
LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 116



Bushbuckridge Local Municipality

Bushbuckridge Land Use Management By-law, 2014

Bushbuckridge Municipality**Land Use By-law, 2014**

To provide for the introduction, adoption and implementation of an efficient system of land development and land use management for the Bushbuckridge Local Municipality; the preparation and adoption of the land use scheme; procedures, processes and formats for the preparation, submission and consideration of land development applications and related processes; and for matters in connection therewith.

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CHAPTER 1

APPLICATION AND INTERPRETATION OF THEBY-LAW

1. Definitions

In this By-law, unless the context indicates otherwise -

“approved township” means a township declared an approved township in terms of section 44;

“applicant” means a person who makes a land development application contemplated in section 31;

“appeal authority” means the Appeal Authority referred to in Chapter 4;

“beneficial owner in law” means a person who is not the registered owner of the land, but a person who holds a lawful right in or to land;

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

“communal land” means land under the jurisdiction of a traditional council determined in terms of section 6 of the Mpumalanga Traditional Leadership and Governance Act, 2005 (Act No. 3 of 2005) and which was at any time vested in -

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

“competent authority”, in relation to land use, means the Bushbuckridge Local Municipality being the authorised authority.

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

“day” means a calendar day as provided for in section 4 of the Interpretation Act, 1957 (Act No 33 of 1957);

“Deeds Registries Act” means the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“development rights” means any approval granted to a land development application;

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

“engineering service” means a system for the provision of water, sewerage, electricity, municipal roads, stormwater drainage, gas and solid waste collection and removal required for the purpose of land development as referred to in Chapter 5;

“environmental legislation” means the National Environmental Management Act, 1998 (Act No. 107 of 1998), and any other legislation that regulates a specific aspect of the environment;

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

“existing planning legislation” means any planning and land use legislation existing at the time of commencement of this By-law;

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

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

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

“informal settlement” means the informal occupation of land by persons none of whom are the registered owner of such land for primarily residential purposes with or without the consent of the registered owner of the land;

“inspector” means a person designated or appointed as an inspector under section 20;

“integrated development plan” means a plan adopted in terms of Chapter 5 of the Municipal Systems Act;

“Intergovernmental Relations Framework Act” means the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005)

“internal engineering services” means engineering services within the boundaries of a land area which is necessary for the use and development of the land area and which is to be owned and operated by the municipality or a service provider;

“land” means -

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

“land development” means the erection of buildings or structures on land or the change of the use of land, including township establishment, the subdivision or consolidation of land or any deviation from the land use or uses permitted in terms of an applicable land use scheme;

“land use” means the purpose for which land is or may be used lawfully in terms of the land use scheme, existing scheme or in terms of any other authorisation, permit or consent issued by an competent authority, and includes any conditions related to such land use purposes;

“land use management system” means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development procedures;

“land use scheme” means the document referred to in Chapter 2 for the regulation of land use;

“MEC for local government” means the MEC responsible for local government in the Province;

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

“Municipal Council” means a Municipal Council referred to in section 157 of the Constitution;

“Municipal Manager” means the person appointed as the Bushbuckridge Municipal Manager in terms of section 54A of the Local Government: Municipal Systems Act, 2000 and includes any person acting in that position or to whom authority has been delegated;

“Municipal Planning Tribunal” means the tribunal established interms of Chapter 3;

“Municipal Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“municipality” means the Bushbuckridge Local Municipality as envisaged in section 155(1) of the Constitution, and for the purpose of this By-law includes a municipal department, the municipal council and the municipal manager, where the context so requires and its successor in title;

“objector” means a person who has lodged an objection in terms of section 10 with the municipal manager to a draft land use scheme or in terms of section 34 to a land development application;

“open space”, in relation to a land area, means land set aside or to be set aside for the use by a community as a recreation area, irrespective of the ownership of such land;

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

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

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

“Premier” means the Premier of the Province;

“Province” means the Province of Mpumalanga;

“*Provincial Gazette*” means the official *gazette* of the Province;

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

“publish” means the publication of a general notice in the *provincial gazette*;

“Registrar of Deeds” means the Registrar of Deeds as defined in the Deeds Registries Act, 1937;

“registered planner” means a person registered in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002), and shall mean that category of registered persons for which the work has been reserved;

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

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

“servitude” means a servitude registered against a title deed of land;

“Spatial Development Framework” means the Bushbuckridge Spatial Development Framework;

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

“title deed” means any deed registered in a Deed Registry recording the ownership of land or a real right in land;

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

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

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

“traditional communities” means communities recognised in terms of section 3 of the Mpumalanga Traditional Leadership and Governance Act, 2005; and

“zone” means a defined category of land use which is shown on the zoning map of a land use schemes.

2. Application of By-law

- (1) Subject to subsections (2) and (3), this By-law applies within the area of jurisdiction of the Bushbuckridge Local Municipality and regards all aspects relating to land use matters, regulated herein.
- (2) Notwithstanding subsection (1) and with due regard to section 156(3) of the Constitution, 1996, land use matters listed in column 1 of Schedule 1, which are regulated by legislation listed in Column 2 of Schedule 1, shall be dealt with in accordance and compliance with the relevant provisions of such legislation, to the extent that such legislation are applicable to the area or to a portion of the area of jurisdiction of the Bushbuckridge Local Municipality, until any such legislation is repealed by an appropriate authority, subsequent to which such land use matter will be regulated by this By-law.
- (3) The provisions of the By-law are subject to the relevant provisions of the National Spatial Planning and Land Use Management Act, 2013, and the Mpumalanga Spatial Planning and Land Use Management Act with effect from the coming into operation of such provisions.

3. Adoption of By-law

This By-law is legislation adopted in terms of sections 12 and 13 of the Municipal Systems Act read with section 156 of the Constitution of the Republic of South Africa, 1996.

4. Objectives of the By-law

The objectives of this By-law are to provide for -

- (a) the introduction, adoption and implementation of the land use scheme of the municipality, and
- (b) procedures, processes and formats for the preparation, submission and consideration of land development applications and related processes.

5. Elements of Municipal Planning

Municipal Planning, for the purpose of this By-law, consists of the following elements:

- (a) The compilation, approval and review of the integrated development plan;
- (b) The compilation, approval and review of components of the integrated development plan prescribed by legislation and falling within the competence of the municipality, including the Spatial Development Framework and the Land Use Scheme; and
- (c) The control and regulation of the use of land within the municipal area.

CHAPTER 2

LAND USE MANAGEMENT

6. Role of executive authority

- (1) The executive authority of the municipality must –
 - (a) in the development, preparation and adoption or amendment of its land use scheme provide general policy and other guidance; and
 - (b) in providing guidance as referred to in subsection (1), monitor and oversee such responsibilities as it may designate to officials of the municipality and non-officials in the implementation of this By-law.
- (2) Subject to section 81 of the Municipal Structures Act and the Traditional Leadership and Governance Framework Act, 2003, the municipality, in the performance of its duties in terms of this Chapter must allow the participation of traditional councils.

7. Land use Scheme

- (1) The municipality must, after public consultation, adopt and approve a single land use scheme for its entire area of jurisdiction, within two years of the commencement of this By-law.

- (2) The land use scheme adopted and approved in term of subsection (1) must -
- (a) include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme;
 - (b) take cognisance of any environmental management instruments adopted by the relevant environmental management authority, and must comply with environmental legislation;
 - (c) include the provisions that permit the incremental introduction of land use management and regulations in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme;
 - (d) include provisions to promote the inclusion of affordable housing in residential land development;
 - (e) include land use and development incentives to promote the effective implementation of the Spatial Development Framework and other development policies;
 - (f) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
 - (g) give effect to the Spatial Development Framework and integrated development plan.
- (3) The land use scheme may include provisions relating to -
- (a) the use and development of land only with the written consent of the municipality;
 - (b) specific requirements regarding any special zones identified to address the development priorities of the municipality; and
 - (c) the variation of conditions of the land use scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

8. Purpose and content of land use scheme

- (1) The purpose of the land use scheme is to determine and to regulate the use and development of land within the municipality.
- (2) The land use scheme must give effect to and be consistent with the Spatial Development Framework and determine the use and development of land within the municipal area to which it relates in order to promote -
- (a) economic growth;
 - (b) social inclusion;
 - (c) harmonious and compatible land use patterns;
 - (d) efficient land development;
 - (e) minimal impact on public health, the environment and natural resources;
 - (f) aesthetic considerations;
 - (g) sustainable development and densification; and

- (h) the accommodation of cultural customs and practices of traditional communities in land use management.
- (3) The land use scheme must, as a minimum, include, in respect of the area of jurisdiction of the municipality -
 - (a) scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;
 - (b) a map indicating the zoning of the municipal area into land use zones; and
 - (c) a register of all amendments to the land use scheme.

9. Draft land use scheme notice

- (1) After the draft land use scheme has been prepared and approved in principle by the Municipal Council, the municipality must give notice of the draft land use scheme in -
 - (a) the *Provincial Gazette* once a week for two consecutive weeks;
 - (b) two Local Newspapers that is circulated in the area of jurisdiction of the municipality once a week for two consecutive weeks; and
 - (c) any other method of communication the municipality may deem appropriate.
- (2) The notice set out in subsection (1) must be consistent with the Mpumalanga Provincial Languages Act, 2013 and contain at least the following information:
 - (a) the purpose of the draft land use scheme;
 - (b) the places where the draft land use scheme can be viewed;
 - (c) the timeframes for the submission of objections or representations: Provided that the public must be given at least 60 days from the first date of publication of the notice to submit objections and representations to the municipality;
 - (d) details of where to submit objections and representations.

10. Objections and representations on draft land use scheme

- (1) Any person intending to object to the draft land use scheme or to make representations thereon must do so in writing, within the timeframe contemplated in section 9(2)(c), by submitting three signed copies of an objection or of a representation, in the format contained in Schedule 2, to the municipality.
- (2) The municipality may, within 14 days, after the objection and representation period has closed, in writing by registered post or against signature, submit to the objector or the person making representation a request for further elaboration in respect of the representation or objection as contemplated in subsection (1).
- (3) Such request as contemplated in subsection (2) must be responded to, within 30 days of the submission of such request, to the municipality.
- (4) If no response is received by the municipality to a request made in terms of subsection (2), the municipality may proceed with a consideration only of the original documents delivered to it.

11. Consideration of objections and representations with regard to the draft land use scheme

- (1) Should objections be lodged or representations made with regard to the draft land use scheme, the municipality -
 - (a) must consider all objections or representations; and
 - (b) must hold a hearing as set out in section 73, to which all objectors and every person who has made representations must be invited.
- (2) The municipality must make a decision on the adoption of the draft land use scheme, within 60 days after -
 - (a) the closing date for the submission of objections and representations if no objections or representations were received; or
 - (b) the hearing as contemplated in subsection (1)(b).

12. Procedure after adoption of the land use scheme

- (1) The municipality must serve a notice of the decision on the adoption of the land use scheme on all objectors and every person who has made representations within 7 days after the decision has been made: Provided that in the case of an objection or representation received on behalf of a group of stakeholders, the notice must be served on the person indicated as the contact person in the objection or representation.
- (2) Once the land use scheme has been adopted by the Municipal Council, the municipality must -
 - (a) give notice of such adoption in the *Provincial Gazette*;
 - (b) in the notice contemplated in subsection (a), state the date of commencement of the land use scheme and state that the adopted land use scheme is available for public viewing during office hours at the place indicated in the notice;
 - (c) keep the adopted land use scheme or a copy thereof at the indicated place which must be accessible to the public; and
 - (d) allow the public access to the adopted land use scheme during office hours.
- (3) The municipality must submit its adopted and approved land use scheme, immediately after the proclamation, to the Premier and the MEC for purposes of monitoring the performance of the municipality.

13. Commencement of an adopted land use scheme

The adopted land use scheme shall come into operation on the date stated in the notice contemplated in section 12(2)(b).

14. Legal effect of the adopted land use scheme

- (1) The adopted land use scheme -
 - (a) Has, with effect from the date as contemplated in section 12(2)(b), the force of law and binds all persons, and particularly owners and users of land, including

- the municipality, a state owned enterprise and organs of state within the municipal area are bound by the provisions of such a land use scheme;
- (b) replaces all existing schemes within the municipal area to which the land use scheme applies; and
 - (c) provides for land use and development rights.
- (2) Land may be used only for the purposes permitted by the land use scheme.
- (3) Where any provision in a land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law shall prevail.

15. Review of land use scheme

- (1) The municipality may at any time review its land use scheme in order to achieve consistency with the Spatial Development Framework, but the municipality must review its land use scheme at least once in every period of five years.
- (2) The municipality must immediately after the review of the land use scheme, submit the land use scheme, if amended, to the Premier and the MEC for purposes of monitoring the performance of the municipality.
- (3) Where the boundaries of the municipal area are altered, the municipality must, within one year of the alteration amend its land use scheme to align the land use scheme with the altered municipal area.

16. Amendment of land use scheme and rezoning

- (1) The municipality may amend its land use scheme by rezoning any land considered necessary by the municipality to achieve the development goals and objectives of the Spatial Development Framework.
- (2) Where the municipality intends to amend its land use scheme in terms of subsection (1), a public participation process must be undertaken as contemplated in section 33.
- (3) The provisions of sections 30, 32, 33, 34, 35, 36, 37, 38, 39, 53, 48 and 49 apply mutatis mutandis to this section.
- (4) Any change to the land use scheme of the municipality affecting the scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone may only be authorised by the Municipal Council.

