scheme, is guilty of an offence and liable upon conviction to a fine not exceeding R100 000 or imprisonment for a period not exceeding ten (10) years or to both a fine and such imprisonment.

(3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three (3) months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he so continues or has continued with that act or omission.

(4) The Municipality have the right to cut off services (water and electricity) with immediate effect from the date of inspection by the authorized official of an illegal land use or building

96. Serving of Compliance Notice

(1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence in terms of section 95.

(2) A compliance notice must instruct the occupier and owner to cease the unlawful land use or construction activity or both without delay or within the time period determined by the Municipality, and may include an instruction to—

(a) demolish unauthorized building work and rehabilitate the land or restore the building, as the case may be, to its original form within thirty (30) days or another period determined by the Municipal Manager; or

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

97. Content of Compliance Notices

- (1) A compliance notice must—
 - (a) identify the judicial person as registered owner to whom it is addressed;
 - (b) describe the alleged unlawful use of land or construction activity concerned and the land on which it occurs;
 - (c) state that the activity is unlawful and inform the person of the particular offence contemplated in section 96 which that person allegedly has committed or is committing through the continuation of that activity on the land;
 - (d) the steps that the person must take and the period within which those steps must be taken;
 - (e) anything which the person may not do and the period during which the person may not do it;
 - (f) provide for an opportunity for a person to submit representations in terms of section 96(6) with the contact person stated in the notice; and
 - (g) issue a warning to the effect that—

- (i) the person may be prosecuted for and convicted of an offence contemplated in section 95;
 - (ii) on conviction of an offence, the person will be liable for the penalty as provided for;
 - (iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
 - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval may be withdrawn;
 - (v) in the case of an application for authorization of the activity or development parameter, that a contravention penalty, including any costs incurred by the Municipality, will be imposed.
- (2) Any person on whom a compliance notice is served must comply with that notice within the time period stated in the notice, unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 95.

98. Objections to Compliance Notice

- (1) Any person or owner who receives a compliance notice in terms of section 96 may object to the notice by making written representations to the Municipal Manager within thirty (30) days of receipt of the notice.
- (2) After the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
- (a) may suspend, confirm, vary or cancel a compliance notice or any part of the notice; and
 - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or varied.

99. Failure to Comply with Compliance Notice

- (1) If a person fails to comply with a compliance notice, the Municipality may—
- (a) lay a criminal charge against the person;

- (b) apply to the High Court for an order—
 - (i) restraining that person from continuing the unlawful use of the land,
 - (ii) directing that person to, without the payment of compensation—
 - (aa) demolish, remove or alter any building, structure or work illegally erected or constructed; or
 - (bb) rehabilitate the land concerned.
- (b) in the case of a temporary departure or consent use, withdraw the approval granted and act in terms of section 94.

100. Urgent Matters

- (1) The Municipality does not have to comply with sections 96(6), 97(1)(f) and 98 in a case where an unlawful use of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful use of land immediately.
- (2) If the person or owner fails to cease the unlawful use of land immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.

101. Subsequent Application for Authorisation of Activity

- (1) If instructed to rectify or cease an unlawful use of land, a person may apply to the Municipality for an appropriate land development contemplated in subsection 21(3), unless the person is instructed in terms of section 96(2)(a) to demolish the building work.
- (2) The applicant must, within thirty (30) days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

102. General Powers and Functions of Authorized Employees

- (1) An authorized employee may, with the permission of the occupier or owner of land, at any reasonable time, without a warrant and without previous notice,

enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.

- (2) An authorized employee must be in possession of proof that he has been designated as an authorized employee for the purposes of subsection (1).
- (3) An authorized employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

103. Powers of Entry, Search and Seizure

- (1) In ensuring compliance with this By-law in terms of section 96, an authorized employee may—
 - (a) question any person on land entered upon, or in a building or on premises entered, who, in the opinion of the authorized employee, may be able to furnish information on a matter that relates to the enforcement of this By-law;
 - (b) question any person on that land or premises or in that building about any act or omission in respect of which there is a reasonable suspicion that it might constitute—
 - (i) an offence in terms of this By-law;
 - (ii) a contravention of this By-law; or
 - (iii) a contravention of an approval or a term or condition of that approval;
 - (c) question that person about any structure, object, document, book, record or written or electronic information or inspect any structure, object, document, book or record which may be relevant for the purpose of this subsection
 - (d) copy or make extracts from any document, book, record or written or electronic information referred to in sub-section (c), or remove that document, book, record or written or electronic information in order to make copies or extracts;
 - (e) require that person to produce or deliver to a place specified by the authorized employee, any document, book, record or any written or electronic information referred to in sub-section (c) for inspection;

