

LOCAL AUTHORITY NOTICE 58 OF 2018
MUNICIPAL PLANNING BY-LAW
POLOKWANE LOCAL MUNICIPALITY

The Municipal Manager of the Polokwane Local Municipality hereby publishes in terms of section 162, read with section 156(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) read with Section 13 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000), and the provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), the Polokwane Local Municipality: Municipal Planning By-law, 2017, as reflected hereunder and as approved by council on 03 November 2017.

The said By-law will come into operation on 02 July 2018

Mr. D.H. MAKOBE
MUNICIPAL MANAGER

Civic Centre
POLOLKWANE



**POLOKWANE MUNICIPAL PLANNING
BY-LAW
2017**

COMPILED BY:
PLANNING AND ECONOMIC DEVELOPMENT: CITY PLANNING AND PROPERTY MANAGEMENT (SPATIAL PLANNING)
ADOPTED: 03 NOVEMBER 2017



POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

The Municipal Manager of Polokwane Local Municipality hereby, in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), publishes Polokwane Municipal Planning By-law, 2017, as approved by its Council, as set out hereunder

POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

To give effect to "Municipal Planning" as contemplated in the Constitution of the Republic of South Africa, 1996, and in so doing to lay down and consolidate processes and procedures, to facilitate and make arrangements for the implementation of land development and land development applications, Spatial Planning and a Land Use Management Scheme within the area of Polokwane Municipality, in line with the Act, 2013 (Act No. 16 of 2013), to provide for the processes and procedures of a Municipal Planning and Appeals Tribunal and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 156(1) of the constitution of the Republic of South Africa, 1996 confers on the municipalities the right to administer local government matters listed in Part B of the schedules 4 and 5; and

WHEREAS Part B of the schedule 4 of the Constitution of the Republic of South Africa, 1996 lists all the local government matters including Municipal Planning; and

WHEREAS section 156(2) of the constitution of Republic of South Africa, 1996 empowers municipalities to make and administer by-laws for the effective administration of the matters which it has the right to administer; and

WHEREAS it is necessary in terms of section 20, 21, 22, 23, and 24 and related provisions of the Act, 2013 (Act No. 16 of 2013) to establish a uniform, recognizable and comprehensive system of spatial planning and land use management in its municipal area to maintain economy unity, equal opportunity, equal access to government services, to promote social and economic inclusion; and

WHEREAS the new system of local government requires an efficient, effective and transparent local government administration that confirms to constitutional principles; and

WHEREAS it is necessary that procedures and institution to facilitate and promote cooperative government and intergovernmental relations in respect of the spatial planning and land use management be developed; and

NOW THEREFORE Polokwane Local Municipality has adopted this By-law in terms of section 13 of the local government: Municipal System Act, 2000 (Act No. 32 of 2000)

BE IT THEREFORE PROMULGATED in terms of section 13 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), by the Polokwane Local Municipality of the following By-law.

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CHAPTER 1 DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

1. Definitions

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

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

“appeal authority” means the executive authority of the Municipality, the Municipal Appeal Tribunal established in terms of Part 1 of Chapter 8 of the By-law or any other body or institution outside of the Municipality authorised by the Municipality to assume the obligations of an appeal authority for purposes of appeals lodged in terms of the Act;

“applicant” means an owner(s); or duly authorised person on behalf of the owner or property(ies); or land within the area of the municipality read with section 45 of the Act who submits a land development application or combination of land development applications contemplated in section 51 of this By-law. It also includes the municipality and organ of the state under who’s control and management of property(ies) or land falls in terms of the Local Government Ordinance;1939 (Ord.17 of 1939), or relevant legislation;

“application” means a land development and land use application submitted to the municipality as contemplated in the Act read with section 51 this By-law;

“approved amendment scheme” means draft amendment scheme approved in terms of this By-law and advertised in the provincial gazette;

“approved township” means a township declared an approved township in terms of section 59 of this By-law;

“authorised official” means a designated municipal employee authorised by the Municipal Council to exercise any power, function or duty as contemplated in section 35(2) of the Act and as defined in Regulation 1 of the regulation to the Act;

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

“building” means a building as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

“By-law” means this By-law and includes the schedules attached hereto or referred to herein;

“Code of Conduct” means the Code of Conduct approved and adopted by the Municipal Council to which the members of the Municipal Planning Tribunal or Municipal Appeals Tribunal established in terms of sections 35 and 51 of the Act and/or any official appointed for purposes of considering land development applications shall be bound, as contemplated in Schedule 3 and 4 of this By-law;

“community” means residents, as may be determined by the Municipality, that have diverse characteristics but living in a particular area, with common interests, agenda, cause, who may or may not be linked by social ties, share common perspectives, and may engage in joint Action in geographical locations or settings;

“communal land” means land under the area of a traditional council determined in terms of the Limpopo Traditional Leadership and Institutions Act, 2005 (Act No. 6 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);

“conditions of approval” means condition(s) imposed in the land use and land development application, including any conditions contained in the annexure(s) and/or plans and/or attachment(s) that form part of the approval and/or are referred to in the approval of the land development application by the Municipal Planning Tribunal or Municipal Appeal Authority or Authorised Official;

“conditional approval” means an approval of any land use or land development application in terms of this By-law read with sections 43 and 53 of the Act by the relevant decision making body (Municipal Planning Tribunal or Authorized Official or Municipal Appeals Tribunal) in which conditions imposed must be complied with prior to —

- (a) the land use rights coming into operation in terms of this By-law, or;
- (b) the registration of any property(ies) as a result of the land development or land use application approved;

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

“consolidation” means the joining of two or more adjacent erven into a single entity that is capable of being registered in the deeds registry as one property, in terms of a consolidation application as contemplated in this By-law; provided that it shall:

- a) exclude the consolidation of farm portions for purposes of this By-law as contemplated in the Land Survey Act, 1997 (Act No. 8 of 1997);
- b) not mean or result in an amendment of the existing land use rights attached to one or both of the component erven so consolidated; and
- c) not mean that the existing land use rights of such component erven shall be added together or spread, so as to apply generically to the consolidated erf area, except in the event that the component erven have uniform land use rights and/or zoning in which case the land use rights may not be so concentrated or located on the consolidated erf that it shall bring about a result which, in the opinion of the Municipality, shall require a change in land use rights through a land development application;

“constitution” means the Constitution of the Republic of South Africa, Act, 1996 (Act No. 108 of 1996), as may be amended from time to time;

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

“date of notice or date of notification” means the date on which a notice is served or delivered on a person or body as contemplated in the provisions of this By-law or published in the media or Provincial Gazette as the case may be and which date of notice and appearance shall not be between 10 December to 10 January of any year or as may be determined by the Municipality;

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

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

“development charge” means a financial charge or contribution that is levied by the Municipality, as contemplated in this By-law, for the provision, installation, enhancing, upgrading of engineering services, including payment of which will contribute towards the Municipality’s expenditure on capital investment in municipal infrastructure services and provision of public transport read with sections 40(7)(b) and 49 of the Act and engineering-, engineering services-, development- contributions shall have a corresponding meaning;

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

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

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

- (a) detailed and specific respective rights and obligations regarding the provision and installation of the external and internal engineering services required for an approved land development, further including the design, provision, installation, financing and maintenance of engineering services;
- (b) the associated development charges;
- (c) the standard of such engineering services as determined by the Municipality;
- (d) the classification of engineering services as internal or external services; and
- (e) any matter related to the provision of engineering services in terms of this By-law;