17. Continued use of land and buildings

- (1) Where, on the date of the coming into effect of the land use scheme in terms of section 13 or a review or amendment of a land use scheme in terms of sections 15 or 16, any land or building is being used for a purpose that is not allowed by the provisions of the land use scheme, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of subsection (2), be continued after that date.

- (2) The right to continue using any land or building by virtue of the provisions of subsection (1), shall -
- (a) where the right is not exercised for a continuous period of twelve months, lapse at the expiry of that period; or
 - (b) lapse at the expiry of a period of fifteen years from the date of the coming into effect of a land use scheme in terms of section 13 or a review or amendment of a land use scheme in terms of sections 15 or 16.

18. Consultation with other land development authorities

The municipality must consult other organs of state responsible for administering legislation relating to any other aspect of an activity that also requires approval in terms of this By-law in order to co-ordinate activities and give effect to the respective requirements of such legislation, and to avoid duplication .

19. Record of amendments to land use scheme

- (1) The municipality must keep and maintain a written record of all land development applications submitted and the reasons for decision in respect of such land development applications.
- (2) The written record referred to in subsection (1) must be accessible to members of the public during normal office hours at the municipal offices.

20. Enforcement of land use scheme

- (1) The municipality may apply to the court for an order -
 - (a) interdicting any person from using land in contravention of its land use scheme;
 - (b) authorising the demolition of any structure erected on land in contravention of the land use scheme, without any obligation on the municipality or the person carrying out the demolition to pay compensation; or
 - (c) directing any other appropriate preventative or remedial measures.
- (2) The municipality -
 - (a) may designate a municipal official or appoint any other person as an inspector to investigate any non-compliance with its land use scheme; and
 - (b) must issue each inspector with a written designation or appointment, stating that the person has been appointed in terms of this By-law.
- (3) When the inspector contemplated in subsection(2) performs any function of the inspector as contemplated in this By-law, the inspector -
 - (a) must on request produce his or her written designation or appointment; and
 - (b) may not be a person having a direct or indirect personal or private interest in the matter to be investigated.
- (4) The inspector contemplated in subsection (2) may, subject to subsection (7) -
 - (a) enter any land at any reasonable time without previous notice for the purpose of ascertaining an issue required to ensure compliance with this By-law;

- (b) question any person who is or was on or in such land, either alone or in the presence of any other person, on any matter to which this By-law relates;
 - (c) require from any person who has control over or custody of a book, record or other document on or in such land, to produce to the inspector, such book, record or other document;
 - (d) examine any such book, record or other document or make a copy thereof or an extract therefrom;
 - (e) require from such person an explanation of any entry in such book, record or other document;
 - (f) 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;
 - (g) seize any book, record or other document or any article, substance, plant or machinery or part or sample thereof which may serve as evidence at the trial of any person charged with an offence under this By-law or the common law: Provided that the user of the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure; and
 - (h) direct any person to appear before him or her at such time and place as may be determined by the inspector and question such person either alone or in the presence of any other person on any matter to which this By-law relates.
- (5) When the investigator enters the land in terms of subsection(4)(a), a person who controls or manages the land must at all times provide such facilities as are reasonably required by the inspector to enable him or her to perform his or her functions effectively and safely under this By-law.
- (6) When the inspector removes or seizes any articles, substances, plant, machinery, book, record or other document as contemplated in subsections 4(f) and (g), he or she must issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.
- (7) An inspection of a private dwelling may only be carried out by the inspector when authorised in terms of a warrant issued by a competent court.
- (8) The inspector may, where necessary, be accompanied by a police official or any other person reasonably required to assist him or her in conducting the inspection.
- (9) The inspector may issue a compliance notice to a person who control or manages the land or the owner or person in control of a private dwelling if a provision of this By-law has not been complied with.
- (10) A compliance notice remains in force until the relevant provision of the land use scheme has been complied with and the inspector has issued a compliance certificate in respect of the notice.

- (11) The inspector, who enters and searches any land or dwelling under this section, must conduct such search or seizure with the strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.

CHAPTER 3

LAND DEVELOPMENT MANAGEMENT

21. Municipal land use planning

- (1) Except as provided for in terms of this By-law, all land development applications must be submitted to the municipality as the authority of first instance.
- (2) Despite subsection (1), where an application or authorisation is required in terms of any other legislation for a related land use, such application must also be made or such authorisation must also be requested in terms of that legislation.

22. Establishment of the Municipal Planning Tribunal

- (1) The municipality, in order to determine land development applications within its area of jurisdiction, hereby establishes a Municipal Planning Tribunal.
- (2) The Municipal Manager shall invite, through public invitation, applications for appointment as Member of the Municipal Planning Tribunal.
- (3) Notwithstanding subsection (1), the municipality may authorise that certain land use and land development applications may be considered and determined by an official in the employment of the municipality.
- (4) The official authorised to make decisions on certain land use and land development applications as referred to in subsection (2) must be a registered planner.
- (5) The municipality must, in order to determine land use and land development applications within its municipal area, categorize land development applications to be considered by an official as set out in Schedule 3.
- (6) Subject to subsection (3), where a municipal official is authorised in terms of subsection (2) to consider and determine a land use and land development application, the provisions of sections 27 (5), (6), (8), (9), (10), (12), 37, 38, 45, 48 and 52 will apply to such an official as if the reference to a Municipal Planning Tribunal in such provisions refers to such official.

23. Composition of the Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal must consist of -
- (a) officials in the full-time service of the municipality; and
 - (b) persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

- (2) Municipal councillors may not be appointed as members of a Municipal Planning Tribunal.
- (3) A person appointed in terms of subsection 1(b), may be remunerated in accordance with the applicable treasury regulations.
- (4) The Municipal Planning Tribunal must consist of at least five members or more as the Municipal Council deems necessary, and must comprise of at least -
 - (a) a Registered Town Planner registered in terms of the Planning Profession Act, 2002;
 - (b) a Professional Engineer registered in terms of section 19(2)(a) of the engineering Profession Act, 200 (Act No. 46 of 2000);
 - (c) a member with a legal qualification;
 - (d) persons with at least 5 years practical experience and expertise in planning and development matters or environmental management.
- (5) The Municipal Council must designate -
 - (a) a member of the Municipal Planning Tribunal as chairperson;
 - (b) another member as deputy chairperson, to act as chairperson of the Municipal Planning Tribunal when the chairperson is absent or is unable to perform his or her duties; and
 - (c) a secretary to the Municipal Planning Tribunal.

24. Term of office of members of the Municipal Planning Tribunal

- (1) The term of office of members of a Municipal Planning Tribunal is five years or such shorter period as the Municipal Council may determine at the appointment of members, which period may not be extended at the expiry thereof.
- (2) No person not in the employ of government may serve for more than one term excluding the unexpired portion as contemplated in section 25(6).
- (3) The terms of conditions of service of members appointed in terms of section 23(1)(b) must be determined by the Municipal Council.
- (4) Where the Municipal Council fails to appoint persons referred to in section 23(1)(b), the MEC may after consultation with the Municipal Council and subject to section 139 of the Constitution, appoint such persons on behalf of the Municipal Council, and, where necessary, the Premier must determine the term of conditions of that person's appointment.
- (5) Upon the first appointment of members to the Municipal Planning Tribunal and when the Municipal Council is satisfied that the tribunal is in the position to commence its operations, the municipal manager must publish a notice to that effect in the *Provincial Gazette*.
- (6) The Municipal Planning Tribunal may only commence its operations as contemplated in this By-law after publication of the notice as contemplated in subsection (4).

25. Disqualification from membership of Municipal Planning Tribunals

- (1)** A person may not be appointed or continue to serve as a member of the Municipal Planning tribunal if that person -
- (a) is not a citizen or permanent resident of the Republic of South Africa;
 - (b) is a member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
 - (c) is an unrehabilitated insolvent;
 - (d) has been declared by a court of law to be mentally incompetent or has been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
 - (e) has at any time been convicted of an offence involving dishonesty;
 - (f) has at any time been removed from an office of trust on account of misconduct;
 - (g) has previously been removed from a tribunal in terms of legislation;
 - (h) has been found guilty of misconduct, incapacity or incompetence; or
 - (i) fails to comply with the provisions of this By-law or any legislation.
- (2)** A member must forthwith vacate his or her office if that member becomes subject to a disqualification as contemplated in subsection (1).
- (3)** A member of a Municipal Planning Tribunal -
- (a) must make full disclosure of any conflict of interest, including any potential conflict; and
 - (b) may not attend, participate or vote in any proceedings of the tribunal in relation to any matter in respect of which the member has a conflict of interest.
- (4)** For the purpose of this section, a member has a conflict of interest if -
- (a) the member, a family member, partner or business associate of the member is the applicant or has a pecuniary or other interest in the matter before the tribunal;
 - (b) the member has any other interest that may preclude or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner; and
 - (c) the member is an official in the employ of national, provincial or local government, if the department by which such an official is employed, has a direct or substantial interest in the outcome of the matter.
- (5)** The Municipal Council may at any time remove a member of an applicable Municipal Planning Tribunal from office -
- (a) if, there are reasonable grounds justifying the removal; or
 - (b) where a member has been disqualified in terms of subsection (1) after giving such a member an opportunity to be heard.
- (6)** If a member's appointment is terminated or the member resigns, the Municipal Council may appoint a person to fill the vacancy for the unexpired portion of the vacating member's term of office, subject to subsection (1).

26. Technical and other advisers

- (1) The Municipal Planning Tribunal and the executive authority of the municipality as the appeal authority in the performance of their duties may, co-opt, appoint or employ the services of technical or other advisers, subject to the prior written approval from the municipal manager in respect of the financial implications of such an appointment.
- (2) An adviser contemplated in subsection (1) is not a member of, and has no voting rights in the meeting of the Municipal Planning Tribunal or the executive authority of the municipality as the appeal authority.
- (3) A representative or a member of a Traditional Council may participate in the proceedings of the Municipal Planning Tribunal as an adviser, when the tribunal considers any land development applications affecting land under the jurisdiction of that traditional council subject to section 81 of the Local Government: Municipal Structures Act, 1998 and the Traditional Leadership and Governance Framework Act, 2003.
- (4) An advisor who is not a public service official or in the employment of a municipality, may be remunerated in accordance with the applicable treasury regulations.

27. Determination of matters before the Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal may designate at least three members of the tribunal to hear, consider and decide all matter which comes before it.
- (2) At least one of the members designated in terms of subsection (1) must be a Registered Planner.
- (3) The persons designated in terms of subsection (1) must include at least one member who is not a municipal official.
- (4) The chairperson must designate one of the members referred to in subsection (1) to be the presiding officer.
- (5) The Municipal Planning Tribunal must consider and determine all land development applications lawfully referred or submitted to it within a reasonable time and without undue delay.
- (6) The Municipal Planning Tribunal may conduct an investigation into any matter relevant to an application being considered by the Municipal Planning Tribunal.
- (7) The Municipal Council may, at the request of a Municipal Planning Tribunal, designate a municipal official or appoint any other person as an inspector to conduct an inspection required by the Municipal Planning Tribunal.
- (8) The Municipal Planning Tribunal must keep a record of its proceedings.
- (9) The Municipal Planning Tribunal must provide reasons for any decision made by it.
- (10) The Municipal Planning Tribunal may –
 - (a) approve, in whole or in part, or refuse any application referred to it in terms of this By-law;
 - (b) in the approval of any application in terms of this By-law or the Bushbuckridge Land Use Scheme, impose any reasonable conditions, including conditions

- relating to the provision of engineering services and the payment of development contributions;
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of the By-law;
 - (d) conduct any necessary investigations;
 - (e) give direction relevant to its functions to any person in the service of the municipality or municipal entity;
 - (f) decide any question concerning its own jurisdiction; or
 - (g) appoint technical advisors or advisors to assist in the performance of the Municipal Planning Tribunal's functions in term of this By-law, subject to the prior written approval from the municipal manager in respect of the financial implications of such an appointment.
- (11) A decision of a majority of members of the Municipal Planning Tribunal is the decision of the Municipal Planning Tribunal, and in the event of an equality of votes the presiding officer has a deciding vote.
- (12) The Municipal Planning Tribunal may not make a decision which is inconsistent with the spatial development framework.
- (13) Any decision which is inconsistent with the spatial development framework must be submitted to the Municipal Council as a recommendation by the tribunal or authorised official, for final approval by the Municipal Council.
- (14) A record must be kept of all decisions taken which is inconsistent with the spatial development framework.

28. Professional assessment

- (1) The Municipal Planning Tribunal shall not consider any application in terms of this By-law unless it has first obtained the written recommendation of a registered planner.
- (2) The written recommendation, as contemplated in subsection (1), must include such registered planner's evaluation of the proposal confirming that the application complies with; the procedures required by this By-law, the spatial development framework and the land use scheme; applicable policies and guidelines; or if the application does not comply, state in what respect the application does not comply.