- (f) examine that document, book, record or any written or electronic information or make a copy thereof or an extract therefrom;
 - (g) require from that person an explanation of any entry in that document, book, record or any written or electronic information;
 - (h) inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
 - (i) take photographs or make audio-visual recordings of anything or any person on that land or those premises or in that building that is relevant to the purposes of the investigation; or
 - (j) seize that book, record or any written or electronic information or that article, substance, plant or machinery or a part or sample thereof that in his opinion may serve as evidence at the trial of the person to be charged with an offence under this By-law or the common law, provided that the user of the article, substance, plant or machinery on the land or premises or in the building concerned may make copies of such book, record or document before the seizure.
- (2) When an authorized employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this section, he must issue a receipt to the owner or person in control thereof.
- (3) An authorized employee may not have a direct or indirect personal or private interest in the matter to be investigated.

104. Warrant of Entry for Enforcement Purposes

- (1) A judge of a High Court or a magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
- (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
 - (b) purpose of the inspection would be frustrated by the occupier or owner's prior knowledge thereof.

- (2) A warrant may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
 - (a) an authorized employee has been refused entry to land or a building that he is entitled to inspect;
 - (b) an authorized employee reasonably anticipates that entry to land or a building that he is entitled to inspect will be refused,
 - (c) there are reasonable grounds for suspecting that an offence contemplated in section 94 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
 - (d) the inspection is reasonably necessary for the purposes of this By-law.

- (3) A warrant must authorize the Municipality to enter upon the land or to enter the building or premises to take any of the measures referred to in section 102 and 103 as specified in the warrant, on one (1) occasion only, and that entry must occur—
 - (a) within one (1) 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.

105. Regard to Decency and Order

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

106. Enforcement Litigation

- (1) Whether or not a Municipality lays criminal charges against a person for an offence contemplated in section 94 and 95, the Municipality may apply to the High Court for an interdict or any other appropriate relief including an order compelling that person to—
 - (a) demolish, remove or alter any building, structure or work illegally erected or constructed;

- (b) rehabilitate the land concerned; or
 - (c) cease with the unlawful use of land.

- (2) The Municipality may issue a penalty to a juristic person who has contravened a provision of the Municipal By-Laws to an amount determined by the Chief Financial Officer in accordance with the approved municipal rates and tariffs policy as amended from time to time and must provide the information contemplated regarding the non-compliance to the extent that is known to the Municipality.

- (3) If after considering representations by the Municipal Manager and the person concerned, the Municipal Planning Tribunal decides, in consultation with the Chief Financial Officer, to impose an administrative penalty on a person who has contravened this By-law, it must determine an amount which –
 - (a) for building work in contravention of this bylaw – may not be less than 30% and not more than 100% of the value of the building, construction and engineering work unlawfully carried out, as determined by the Municipality.
 - (b) for land use in contravention of this bylaw may not be less than 15% and more than 100% of the municipal valuation of the area that is used unlawfully, as determined by the Municipality.

- (4) For building work and land use contraventions – must comprise penalties of both (a) and (b).

- (5) When determining an appropriate penalty, the Municipal Planning Tribunal must consider the following factors: -
 - (a) the nature, duration, gravity and extent of the contravention
 - (b) the conduct of the person involved in the contravention
 - (c) whether the unlawful conduct was stopped
 - (d) whether the person involved in the contravention has previously contravened the By Law or a previous planning law.

- (6) A penalty determined in terms of this section must be paid to the Municipality within 30 days.
- (7) The Municipality may apply to the High Court for an order confirming the order of the Municipal Planning Tribunal to pay an administrative penalty.
- (8) A person who is in contravention of this By-Law, and who wishes to rectify such contravention, may apply to the Municipality for the determination of an administrative penalty if the Municipality has not issued a demolition in respect of the land or building or part thereof concerned.
- (9) The Municipal Planning Tribunal may, where any person has contravened this By-law, and in consultation with the Chief Financial Officer as required by the Municipal rates and tariffs policy: -
 - (a) decides to impose an administrative penalty; and;
 - (b) determine the amount of the penalty.
- (10) A person making an application contemplated in subsection 9 must: -
 - (a) submit an application;
 - (b) pay the prescribed fee;
 - (c) provide the information contemplated in subsections (5)
 - (d) comply with the duties of an applicant.
- (11) The Municipal Manager may apply to the Municipal Planning Tribunal for an order that a person who has contravened this By-law must pay an administrative penalty in an amount determined by Municipal Planning Tribunal,
- (12) If the Municipal Manager makes an application contemplated in subsection (3), the Municipal Planning Tribunal must invite the person concerned within a specified time to make written representations on the application.
- (13) The Department must provide a written report to the Municipal Planning Tribunal.