“engineering services agreement and services agreement” shall have a corresponding meaning;

“engineering service or services” means jointly internal and external engineering services whether provided by the Municipality, any other organ of state or a service provider, or any other person;

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

“general plan” means a general plan approved by the Surveyor-General in terms of the Land Survey Act, 1997 (Act No. 8 of 1997);

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

“land” means —

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

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

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

“land use rights” means adopted land use applicable to land in terms of this By-law or relevant law; for purposes of issuing a zoning certificate;

“land use plan” means a plan that indicates existing land uses;

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

“layout plan” means a plan indicating information relevant to a land development application and the land intended for development and includes the relative locations of erven, public places, or roads, subdivision or consolidation, and the purposes for which the erven are intended to be used read with any notation or conditions contained thereon as contemplated in Form PLM: F-10(A1) of this By-law, as may be amended from time to time;

“local framework plan” means a micro spatial plans of geographic area referred to in section 11 of this By-law;

“Member of the Executive Council” means the Active Member of the Executive Council responsible for local government in the Province established in terms of 132 of the constitution;

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

“Municipal Manager” means the person appointed as the Municipal Manager for the Polokwane Local Municipality in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person Acting in that position or to whom authority has been delegated;

“Municipal Appeals Tribunal” means the Executive Authority, a committee established in terms of provincial legislation, or a body or institution of the Municipality authorized in the case of a committee, body or institution, to deal with appeals in terms of section 51(6) of the Act;

“Municipal Planning Tribunal” means the Polokwane Municipal Planning Tribunal established in terms of section 35 (1) of the Act.

“Municipality” means the Polokwane Municipality or its successor in title as envisaged in section 155(1) of the Constitution established by Notice under section 11 and 12 in 2000 and amended by Notice No 1866 of 2010 in terms of the Local Government Municipal Structures Act, 1998 (Act No.117 of 1998), and for the purposes of this By-law shall include a committee or official or group of officials duly delegated in terms of section 59 of the Municipal Systems Act, 2000 (Act No. 32 of 2000), to perform any duties assigned to in terms of them in terms of section 56 of the Act or section 170 of this By-law, the Municipal Planning Tribunal or the Authorised Official, where the context so requires;

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

“objector” means a body or person who has lodged an objection, with the Municipality, during any period allowed or specified in a notice in the media or Provincial Gazette, placed for purposes of public participation in terms of this By-law, Land Use Scheme or any other planning and development legislation; and includes —

- (a) interested and affected persons who negatively commented on a land development application as contemplated in section 45(3) of the Act; or

- (b) interested and affected persons who conditionally supported a land development application; or
- (c) persons who the Municipal Planning Tribunal or Appeal Authority has determined as qualifying as an interested person in terms of section 45(4) of the Act; or
- (d) a person who successfully petitioned the Municipal Planning Tribunal or Appeal Authority to obtain intervener status in terms of section 45(2) of the Act; but excludes —
 - (i) interested and affected persons who submitted negative comments on the land development application prior to or after the closing date of the period allowed as indicated above;
 - (ii) interested and affected persons who submitted comments on the land development application indicating conditional support of the land development application prior to or after the closing date of the period allowed as indicated above;

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

“owner” means anybody or person registered in a deeds registry as contemplated in section 1, 2 and 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), as the owner of land or beneficial owner in law and includes a Municipality or any other organ of state as an owner or where properties have been vested and is under the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939);

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

“Premier” means the Premier of the Province of Limpopo;

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

“property(ies)” means any erf, erven, lot(s), plot(s) or stand(s), portion(s) or part(s) of farm portions or agricultural holdings, registered in the deeds registry as such;

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

“province” means the Province of Limpopo referred to in section 103 of the Constitution;

“regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015;

“rezoning” means the amendment of land in terms of section 28 of the Act read with section 61 of this By-law;

“rural area” means any land that is outside the urban edge and is not classified urban, and includes but not limited to commercial farms, land under the control of communal property association;

“service provider” means a person lawfully appointed by the 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 the Municipality or organ of state;

“spatial development framework” means the Polokwane Spatial Development Framework prepared and adopted in terms of sections 20 and 21 of the Act and Chapter 2 of this By-law;

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

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

- (a) is laid out or divided or subdivided into or developed or to be developed, as a single property or multiple properties for residential, business, industrial, institutional, educational, community

services and/or similar or other purposes or land uses, as may be contained in a Land Use Scheme;

- (b) are arranged in such a manner as to have the character of what constitutes a township, in the opinion of the Municipality, including:
 - (i) intended or Actual single or multiple ownership of erven, land or units, and or multiple land use rights; and/or
 - (ii) which may or may not be intersected or connected by or abut on any public or private street or roadway, in the case of a proposed sectional title scheme; and
 - (iii) public or private streets or roadways shall for the purposes of this definition include a right of way or any land used for purposes of a street, road, or roadway whether surveyed and/or registered, which is only notional in character;

“Township register” means an approved subdivision register of a township in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937); and

“Traditional communities” means communities recognised in terms of the Limpopo Traditional Leadership and Institutions Act, 2005 (Act No. of 2005).

“Traditional council” means a traditional council that has been established and recognised for a traditional community in accordance with the provisions of section 3 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) or any corresponding provision in provincial legislation.

2. Application of the By-law

- (1) Subject to subsection (5) below, the provisions of this By-law are consistent with the provisions of the Act.
- (2) This By-law applies to all land and land development applications within the area of Polokwane Municipality and all such applications must be submitted under the provisions of this By-law.
- (3) No person may use or develop land unless the use or land development is permitted in terms of the Municipality’s land use scheme or an approval in terms this By-law.
- (4) This By-law binds every owner of land and any successor-in-title of such land and every user of land, including the state and any organ of state.
- (5) In the event of a conflict between the Act and its Regulations, any Provincial Act dealing with spatial planning and land use management and any regulations issued in terms thereof and the provisions of this By-law, the provisions of this By-law shall prevail to the extent that the provisions of this By-law give effect to “municipal planning” as a local government matter as per Part B of Schedule 4 of the Constitution.

3. Conflict of laws

- (1) This By-law is subject to the relevant provisions of the Act and the Provincial Legislation.
- (2) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (3) Where a provision of this By-law is in conflict with a provision of the Act or provincial legislation, the Municipality must institute the conflict resolution measures provided for in the Act or in provincial

legislation, or in the absence of such measures, the measures provided for in the Intergovernmental Relations Framework Act, 2005 (Act No.13 of 2005); to resolve the conflict and until such time as the conflict is resolved, the provisions of this By-law prevails.

- (4) Where a provision of the land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law prevails.
- (5) Where there is a conflict between this By-law and another By-law of the Municipality, this By-law prevails over the affected provision of the other By-law in respect of any municipal planning matter.

4. Provisions and principles which shall guide and inform all land development applications

- (1) Any land development application lodged in terms of this By-law must give effect to the development principles as set out in section 7 of Chapter 2 of the Act.
- (2) Any land development application lodged in terms of this By-law shall be guided and informed by the municipal integrated development plan and municipal spatial development framework as adopted and approved in terms of section 20 of the Act.
- (3) Any land development application lodged in terms of this By-law must address need, reasonableness, desirability and public interest.
- (4) Any land development application lodged in terms of this By-law must have as its main purpose the co-ordinated and harmonious development of the area to which the application relates in such a way as will most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of such specific area as well as efficiency and economy in the process of such development.