29. Types of land development applications

- (1) An application submitted in terms of section 21(1) includes an application for –
- (a) the amendment of a land use scheme, except any changes affecting the scheme regulations in terms of section 16 (4);
 - (b) the subdivision of land;
 - (c) the consolidation of different pieces of land;
 - (d) the establishment of a township;
 - (e) the amendment of an approved land development;
 - (f) the extension of the boundaries of a township;

- (g) the division or phasing of the establishment of a township;
 - (h) alteration, amendment or cancellation of a General Plan;
 - (i) any other application to develop land.
- (2) An application in terms of section 21 (1) may consist of more than one of the land development applications referred to in subsection (1), and the municipality may permit -
- (a) simultaneous submission, advertising and assessment of multiple land development applications; and
 - (b) simultaneous publication of multiple decisions of the municipality on land development applications.
- (3) Whenever the approval of the establishment of a township, extension of boundaries of a township, the amendment or cancellation of a general plan results in a change of the provisions of the land use scheme, the land use scheme shall be deemed to be amended consistent with such approval.

30. Submission of land development application

- (1) Any land development application contemplated in section 29(1) must be submitted and be dealt with in terms of this By-law.
- (2) Five copies of every application referred to in subsection (1) must be submitted to the municipal manager, provided that the municipal manager may designate an official in the employment of the municipality for that purpose.
- (3) Every application must, in addition to any other documents referred to in Schedule 4 include the following documents -
- (a) A signed completed application form, in the format set out in Schedule 5;
 - (b) Such application fees as may be determined by the municipality; and
 - (c) Any additional documents or information in support of the application as requested by the municipality.
- (d) Where an application is submitted by -
- (i) a person authorized by the management authority of a corporate body, the application must be accompanied by an extract from the minutes of such management authority, certified as true and correct by the chairperson or head of such management authority, whereby such person is so authorized; or
 - (ii) a person acting under section 31(1)(b), the application must be accompanied by a written authorization in the form as set out in Schedule 6 signed by the owner or owners of the land concerned, certified as a true and correct copy by a Commissioner of Oaths, authorizing such person to make the application on behalf of such owner or owners; or
 - (iii) a person acting under section 31(1)(c) and (d), the application must be accompanied by a copy of the agreement, certified as a true and correct copy by a Commissioner of Oaths, and if the person signing the application as a duly authorized agent of the person authorized in terms of such agreement, by

both a copy of such agreement certified as aforesaid and a written authorisation in the form as set out in Schedule 6, signed by such authorized person in favour of the signatory to the application.

31. Parties to land development application(s)

- (1) A land development application may only be lodged by -
 - (a) an owner or beneficial owner, including the State, of the land concerned;
 - (b) a person acting as the duly authorized agent of the owner or beneficial owner;
 - (c) a person to whom the land concerned has been made available for development in writing by an organ of state or such person's duly authorized agent; or
 - (d) a service provider responsible for the provision of infrastructure, utilities or other related services.
- (2) For the purpose of this section, "service provider" includes a person or institution that performs a function which affects the use, form or function of land.

32. Land development application procedure

- (1) The municipal manager must within 14 days of receipt of a land development application, in writing addressed to the applicant -
 - (a) acknowledge receipt of the application; and
 - (b) register the application; or
 - (c) subject to subsection (3) refuse to register the application; or
 - (d) subject to subsection (4), reject, with reasons, an incomplete or incorrect application,
 - (e) inform and advise the applicant regarding the persons, bodies and State departments to be given notice of the application,
 - (f) provide the applicant with advice regarding any specific method of giving notice as referred to in section 33.
- (2) The municipality may charge a fee for the administration of an application.
- (3) The municipality must request an applicant to complete an incomplete application by providing supplementary information reasonably necessary to support the land development application.
- (4) The municipality must request an applicant to correct an incorrect or incomplete application.
- (5) A complete land development application includes the documentation as set out in section 30(3).

33. Public notice and participation

- (1) After a land development application has been registered in terms of section 32(1)(b) the municipality, or applicant with consent from the municipality, must give notice of the application within 14 days, subject to the requirements in Schedule 7, in the following manner:

- (a) Publication of notice, in the format as set out in Schedule 8, in two local newspapers and the *Provincial Gazette* once a week for two consecutive weeks;
 - (b) By posting a copy of the notice, in the format as set out in Schedule 8, the size of which must be at least 60cm by 42cm, on every street boundary of the land which is the subject of the application, in a conspicuous and easily accessible place, no later than the date of first publication of the notice in the *Provincial Gazette*, which notice must remain visible and be maintained on the property for a period of 14 days;
 - (c) By written notice, in the format as set out in Schedule 8, to all adjoining owners and interested and affected parties;
 - (d) By circulating a copy of the application to all persons, bodies and State departments as referred to in section 32(1)(e).
 - (e) By circulating a copy of the application to every municipality whose area of jurisdiction is situated within a distance of 10km from the land in respect of which application has been made; and
 - (f) The municipality may, in its discretion, prescribe any other reasonable means of notification that is appropriate for the local context and which is necessary to ensure that all persons whose rights may be affected by the application are adequately informed of it.
- (2) The applicant must submit the following evidence of compliance with the requirements for public notification, only if the applicant placed the notices as contemplated in section 33 (1), by providing the municipality with the following documentation within 21 days from the date on which the notice was first published
- (a) a copy of the record of the registered post or delivery of the notice to all persons and bodies as set out in subsections 1(c) and (d);
 - (b) copies of the newspaper advertisements and *Provincial Gazette* notice as set out in subsection 1 (a);
 - (c) photographs of the notice on site as set out in subsection 1(b); and
 - (d) an affidavit that the notice, as set out in subsection 1(b) was posted on site and maintained for 14 days after such posting.

34. Objections

- (1) Any person who intends to object to any land development application or to make representations thereon must do so in writing by delivering three signed copies of the objection or representation, as set out in Schedule 9, within a period of 28 days from the first date of the publication of the notice, to the municipality and to the applicant, at the address provided for that purpose in the public notice.
- (2) The objection or representation must, in addition to any other information referred to in Schedule 9 include the following information:

- (a) The full names, identity or registration numbers, postal and physical address of the person so objecting or making representations as the case may be; and
 - (b) A written statement of the grounds of their objection or of the representations which they wish to make with sufficient detail to enable the municipal manager, the applicant and other interested and affected parties to understand the nature thereof.
- (3) The municipal manager may require such objector or person who has made representation to deliver copies of the objection or representation, on other persons or bodies that have lodged objections or made representations.
- (4) Where several objectors or persons who have made representations have lodged similar objections or made similar representations they may agree to combine their objections or representations and if so they may give the applicant, the municipal manager and any other interested and affected parties written notice of that fact and in such event all future documents to be provided to them may be served at the place designated by them in such notice.
- (5) The municipal manager must forward any comments, objections or representations submitted to the municipality, to the applicant within 14 days after receipt thereof.
- (6) The applicant and the municipal manager may, on receipt of an objection or representations, in writing delivered to the objector or person who has made representation request further elaboration in respect thereof, and such request must be responded to within not more than 14 days of the delivery of such request.
- (7) If no response is received by the municipality to a request made in terms of subsection (6) the Municipal Planning Tribunal may proceed with a consideration only of the original documents delivered to it.
- (8) The applicant may, within 28 days of the expiry of the period during which objections or representations may be lodged submit a written response thereto, to both the objector concerned and the municipality and on expiry of such period of 28 days the exchange of documents shall be deemed to be complete and the application must be considered.

35. Amendment of pending land development application

- (1) With the consent of the municipality, and subject to subsections (2) to (4), an applicant may amend a land development application at any time prior to a decision being made thereon in terms of section 38(2) and in the case of an opposed application, not later than 28 days prior to any hearing by the municipality.
- (2) An amendment of a land development application may not include any increase in the extent, intensity, density or change in the nature of the land development applied for.
- (3) Notice of an amendment of an application, in the form set out in Schedule 8, must be given by the applicant, at his or her cost, to all parties that was initially notified in terms of section 33, provided that where such amendment is not substantial and

made on reasonable grounds, the municipality may exempt the applicant from giving notice.

- (4) If the amendment of a development application requires notification in terms of subsection (3) any applicable time periods must be calculated from the date of notification of the amended application.
- (5) An applicant may at any time, prior to the determination of the application, inform the municipality that he or she is prepared to accept a partial approval of the development application and such proposed partial approval shall not constitute an amendment of the application.

36. Change of ownership

- (1) If the ownership of land being the subject of a land development application is transferred, the new owner must forthwith inform the municipal manager and the new owner shall be the applicant from the date of transfer of the land.
- (2) The new owner must assume all the rights and responsibilities of the applicant.

37. Deciding a land development application

- (1) In considering and deciding a land development application a Municipal Planning Tribunal must -
 - (a) make a decision which is consistent with the norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the Spatial Development Framework; and
 - (b) take into account -
 - (i) the public interest;
 - (ii) the constitutional transformation imperatives and the related duties of the state;
 - (iii) the fact and circumstances relevant to the application;
 - (iv) the respective rights and obligations of all those affected;
 - (v) the state and impact of engineering services, social infrastructure and open space requirements; and
 - (vi) any factors that may be prescribed, including timeframes for making decisions.

38. Determination of a land development application

- (1) The Municipal Planning Tribunal may consider a land development application -
 - (a) on the recommendation of the registered planner as referred to in section 28 and documentation submitted by the applicant and objector and/or every person who has made representations; or

- (b) after hearing oral representations by or on behalf of the applicant and objector and/or every person who has made representations at a hearing as referred to in section 73; or
 - (c) after a public meeting called by the municipality for which public notice has been given and at which both the applicant and any interested and affected parties or their representatives are given an opportunity to address such meeting and members of the public are given an opportunity to comment.
- (2) In deciding an application the Municipal Planning Tribunal may -
- (a) approve the application in whole or in part;
 - (b) approve the application with amendments;
 - (c) approve the application subject to any conditions that may be necessary;
 - (d) refuse the application; or
 - (e) postpone a decision on the application, either wholly or in part.
- (3) The Municipal Planning Tribunal must make a decision as contemplated in subsection (2) on a land development application within 60 days after -
- (a) the date on which the exchange of documents is deemed to be complete in terms of section 34 (8), if no hearing will be held; or
 - (b) the date of a hearing or a public meeting,

as the case may be.

- (4) An application may be approved subject to such conditions as -
- (a) determined by the Municipal Planning Tribunal; or
 - (b) may be prescribed.
- (5) The municipality must give notice of its decision on a land development application as referred to in subsection 2, to -
- (a) the applicant;
 - (b) all persons or bodies who made objections and/or representations;
 - (c) the relevant residents' association or any other organised group registered with the municipality as a group with an interest in the area,

within 14 days of the decision having been made.

39. Request for reasons

Any person having been notified of a decision made by the municipality may, within 28 days of receipt of the notification and after the payment of the fees as may be determined by the municipality, request the written reasons for the decision from the municipality and the municipality must provide the written reasons within 28 days from the date of the request.

Procedure after approval of application forestablishment of a township or the extension of the boundaries of a township**40. Conditions of establishment**

- (1) In approving a land development application, as set out in section 29(d)(f) and (g), the Municipal Planning Tribunal may, in the form as set out in Schedule 10, impose any conditions of establishment relating to -
 - (a) the provision of engineering services as set out in Chapter 5;
 - (b) the payment of development contributions for external engineering services;
 - (c) the provision and transfer of land to any competent authority for use as public open space, or the payment of an endowment in lieu thereof;
 - (d) the provision of streets;
 - (e) the registration of servitudes and conditions of title;
 - (f) the provision of land for open space, parks educational or other social facilities, or the payment of an endowment in lieu thereof; or
 - (g) any other matter necessary.
- (2) In imposing conditions of establishment the Municipal Planning Tribunal must distinguish between conditions -
 - (a) that must be completed to its satisfaction prior to the issue of a certificate in terms of subsection (3); or
 - (b) that must be complied with after the issue of such certificate, which shall include conditions to be inserted in any title deeds or certificates issued in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Sectional Titles Act, 1986 (Act No. 95 of 1986).
- (3) The municipality must, upon satisfaction of conditions of establishment referred to in subsection (2)(a), issue to the applicant a certificate to that effect.
- (4) After the applicant has been notified in terms of section 38(5)(a) that his or her application has been approved, but before the township is declared an approved township in terms of section 44, the municipality, after consultation with the applicant, may amend or delete any condition imposed in terms of subsection (1) or add any further condition or conditions.
- (5) An approval subject to conditions will lapse if a condition is not complied with, within -
 - (a) a period of five years from the date of such approval, if no period for compliance is specified in such approval; or
 - (b) the period for compliance specified in such approval, which period together with any extension which may be granted, may not exceed five years.

41. Notification to Surveyor-General and Registrar of Deeds

- (1) The municipality must after a land development application is approved, in term of section 38 (2) (a) (b) or (c) notify the -

- (a) Registrar of Deeds in whose office the subject land is recorded; and
 - (b) Office of the Surveyor-General where such approval affects a diagram or general plan filed in that office,
- of such approval and conditions of establishment.
- (2) The applicant must, within 3 years from the date of approval of a land development application, or such further period as the municipality may permit, lodge for approval with the Surveyor-General and Registrar of Deeds such plans, diagrams and other documents as may be required.
 - (3) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents contemplated in subsection(2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General shall notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the application shall lapse.
 - (4) Should the applicant fail to comply with the provisions of subsection (2), the land development application shall lapse.
 - (5) The applicant must within a period of 3 months upon the approval of a general plan or diagram by the Surveyor-General submit a copy of such documents to the municipality.