- (14) The Municipal Planning Tribunal may –
- (a) call for additional information to decide an application in terms of this section; and
 - (b) draw an adverse inference against a person who fails or refuses to provide, to the satisfaction of the Municipal Planning Tribunal, information contemplated in subsection (5).

CHAPTER 10 - MISCELLANEOUS

107. Naming of Streets and Numbering of Properties

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

108. Reporting to Council on Development Applications

- (1) Reporting to Council on processing of development applications should be done once a quarter.
- (2) Format of reporting should include:
 - (a) Number of applications processed

- (b) Number of applications approved
- (c) Number of applications rejected
- (d) Number of applications on appeal
- (e) Number of meetings of the MPT

109. Short Title and Commencement

This By-law is called Mangaung, Municipal Land Use Planning By-law 2019 and the amendments effected come into operation on the date of its promulgation in the Provincial Gazette and further subject to provisions of the Spatial Planning and Land Use Management Act 2013.

SCHEDULES

SCHEDULE 1

PRIMARY SPATIAL PLANNING CATEGORIES

(read with section 3)

- (1) In order to create a uniform system across the Province, the attribute data must be represented as follows:
 - (a) Core Conservation Areas that must be captured in the attribute data as a capital letter **A** including;
 - (i) Statutory Protected Areas that must be captured in the attribute data as a letter **A.a**;
 - (b) Natural Buffer Areas that must be captured in the attribute data as a capital letter **B** including;
 - (i) Non-Statutory Conservation Areas that must be captured in the attribute data as a letter **B.a**;
 - (ii) Ecological Corridors that must be captured in the attribute data as a letter **B.b**;

- (iii) Urban Green Areas that must be captured in the attribute data as a letter **B.c**;
- (c) Agricultural Areas that must be captured in the attribute data as a capital letter **C** including:
 - (i) Extensive agricultural areas that must be captured in the attribute data as a letter **C.a**;
 - (ii) Intensive agricultural areas that must be captured in the attribute data as a letter **C.b**;
- (d) Urban Related Areas that must be captured in the attribute data as a capital letter **D** including:
 - (i) Main Towns that must be captured in the attribute data as a letter **D.a**;
 - (ii) Local Towns that must be captured in the attribute data as a letter **D.b**;
 - (iii) Rural Settlements that must be captured in the attribute data as a letter **D.c**;
 - (iv) Tribal Authority Settlements that must be captured in the attribute data as a letter **D.d**;
 - (v) Communal Settlements that must be captured in the attribute data as a letter **D.e**;
 - (vi) Institutional Areas that must be captured in the attribute data as a letter **D.f**;
 - (vii) Authority Areas that must be captured in the attribute data as a letter **D.g**;
 - (viii) Residential Areas that must be captured in the attribute data as a letter **D.h**;
 - (ix) Business Areas that must be captured in the attribute data as a letter **D.i**;
 - (x) Service-Related Business that must be captured in the attribute data as a letter **D.j**;
 - (xi) Special Business that must be captured in the attribute data as a letter **D.k**;

- (xii) SMME Incubators that must be captured in the attribute data as a letter **D.l**;
 - (xiii) Mixed Use Development Areas that must be captured in the attribute data as a letter **D.m**;
 - (xiv) Cemeteries that must be captured in the attribute data as a letter **D.n**;
 - (xv) Sports fields and Infrastructure that must be captured in the attribute data as a letter **D.o**;
 - (xvi) Airports and Infrastructure that must be captured in the attribute data as a letter **D.p**;
 - (xvii) Resorts and Tourism Related Areas that must be captured in the attribute data as a letter **D.q**;
 - (xviii) Farmsteads and Outbuildings that must be captured in the attribute data as a letter **D.r**;
- (e) Industrial Areas that must be captured in the attribute data as a capital letter **E** including;
- (i) Agricultural industry that must be captured in the attribute data as a letter **E.a**;
 - (ii) Industrial Development Zone that must be captured in the attribute data as a letter **E.b**;
 - (iii) Light industry that must be captured in the attribute data as a letter **E.c**;
 - (iv) Heavy industry that must be captured in the attribute data as a letter **E.d**;
 - (v) Extractive industry that must be captured in the attribute data as a letter **E.e**
- (f) Surface Infrastructure that must be captured in the attribute data as a capital letter **F** including;
- (i) National roads that must be captured in the attribute data as a letter **F.a**;
 - (ii) Main roads that must be captured in the attribute data as a letter **F.b**;