CHAPTER 2 MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

5. Municipal spatial development framework

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

6. Contents of municipal spatial development framework

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

Municipality.

7. Intention to prepare, amend or review municipal spatial development framework

- (1) For purposes of preparing, amending or reviewing its municipal spatial development framework the Municipality —
- (a) may convene an intergovernmental steering committee and must convene a project committee in accordance with section 8;
 - (b) must publish a notice in two official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act (Act No.32 of 2000), of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act in newspaper(s) that is circulated in the municipal area;
 - (c) must inform the Member of the Executive Council in writing of its intention to prepare, amend or review the municipal spatial development framework; and
 - (d) must register interested and affected persons who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

8. Institutional framework for preparation, amendment or review of municipal spatial development framework

- (1) The purpose of the intergovernmental steering committee contemplated in section 7(a) is to co-ordinate the applicable contributions into the municipal spatial development framework and to —
- (a) provide technical knowledge and expertise;
 - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
 - (c) communicate any current or planned projects that have an impact on the municipal area;
 - (d) provide information on the locality of projects and budgetary allocations; and
 - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from —
- (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
 - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.
- (3) The purpose of the project committee contemplated in section 7(a) is to —
- (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
 - (b) provide technical knowledge and expertise;
 - (c) monitor progress and ensure that the drafting of the municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
 - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
 - (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;
 - (f) facilitate the integration of other sector plans into the municipal spatial development framework; and

- (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof.
- (4) The project committee must consist of —
 - (a) the Municipal Manager; and
 - (b) employees in the full-time service of the Municipality designated by the Polokwane Municipality.

9. Preparation, amendment or review of municipal spatial development framework

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo report and submit it to the Council for adoption.
- (3) The project committee must prepare a first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments and inputs of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and submit it to the Council, together with the report referred to in subsection (5), to approve the publication of a notice referred to in section 10(4) that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.
- (5) The project committee must submit a written report as contemplated in subsection (4) which must at least —
 - (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
 - (b) summarise the process of drafting the municipal spatial development framework;
 - (c) summarise the consultation process to be followed with reference to section 10 of this By-law;
 - (d) indicate the involvement of the intergovernmental steering committee, if convened by the Municipality;
 - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
 - (f) indicate the alignment with the national and provincial spatial development frameworks;
 - (g) indicate all sector plans that may have an impact on the municipal spatial development framework;
 - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
 - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
- (7) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the final municipal spatial development framework or final amendment or review of the municipal spatial development framework and submit it to the Council for adoption.

- (8) If the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, as contemplated in subsection (6), is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.
- (9) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision —
- (a) give notice of its adoption in the media and the *Provincial Gazette* in the manner as contemplated in section 7 and that section applies with the necessary changes; and
 - (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.
- (10) The municipal spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subsection (9).
- (11) If no intergovernmental steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.

10. Public participation

- (1) Public participation undertaken by the Municipality must contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act.
- (2) In addition to the publication of notices in the *Provincial Gazette* and newspaper(s) that is circulated in the municipal area, the Municipality may, subject to section 21A of the Municipal Systems Act, use any other method of communication it may deem appropriate.
- (3) The Municipality may for purposes of public engagement on the content of the draft municipal spatial development framework arrange —
- (a) a consultative session with traditional councils and traditional communities;
 - (b) a specific consultation with professional bodies, ward communities or other groups; and
 - (c) a public meeting.
- (4) The notice contemplated in section 9 (4) must specifically state that any person or body wishing to provide comments must —
- (a) do so within a period of 60 days from the first day of publication of the notice;
 - (b) provide written comments; and
 - (c) provide their contact details.

11. Local spatial framework plan

- (1) The Municipality may adopt a local spatial framework plan for a specific geographical area of a portion of the municipal area.
- (2) The purpose of a local spatial framework plan is to —
- (a) provide detailed spatial planning guidelines or further plans for a specific geographic area or parts of specific geographical areas and may include precinct plans;
 - (b) provide more detail in respect of a proposal provided for in the municipal spatial development framework or necessary to give effect to the municipal spatial development framework and or its integrated development plan and other relevant sector plans;
 - (c) address specific land use planning needs of a specified geographic area;
 - (d) provide detailed policy and development parameters for land use planning;
 - (e) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, biodiversity and environmental issues;
 - (f) guide decision making on land development applications; and

(g) give effect to its duty to manage municipal planning in the context of its constitutional obligations.

12. Preparation, amendment or review of local spatial framework plan

- (1) If the Municipality prepares, amends or reviews a local spatial framework plan, it must comply with the requirements and procedures for the preparation, amendment or review of the municipal spatial development framework, including notification and public participation, prescribed in terms of this Chapter and sections 6 to 10 apply with the necessary changes as the context may require.
- (2) The Municipality must, within 21 days of adopting a local spatial/framework plan or an amendment of local spatial framework plan —
 - (a) publish a notice of the decision in the media and the *Provincial Gazette* in the manner as contemplated in section 7 and that section applies with the necessary changes to the publication of the decision; and
 - (b) submit a copy of the local spatial framework plan to the Member of the Executive Council.

13. Effect of local spatial framework plan

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

14. Record of and access to municipal spatial development framework and local spatial framework plan

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

15. Departure from municipal spatial development framework

- (1) For purposes of section 22(2) of the Act, site specific circumstances include —
 - (a) a departure that does not materially change the desired outcomes and objectives of a municipal spatial development framework and local spatial development framework, if applicable;
 - (b) the site does not permit the proposed development for which an application is submitted to the Municipality as contained in the municipal spatial development framework; or
 - (c) a unique circumstance pertaining to a discovery of national or provincial importance that results in an obligation in terms of any applicable legislation to protect or conserve such discovery.
- (2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, and must approve the amended spatial development framework prior to the Municipal Planning Tribunal taking a decision which would constitute a departure from the municipal spatial development framework or thus be considered and included on the amended spatial development framework.
- (3) The timeframe for taking a decision on any application that cannot be decided by the Municipal Planning Tribunal before an amendment of the municipal spatial development framework is approved by the Municipality is suspended until such time as the municipal spatial development framework is approved by the Municipality.
- (4) For purposes of this section, "site" means a spatially defined area that is impacted by the decision,

including neighbouring land.

CHAPTER 3 LAND USE SCHEME

16. Land use scheme

- (1) The Municipality must adopt and approve, after public consultation, a single land use scheme for its entire area of jurisdiction.
- (2) The provisions of this Chapter apply, with the necessary change, to the review and amendment of the land use scheme contemplated in sections 27 and 28 of the Act.

17. Purpose of land use scheme

- (1) The land use scheme adopted and approved in terms of section 16 above must give effect to and be consistent with the municipal spatial development framework and determine the use and development of land within the Municipal area in order to promote—
 - (a) economic growth;
 - (b) social inclusion;
 - (c) efficient land development; and
 - (d) minimal impact on public health, the environment and natural resources.
- (2) In addition to the purposes of a land use scheme stipulated in subsection (1), the Municipality must determine the use and development of land within the municipal area to which it relates in order to promote —
 - (a) harmonious and compatible land use patterns;
 - (b) aesthetic considerations;
 - (c) sustainable development and densification;
 - (d) the accommodation of cultural customs and practices of traditional communities in land use management; and
 - (e) a healthy environment that is not harmful to a person's health.