42. Division or phasing of township

- (1) An applicant who has been notified in terms of section 38 (5) (a) that his or her application has been approved may, within a period of 4 months from the date of the notice, or such further period as the municipality may allow, apply to the municipality for the division of the township into two or more separate townships.
- (2) On receipt of an application in terms of subsection (1) the Municipal Planning Tribunal may -
 - (a) where the documents contemplated in section 41(2) have not yet been lodged with the Surveyor-General, or
 - (b) where the documents contemplated in section 41(2) have been lodged with the Surveyor-General, after consultation with the Surveyor-General;

consent to the division of the township subject to any condition the Municipal Planning Tribunal may deem expedient.
- (3) Where consent has been granted in terms of subsection (2), the municipality shall notify the applicant in writing thereof and of any conditions imposed.
- (4) The applicant shall, within a period of 3 months from the date of the notice contemplated in subsection (3), submit to the municipality such plans, diagrams or other documents and furnish such information as may be required in respect of each separate township.

- (5) On receipt of the documents or information contemplated in subsection (4) the municipality shall notify the Surveyor-General, and the registrar in writing of the consent granted in terms of subsection (2), and such notice shall be accompanied by a copy of the plan of each separate township.
- (6) The granting of consent in terms of subsection (2) and the notice contemplated in subsection (3) shall, in respect of each separate township, be deemed to be the approval of an application in terms of section 38(2) and a notice contemplated in section 38(5) respectively.
- (7) The provisions of sections 41, 43 and 44 shall apply *mutatis mutandi* to an application in terms of this section.

43. Lodging of plans, diagrams and the deeds for endorsement or registration

- (1) The applicant shall lodge with the Registrar of Deeds the plans and diagrams contemplated in section 41(2) as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be: Provided that the Registrar shall not accept such documents for endorsement or registration until such time as he is advised by the municipality that the applicant has complied in terms of section 40(3).
- (2) The plans, diagrams and title deeds contemplated in subsection (1) shall be lodged with the Registrar of Deeds within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the municipality may allow.
- (3) If the applicant fails to comply with the provisions of subsection (1) or (2) the application shall lapse.
- (4) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar of Deeds shall notify the municipality forthwith of such endorsement or registration, and thereafter the Registrar of Deeds shall not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 44.

44. Notice declaring a township an approved township

When the provisions of sections 40, 41, 43 and section 42 to the extent applicable, have been complied with, the municipality must give notice in the *Provincial Gazette*, declaring the township an approved township, and include a schedule to such notice, setting out the conditions on which the township is declared an approved township.

Procedure after approval of application for subdivision and consolidation of land

45. Conditions of approval

- (1) In approving an application for subdivision or consolidation, as set out in section 29(1)(b) and (c), the Municipal Planning Tribunal may impose any conditions of approval relating to -
 - (a) the payment of development contributions towards engineering services contemplated in Chapter 5, where it will be necessary to enhance or improve such services as a result of the proposed subdivision or consolidation;
 - (b) the provision of land for open space, parks, educational or other social facilities, or the payment of an endowment in lieu thereof, or
 - (c) any other matter considered necessary by the municipality.
- (2) The municipality may, at the request of the owner and after consultation with the Surveyor-General -
 - (a) cancel, subject to any reasonable condition expedient, an approval of an application in terms of section 38(2); look at ordinance
 - (b) amend or delete any condition, other than a condition of title imposed in terms of subsection (1) or add any condition contemplated in that subsection to the existing conditions;
 - (c) approve an amendment of the plan setting out a proposed subdivision or consolidation, where the application for such subdivision or consolidation has been approved in term of section 38(2).
- (3) The municipality shall not exercise any power conferred by section 38(2) and subsection (1) and (2) if it will bring about a result which is in conflict with -
 - (a) any condition on which the township concerned was declared an approved township;
 - (b) a condition of title imposed in terms of any law;
 - (c) a provision of an approved scheme applicable to the erf or erven concerned.
- (4) The municipality must, upon satisfaction of conditions referred to in subsection (1), issue to the applicant a certificate to that effect.

46. Notification to Surveyor-General and Registrar of Deeds

- (1) The municipality must after an application for subdivision or consolidation is approved notify the -
 - (a) Registrar of Deeds in whose office the subject land is recorded; and
 - (b) Office of the Surveyor-General where such approval affects a diagram or general plan filed in that office;of such approval and conditions of approval.
- (2) The applicant must, within 3 years from the date of approval of a subdivision or consolidation application, or such further period as the municipality may permit, lodge for approval with the Surveyor-General and Registrar of Deeds such plans, diagrams and other documents as may be required.
- (3) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any

requirement the Surveyor-General may lawfully lay down, the Surveyor-General shall notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the application shall lapse.

- (4) Should the applicant fail to comply with the provisions of subsection (2), the land development application shall lapse.
- (5) The applicant shall, within 3 months after the Surveyor-General has approved the diagram of the subdivision or consolidation submit 2 clear and legible photo-copies of the approved diagram to the local authority.

47. Endorsement of Certain Documents

The applicant shall, before he or she submits a deed of transfer or certificate of registered title in respect of the subdivided or consolidated portion to the Registrar for registration in terms of the Deeds Registries Act, 1937, have the power of attorney in respect of the transfer or the application for such certificate endorsed by the municipality, to the effect that the applicant has complied with section 45(4) or that arrangements in respect of such compliance, including the furnishing of guarantees in respect of any condition requiring payment of an amount of money, have been made to the satisfaction of the municipality.

Procedure after approval of application for an amendment of the land use scheme or any other application submitted in terms of section 29(1)(i)

48. Conditions of approval

- (1) In approving a land development application, as set out in section 29 (a), the Municipal Planning Tribunal may impose any conditions of approval relating to –
 - (a) the payment of development contributions towards engineering services contemplated in Chapter 5, where it will be necessary to enhance or improve such services as a result of the proposed amendment of the land use scheme;
 - (b) the provision of land for open space, parks, educational or other social facilities, or the payment of an endowment in lieu thereof, or
 - (c) any other matter considered necessary by the municipality.
- (2) The municipality must, upon satisfaction of conditions referred to in subsection (1), issue to the applicant a certificate to that effect.

49. Notice declaring an amendment of the land use scheme an approved amendment

After the provisions of section 48 (2) have been complied with the municipality must give notice in the *Provincial Gazette*, declaring the amendment of the land use scheme an approved amendment.

Procedure after approval of alteration, amendment or cancellation of a general plan

50. Notification to the Surveyor General

- (1) After the Municipal Planning Tribunal has approved or refused an application for the alteration, amendment or cancellation of a general plan, the municipality shall forthwith notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.
- (2) An applicant who has been notified in terms of Section 38(5)(a) that his or her application has been approved shall, within a period of 12 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he fails to do so the application shall lapse.
- (3) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General shall notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the municipality shall notify the applicant, and thereupon the application shall lapse.
- (4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1927, altered or amended the general plan or has totally or partially cancelled it, he shall notify the municipality.
- (5) The municipality must, upon satisfaction of the conditions referred to in subsection (1), issue to the applicant a certificate to that effect.
- (6) On receipt of the notice contemplated in subsection (4) and after the certificate has been issued in terms of subsection (5) the municipality shall publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and it shall, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.
- (7) The applicant shall lodge with the Registrar of Deeds the plans and diagrams contemplated in subsection (4) as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be: Provided that the Registrar shall not accept such documents for endorsement or registration until such time as he is advised by the municipality that the applicant has complied in terms of subsection (5).

51. Effect of alteration, amendment or cancellation of general plan

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

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

52. Amendment of an approved land development application

After an applicant has been notified in terms of section 38(5)(a) that his or her application has been approved, the Municipal Planning Tribunal may consent to the amendment of such documents, unless the amendment is so material as to constitute a new application.

53. Limitation on transactions

- (1) Until a certificate issued in terms of section 40(3), 45(4), 48(2) and 50(5) is submitted to the Surveyor-General or Registrar of Deeds to the effect that the applicable conditions of establishment have been complied with to the satisfaction of the municipality -
 - (a) no act permitted under the Deeds Registries Act, 1937, the Sectional Titles Act, 1986 (Act No. 95 of 1986) or the Land Survey Act, 1997 initiated by or on behalf of the owner of the land which is the subject of the approval may be dealt with in accordance with such Acts save as permitted by this By-law;
 - (b) the municipality shall not approve the erection of any building in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) on the land which is the subject of any land development application save in accordance with such approval.
- (2) The Registrar of Deeds shall not register any transaction in terms of the Deeds Registries Act, 1937 or the Sectional Titles Act, 1986 submitted by or on behalf of the owner of the land which is the subject of an approval under this By-law and arising as a consequence of such approval unless the documents evidencing such transaction include any conditions of title imposed by the municipality.

54. Prohibition of certain contracts

- (1) After a land development application to subdivide or consolidate land or to establish a township on land is registered in terms of section 32(1)(b) no person shall, subject to section 55-
 - (a) enter into any contract for the sale, exchange or alienation or disposal in any manner of any erf arising from such subdivision or consolidation or in the proposed township;
 - (b) grant an option to purchase or otherwise acquire an erf arising from such subdivision or consolidation or in the township until such time as the relevant conditions of establishment have been satisfied; and a certificate in terms of sections 40(3), 45(4) or 48(2) to that effect has been issued by the municipality.
- (2) The provisions of subsection (1) must not be construed as prohibiting any person from purchasing land on which he or she wishes to establish a township subject to a condition that upon the declaration of the township as an approved township, one or more of the erven therein will be transferred to the seller.

- (3) Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.

55. Municipality may consent to certain contracts and option

- (1) After an owner of land has applied in terms of section 29 (d)(e)(f)(g) and/or (h), to establish a township, he or she may apply to the municipality for consent to enter into any contract contemplated in section 54 or to grant any option contemplated in the latter section, and the municipality may consent to the entering into of such contract or the granting of such option subject to any condition, and thereupon the municipality shall notify the owner in writing thereof and of any condition imposed.
- (2) On receipt of a notice contemplated in subsection (1) the applicant shall, before entering into the contract or granting the option, but within a period of 6 months from the date of the consent, furnish to the municipality a guarantee of such type and for such amount as the municipality may determine and which is otherwise to its satisfaction that he will fulfil his duties in respect of the engineering services contemplated in Chapter 5, and if he fails to do so the consent shall lapse.
- (3) A determination by a municipality in terms of subsection (2) shall not be subject to an appeal in terms of Chapter 4.
- (4) Where the municipality has, in terms of subsection (1), consented to the entering into of a contract or the granting of an option, the contract or option shall contain a clause stating that the township concerned is not an approved township.
- (5) Where a contract or option contemplated in subsection (4) does not contain the clause contemplated in that subsection, the contract or option shall, at any time before the township is declared an approved township in terms of section 44, be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.
- (6) Any person who alienates or disposes of an erf and who enters into a contract contemplated in subsection (4) or grants an option contemplated in that subsection which does not contain the clause contemplated therein shall be guilty of an offence.

Chapter 4

RELATED LAND DEVELOPMENT MATTERS

56. Establishment of the Appeal Authority

- (1) The executive authority of the municipality is the appeal authority.
- (2) The municipality, in order to determine appeals within its area of jurisdiction, hereby establishes an Appeal Authority.

57. Internal Appeals

- (1) Any person whose rights are affected by -
- (a) a decision of the Municipal Planning Tribunal or authorised official -

- (i) In terms of section 38(2); or
 - (ii) in terms of the Bushbuckridge Land Use Scheme;
- (b) the refusal or unreasonable delay of the Municipal Planning Tribunal or authorised official to give a decision as contemplated in paragraph (a)

may appeal against that decision by giving written notice of the appeal and reasons, as set out in Schedule 11, to the municipal manager within 21 days of the date of notification of the decision, or the date on which the decision must have been made.

- (2) The appellant/s in term of subsection (1) must pay a fee to appeal as prescribed by the municipality.
- (3) The municipal manager must within 14 days after the notice of appeal is received and the fees referred to in subsection (2) has been paid, submit the appeal to the appeal authority.
- (4) A person whose rights are affected within the provisions of subsection (1) includes -
 - (a) an applicant as referred to in section 31(1);
 - (b) the municipality;
 - (c) an interested person who may reasonably be expected to be affected by the outcome of the land development application or land use scheme proceedings.
- (5) An interested person for the purpose of subsection 4(c) must be having a pecuniary or proprietary interest who is adversely affected or able to demonstrate that she or he will be adversely affected by the decision of the Municipal Planning Tribunal or authorised official.
- (6) The municipality may, in place of its executive authority, authorise that a body or institution outside of the municipality assume the obligation of an appeal authority in terms of this section.

58. Functions of the appeal authority

- (1) Subject to section 60, the appeal authority must consider and determine all appeals and any other matters referred to it in terms of this By-law.
- (2) The appeal authority must keep a record of all its proceedings.
- (3) The appeal authority must record its reasons for any decision or determination.

59. Powers of the appeal authority

- (1) The appeal authority may -
 - (a) uphold or dismiss an appeal and impose any conditions with regard to the subject of an appeal;
 - (b) make any appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law;
 - (c) conduct any necessary investigation;
 - (d) give directions relevant to its functions to any person in the service of the provincial administration, a provincial public entity, provincial government

business enterprise or a municipality relevant to matters referred to in this By-law;

- (e) decide any question concerning its own jurisdiction;
- (f) subpoena any person to appear before it;
- (g) on its own initiative, obtain expert evidence or opinion;
- (h) determine any matters referred to it on the grounds of failure by the Municipal Planning Tribunal or authorised official to determine an application within the prescribed period;
- (i) determine appeals relating to engineering services, development contributions and other endowments payable;
- (j) condone any failure by any party to an appeal to comply with any directions given by the appeal authority;
- (k) determine costs; and
- (l) make any order as to costs.