- (iii) Minor roads that must be captured in the attribute data as a letter **F.c**;
- (iv) Public Streets that must be captured in the attribute data as a letter **F.d**;
- (v) Heavy Vehicle Overnight Facilities that must be captured in the attribute data as a letter **F.e**;
- (vi) Railway lines that must be captured in the attribute data as a letter **F.f**;
- (vii) Power lines that must be captured in the attribute data as a letter **F.g**;
- (viii) Telecommunication Infrastructure that must be captured in the attribute data as a letter **F.h**;
- (ix) Renewable Energy Structures that must be captured in the attribute data as a letter **F.i**;
- (x) Dams and Reserves that must be captured in the attribute data as a letter **F.j**;
- (xi) Canals that must be captured in the attribute data as a letter **F.k**;
- (xii) Sewerage Plants and Refuse Areas that must be captured in the attribute data as a letter **F.l**;
- (xiii) Planned future road alignments (to be added to this list).

SCHEDULE 2

ESTABLISHMENT OF A HOMEOWNERS' ASSOCIATION

(read with section 31)

- (1) An homeowners' association that comes into being by virtue of this Schedule is a juristic person and must have a constitution.
- (2) The constitution of an homeowners' association must be approved by the Municipality before the transfer of the first land parcel and must provide for—

- (a) the homeowners' 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 (1) 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 homeowners' association of all common property arising from the subdivision, including—
 - (i) private open spaces;
 - (ii) private roads;
 - (iii) private places; and
 - (iv) land required for services provided by the homeowners' association;
 - (f) enforcement of conditions of approval or management plans;
 - (g) procedures to obtain the consent of the members of the homeowners' association to transfer an erf if the homeowners' association ceases to function;
 - (h) the implementation and enforcement by the homeowners' association of the provisions of the constitution.
- (3) The constitution of an homeowners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
- (4) An homeowners' association may amend its constitution when necessary, but if an amendment affects the Municipality or a provision referred to in subsection (2), the amendment must also be approved by the Municipality.
- (5) An homeowners' association that comes into being by virtue of this Schedule

—

- (a) has as its members all the owners of land parcels 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 parcel automatically constituted.
- (6) The design guidelines contemplated in subsection (2)(d) may introduce more restrictive development rules than the rules provided for in the land use management scheme.
- (7) If an homeowners' association fails to meet any of its obligations contemplated in subsection (2) 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 subsection (5)(a) the amount of any expenditure incurred by it in respect of those actions.
- (8) The amount of any expenditure so recovered is, for the purposes of subsection (7), considered to be expenditure incurred by the homeowners' association.

SCHEDULE 3

APPLICATION DOCUMENTATION

PART A – COMPREHENSIVE APPLICATION FORM

Applications for land use amendments (give full details in the motivation report)

SECTION 1			
Details of Applicant (See Planning Profession Act, Act 36 of 2002)			
Name:		Contact person:	
Postal address:		Physical address:	
Code:		Code:	
Tel no:		Cell no:	
Fax no:		E-mail address:	

SACPLAN Reg No:			
SECTION 2			
Details of Landowner (If different from Applicant)			
Name:		Contact person:	
Postal address:		Physical address:	
Code:		Code:	
Tel no:		Cell no:	
Fax no:		E-mail address:	
If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land parcel and if the land parcel is owned by a company or more than one (1) person.			
SECTION 3			
Details of Property (In accordance with Title deed)			
Erf/ Farm No and portion description:		Area (m ² or ha):	
Physical address of erf/farm:		Existing zoning:	
Location from nearest town:		Existing land use:	
Town/suburb:		Area applicable to application:	
Registration Division:		Title deed no:	
SECTION 4			
Type of Application being submitted (Mark with an X and give details)			
Application for: (Please mark applicable block with a cross)			
Township Establishment			
Rezoning/ Zoning			
Creation of an overlay zoning			
Removal, suspension or amendment of Title Deed Restrictions			
Consent use			
Subdivision of land			
Consolidation of one (1) or more properties			
Incorporation of an erf into a general plan			
Removal, suspension or amendment of the original approval conditions as provided by the relevant authorities			
General Plan Cancellation			
Amendment of General Plan by Closure of Park or Public Road			
The extension of the approval period			
Any other application in terms of provincial legislation or municipal By-law			