18. General matters pertaining to land use scheme

- (1) In order to comply with section 24(1) of the Act, the Municipality must comply with section 19 to 27 of this By-law.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land situated within the municipal area.
- (3) Zoning may be made applicable to a land and must follow cadastral boundaries except for a land which has not been surveyed, in which case a reference or description as generally approved by Council may be used.
- (4) The land use scheme of the Municipality must take into consideration —
 - (a) the Integrated Development Plan in terms of the Municipal Systems Act, 2000 (Act No.32 of 2000);
 - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law;
 - (c) provincial legislation; and
 - (d) an existing town planning scheme.

19. Preparation of draft land use scheme

The Municipality which intends to prepare, review or amend its land use scheme —

- (a) may convene an intergovernmental steering committee and must convene a project committee

- in accordance with section 20;
- (b) must publish a notice in newspaper(s) that is circulated in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems of its intention to prepare, review or amend the land use scheme;
 - (c) must inform the Member of the Executive Council in writing of its intention to prepare, review or amend the land use scheme;
 - (d) must register interested and affected persons who must be invited to comment on the draft land use scheme or draft review or amendment of the land use scheme as part of the process to be followed;
 - (e) must determine the format and content of the land use scheme;
 - (f) must determine the scale of the land use scheme;
 - (g) must determine any other relevant issue that will impact on the preparation and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
 - (h) must confirm the manner in which the land use scheme must *inter alia* set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or must not require a consent or permission from the Municipality for purposes of the use of land.

20. Institutional framework for preparation, review or amendment of land use scheme

- (1) The purpose of the intergovernmental steering committee contemplated in section 19(a) is to co-ordinate the applicable contributions read together with section 8(1).
- (2) The Municipality must, before commencement of the preparation, review or amendment of the land use scheme, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from —
 - (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
 - (b) any other body or person that may assist in providing information and technical advice on the content of the land use scheme.
- (3) The purpose of the project committee contemplated in section 19(a) is to —
 - (a) prepare, review or amend the land use scheme for adoption by the Council;
 - (b) provide technical knowledge and expertise;
 - (c) monitor progress and ensure that the development of the land use scheme or review or amendment thereof is progressing according to the approved project plan;
 - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
 - (e) ensure alignment of the land use scheme with the municipal spatial development framework, development plans and strategies of other affected municipalities and organs of state; and
 - (f) oversee the incorporation of amendments to the draft land use scheme or draft review or amendment of the land use scheme to address comments obtained during the process of drafting thereof.
- (4) The project committee must consist of —
 - (a) the Municipal Manager; and
 - (b) employees in the full-time service of the Municipality and designated by the Municipality.

21. Council approval for publication of draft land use scheme

- (1) Upon completion of the draft land use scheme, the project committee must submit it to the Council for approval as the draft land use scheme.

- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the project committee and the report must at least —
 - (a) indicate the rationale in the approach to the drafting of the land use scheme;
 - (b) summarise the process of drafting the draft land use scheme;
 - (c) summarise the consultation process to be followed with reference to section 22 of this By-law;
 - (d) indicate the departments that were engaged in the drafting of the draft land use scheme;
 - (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Council; and
 - (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.
- (3) An approval by the Council of the draft land use scheme for public participation must be undertaken in terms of this By-law and the Act.
- (4) The Municipality must provide the Member of the Executive Council with a copy of the draft land use scheme after it has been approved by the Council as contemplated in this section.

22. Public participation

- (1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-law and in the event of an amendment of the land use scheme, the matters contemplated in section 28 of the Act.
- (2) Without detracting from the provisions of subsection (1) above the Municipality must —
 - (a) publish a notice in the *Provincial Gazette*;
 - (b) publish a notice in newspaper(s) that is circulated in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21A of the Municipal Systems Act, 2000 (Act No.32 of 2000), once a week for two consecutive weeks; and
 - (c) enable traditional communities to participate through the appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Municipal Systems Act;
 - (d) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections must —
 - (i) do so within a period of 60 days from the first day of publication of the notice;
 - (ii) provide written comments in the form approved by Council; and
 - (iii) provide their contact details as specified in the notice.
- (3) The Municipality may for purposes of public engagement arrange —
 - (a) a consultative session with traditional councils and traditional communities;
 - (b) a specific consultation with professional bodies, ward communities or other groups; and
 - (c) a public meeting.

23. Incorporation of relevant comments

- (1) Within 60 days after completion of the public participation process outlined in section 22, the project committee must —
 - (a) review and consider all submissions made in writing or during any engagements; and
 - (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
 - (i) For purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;

- (ii) all persons and or bodies that made submissions must be notified of the time, date and place of the hearing as may be determined by the Municipality not less than thirty (30) days prior to the date determined for the hearing, by electronic means or registered post;
 - (iii) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.
- (2) The project committee must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in subsection (1) (b).

24. Preparation of land use scheme

The project committee must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section 22(2), the Municipality must follow a further consultation and public participation process in terms of section 22(2) of this By-law, before the land use scheme is adopted by the Council.

25. Submission of land use scheme to Council for approval and adoption

- (1) The project committee must —
- (a) within 60 days from the closing date for objections contemplated in section 22(2)(d)(i); or
 - (b) if a further consultation and public participation process is followed as contemplated in section 23, within 60 days from the closing date of such further objections permitted in terms of section 24 read with section 22(2)(d)(i), submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.
- (2) The Council must consider and adopt the land use scheme with or without amendments.

26. Publication of notice of adoption and approval of land use scheme

- (1) The Council must, within 60 days of its adoption of the land use scheme referred to in section 25(2), publish notice of the adoption in the media and the *Provincial Gazette*.
- (2) The date of publication of the notice referred to in subsection (1), in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

27. Submission to Member of Executive Council

After the land use scheme is published in terms of section 26 of the Act, the Municipality must submit a copy of an approved land use scheme to the Member of the Executive Council.

28. Records

- (1) The Municipality must keep record in the register of amendments to the land use scheme of the land use rights in hard copy and electronic format, in relation to each erf or portion of land and which information is regarded as part of its land use scheme as contemplated in section 30 of this By-law.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal area.
- (3) Should anybody or person request a copy of an approved land use scheme, or any component thereof, the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved land use scheme or any component thereof in

accordance with the provisions of Promotion of Access to Information Act, 2000(Act 2 of 2000) as guided by the By-law or policy, if applicable.

- (4) A body or person as detailed in subsection (3) must access such information from the municipal Records strategic business unit.

29. Content of land use scheme

- (1) The content of a land use scheme prepared and adopted by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial planning and development legislation (if applicable) and must contain —
- (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;
 - (c) a register of all amendments to such land use scheme; and
 - (d) an annexure register.
- (2) In addition to the content of a land use scheme stipulated in subsection (1) above, the following may be included —
- (a) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
 - (b) servitudes for municipal services and access arrangements for all properties;
 - (c) provisions applicable to all properties relating to storm water;
 - (d) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
 - (e) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (3) The land use scheme may —
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
 - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

30. Register of amendments to land use scheme

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

- (a) date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) property description and registration division;
- (e) previous and approved zoning and existing land use;
- (f) a copy of the approved site development plan;
- (g) amendment scheme number;
- (h) annexure number;
- (i) item number;
- (j) item date;
- (k) decision (approved/on appeal/not approved);
- (l) decision date.