60. Conflicts of interest and conduct at hearings

- (1) A member of the appeal authority -
 - (a) must make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider; and
 - (b) may not attend, participate or vote in any proceedings of the board in relation to any matter in respect of which the member has a conflict of interest.
- (2) For the purposes of this section, a member has a conflict of interest if -
 - (a) the member, or a family member, partner or business associate of the member is the applicant in terms of this By-law, or has a pecuniary or other interest in the matter before the Appeal Board; or
 - (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner.
- (3) The conduct of the Appeal Board at a hearing must be impartial and must not prejudice or promote the interests of any party to the hearing.

61. Notification of appeal

- (1) A person who has lodged an appeal as set out in section 57(1) must, within 14 days after submitting the appeal to the municipal manager give notice of the appeal, in the form set out in Schedule 11, to -
 - (a) every person which submitted an objection or representation; and
 - (b) the applicant.
- (2) Any person or body to whom a notice of appeal has been submitted in term of subsection (1) may oppose the appeal by submitting a notice to the municipality in the form set out in Schedule 12, within 14 days of receipt of the notice of appeal.

62. Determination of appeal

- (1) The appeal must be heard by the appeal authority not more than 56 days after the submission of the appeal.
- (2) Written notice must be given to all parties to the appeal of the date, time and venue of the appeal no less than 28 days before the date of the appeal.
- (3) The appeal authority must finalise its decision within 14 days after the conclusion of the appeal and inform the municipal manager thereof.
- (4) After the finalisation of the decision of the appeal authority the municipal manager must inform all parties to the appeal of the outcome -
 - (a) in writing within 14 days of being notified of the outcome of the appeal and indicate their right to request reasons within 56 days of being notified of the outcome of the appeal;
 - (b) in a notice in the *Provincial Gazette*;
 - (c) in any other manner he or she deems fit.
- (5) No further appeals may be lodged in terms of this By-law after notice has been given in terms of subsection (4).

63. Provincial Advisory Body

- (1) The Municipal Planning Tribunal, authorised official or executive authority in taking a decision on a land development application or appeal may refer the decision to the MEC which will act as an advisory body providing guidance to the Municipality, within 60 days of the request.
- (2) Any party to an appeal aggrieved by the outcome of an appeal may refer the decision to the MEC which will act as an advisory body providing guidance to the Municipality, within 60 days of the request.
- (3) The Municipal Planning Tribunal, authorised official or executive authority may amend its decision based on the guidance received from the MEC as contemplated in subsection (1) and (2).
- (4) The final decision will be subject to the provisions of section 38(5)(a) to (c) and section 62(4)(a) to (c).

64. Reasons

- (1) The appeal authority must prepare written reasons for their decision within 28 days after the day on which the outcome of the appeal was made known.
- (2) The reasons for the decision must, amongst other things -
 - (a) summarise the decision of the appeal authority and any order made by it; and
 - (b) in the case of a split decision, summarise the decision and order proposed by the minority and the reasons for their decision and order.
- (3) The municipal manager must make the reasons for the decision of the appeal authority available to any person requesting such reasons within 14 days of such request.

- (4) Any request for reasons for a decision of the appeal authority must -
 - (a) clearly identify the appeal for which reasons are requested; and
 - (b) be accompanied by the fee as prescribed by the municipality.

CHAPTER 5

ENGINEERING SERVICES AND DEVELOPMENT CONTRIBUTIONS

65. Provision of engineering services

- (1) Where required by the municipality, an applicant of a land development application and municipality must enter into a Services Level Agreement.
- (2) For the purpose of this section -
 - (a) "external engineering services" consist of both "bulk services" and "link services";
 - (b) "bulk services" means all the primary water, sewerage, waste disposal, sewage treatment facilities and means of disposal of effluent and other products of treatment, electricity and storm-water services, as well as the road network in the system to which the internal services are to be linked;
 - (c) "link services" means all new services necessary to connect the internal services to the bulk services.
 - (d) "internal services" means engineering services within or outside the boundaries of land development area that are necessary for the internal use and development of the land and includes any link services linking such internal services to the external services.
- (3) The applicant is responsible for the provision and installation of internal services.
- (4) The municipality is responsible for the provision and installation of external services.
- (5) Where 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 such services.
- (6) The applicant must install the internal engineering services in accordance with the conditions of establishment.
- (7) The engineering services to be provided in terms of this By-law must be classified as external or internal engineering services in the Service Level Agreement.
- (8) If a service within the boundaries of the new land development is intended also to serve any other area within the jurisdiction of the relevant authority, such service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.

- (9) There must be clear provisions in the Service Level Agreement recording the responsibilities of the parties regarding the installation and provision of internal and external engineering services, bearing in mind the following principle:
- (a) If any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
 - (b) Generally the applicant must pay or contribute to the costs of the installation and provision of internal engineering services and conversely the agreement must provide for the relevant authority to pay or contribute to the costs of the installation and provision of external engineering services;
 - (c) It must be clear whether additional bulk services are to be provided by the relevant authority and, if so, such services must be identified;
 - (d) It must be stated which party must be responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner (if any) to which the costs of such service connections are to be recovered;
 - (e) The service connections to be made must be adequately described and may include all connections between internal services and the individual erf or portion of the land, for example –
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water-pipe terminating at a water meter;
 - (iii) an electricity house connection cable terminating on the relevant erf; and
 - (iv) the level and standard of the internal services to be installed and provided must be clearly identified, amongst others -
 - (aa) water reticulation;
 - (bb) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
 - (cc) roads and storm-water drainage;
 - (dd) electricity reticulation (high and low tension);
 - (ee) street lighting; and
 - (ff) where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading (if any) of services must be recorded.
- (10) It must be clear or determinable when the applicant and the relevant authority are to commence construction of internal and external engineering services, at which rate construction of such services is to proceed and when such services must be completed.
- (11) Provision must be made for the inspection and handing over of internal engineering services to the relevant authority and for the date on which all risk and ownership in respect of such services shall pass to such relevant authority.

- (12) Provision must be made for the following responsibilities after the internal services have been handed over to the relevant authority:
- (a) When normal maintenance by the relevant authority shall commence;
 - (b) The responsibility of the applicant for the rectification of defects in material and workmanship;
 - (c) The rights of the relevant authority if the applicant fails to rectify any defects within a reasonable period after having been requested to do so.
- (13) Provision must be made for each of the parties to take out adequate insurance cover (which may include public liability insurance) in respect of such risks as are insurable for the duration of the land development.
- (14) The Services Level Agreement reached between the applicant and the municipality may require that performance guarantees be provided, or otherwise, with the provision that -
- (a) The obligations of the parties with regard to such guarantees must be clearly stated;
 - (b) Any such guarantee or undertaking must -
 - (i) Be irrevocable during its period of validity; and
 - (ii) Be transferable by the person or body to whom such guarantee or undertaking is expressed to be payable.
- (15) Provision may be made for the manner in which the parties are to finance their relative responsibilities in terms of the Services Level Agreement. Where appropriate, either party may undertake to provide bridging finance to the other party.

66. Development contributions

- (1) The applicant must pay development contributions to the municipality or service provider, as the case may be, in respect of the provision and installation of external engineering services.
- (2) An applicant may, with the agreement of the municipality or service provider, install any external engineering service to the standards of the municipality instead of payment of the applicable development charges and the fair and reasonable cost of such external services may be set off against development charges payable.
- (3) If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) pertaining to procurement and the appointment of contractors on behalf of the municipality shall not apply.
- (4) The development contributions that are payable by the applicant must be determined by the municipality according to guidelines as prescribed and the amounts payable must be calculated in accordance with the municipal guidelines.

67. Land for parks, open space and other uses

- (1) The approval of a land development application which provides for the use of land for residential purposes is subject to the provision of land for parks or open space by the applicant, if necessary.
- (2) The land required for parks or open space must be provided within the land area to which the land development application refers or may be permitted elsewhere within the municipal area, at the discretion of the municipality.
- (3) The land provided as parks or open space which is intended as public open space must be transferred to the municipality after notice have been given in terms of sections 44 or 49.

68. Municipal streets

After notice have been given in terms of sections 44 or 49 all municipal streets shall vest in the municipality and an applicant shall not be entitled to compensation therefor.

69. General matters relating to contributions payable

- (1) Any development contributions payable as a result of an approved land development must be paid prior to –
 - (a) the use and development of the land; and
 - (b) the approval of any building plans.
- (2) Notwithstanding any provision to the contrary, where a development contribution or contribution for open space is paid to the municipality, such funds must, in terms of the provisions of the Municipal Finance Management Act (Act No. 56 of 2003), be kept separate and only applied by the municipality towards the improvement and expansion of the services infrastructure or the provision of open space or parking, as the case may be, to the benefit and in the best interests of the general area where the land area is situated or in the interest of a community that occupies or uses such land area.
- (3) The municipality must annually prepare a report on the amounts of development contributions paid to the municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and must submit such report and statement to the Premier.

CHAPTER 6

GENERAL PROVISIONS

70. Records

- (1) The municipality must keep and maintain a written record of all land development applications submitted to it and of all decisions and reasons therefor, and, subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), such record

must be made available to members of the public during normal office hours at the municipality's offices.

- (2) The keeping, maintenance and preservation of the records referred to in sub-section (1) are governed by the Mpumalanga Archives Act, 1998 (Act No. 14 of 1998).

71. Correction of errors

- (1) Where an error or omission has occurred in an approval, in any conditions of establishment, in any land use scheme or any amendment of a land use scheme or in any notice published in the *Provincial Gazette*, such error or omission may be corrected.
- (2) A correction of an error or omission referred to in subsection (1) shall be limited to technical or administrative matters that do not materially affect the scope, extent or intention of such document, or to typographical or grammatical matters.
- (3) If a notice published in the *Provincial Gazette* is corrected, such correction notice must be published in the *Provincial Gazette*.

72. Provision of information

Subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) and the law relating to documentary privilege, any person shall be entitled to obtain a copy of any document or information relating to a land development application or any other document referred to in this By-law from the municipality, provided that -

- (a) the copy of the document or information must be provided within seven days of the date of such copy of the document or information being requested in writing;
- (b) the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy; and
- (c) any document containing confidential proprietary information may only be disclosed with the consent of the owner thereof.

73. Hearings

- (1) Where in terms of any provision of this By-law the Municipal Planning Tribunal shall hear objections lodged or representations made.
- (2) The municipality, must within 14 days after the closing date for objections notify all parties who submitted the land development application, made representations or objections, of the date, place and time of the hearing.
- (3) The notice of the hearing must –
- (a) specify the place, date and time of the hearing;
- (b) state the purpose of the hearing, and
- (c) inform all parties invited to the hearing of their rights to be present or to be represented, and of the procedures of the hearing as set out in Schedule 13.

- (4) The hearing must take place not more than 60 days after the closing date for objection.
- (5) The municipality must arrange a suitable venue for the hearing, taking regard of accessibility and proximity to the land forming the subject of the land development application.
- (6) All parties who intend appearing at the hearing, must, in writing, inform the municipality of his or her intention to do so 28 days prior to the date of the hearing.
- (7) All parties who will attend the hearing may be permitted to call one or more witnesses, provided notice of such calling and a summary of evidence of the expert is given to the municipality 28 days prior to the hearing.
- (8) All parties entitled to attend the hearing must receive notice of the expert evidence at least 21 days before the date of the hearing.
- (9) Any person entitled to attend the hearing has a right to be represented at the hearing, and to personally or through their representative -
 - (a) state their case;
 - (b) call witnesses to testify and to present other evidence to support their case;
 - (c) have access to document produced in evidence and address the hearing on the merits of the application.
- (10) Any agreement reached or decision taken at the hearing must be recorded by the chairperson.
- (11) The procedure at the hearing should be in the manner as set out in Schedule 13.

74. Delegations

Any power conferred in this By-law on the municipality may be delegated by the municipality subject to section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

75. Enforcement of this By-law

- (1) Any person whom –
 - (a) contravenes or fails to comply with any provision of this By-law;
 - (b) contravenes or fails to comply with any requirement set out in a notice issued and served on a person in terms of this By-law;
 - (c) contravenes or fails to comply with any conditions imposed in terms of this By-law;
 - (d) knowingly makes a false statement in respect of any application in terms of this By-law,

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding R5000,00 or, in default of payment, to imprisonment, and in the case of a continuing offence to a fine not exceeding R 500,00 for every day during the continuation of such

offence, and for a second or subsequent offence shall be liable on conviction to a fine not exceeding R 1500,00 per day or in default of payment, to imprisonment.

76. Exemptions

- (1) The Municipal Council may temporarily and only if the provision or provisions referred to in subsection 1(a) has previously been complied with in terms of other legislation -
 - (a) exempt a piece of land or area specified in the notice as contemplated in subsection (2), from one or more of the provisions of this By-law; and
 - (b) withdraw an exemption granted or amend the substituted provisions.
- (2) The exemption may only be granted after notice has been given in the *Provincial Gazette* and all objections and representations have been considered.
- (3) Before deciding an exemption the municipality must consider -
 - (a) the degree of risk or potential risk posed by the exemption; and
 - (b) the impact on existing and surrounding land uses.

77. Transitional arrangements

- (1) All legally valid land development applications, appeals or other matters pending before the commencement of this By-law that have not been decided or otherwise disposed of, and which will fall within the ambit of this By-law must be continued and disposed of in terms of this By-law.
- (2) Section 12 of the Interpretation Act, 1957 (Act No. 33 of 1957) is applicable to any legally valid land use approval, which have not lapsed, issued by and appropriate authority in terms of applicable legislation, within the municipal area.