Please give a short description of the scope of the project			

SECTION 5

Detail of application (Mark with an X and give detail where applicable)			
1.	Is the land parcel currently developed (buildings etc.)?	YES	NO
	If YES, what is the nature & condition of the developments / improvements?		
2.	Is the current zoning of the land used?	YES	NO
	If NO, what is the application / use of land?		
3.	Is the property subjected to a bond?	YES	NO
	If YES, attach the bondholder's consent to the application.		
	Name of bondholder		
4.	Has any application on the property previously been considered?	YES	NO
	If YES, when and provide particulars, including type of application, all authority reference numbers and decisions?		
5.	Does the proposal apply to the entire land parcel?	YES	NO
	If NO, indicate the size of the portion of the land parcel concerned, as well as what it will be used for, including the remaining extent.		
6.	Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land parcel in terms of the deed of transfer that should be removed, as it might have an influence on this application?	YES	NO
	If YES, please provide detail description.		
7.	Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development?	YES	NO
	If YES, name full particulars and state how the problem will be solved and submit detail layout plan.		
8.	Is any portion of the land parcel in a flood plain of a river beneath the 1:50 / 1:100-year flood-line, or subject to any flooding?	YES	NO
	If YES, please provide detail description.		
9.	Is any other approval that falls outside of this By-law, necessary for the implementing of the intended development?	YES	NO
	If YES, please provide detail description.		

10.	Is the proposed application in line with the approved municipal spatial development frameworks?				YES	NO
	If NO, please provide site specific circumstances in accordance with section 22(2) of SPLUMA.					
11.	What arrangements will be made regarding the following services for the development? (Full Engineering Reports must be supplied, where applicable)					
	Water supply					
	Electricity supply					
	Sewerage and waste- water					
	Stormwater					
Road Network						
SECTION 6						
List of Attachments and supporting information required/ submitted with checklist for Municipal use (Mark with an X / number of annexure)						
Checklist (for the completion by the Applicant only)				Checklist (for the use of Municipality only)		
YES	NO	ANNEXURE NO	DOCUMENT	YES	NO	N/A
			Completed Comprehensive Application form			
			Complete Motivation Report			
			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Certified copy of Title Deed(s)			
			Orientating Locality Map			
			Basic Layout Map			
			Land Use Management Scheme Zoning Map Extract			
			Land Use Map			
			Detail Layout Map			
			Ortophoto / Aerial survey map			
			Site Development Plan			
			Extract of Spatial Development Framework			
			Contour map			
			Surveyor General diagrams (cadastral information)			
			Conveyancer's certificate			
			Bondholder's consent			
			Homeowners' Association consent / stamp of approval			
			Special endorsement/proxy			

			Mineral rights certificate (together with mineral holder's consent)			
			Prospecting contract			
			Registered servitudes (deed and map/plan)			
			Status report from Surveyor General – street closure or state-owned land			
			Detail Engineering Services plan (Bulk and internal)			
			Environmental Impact Study/Assessment (EIA – Environmental Authorisation)			
			Archaeological Impact Assessment (AIA) - approval from relevant Department			
			Heritage Impact Assessment - approval from relevant Authority			
			Traffic impact study/assessment (Already approved by responsible roads authorities)			
			Geotechnical report (NHBR Standards)			
			Centlec services report			
			Flood line certificate - certificate from relevant Department			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			
			Public participation report and minutes of meetings			
			Other (specify):			
			Seven (7) sets of full colour documentation copies			

SECTION 7

Declaration

Note:

If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one (1) person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees' resolution is compulsory

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

Applicant's/ Owner's Signature		Date	
Full name (print)			
Professional capacity (Reg. no)			