31. Merging of land use schemes

- (1) The Municipality may of its own accord merge two or more approved land use schemes; prepare certified copies of documentation as the Municipality may require, for purposes of merging the said

land use schemes, the merged land use scheme will come into operation from the date of the signing thereof provided that—

- (a) such merger must not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights;
 - (b) after the Municipality has signed and certified merged land use scheme, it must publish it in the *Provincial Gazette*.
- (2) Where as a result of repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
- (3) The provisions of sections 16 to 30 of this By-law apply, with the necessary changes, to the review or amendment of an existing land use scheme.

CHAPTER 4 INSTITUTIONAL STRUCTURE FOR LAND DEVELOPMENT AND LAND USE MANAGEMENT DECISIONS

Part 1: Land Development Application Categories

The categorisation of land development applications, contemplated in sections 35(2) and (3) of the Act read with Regulation 15 of the Regulations to the Act, which must apply to any land development application to be dealt with in terms of national or provincial planning and development legislation, is set out in these subsections, and is brought into effect by virtue of the adoption of this By-law and/or by resolution of the Municipal Council.

32. Category 1 land development applications

- (1) Category 1 land development applications are land development applications that must be considered by Municipal Planning Tribunal in terms of the Act read with Regulation 15 of the Regulations to the Act.
- (2) The Municipal Planning Tribunal must decide any opposed land development application referred to it in terms of the provisions of this By-law, or the municipal land use scheme or any other applicable law relating to land development.
- (3) Land development applications contemplated in subsection (1) and (2) includes an application for:
 - (a) township establishment or the extension of the boundaries of a township;
 - (b) division of a township;
 - (c) amendment or cancellation in whole or in part of a general plan of a township;
 - (d) amendment of an existing scheme or land use scheme by rezoning of an Erf;
 - (e) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
 - (f) special consent in terms of the applicable Land Use Scheme or existing scheme;
 - (g) the subdivision of agricultural land, holding, farms and farm portions;
 - (h) the consolidation of agricultural land, holding, farms and farm portions;
 - (i) Land Use rights on Communal Land or in Rural Areas;
 - (j) any application in terms of other legislations not repealed by the Act,

- (4) The Municipal Planning Tribunal must also decide on applications as envisaged in section 166 of this By-law.

33. Category 2 land development applications

- (1) Category 2 land development applications are land development applications that must be considered by an Authorised Official in terms of section 35(2) of the Act read with Regulation 15 of the Regulations to the Act.
- (2) An Authorised Official may only decide unopposed land development applications submitted in terms of this By-law, or the municipal land use scheme or any other applicable law relating to land development which application complies with the provisions of section 4 of this By-law.
- (3) An Authorised Official may not decide unopposed application which does not comply with one or more of the criteria as set out in of this By-law without forwarding it to the Municipal Planning Tribunal for a decision.
- (4) Notwithstanding subsection (1) and (2) above, such authorised official will have the discretion to forward any application referred to him/her to the Municipal Planning Tribunal for a decision.
- (5) Land development applications contemplated in subsection (1) and (2) includes an application for—
- (a) subdivision or consolidation of an “erf/erven” within the proclaimed Township;
 - (b) written consent in terms of the applicable Land Use Scheme or existing scheme;
 - (c) temporary consent in terms of the applicable Land Use Scheme or existing scheme;
 - (d) all application delegated in terms of the delegation of power by the Council as amended from time to time.

Part 2: Powers and functions

34. Powers and functions of a Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal may—
- (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
 - (b) in the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions;
 - (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law, the Act and/or any planning and development legislation (if applicable);
 - (d) conduct any necessary investigation;
 - (e) give directions relevant to its functions to any person in the service of the Municipality; or
 - (f) decide any question concerning its own jurisdiction.
- (2) The Municipal Planning Tribunal must be guided by the provision of section 40 of the Act.
- (3) The Municipal Planning Tribunal must provide reasons for any of its decisions made upon any written request submitted by any of the parties which appeared before it within 28 days of date of receipt of the notice of the decision and such reasons shall be provided by the Municipal Planning Tribunal’s Chairperson in writing within 14 days from date of receipt of such request.
- (4) The Municipal Planning Tribunal must keep a record of all its proceedings and decisions.

35. Powers and functions of an Authorised Official

- (1) As envisaged in terms of section 35(2) of the Act, the Polokwane Municipality has authorised an official in terms of a proper delegated power to decide on certain land development applications.
- (2) The authorisation in terms of subsection (1) above may include the power to sub-delegate such authorisation to any suitably qualified official(s) in the employ of the Municipality and under the control or supervision of the authorised official. The authorisation must be granted by an Authorised Official.
- (3) The provisions of section 34 above shall apply *mutatis mutandis* to such authorised official or duly authorised sub-delegate(s).

Part 3:**Establishment of Municipal Planning Tribunal****36. Establishment of Municipal Planning Tribunal**

- (1) The Municipality must, in order to determine land development applications within its area of jurisdiction, establish a Municipal Planning Tribunal.
- (2) The Municipal Planning Tribunal must decide on applications referred to it as per the Municipal Planning Tribunal's approved terms of reference, the provisions of the Act and this By-law.

37. Composition of Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal must consist of—
 - (a) officials in the full-time employment of the Municipality in terms of section 36(1)(a) of the Act; and, at the sole discretion of the Municipality, the persons in the full-time service of the Municipality must have at least three years' experience in the field in which they are performing their services, it may also include personnel under subsection (10) (l);
 - (b) persons appointed by the Municipality who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law relating thereto in terms of section 36(1)(b) of the Act.
- (2) Municipal Councillors shall not be members of a Municipal Planning Tribunal in terms of section 36(2) of the Act.
- (3) The Municipal Planning Tribunal must consist of at least 5 members or more as the Municipal Council deems necessary. On a ratio of 60/40, i.e. 60% members from the internal/official from the Municipality and 40% from the external/government official member's reference to section 36(3) of the Act.
- (4) The Municipal Planning Tribunal may designate at least three members of the Tribunal which will form a quorum to hear, consider and decide a matter which comes before it.
- (5) The Municipal Council must designate a member of the Municipal Planning Tribunal as Chairperson(s) and Deputy Chairperson in terms of section 36(4) (a) and (b) of the Act.
- (6) The terms and conditions of service of members of the Municipal Planning Tribunal as provided in section 37 subsection (1) (a) and (b) above shall be as per Schedule 1 of Regulation to the Act.
- (7) The members of the Municipal Planning Tribunal must adhere to and will be required to sign a code of conduct as approved by the Council which shall be substantially in accordance with Schedule 3 of the Regulations to the Act.