78. Service of document and proof of service

Where serving of any document or notice is required on any particular person, it may, be served in any of the following methods, in a manner consistent with the Mpumalanga Provincial Languages Act, 2013 –

- (a) By hand; or
- (b) By registered post; or
- (c) By facsimile; or
- (d) By electronic mail; and/or
- (e) By any other means directed by the municipality:

Provided that in the case of paragraph (c) or (d), a copy of the notice or document must simultaneously be sent by registered post or delivered by hand.

79. Short Title and Commencement

- (1) This By-law is called the Bushbuckridge Land Use By-laws, 2014 and shall come into operation on a date fixed by the municipality by Notice in the *Provincial Gazette*.

- (2) Different dates may be determined for the coming into operation of different provisions of this By-law.

SCHEDULE 1:**LEGISLATION CONTEMPLATED IN SECTION 2 OF THIS BY-LAW**

Column 1	Column 2
Land use matters regulated	Name and number of Law
Township Establishments and land use rights	PROCLAMATION R293 OF 1962 (THE REGULATIONS FOR THE ADMINISTRATION AND CONTROL OF TOWNSHIPS IN BLACK AREAS)
Township Establishments and land use rights	PROCLAMATION R. 188, BLACK AREAS LAND REGULATION, 1969
Business rights and subdivision next to provincial roads	ADVERTISING ON ROADS AND RIBBON DEVELOPMENT ACT, 1940 (ACT NO. 21 OF 1940)
Township Establishments and land use rights and subdivisions	BLACK COMMUNITIES DEVELOPMENT ACT, 1984 (ACT NO. 4 OF 1984)
Township establishment	LESS FORMAL TOWNSHIP ESTABLISHMENT ACT, 113 (ACT NO. 113 OF 1991)
Norms and Standards	DEVELOPMENT FACILITATION ACT, 1995 (ACT NO. 67 OF 1995)
Business rights on agricultural land	PHYSICAL PLANNING ACT, 1967 [ACT 88 OF 1967]
Upgrading of tenure rights	THE UPGRADING OF LAND TENURE RIGHTS ACT, 1991 (ACT 112 OF 1991)
Land use schemes, township establishment, rezoning, subdivision, consolidation, extension of township boundaries, division of township, alteration, amendment or cancellation of general plan, appeals against applications	TOWN PLANNING AND TOWNSHIPS ORDINANCE (ORDINANCE 15 OF 1986)
Township establishment	PROVISION OF LAND AND ASSISTANCE ACT (Act 126 OF 1993)

SCHEDULE 2:**OBJECTIONS AND/OR REPRESENTATIONS ON THE DRAFT LAND USE SCHEME IN TERMS OF
THE BUSHBUCKRIDGE LAND USE BY-LAW****BUSHBUCKRIDGE LOCAL MUNICIPALITY****Date of objection/representation:**

Name: _____

Identity/registration number:

Address: _____

Tel: _____

Facsimile: _____

E-mail: _____

I/We, (objector or person making a representation), the undersigned, (on behalf of and duly authorised by... (and authorisation attached)) hereby object to/make the following representation on the draft land use scheme for the Bushbuckridge Local Municipality made available for comment on (date).

My/Our interest in the application is as follows: (specify the interest in the matter)

The parts of the land use scheme objected to or in respect of which representations are made are the following: *(provide a clear description of the parts of the scheme in respect of which an objection or representation is made, sufficiently detailed to enable a reply thereto)*

The grounds for the objection/representation consists of the following: *(provide a clear description of the objection or representation, sufficiently detailed to enable a reply thereto)*

IN SUPPORT OF THE OBJECTION/REPRESENTATION, THE FOLLOWING SUPPORTING
DOCUMENTS ARE PROVIDED HERewith:

(list all supporting documents provided with the objection)

Please direct all correspondence with regards hereto to the following address:

(Person and contact details) _____

Signature of objector/s

SCHEDULE 3:**LAND DEVELOPMENT APPLICATIONS TO BE CONSIDERED BY AN AUTHORISED OFFICIAL**

Land Development Application	Authorised Official
Amendment of land use scheme	X
Subdivision of land	X
Consolidation of different pieces of land	X
Amendment or cancellation of an approved land development	X

- *All land development applications with objections must be heard by the Municipal Planning Tribunal.*
- *All land development applications not in line with the SDF must be submitted to Municipal Planning Tribunal for consideration and recommendation to the Executive Authority*

SCHEDULE 4:**DOCUMENTATION FOR LAND DEVELOPMENT APPLICATIONS****Application for the amendment of a land use scheme**

An application for the amendment of a land use scheme must, in addition to the documents referred to in section 30 (3), be accompanied by the following:

- (a)** A memorandum, explaining and motivating the application, with specific reference to the existing zoning and proposed zoning and other relevant regulation in terms of the scheme;
- (b)** The memorandum referred to in sub-item (a) must contain at least the following information:
 - i. The interest of the applicant in bringing the application;
 - ii. As applicable, a discussion on the content of the scheme prior to the proposed amendment and the need for the amendment;
 - iii. A discussion on the proposed amendment;
 - iv. The expected impact on the current, adopted municipal spatial development framework and integrated development plan;
 - v. The possible impact of the amendment on the environment and probable mitigating elements;
 - vi. In the event that the activity is a listed activity to National Environmental Management Act (Act 107 of 1998) a summary of the Scoping report;
 - vii. An indication of the persons, communities and institutions likely to be affected by the amendment and the likely impact on them;
 - viii. General discussion of the engineering services within the area.
- (c)** A certified copy of the title deed or deed of Grant of every property forming part of the application;
- (d)** A copy of the diagram of every property forming part of the application, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
- (e)** A locality plan on an appropriate scale;
- (f)** A zoning plan or land use rights plan, as applicable, in colour and on an appropriate scale, of the application and surrounding properties;
- (g)** The amendment scheme map and schedule in the format of Schedule 14, on the scale of the scheme map or other more appropriate scale;
- (h)** The consent of the bondholder if applicable.

Application to subdivide land

An application to subdivide land must, in addition to the documents referred to in section 30 (3), be accompanied by the following:

- (a) A memorandum, explaining and motivating the application;
- (b) The memorandum referred to in sub-regulation (a) must contain at least the following information:
 - i. The development intentions of the municipality on the application property, as contained in the spatial development framework and other municipal policies;
 - ii. The need and desirability of the proposed subdivision;
 - iii. A justification on the suitability of the land for subdivision
 - iv. The impact of the proposed land development on the future use of land in the micro- locality;
 - v. The impact of the proposed subdivision on the future use of land in the macro-locality;
 - vi. The subdivision pattern having regard to the physical characteristics;
 - vii. The density of the proposed development;
 - viii. The area and dimensions of each erf;
 - ix. The layout of roads having regard to their function and relationship to existing roads;
 - x. The existing land use rights on the property;
 - xi. The movement of pedestrians and vehicles throughout the development and the ease of access to all erven;
 - xii. The availability and provision of municipal services;
 - xiii. Whether, in relation to subdivision plans, native vegetation can be protected through subdivision and siting of open space areas;
 - xiv. An indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act (Act 107 of 1998);
 - xv. The applicable regulations as contained in the applicable land use scheme.
- (c) A certified copy of the title deed or deed of grant of every application property;
- (d) A copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
- (e) A locality plan on an appropriate scale;
- (f) A copy of the appropriate zoning or land use rights certificate in respect of every application property;
- (g) The consent of the bondholder if applicable.
- (h) Subdivision plan showing the following:

- i. the name of the township in which the erf to be subdivided is situated and the delineation of the proposed subdivided portions accurately drawn to a scale -
 - a. not smaller than 1:500 for erven smaller than 2 000m²;
 - b. not smaller than 1:1 000 for erven from 2 000m² to 3 000m²;
 - c. not smaller than 1: 1 500 for erven larger than 3 000m² but smaller than 10 000m²;
 - d. approved by the local authority for erven of 10 000m² and larger;
- ii. the true north;
- iii. the scale to which the sketch plan is drawn;
- iv. a legend which identifies each proposed subdivided portion by means of a figure;
- v. the number of the erf to be subdivided and of each adjoining erf and if an adjoining erf is not situated within the same township as the erf to be subdivided, the name of that other township;
- vi. the approximate size of the erf to be subdivided and of each subdivided portion;
- vii. the situation of each building on the erf to be subdivided and the approximate distance between the street boundary and every other boundary of the erf and the nearest wall of the building nearest to such boundary as well as the approximate distance between the proposed subdivisional line and the nearest wall of the building nearest to such line;
- viii. the number of storeys in each existing building on the erf to be subdivided which is situated within 5 metres of a proposed subdivisional line;
- ix. the direction, by means of an arrow, of the slope of the roof of each building on the erf to be subdivided situated immediately adjacent to the proposed subdivisional line;
- x. the nature of a building on the erf to be subdivided which fronts on and is within 10m of the proposed subdivisional line, the purpose for which any room on that side of a building which fronts on such line is used and the position of a door or window in a wall facing such line;
- xi. the approximate location of an existing conductor on the erf to be subdivided used for telephonic or electrical purposes or any transformer, structure or other obstruction relating thereto as well as any tree, fire hydrant or bus shelter on the street reserve adjoining the street frontage of such erf;
- xii. where the cross slope or longitudinal slope of the street reserve or the cross slope or longitudinal slope of any proposed access to the proposed subdivided portions is more than 1:5 contours with intervals of 1m or alternatively a longitudinal section of the access portion of the erf or portion, showing details of the profile of the natural ground level as well as the

- proposed access way in relation to the street which gives access to the newly created portion;
- xiii. any building or portion thereof on the erf to be subdivided which the applicant intends demolishing;
 - xiv. any natural water course which traverses the erf to be subdivided; and
 - xv. where the erf to be subdivided is situated in an area which is subject to flooding, the 50 year flood line on the proposed subdivided portions.

Application for the consolidation of land

An application to consolidate land must, in addition to the documents referred to in section 30 (3), be accompanied by the following:

- (a) A memorandum, explaining and motivating the application;
- (b) A certified copy of the title deed of every application property;
- (c) A copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
- (d) A locality plan on an appropriate scale;
- (e) A consolidation plan;
- (f) A copy of the appropriate zoning or land use rights certificate in respect of every application property;
- (g) The consent of the bondholder, if applicable; and
- (h) General discussion of the engineering services within the area.

Application for the establishment of a township and extension of the boundaries of a township

An application for the establishment of a township must, in addition to the documents referred to in section 30 (3), be accompanied by the following:

- (a) A memorandum, explaining and motivating the application;
- (b) The memorandum referred to in sub-regulation (a) must contain at least the following information:
 - i. The development intentions of the municipality on the application property; as contained in the spatial development framework and other municipal policies;
 - ii. Compliance with applicable norms and standards as set out in National and Provincial legislation;
 - iii. The existing land use rights on the property;
 - iv. The need and desirability of the proposed land development;

- v. Any environmental implications of the proposed land development;
 - vi. An indication whether an application must be made for an environmental authorization in terms of the National Environmental Management Act (Act 107 of 1998);
 - vii. The density of the proposed development;
 - viii. The area and dimensions of each erf in the proposed township;
 - ix. The layout of roads having regard to their function and relationship to existing roads;
 - x. The provision and location of public open space and other community facilities;
 - xi. Reasons for providing certain numbers of community facilities;
 - xii. Any phased developments;
- (c) A certified copy of the title deed or any proof of ownership of every application property;
 - (d) A copy of the diagram of every application property or, where such diagram is not available, a plot diagram to every piece of land being the subject of the application;
 - (e) A locality plan on an appropriate scale;
 - (f) A layout plan on a scale of 1:500, 1:1000, 1:1500 or 1:2500, containing, as a minimum, the information prescribed in Schedule 15;
 - (g) Draft conditions of establishment for the proposed township;
 - (h) A zoning or land use rights certificate to every application property;
 - (i) A Land Use Rights Schedule;
 - (j) An engineering geological investigation and report compiled by a suitably qualified professional;
 - (k) An undermining stability report, where applicable, compiled by a suitably qualified professional;
 - (l) The consent of the bondholder;
 - (m) Confirmation whether or not a mining or prospecting right or permit over the land is held or is being applied for in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002);
 - (n) Other limited real rights on the property;
 - (o) Confirmation and details of any land claims on the property;
 - (p) A conveyancer's certificate;
 - (q) A Land Surveyor Report;
 - (r) In the case of the extension of the boundaries of a township, the consent from the Surveyor-General to the proposed extension of boundaries.

Application for the amendment of an approved land development, division or phasing of a township and alteration, amendment or cancellation of the general plan

An application the amendment or cancellation of an approved land development, division or phasing of a township and alteration, amendment or cancellation of the general plan must, in addition to the documents referred to in section 30(3), be accompanied by the following:

- (a) A memorandum, explaining and motivating the application;
- (b) A certified copy of the title deed of every application property;
- (c) A copy of the relevant general plan, if applicable;
- (d) A copy of the approved conditions of establishment of the existing township;
- (e) Draft conditions of establishment for the proposed amended township, as applicable;
- (f) A zoning or land use rights certificate indicating current rights and indication of proposed rights for the application properties;
- (g) A locality plan on an appropriate scale;
- (h) A layout plan on a scale of 1:500, 1:1000, 1:1500 or 1:2500; showing the proposed amendment or alteration; and
- (i) The consent of the bondholder.