Applicant's ref					
SECTION 8					
Prescribed Notice and advertisement procedures (for the completion and use of Municipality only)					
Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		Notice to be placed in the Local Newspaper			Proof of Notice in Local Newspaper Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)			Proof of Notice in the Provincial Gazette Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notices to neighbours Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two (2) copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Municipality. Alternatively (Option 2), the notices can be sent via registered post.			Proof of Notice to neighbours Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Municipality, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Municipality

		Notice to be placed on the site Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			Proof of Notice in site Two colour photos of the notice on site must be provided of which one (1) is close up and the other one (1) is taken from a distance in order to see the placing on the site itself.
		Public Meeting Note: The holding of a public meeting in order to inform the general public of the application.			Proof of Public Meeting The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Municipality.
		Any Additional components (please list)			Proof of additional components

SECTION 9

Power of Attorney / Proxy

I/We, the undersigned,

(FULL NAMES AND ID NUMBER)

nominate, constitute and hereby appoint

(FULL NAMES AND ID NUMBER, AS WELL AS NAME OF FIRM REPRESENTED)

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

(FULL DETAILS OF THE APPLICATION LODGED)

with regards to

(DESCRIPTION OF PROPERTY)

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

SIGNED at		on this		day of		20
	(TOWN)		(DAY)		(MONTH)	(YEAR)
In the presence of the undersigned witnesses						
Witness 1					Signature of Assigner/ Landowner	
Witness 2						

PART B – ABRIDGED APPLICATION FORM

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

SECTION 1			
Details of Applicant (See Planning Profession Act, Act 36 of 2002)			
Name:		Contact person:	
Postal address:		Physical address:	
Code:		Code:	
Tel no:		Cell no:	
Fax no:		E-mail address:	
SACPLAN Reg No:			
SECTION 2			
Details of Landowner (If different from Applicant)			
Name:		Contact person:	
Postal address:		Physical address:	
Code:		Code:	
Tel no:		Cell no:	
Fax no:		E-mail address:	
If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land parcel and if the land parcel is owned by a company or more than one (1) person.			
SECTION 3			
Details of Property (In accordance with Title deed)			

Erf/ Farm No and portion description:		Area (m ² or ha):	
Physical address of erf/farm:		Existing zoning:	
Location from nearest town:		Existing land use:	
Town/suburb:		Area applicable to application:	
Registration Division:		Title deed no:	

SECTION 4

Type of Application being submitted (Mark with an X and give details)

Application for: (Please mark applicable block with a cross)	
The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and subdivision by the Responsible Authority.	
Temporary departure to allow the use of a building or land for a period of at most five (5) years, for a purpose for which no specific zone has been provided for in these regulations.	
Application for Consent Use, including Occupational Practice, excluding Temporary Housing.	
Application for Subdivision in accordance with the LUS.	
Application for subdivision requiring abridged processes.	
The amendment or cancellation of a general plan of a township.	
The permanent closure of a municipal road (public road) or a public open place.	
The consolidation of any land portion.	
Application for the extension of the approval period of an application before the lapsing thereof.	

Please give a short description of the scope of the project

SECTION 5

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

1.	Is the property subjected to a bond?	YES	NO
	If YES, attach the bondholder's consent to the application.		
	Name of bondholder		
2.	Has any application on the property previously been considered?	YES	NO
	If YES, when and provide particulars, including type of application, all authority reference numbers and decisions?		

3.	Does the proposal apply to the entire land parcel?		YES	NO		
	If NO, indicate the size of the portion of the land parcel concerned, as well as what it will be used for, including the remaining extent.					
4.	Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land parcel in terms of the deed of transfer that should be removed, as it might have an influence on this application?		YES	NO		
	If YES, please provide detail description.					
5.	Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development?		YES	NO		
	If YES, name full particulars and state how the problem will be solved and submit detail layout plan.					
6.	Is any portion of the land parcel in a flood plain of a river beneath the 1:50 / 1:100-year flood-line, or subject to any flooding?		YES	NO		
	If YES, please provide detail description.					
7.	Is any other approval that falls outside of this By-law, necessary for the implementing of the intended development?		YES	NO		
	If YES, please provide detail description.					
8.	What arrangements will be made regarding the following services for the development? (Full Engineering Reports must be supplied, where applicable)					
	Water supply					
	Electricity supply					
	Sewerage and waste- water					
	Stormwater					
Road Network						
SECTION 6						
List of Attachments and supporting information required/ submitted with checklist for Municipal use (Mark with an X / number of annexure)						
Checklist (for the completion by the Applicant only)				Checklist (for the use of Municipality only)		
YES	NO	ANNEXURE NO	DOCUMENT	YES	NO	N/A
			Completed Abridged Application form			
			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Certified copy of Title Deed(s)			
			Bondholder's consent			
			Orientating Locality Map			
			Basic Layout Map			