- (8) The members of the Municipal Planning Tribunal shall be subject to disqualification from membership as set out in section 38 of the Act.
- (9) Should the Municipality, in its sole discretion, decide to appoint members to the Municipal Planning Tribunal as envisaged in subsection (1)(b) above, it shall comply with the call for nomination procedures as set out in schedule 2 of the Regulation to the Act and this By-law.
- (10) Appointed members to the Municipal Planning Tribunal as envisaged in subsection (1)(a) and (b) above must demonstrate knowledge of spatial planning, land use management and land development of the law related thereto; and must have at least minimum of three (3) years' practical experience in the discipline within which they are registered; the appointed member must be registered with the following professional councils or voluntary bodies (if applicable):
- (a) a person who is registered as a Professional Land Surveyor in terms of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), or a Geomatics professional in the branch of land surveying in terms of the Geomatics Profession Act, 2013 (Act No. 19 of 2013);
 - (b) a person recognized as an experienced environmental assessment practitioner with appropriate experience registered with the relevant body or Council;
 - (c) a person registered as a Professional Planner with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
 - (d) a person registered as a Professional Engineer with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
 - (e) a person with financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
 - (f) a person either admitted as an Attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as Advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
 - (g) a person registered as a professional surveyor with the South African Council for Professional and Technical Surveyors (PLATO). Person registered as a Professional land Surveyor in terms of the Professional and Technical Surveyors' Act, 40 of 1984 or any relevant legislation if applicable;
 - (h) a person registered as a GIS Technologist with the South African Council for Professional and Technical Surveyors (PLATO). person registered as a professional land surveyor in terms of the Professional and Technical Surveyors' Act, Act 40 of 1984; or any relevant legislation if applicable;
 - (i) a person registered as Professional Valuers in terms of the Property Valuers Profession Act (No. 47 of 2000);
 - (j) a person registered as Building Control Officer in terms of the provision of building Regulation and Building Standards Act 1977, (Act No. 103 of 1977);
 - (k) one person registered as environmental practitioner registered with relevant council as environmental a voluntary association;
 - (l) any other person/s who has knowledge and experience of spatial planning, land use management and land development or the law or any related thereto includes municipal officials who comment on the land development and land use application from:
 - (i) local economic development;
 - (ii) fire safety;
 - (iii) water and sanitation;
 - (iv) roads and storm water management;
 - (v) transport engineer;
 - (vi) legal services;
 - (vii) electrical;
 - (viii) traffic;
 - (ix) records clerk (administration);

- (x) records management;
- (xi) housing;
- (xii) building; and
- (xiii) community health;
- (m) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (n) any other person(s) from the Traditional Local Council of a Traditional Local Authority who has knowledge and experience of customary laws applicable in that Traditional Local Authority and who does not contravene section 38 (1) (b) of the Act. This may include the person(s) with the following responsibilities at the Traditional Local Authority:
 - (i) land development;
 - (ii) local Economic development;
 - (iii) any other land development matters;
- (o) any other relevant expertise/profession as delegated by the responsible authority in terms of the Act.

38. Invitation procedure for nomination

- (1) The Municipality must —
 - (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations to the Act;
 - (b) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations to the Act.
- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations to the Act must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule 2 of the Regulations to the Act and the form may be amended to contain any other information that the Municipality considers necessary.
- (3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations to the Act must be in the form contemplated in Schedule 2 and the form may be amended to contain any other information that the Municipality considers necessary, and —
 - (a) must be published in local newspaper(s) that is circulated in the municipal area in two official languages determined by the Council, having regard to language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act;
 - (b) may be submitted to various professional bodies which registers persons referred to in section 37(10) with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
 - (c) may advertise the call for nominations on the municipal website; and
 - (d) utilise any other method and media it deems necessary to advertise the call for nominations.

39. Requirements for submission of nomination

- (1) The nomination must be in writing and be addressed to the Municipal Manager.
- (2) The nomination must consist of —
 - (a) the completed declaration contained in the form contemplated in Schedule 2 of the Regulation to the Act and all pertinent information must be provided within the space provided on the form;
 - (b) the completed declaration form of interest contemplated in Schedule 2 of the Regulation to the Act;
 - (c) the motivation by the nominator contemplated in subsection (3)(a) below; and

(d) a comprehensive curriculum vitae of the nominee contemplated in subsection (3)(b) below.

(3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations to the Act, the nomination must be accompanied —

- (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
- (b) a comprehensive curriculum vitae of the nominee.

40. Initial screening of nomination by Municipality

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it, to determine whether the nominations comply with the provisions of section 38 of this By-law.
- (2) The nominations that are incomplete or do not comply with the provisions of section 38 must be rejected by the Municipality.
- (3) Every nomination that is complete and complies with the provisions of section 38 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she —
 - (a) was not duly nominated;
 - (b) is disqualified from appointment as contemplated in section 38 of the Act;
 - (c) does not possess the knowledge or experience as required in terms of section 37(10); or
 - (d) is not registered with the professional councils or voluntary bodies contemplated in section 37(10), if applicable,the nomination must be rejected and must not be considered by the evaluation panel contemplated in section 41.

(5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 41.

(6) The screening and verification process contained in this section must be completed within 28 days from the expiry date for nominations.

41. Evaluation panel

- (1) The evaluation panel as contemplated in Regulation 3(1)(g) read together with Regulation 3(11) of the Regulations to the Act, must consist of officials in the employ of the Municipality.
- (2) The evaluation panel must evaluate all nominations within 28 days of receipt of the verified nominations or such extended period that the Council deems necessary due to administrative compliance and must submit a report with their recommendations to the Council for consideration.

42. Appointment of members to Municipal Planning Tribunal by Council

- (1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.
- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson and a deputy chairperson referred to in section 37(5) of this By-law from the members as contemplated in section 37 (10) of this by-law.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 47 of this By-law,

publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

43. Term of office and conditions of service of members of Municipal Planning Tribunal

- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of five years, which is renewable once for a further period of five years.
- (2) The office of a member becomes vacant if that member —
 - (a) is absent for two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
 - (c) is removed from the Municipal Planning Tribunal under subsection (3) below; or
 - (d) dies or becomes permanently incapacitated.
- (3) The Council may remove a member of the Municipal Planning Tribunal if —
 - (a) sufficient reasons exist for his or her removal;
 - (b) he or she contravenes the code of conduct contemplated in Schedule 3 of this By-law;
 - (c) he or she becomes subject to a disqualification as contemplated in section 38(1) of the Act, after giving him or her an opportunity to be heard.
- (4) A person in the full-time service of the Municipality contemplated in section 36(1)(a) of the Act who serves on the Municipal Planning Tribunal —
 - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time service of the Municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality must immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by the Municipality in terms of section 36(1)(b) of the Act to the Municipal Planning Tribunal —
 - (a) is not an employee on the staff establishment of the Municipality;
 - (b) is an employee of an organ of state as contemplated in Regulation 3(2)(a) of the Regulations to the Act, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her ;
 - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in Regulation 3(2)(b) of the Regulations to the Act, is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the Municipality in accordance with the Act;
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by the Municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Municipal Planning Tribunal must sign the Code of Conduct, Operating Procedures and Guidelines contained in Schedule 3 of this By-law before taking up a seat on the Municipal Planning Tribunal.

- (7) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and must conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Municipal Planning Tribunal, in the execution of their duties, must comply with the provisions of the Act, provincial planning and development legislation, this By-law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

44. Vacancy and increase of number of members of Municipal Planning Tribunal

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 42 of this By-law.
- (2) A member who is appointed by virtue of subsection (1) in a vacant seat holds office for the unexpired portion of the period for which the member he or she replaces was appointed.
- (3) The Municipality may, during an existing term of office of the Municipal Planning Tribunal and after a review of the operations of the Municipal Planning Tribunal, increase the number of members appointed in terms of this Part and in appointing such additional members, it must adhere to the provisions of sections 37 to 42 of this By-law.
- (4) In appointing such additional members, the Municipal Council may increase the number of members of Municipal Planning Tribunal as it deems necessary as contemplated in section 36(3) of the Act.
- (5) A member, who is appointed by virtue of subsection (3) above, holds office for the unexpired portion of the period that the current members of the Municipal Planning Tribunal hold office.