SCHEDULE 5:
APPLICATION FOR LAND DEVELOPMENT IN TERMS OF THE
BUSHBUCKRIDGE LAND USE BY-LAW
BUSHBUCKRIDGE LOCAL MUNICIPALITY

REFERENCE NUMBER:

(Reference number of application provided by the municipality, to be filled in by the municipality)

APPLICANT:

Name: _____
 Address: _____
 Telephone: _____
 Fax: _____
 e-mail address: _____
 Contact person: _____

APPLICATION PROPERTY/IES:

Title deed description of every application property	Title deed number	SG Diagram number	No and Date of Mortgage Bond	Extent of the property

APPLICATION IS HEREBY MADE FOR: *(Mention every type of application applied for and provide the details requested hereunder. Delete that which is not applicable)*

1. Amendment of the Bushbuckridge land use scheme:

- Existing Zone of the property:
- The existing development on the land:

- o The proposed Zone is:

2. Subdivision of land:

- The applicable zone is:
- The existing development is:
- Details of the proposed subdivision:

Application property	Extent	Number of portions	Proposed portions (list all proposed portions)	Proposed extent (list extent of all proposed portions)

3. Consolidation of land:

- The applicable zone is:
- The existing development is:
- Details of the proposed consolidation:

Application property	Extent	Existing Land Use Rights	Proposed consolidation	Resultant extent

6. Township establishment:

- Proposed township name:
- The applicable Zone is:
- Details of the erven and proposed land use rights:

Proposed Category/ Zoning	Number of erven	Ruling erf size	Maximum density	Maximum Floor Area Ratio	Maximum Height	Proposed Land Uses

8. Amendment of an approved land development:

- Reference of the application:
- Clear description of the alteration or amendment applied for:

9. Extension of boundaries of an approved township:

- Name of township to be extended:
- General Plan number of township:
- Portion of land to be incorporated into the township:
- Extent of portion to be incorporated:
- The applicable Zone is:
- Details of the erven and proposed land use rights:

Proposed Category/ Zoning	Number of erven	Ruling erf size	Maximum density	Maximum Floor Area Ratio	Maximum Height	Proposed Land Uses

10. Division or phasing of a township

- Name of township:
- Number of erven:
- Description of proposed phases:
- Number of erven in each proposed phase.
-

11. Alteration, amendment or cancellation of general plan

- Name of the application township:
- Application General Plan SG number:
- Small Scale Diagram number:
- Application property as on the Small Scale Diagram:
- Clear description of the alteration, amendment or cancellation applied for:

PURPOSE OF THE APPLICATION:

(Briefly, but clearly, explain the purpose of the application, referring to the development envisaged)

GENERAL INFORMATION:

Full name of the registered owner of every application property:

The property/ies is/is not mortgaged and the particulars of the bondholder is as follows:

A prospecting or mining license has/has not been granted on the property/ies and the particulars thereof is as follows:

DOCUMENTS FORMING PART OF THE APPLICATION AND ENCLOSED HEREWITH:

The following documents are enclosed herewith for your perusal: *(list all supporting enclosed)*

Documents required, in terms of the By-law or requested by Municipality, but not enclosed or considered not applicable: *(Reasons must be given and the further administration of the application in the absence of these documents must be motivated)*

(I/we), the applicant, being the *(owner/intended owner or authorized agent of the owner/intended owner)*, hereby apply for the above application/s on the land described herein, and submit the particulars that appear hereafter. *(I/We)* hereby certify that the information contained in this application is to the best of *(my/our)* knowledge correct and confirm that *(I am/we are)* aware that the provision of false or misleading information constitutes an offence.

Date: _____

Place: _____

Applicant signature: _____

SCHEDULE 6:

AUTHORISATION TO SUBMIT A LAND DEVELOPMENT APPLICATION

BUSHBUCKRIDGE LOCAL MUNICIPALITY

I/we, the undersigned _____,

The registered owner of the property _____,

hereby authorize _____

to lodge an application for:

and to do all that is necessary in respect of such application on the mentioned property.

Signed at _____ this _____ day of _____ 20__.

Signature

SCHEDULE 7:
ADVERTISEMENT REQUIREMENTS

Minimum notification procedures in terms of section 23 Of the By-law				
Application	Procedures			
	Provincial Gazette	Local Newspaper	Notice on-site	Adjacent properties
Amendment of land use scheme	Yes	Yes	Yes	Yes
Subdivision	No	No	Yes	Yes
Consolidation	No	No	Yes	Yes
Township Establishment	Yes	Yes	Yes	Yes
Amendment of an approved land development	As determined by the municipality			
Extension of boundaries of an approved township	Yes	Yes	Yes	Yes
Division or phasing of a township	As determined by the municipality			
Alteration, amendment or cancellation of general plan	As determined by the municipality			
Other applications	As determined by the municipality			

SCHEDULE 8:**NOTICE OF APPLICATION IN TERMS OF THE BUSHBUCKRIDGE LAND USE BY-LAW**

SECTION _____

BUSHBUCKRIDGE LOCAL MUNICIPALITY**Application for:** *(delete that which is not applicable)**Amendment of the Bushbuckridge land use scheme, subdivision of land, consolidation of land, establishment of a township, amendment or cancellation of an approved land development, extension of boundaries of a township, division or phasing of a township, alteration, amendment or cancellation of a general plan.***Application reference number:** *(reference number as provided by the municipality on the acknowledgement report)*_____
*(the applicant), being the (owner/intended owner or agent on behalf of the owner/intended owner), of:**(Title Deed description of all properties concerned in the application)*situated at: *(give a clear description of locality of property)*

hereby gives notice in terms of section _____ of the Bushbuckridge

Land Use By-law, 20__, of the application for:

(description of application, sufficiently detailed so that the proposed development is clearly understood. Delete that which is not applicable).

- *Amendment of the Bushbuckridge land use scheme: (Brief description of the amendment of the Scheme proposed)*
- *Township Establishment: (Specify the name of the township and number of erven grouped under the relevant category or zoning)*
- *Extension of boundaries of approved township: (Specify the township to be extended as well as the number of erven grouped under the relevant category or zoning)*
- *Amendment of an approved land development: (Specify the amendment)*
- *Subdivision of land: (Specify the number and sizes of the proposed portions)*

- Consolidation of land: (Specify the erven to be created through consolidation and the sizes thereof)
- Division or phasing of a township (Specify the phasing as proposed)
- Alteration, amendment or cancellation of general plan (Specify the general plan to be amended or cancelled)

Particulars of the application will lie for inspection during normal office hours at

_____, for the period of _____ days from (date of notice).

Objections to or representations in respect of the application must be lodged with or made in writing to the municipal manager at the above address or at _____, within a period of _____ days from (date of notice), being (last day for objections).

(Name and address of applicant)

SCHEDULE 9:**OBJECTIONS AND/OR REPRESENTATIONS ON AN APPLICATION FOR LAND DEVELOPMENT
IN TERMS OF THE BUSHBUCKRIDGE LAND USE BY-LAW****BUSHBUCKRIDGE LOCAL MUNICIPALITY**

Date of objection/representation:

Municipal Application Reference number: *(Application reference number as on the notice)*

Name: _____

Address: _____

Tel: _____

Facsimile: _____

e-mail: _____

I/We, (objector or person making a representation), the undersigned, (on behalf of and duly authorised by...) hereby (object to/make the following representation on) the application for (repeat type of application as on notice) on (specify subject property/ies as in notice).

My/Our interest in the application is as follows: (specify the interest in the matter)

Our objection/representation consists of the following: (provide a clear description of the objection or representation, sufficiently detailed to enable a reply thereto)

The following documents are enclosed herewith in support of the objection or representation: (list all supporting documents provided with the objection)

Please direct all correspondence with regards hereto to the following address: (Person and contact details)

Signed

SCHEDULE 10:**DRAFT CONDITIONS OF ESTABLISHMENT**

CONDITIONS UNDER WHICH THE APPLICATION FOR TOWNSHIP ESTABLISHMENT INTERMS OF THE BUSHBUCKRIDGE LAND USE BY-LAW, 20___ ON PORTION ___ (A PORTION OF PORTION ___) OF THE FARM ____, _____, MPUMALANGA PROVINCE, BY _____ (PTY) LIMITED (REGISTRATION NR _____) (HEREINAFTER REFERRED TO AS THE TOWNSHIP APPLICANT/TOWNSHIP OWNER) AND BEING THE REGISTERED OWNER OF THE LAND HAS BEEN APPROVED.

1. CONDITIONS TO BE COMPLIED WITH PRIOR TO THE TOWNSHIP BEING DECLARED AN APPROVED TOWNSHIP

1.1 Excision of Agricultural of Holding:

The township applicant/owner shall at its own expense cause the property to be excised as an agricultural holding as defined in the Agricultural Holdings (Transvaal) Registration Act, 1919.

1.2 Consolidation of farm portions:

The township applicant/owner shall have the components on which the township is to be established consolidated at its expense.

1.3 Cancellation of Existing Conditions of Title/Servitudes:

The applicant/owner shall at its own cost cause the following conditions and servitudes to be cancelled or the township area be freed there from - Conditions 1 and 2 in Deed of Transfer T ___ and servitude of right of way as set out in title condition ___ in Deed of Transfer T ___.

1.4 Amendment Scheme:

The township applicant/owner shall satisfy the municipality that the concerned amendment scheme has been submitted and approved with and can be published consecutively with the declaration of the township as an approved township.

1.5 Registration of Servitude:

The township applicant/owner shall make the necessary arrangements to ensure that the proposed water line servitude in favour of and to the satisfaction of _____ to be registered notarially by way of a Notarial

Deed of Servitude with the accompanying servitude diagram and shall cause such servitude to be shown on the small scaled diagram of the farm portion /General Plan of the township.

1.6A Section 21 Act 61/1973 company must be registered by the Township owner in order to administer security and services in the township.

2. CONDITIONS OF ESTABLISHMENT:

2.1 Name:

The name of the township shall be _____ Extension _____

2.2 Design:

The township shall consist of erven and streets indicated on General Plan SG No. _____

2.3 Access:

No ingress from Road _____ to the township and no egress to Road _____ from the township shall be allowed.

2.4 Acceptance and Disposal of Stormwater:

The township applicant/owner shall arrange for the drainage of the township to fit in with that of Road _____ and for all stormwater running off or being diverted from the road to be received and disposed of.

2.5 Removal, Repositioning, Modification or Replacement of Existing Post Office/Telkom Plant:

If, by reason of the establishment of the township, it should become necessary to remove, reposition, modify or replace any existing Post Office/Telkom plant, the cost thereof shall be borne by the township applicant/owner.

2.6 Environmental Management:

2.6.1 The township applicant/owner shall at its own expense ensure that an Environmental Management Plan (EMP) is submitted to the Department of Economic Development, Environment and Tourism for approval before construction commences.

2.6.2 The township applicant/owner must ensure that all conditions imposed by the Department of Economic Development, Environment and Tourism in terms of the Record-of-Decision (ROD) issued by the said Department on _____ are adhered to.

2.7 Obligations with regard to Services and Restriction regarding the Alienation of Erven:

The township owners shall within such period as the Municipality may determine, fulfil its obligations in respect of the provision of water, electricity and sanitary services as well as the construction of roads and stormwater drainage and the installation of systems thereof, as previously agreed upon between the township owner and the municipality. Erven may not be alienated or be transferred into the name of a purchaser prior to the municipality certifying that sufficient guarantees/cash contributions in respect of the supply of services by the township owner have been submitted or paid to the said municipality.

2.8 Endowment:

The township owners shall pay the Municipality a lump sum endowment, as set out in section 67, for the provision of land for parks and open spaces. Such endowments shall be payable as determined by the Municipality.

2.9 Endowment Erven:

The following erven must be transferred to the municipality:

Erven ____

2.10 Erven for Section 21 Company:

The following erven must be transferred to the Section 21 Company for services and road purposes:

Erven ____ .

3. CONDITIONS TO BE COMPLIED WITH BEFORE THE ERVEN IN THE TOWNSHIP BECOME REGISTERABLE:

Installation and provision of services:

3.1 The township applicant/owners shall install and provide internal engineering services in the township as provided for in the service level agreement.

3.2 The municipality shall install and provide external engineering services for the township as provided for in the service level agreement.

4. DISPOSAL OF EXISTING CONDITIONS OF TITLE:

All erven shall be made subject to existing conditions and servitudes, if any, but excluding:

4.1 The following servitude which affects Erf ____ in the township only:

4.2 The waterline servitude in favour of ____ registered in terms of Notarial Deed of Servitude about to be registered as indicated on Servitude Diagram SG No ____, which affects Erf ____ in the township only,

4.3 The following rights/entitlements which will not be passed on to the erven in the township:

"The Remaining Extent of Portion _____ of the Eastern Portion of the aforesaid farm _____ No _____, Registration Division J.T. (formerly No. ()), District _____, measuring _____ hectares (a portion whereof is hereby transferred) is entitled to the right of way over certain Portion _ of Portion _ of the Eastern Portion of the aforesaid farm _ No __, held under Deed of Transfer T ___ dated _____".