			Homeowners' Association consent / stamp of approval			
			Special endorsement/proxy			
			Registered servitudes (deed and map/plan)			
			Surveyor general diagrams (cadastral information)			
			Status report from Surveyor General – street closure or state-owned land			
			Traffic impact study/assessment (Already approved by responsible roads authorities)			
			Eskom services report			
			Flood line certificate - certificate from relevant Department			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			
			Other (specify):			
			Seven (7) sets of full colour documentation copies			

SECTION 7

Declaration

Note:

If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one (1) person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees' resolution is compulsory

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

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

SECTION 8

Prescribed Notice and advertisement procedures (for the completion and use of Municipality only)

Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		Notice to be placed in the Local Newspaper			Proof of Notice in Local Newspaper Note: The original newspaper advertisement or full colour

					copy, indicating page number and date.
		Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)			Proof of Notice in the Provincial Gazette Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notices to neighbours Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two (2) copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Municipality. Alternatively (Option 2), the notices can be sent via registered post.			Proof of Notice to neighbours Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Municipality, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Municipality
		Notice to be placed on the site Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			Proof of Notice in site Two colour photos of the notice on site must be provided of which one (1) is close up and the other one (1) is taken from a distance in order to see the placing on the site itself.
		Public Meeting			Proof of Public Meeting

		Note: The holding of a public meeting in order to inform the general public of the application.			The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Municipality.
		Any Additional components (please list)			Proof of additional components

SECTION 9

Power of Attorney / Proxy

I/We, the undersigned,

(FULL NAMES AND ID NUMBER)

nominate, constitute and hereby appoint

(FULL NAMES AND ID NUMBER, AS WELL AS NAME OF FIRM REPRESENTED)

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

(FULL DETAILS OF THE APPLICATION LODGED)

with regards to

(DESCRIPTION OF PROPERTY)

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

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

In the presence of the undersigned witnesses

Witness 1		Signature of Assigner/ Landowner

Witness 2		

SCHEDULE 4

TERM OF OFFICE AND CONDITIONS OF SERVICE OF MEMBERS OF MUNICIPAL PLANNING TRIBUNAL

(read with section 82)

- (1) A member of the Municipal Planning Tribunal is appointed for a term of five (5) years which may be renewable once.
- (2) The office of a member becomes vacant if—
 - (a) the member is absent from two (2) consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) the member tenders his resignation in writing to the chairperson of the Municipal Planning Tribunal;
 - (c) the member is removed from the Municipal Planning Tribunal under point (3) below ; or the member dies.
- (3) The Council may, after having given the member an opportunity to be heard, remove a member of the Municipal Planning Tribunal if —
 - (a) sufficient grounds exist for his/her removal;
 - (b) a member contravenes the code of conduct under heading 6) below;
 - (c) a member becomes subject to a disqualification from membership of the Municipal Planning; (d) Tribunal as referred to in section 38(1) of the Spatial Planning and Land Use Management Act.
- (4) A vacancy on the Municipal Planning Tribunal must be filled by Council in terms of a resolution.
- (5) A member who is appointed by virtue of point (4) above, holds office for the unexpired portion of the period for which the member he replaces was appointed.

- (6) Members of the Municipal Planning Tribunal must be appointed on the terms and conditions, and must be paid the remuneration and allowances, and be reimbursed for expenses as determined by the relevant legislation.
- (7) The Municipality must publish a 90 day notice before the expiry of every term of office Municipal Planning Tribunal.

SCHEDULE 5

CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

(read with section 82)

General conduct

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

- (c) make any derogatory statements against an official or administration
- (d) assume the function of council in terms of policy formulation.

Gifts

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

Undue influence

- (4) A member of the Municipal Planning Tribunal may not—
 - (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
 - (b) use confidential information acquired in the course of his duties to further a personal interest;
 - (c) disclose confidential information acquired in the course of his duties, unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
 - (d) commit a deliberately wrongful act that reflects adversely on the Municipal Planning Tribunal, the Municipality, the government or the planning profession by seeking business by stating or implying that he is prepared, willing or able to influence decisions of the Municipal Planning Tribunal by improper means.