45. Proceedings of Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal must operate in accordance with the operational procedures determined by the Municipality.
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of the members appointed and present at that meeting as per section 37 (3) of this By-law.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his or her deliberative vote as a member of the Municipal Planning Tribunal.
- (4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the operational procedures of the Municipality, and meetings must be held at least once per month, if there are applications to consider.
- (5) The chairperson may arrange multiple Municipal Planning Tribunal meetings on the same day constituted from different members of the Municipal Planning Tribunal and must designate a presiding officer for each of the meetings.
- (6) If an employee of the Municipality makes a recommendation to the Municipal Planning Tribunal regarding an application, that employee may not sit as a member of the Municipal Planning Tribunal while that application is being considered and determined by the Municipal Planning Tribunal but such employee may serve as a technical adviser to the Municipal Planning Tribunal.

46. Tribunal of record

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, and is not obliged to provide the in-committee discussions to any member of the public or any person or body.

- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon request and payment of the fee approved by the Council and in accordance with the provisions of its Promotion of Access to Information By-law or policy, if applicable.

47. Commencement date of operations of Municipal Planning Tribunal

- (1) The Municipal Manager must within 28 days of the first appointment of members to the Municipal Planning Tribunal —
- (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
 - (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in section 42(4) of this By-law.
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

Part 4:

Decisions of Municipal Planning Tribunal

48. General criteria for consideration and determination of application by Municipal Planning Tribunal or Authorised Official

- (1) When the Municipal Planning Tribunal or Authorised Official considers an application submitted in terms of this By-law, it, he or she must have regard to the following:
- (a) the application submitted in terms of this By-law or prevailing legislation aligned with this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (d) the response by the applicant to the comments referred to in paragraph (c);
 - (e) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (f) a written assessment by a Professional Planner as defined in Section 1 of the Planning Profession Act, 2002, in respect of land development applications to be considered and determined by the Municipal Planning Tribunal;
 - (g) the Integrated Development Plan and Municipal Spatial Development Framework;
 - (h) the applicable local framework plans adopted by the Municipality;
 - (i) the applicable policies of the Municipality that guide decision-making;
 - (j) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (k) the matters referred to in section 42 of the Act;
 - (l) the relevant provisions of the land use scheme.
- (2) The written assessment of a Professional Planner contemplated in subsection (1)(f) must include such registered planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

49. Conditions of approval

- (1) When the Municipal Planning Tribunal or Authorised Official approves an application subject to conditions, the conditions must be reasonable and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to —

- (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;
 - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;
 - (j) requirements aimed at addressing climate change;
 - (k) the establishment of an owners' association in respect of the approval of a subdivision;
 - (l) the provision of land needed by other organs of state;
 - (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the Municipality or the registration of public places in the name of the Municipality, and the transfer of ownership to the Municipality of land needed for other public purposes;
 - (n) the excision of land from the agricultural holding register and the endorsement by the Registrar of Deeds of the agricultural holding title, to the effect that the land is excised;
 - (o) the implementation of a subdivision in phases;
 - (p) requirements of other organs of state;
 - (q) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
 - (r) agreements to be entered into in respect of certain conditions;
 - (s) the phasing of a development, including lapsing clauses relating to such phasing;
 - (t) the delimitation of development parameters or land uses that are set for a particular zoning;
 - (u) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
 - (v) the setting of dates by which particular conditions must be met;
 - (w) the circumstances under which certain land uses will lapse;
 - (x) requirements relating to engineering services as contemplated in Chapter 7;
 - (y) requirements for an occasional use that must specifically include —
 - (i) parking and the number of ablution facilities required;
 - (ii) maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the land use scheme.
- (3) If a Municipal Planning Tribunal or Authorised Official imposes a condition contemplated in subsection (2)(a), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need thereof arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
- (5) Except for land needed for public places, social infrastructure or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved application must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (6) Conditions which require a standard to be met must specifically refer to an approved or published standard.

- (7) No condition may be imposed which affects a third party or which is reliant on a third party for fulfilment, with the exception of a condition that requires the approval in terms of other legislation.
- (8) If the Municipal Planning Tribunal or Authorised Official approves an application subject to conditions, it, he or she must specify which conditions must be complied with before the sale, development or transfer of the land.
- (9) The Municipal Planning Tribunal or Authorised Official may, on its, his or her own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.
- (10) After the applicant has been notified that his or her application has been approved, the Municipal Planning Tribunal or Authorised Official or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of this section or add any further condition, provided that if the amendment is in the opinion of the Municipal Planning Tribunal or Authorised Official so material as to constitute a new application, the Municipal Planning Tribunal or Authorised Official may not exercise its, his or her powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipal Planning Tribunal or Authorised Official to re-advertise the application in accordance with section 99.

Part 5: Administrative Arrangements

50. Administrator for Municipal Planning Tribunal

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

CHAPTER 5 DEVELOPMENT MANAGEMENT

Part 1: Types of Applications

51. Types of applications

- (1) Land development applications that may be lodged in terms of this By-law include the following —
 - (a) establishment of a township or the extension of the boundaries of a township;
 - (b) division of a township;
 - (c) amendment or cancellation in whole or in part of a general plan of a township;
 - (d) amendment of an existing scheme or land use scheme by the rezoning of an Erf;
 - (e) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
 - (f) subdivision or consolidation of land;
 - (g) permanent closure of any public place;
 - (h) consent use;
 - (i) land development application in rural areas and/ or communal land;
 - (j) permanent or temporary departure from land use scheme;
 - (k) any other application provided for in this By-law;

52. Land use and land development

- (1) No person may use or commence with land development which is not permitted in the land use scheme or for which an approval is not granted in terms of this By-law.
- (2) Any land use right granted in terms of an approval of an application or reflected in the land use scheme vest in the land and not in the owner or applicant.
- (3) When an applicant or owner exercises a land use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.
- (4) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.
- (5) Any reference to the Municipality in this Chapter includes a reference to the Municipal Planning Tribunal and the Authorised Official, as the case may be.

53. Pre-Application Consultation

- (1) An applicant who wishes to lodge an application in terms section 54, 55, 61, 62, 64, 67(1) (b), 72, and 74(2) of this By-law is subjected to a pre-application consultation with the municipality.
- (2) The municipality may in its own discretion determine whether an application lodged in terms of any other section of this By-law not mentioned in subsection (1) is subjected to a pre-application consultation or not.
- (3) An applicant who intends to lodge any application in terms of this By-law is subjected to comply with subsection (1) and (2) above read together with schedule 28.
- (4) An applicant will be issued with a pre-authorisation letter which confirms that the pre-application consultation meeting was held.
- (5) A pre-authorisation letter only confirms that the pre-application consultation meeting was held and does not mean that an application will automatically be approved.