5. CONDITIONS OF TITLE:

5.1 CONDITIONS OF TITLE IMPOSED IN TERMS OF THE PROVISIONS OF THE BUSHBUCKRIDGE LAND USE BY-LAW, 20____

5.1.1 All erven:

5.1.1.1 The erf is subject to a servitude, 2 metres wide along any two boundaries in favour of the Municipality for sewerage and other municipal purposes and, in the case of a panhandler erf, an additional servitude for municipal purposes 2 metres wide across the access portion of the erf, if and when required by the Municipality: Provided that the Municipality may relax or grant exemption from the required servitudes.

5.1.1.2 No building or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 2 metres thereof.

5.1.1.3 The Municipality shall be entitled to deposit temporarily on the land adjoining the aforesaid servitudes such material as may be excavated by it during the course of the construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the Municipality.

5.1.2 Erven subject to special conditions:

In addition to the relevant conditions set out in paragraphs 5.1.1.1,

5.1.1.2 and 5.1.1.3 above, the undermentioned erven shall be subject to the conditions as indicated:

5.1.2.1. ERF ____:

The erf is subject to a servitude, 5 meters wide, in favour of the municipality for municipal purposes as indicated on the General Plan.

ERF ____:

The entire erf is subject to a Right-of-Way servitude in favour of all other remaining erven in the township.

5.2 CONDITIONS OF TITLE IN FAVOUR OF THIRD PARTIES TO BE REGISTERED/CREATED ON FIRST REGISTRATION OF THE ERVEN CONCERNED:

No erf in the township may be transferred unless the following requirements have been complied with and the following conditions and servitudes are registered:

5.2.1 All the erven with the exception of erf ____ will be subject to the following conditions in favour of the Section 21 Company to be created on transfer of the erf to any purchaser:

Each and every owner of an erf in the township shall on transfer automatically become a member of the ____ Landowners Association established for the development (hereinafter referred to as the "Association") and the township owners shall procure that a charge be made subject to the following conditions in favour of the Association:

Every owner of the erf or owner of any sub-divided portion of an erf or owner of any unit thereon, shall on transfer automatically become and shall remain a member of the Association and shall be subject to its Constitution until he/she ceases to be an owner as aforesaid and the property may not be transferred without the consent in writing of the association.

5.2.2 "The erf is subject to a servitude, 3m wide, in favour of the Section 21 Company for sewerage and other engineering services, along any two boundaries other than a street boundary and in the case of a pan handle erf, an additional servitude for services, 1 metre wide across the access portion of the erf, if and when required by the Section 21 Company: Provided that the Section 21 Company may dispense with any such servitude."

5.2.3 A servitude for the purposes of an electrical substation shall be registered in favour of ESKOM as indicated on the general plan over Erf ____.

5.2.4 A servitude of pipelines shall be registered in favour of ____ as indicated on the general plan over Erf ____.

5.2.5 A servitude of right of way must be registered over Portion ____ of farm ____ No ____ Registration Division ____, ____ Province in favour of Erven ____ in the township.

5.2.6 A servitude of right of way over the entire Erf ____ must be registered in favour of Portion ____ of the farm ____, No ____, Registration Division ____, ____ Province.

5.3 CONDITIONS OF TITLE IMPOSED BY THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED BY VIRTUE OF SECTION 49(5)(a)(i) OF ACT 7 OF 1998:

The undermentioned ervens shall be subject to the condition as indicated: Erf ___:

Except for any essential stormwater drainage structure, no building, structure or other thing which is attached to the land, even though it does not form part of that land, shall be erected nor shall anything be constructed or laid under or below the surface of the erf within a distance less than 20m from the reserved boundary of Road _____ nor shall any alteration or addition to any existing structure or building situated within such distance of the said boundary be made except with the consent in writing of the South African National Roads Agency.

6. CONDITIONS TO BE INCORPORATED WITHIN THE LAND USE SCHEME IN ADDITION TO THE EXISTING PROVISIONS OF THE LAND USE SCHEME:

6.1 All Erven:

6.1.1 The erf lies in an area where soil conditions can affect buildings and structures and result in damage to them. Building plans submitted to the Municipality must show measures to be taken, in accordance with recommendations contained in the geotechnical report for the township, to limit possible damage to buildings and structures as a result of detrimental foundation conditions, unless it is proved to the Municipality that such measures are unnecessary or that the same purpose can be achieved by other more effective means.

6.2 Erf ___:

6.2.1 The use zone/category of the erf shall be "_____".

6.2.2 Density: ___ dwellings units per hectare.

6.2.3 Coverage: ___%.

6.2.4 Height restriction: ___ storeys.

6.2.5 Floor Area Ratio (FAR): ___.

6.2.6 Parking: In accordance with the _____ Land Use Scheme: 20 ___.

6.2.7 Except for any essential stormwater drainage structure, no buildings, structure or other thing which is attached to the land even though it does not form part of that land, shall be erected nor shall anything be constructed or laid under or below the surface of the erf within a distance less than 20m from the reserve boundary of Road N4 nor shall any alteration or addition to

any existing structure or building situated within such distance of the said boundary be made except with the consent in writing of the South African National Roads Agency Limited.

6.2.8 Ingress to and egress from the erf shall not be permitted along the boundary thereof abutting on Road _____. Provided that the South African National Roads Agency Limited may grant written permission for access subject to such conditions as the South African National Roads Agency Limited may determine.

6.3 Erf__:

6.3.1 The use zone of erf shall be "_____": Provided that the erf shall be used solely for open spaces.

6.3.2 The erf shall be registered in the name of the township applicant/owner or a Home Owners Association or similar institution established in terms of the provisions of Section 21 of the Companies Act, 1973 (Act 61 of 1973) who shall bear full responsibility for the development and proper maintenance of the erf.

SCHEDULE 11:**NOTICE OF APPEAL IN TERMS OF THE BUSHBUCKRIDGE LAND USE BY-LAW****BUSHBUCKRIDGE LOCAL MUNICIPALITY**

(Copy to the applicant or interested and affected parties)

Date of appeal:

Municipal Application Reference number: *(Application reference number as on the notice of decision)*

**The Bushbuckridge Municipal Manager
Private Bag X9308
Bushbuckridge
1280**

I/We (person or institution appealing the decision), the undersigned, (on behalf of and duly authorised by...), hereby appeal, in terms of the Bushbuckridge Land Use Management By-law, 20__, the decision taken by the Bushbuckridge Local Municipality on the application for (repeat type of application as on notice) on (specify subject property/ies as in notice).

My/Our reasons for the appeal are as follows: (State your interest in the matter)

My/our appeal is motivated as follows: (Motivate the appeal)

The following documents are submitted in support of the appeal:

- *(List all other documents provided)*

Please direct all correspondence to: *(Name and contact details where correspondence is sent)*

Signed

SCHEDULE 12:**NOTICE TO OPPOSE AN APPEAL IN TERMS OF THE BUSHBUCKRIDGE LAND USE BY-LAW****BUSHBUCKRIDGE LOCAL MUNICIPALITY**

(Copy to the applicant or interested and affected parties)

Date of appeal:

Municipal Application Reference number:*(Application reference number as on the notice of decision)*

The Bushbuckridge Municipal Manager

Private Bag X9308

Bushbuckridge

1280

I/We *(person or institution appealing the decision)*, the undersigned, *(on behalf of and duly authorised by...)*, hereby oppose the appeal, in terms of the Bushbuckridge Land Use Management By-law, 20__, on the decision taken by the Bushbuckridge Local Municipality on the application for *(repeat type of application as on notice)* on *(specify subject property/ies as in notice)*.

My/Our reasons for opposing the appeal are as follows: *(State your interest in the matter)*

My/our reasons for opposing the appeal is motivated as follows: *(Motivate the appeal)*

Please direct all correspondence to: *(Name and contact details where correspondence is sent)*

Signed

SCHEDULE 13:**PROCEDURE AT A HEARING****Procedures at a site inspection for a land development application**

1. A site inspection must be conducted before the hearing resumes and attended by all parties invited to the hearing.
2. The applicant, objector/s and persons making representations will be requested to show the members of the Municipal Planning Tribunal all the physical features pertaining to the land development application and relevant objection or representation against the land development application.
3. The merits of the objection/application may not be discussed at the site inspection.

Procedure at the hearing for a draft land use scheme and land development application

1. The Chairman should announce to the parties the procedure as set out hereunder.
2. The Chairman must establish if the parties undertook any reasonable steps to reach an amicable solution.
3. No new matters may be introduced which was not part of the first submission, namely any new points of objections or representation.
4. All points *in limine* must be dealt with by the Chairperson of the Tribunal before the merits of the hearing can be heard.
5. The applicant or his representative must be called upon to state his or her application in full to the Tribunal. This includes calling of witnesses, experts, etc.
6. The objector will then be afforded an opportunity to ask questions for clarity, to the discretion of the Chairperson.
7. Members of the Tribunal will also be given the opportunity to ask questions for clarity only, to the applicant on answers.
8. The objector(s) is granted an opportunity to present his or her objection to the application. This includes calling of witnesses, experts, etc.
9. The applicant will then be afforded an opportunity to ask questions for clarity only, to the discretion of the Chairperson.
10. Members of the Tribunal will also be given the opportunity to ask questions in clarity if any, to the objector.
11. The Tribunal hearing will be closed.

SCHEDULE 14:

AMENDMENT SCHEME MAP AND SCHEDULE

<div style="border: 1px solid black; width: 80%; margin: 0 auto; padding: 10px;"> <p style="text-align: center; font-weight: bold; font-size: 1.2em;">BUSHBUCKRIDGE LOCAL MUNICIPALITY</p> </div>		
<p>Amendment Scheme Schedule</p>		
<p style="text-align: center;">Bushbuckridge Land Use Scheme, _____</p> <p style="text-align: center;">Amendment Scheme nr _____</p> <p>The Bushbuckridge Land Use Scheme, 20__, adopted by virtue of proclamation Notice _____ dated _____, is hereby further amended and altered in the following manner:</p> <p>(give a concise, yet clear description of the amendment brought onto the Scheme)</p>		
<p>Approved:</p>	<p>Date:</p>	<p>Page:</p> <p style="text-align: center;">of ____</p>

AMENDMENT SCHEME MAP			
Bushbuckridge Land Use Scheme, 20__ : Amendment Scheme nr _____			
(Insert a reproduction of the map being amended, showing the amendment brought onto the map)			
<div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> <i>(Insert municipality details here)</i> </div>	Approved:	Date:	Page: of ____

SCHEDULE 15:**LAYOUT PLAN**

A layout plan for a proposed township shall, as a minimum, contain the following information:

- (a) contour lines, the values of which shall be based on the datum plane of national geodetic bench marks based on sea-level as datum plane;
- (b) the accuracy of the contour lines shall be such that when the contour lines are compared with the results of a selective test survey, not more than 5% of the interpolated heights of the testing points shall differ by more than half of the contour line interval, and not more than 1 % of the testing points shall show a greater difference than the relative contour interval;
- (c) the contour intervals shall be determined as follows –
 - i. meter intervals where the average gradient is 1 in 20 or less;
 - ii. meter intervals where the average gradient is greater than 1 in 20 but less than 1 in 5; and
 - iii. 5 meter intervals where the average gradient is 1 in 5 and greater;
- (d) existing buildings in the proposed township;
- (e) streets, squares and open spaces in the proposed township;
- (f) the widths and proposed names of streets in the proposed township;
- (g) all adjoining existing and adjoining proposed streets and roads with their names;
- (h) all adjoining erven in existing townships or proposed townships in respect of which applications have been submitted;
- (i) all adjoining informal erven;
- (j) water courses, railways, pipelines, power lines, existing public roads and all servitudes in or abutting the proposed township;
- (k) the sites in the proposed township proposed to be reserved for specific purposes;
- (l) the boundaries of the proposed township and the name of the municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated;
- (m) a land use table indicating the total number of erven in the proposed township, the number of erven for specific purposes and their numbers, the total length of the streets within the township and the area of the erven and streets as a percentage of the total area of the township;
- (n) the ruling size of the erven;
- (o) the minimum and maximum gradient of the streets;
- (p) environmentally sensitive areas;
- (q) a locality plan, as an inset on the plan of the township, accurately drawn to a scale of not less than 1:50 000 or such other scale which the municipality may approve, indicating -
 - i. the situation of the proposed township on the farm or agricultural holding;

- ii. the routes giving access to the nearest main road and the road network in the vicinity of the township;
 - iii. the boundaries of the farm portion or agricultural holding on which the township is to be established;
 - iv. the situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 km of the boundaries of the township;
 - v. the boundaries of a demarcated noise zone, if applicable;
 - vi. a bar scale, in respect of the locality plan;
 - vii. the true north;
- (r) the erven in the proposed township accurately drawn to a scale of 1:1000, 1:1250, 1:1500, 1:2000, 1:2 500 or 1:5 000 and numbered consecutively in each block;
- (s) in an enclosure, the names of the persons responsible for the contour surveys, a reference to the datum plane on which the contour values are based and a certification as to the accuracy of the contour lines;
- (t) if the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings;
- (u) each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed route;
- (v) grid co-ordinates and a reference to the geodetic system used;
- (w) if the land in the proposed township is subject to flooding, the 1: 100 year floodline;
- (x) the results of the engineering geological investigation, indicated as zones;
- (y) a bar scale;
- (z) the true north;
- (aa) in an enclosure, the name of the person responsible for the design of the layout plan;
- (bb) in an enclosure the name of the person responsible for the floodline determination and the floodline appearing on the layout plan certified as correct by such person; and
- (cc) in an enclosure, the name of the person responsible for the engineering geological investigation and the geological zones appearing on the layout plan certified as correct by such person.