Part 2:**Establishment of Township or Extension of Boundaries of Township****(Schedule 8 is applicable)****54. Application for establishment of township or extension of boundaries of township**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6 of this By-law.
- (2) An application contemplated in subsection (1) must be accompanied by such plans, diagrams, technical reports and other documents as may be prescribed by the Municipality in schedule 8, and the applicant must —
 - (a) furnish the Municipality with such further information as it may require; and
 - (b) the number of copies as the Municipality may require of the application and any documentation or information;
 - (c) pay the Municipality such fees as it may levy; and
 - (d) obtain a Township Name through a request for reservation of a township name in terms of schedule 7 of this By-law.
- (3) In dealing with and deciding on the application by the Municipal Planning Tribunal, the application contemplated in subsection (1) and the draft amendment scheme contemplated in subsection 5(e) below, shall be considered together; provided that: neither the township establishment application nor the draft amendment scheme can be dealt with separately and shall be regarded as one land development application and decision.
- (4) The Municipality must, in approving an application for township establishment, set out —
 - (a) the conditions of approval contemplated in section 49;
 - (b) the statement of conditions which shall be known as conditions of establishment for the township; and
 - (c) the statement of conditions which in the opinion of the Municipality, substantially be in accordance with this By-law.
- (5) The statement of conditions must be read with directives that may be issued by the Registrar of Deeds, including —
 - (a) conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;
 - (b) conditions of establishment relating to the township that must remain applicable to the township;
 - (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
 - (d) third party conditions as required by the Registrar of Deeds;
 - (e) conditions to be incorporated into the land use scheme by means of an amendment scheme; and
 - (f) any other conditions and/or obligation on the township owner, which in the opinion of the Municipality is deemed necessary for the proper establishment, execution and implementation of the township.
- (6) After the applicant has been notified that his or her application has been approved, the Municipality may in its own discretion or at the applicants request amend or delete any condition imposed in terms of subsection (4)(a) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and must require the applicant to submit an amended or new

application and in the sole discretion of the Municipality to re-advertise the application in accordance with section 95 or lodge a new application in terms of subsection (1).

- (7) After the applicant has been notified that his or her application has been approved, the Municipality may in its own discretion or at the applicants request and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality in accordance with section 95 or lodge a new application in terms of subsection (1).
- (8) Without detracting from the provisions of subsection (6) and (7) the Municipality may require the applicant to amend both the conditions and the layout plan of the township establishment application as contemplated therein.

55. Division of a township

- (1) An applicant who has been notified in terms of section 109 that his or her application has been approved may, within the period permitted by the Municipality, 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 Municipality must consider the application and may for purposes of the consideration of the application —
 - (a) require the applicant to pay an application fee as may be determined by the Municipality;
 - (b) require the applicant to submit plans, information, technical reports and documentation which in the opinion of the Municipality is necessary as prescribed in Schedule 9 of this By-law, for the consideration of a division of a township;
 - (c) require the applicant to indicate whether the documents contemplated in section 56 have been lodged with the Surveyor-General; or
 - (d) require the applicant to provide proof that he/she has consulted with the Surveyor-General where the documents contemplated in section 56 have been lodged;
 - (e) consult with the Surveyor-General;
 - (f) require the applicant to submit a draft amendment scheme for purposes of incorporation into the Land Use Scheme in terms of section 54(3) and 54(5)(e).
- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the applicant in writing thereof and of any conditions imposed.
- (4) The applicant must, within a period of 3 months or such further period as the Municipality may allow from the date of the notice contemplated in subsection (3), submit to the Municipality the phasing plans, layout plans, conditions of establishment and 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 applicant must notify the Surveyor-General, and the registrar in writing of the approval of the application and such notice must be accompanied by a copy of the plan of each separate township.

56. Lodging of layout plan for approval with the Surveyor-General.

- (1) An applicant who has been notified in terms of section 109 that his or her application has been approved, must, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow which period may not be longer than 5 years, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application lapses.

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LIMPOPO PROVINCE
 LIMPOPO PROVINSIE
 XIFUNDZANKULU XA LIMPOPO
 PROFENSE YA LIMPOPO
 VUNDU LA LIMPOPO
 IPHROVINSI YELIMPOPO

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 Kuranta ya Profense • Gazethe ya Vundu**

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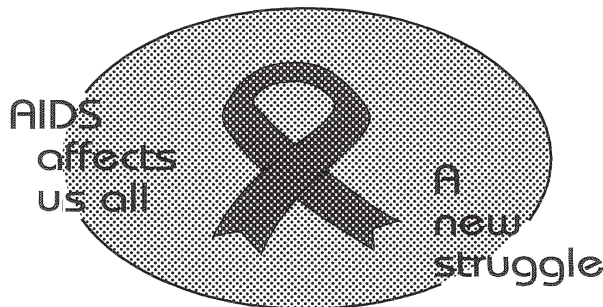
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- (2) For purposes of subsection (1), the Municipality must provide to the applicant with the approved and stamped conditions of establishment together with a stamped and approved layout plan.
- (3) Prior to the lodging of the documents contemplated in subsection (1), the Municipality may require the applicant to apply for street names and numbers as per approved Council policy, which shall be indicated on the layout plan.
- (4) Where the applicant has lodged the plans, diagrams or other documents contemplated in subsection (1), but fails to comply with any requirements set by the Surveyor-General, within a period determined by the Surveyor-General, which determination of time shall take into account the provisions of this By-law and shall not accumulatively exceed 5 years read with section 43(2) of the Act, the application shall lapse.
- (5) The applicant must, after the Surveyor-General has approved the plans and diagrams for the township, forthwith deliver a notice to the Municipality and must simultaneously provide it with a copy of the approved plans and diagrams, including a copy of the General Plan for the township and the date of the approval of the General Plan shall be regarded as the date for purposes of section 58(1).

57. Compliance with pre-proclamation conditions of approval

- (1) The applicant must provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the approval of a township establishment application have been complied with.
- (2) The Municipality must certify that all the conditions that have to be complied with by the applicant or owner as contemplated in section 54(4) and (5) have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).
- (4) The Municipality may agree to an extension of time as contemplated in subsection (1), after receiving a written application from the applicant for an extension of time, provided that such application provides motivation for the extension of time.

58. Opening of Township Register

- (1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 56 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) For purposes of subsection (1) the Registrar of Deeds must not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 54(5).
- (3) The plans, diagrams and title deeds contemplated in subsection (1) and certification contemplated in subsection (2) must be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.
- (4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar of Deeds must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar of Deeds must not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 59.

59. Proclamation of an approved township.

Upon compliance with sections 56, 57, 58 and 59 the approval of the Municipality is confirmed and cannot lapse and the Municipality or the applicant, if authorised in writing by the Municipality, must, by notice in the *Provincial Gazette*, declare the township an approved township and it must, in an annexure to such notice, set out the conditions on which the township is declared an approved township.

60. Prohibition of certain contracts and options

- (1) After an owner of land has taken steps to establish a township on his or her land, no person is permitted to —
 - (a) enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in that township;
 - (b) grant an option to purchase or otherwise acquire an erf in that township, until such time the township is proclaimed.
- (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 purchaser.
- (3) Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.
- (4) For the purposes of subsection (1) —
 - (a) “steps” includes steps preceding an application; and
 - (b) “any contract” includes a contract which is subject to any condition, including a suspensive condition.
 - (c) “land” refers to agricultural holding or farm portion

Part 3: Rezoning (Schedule 10 is applicable)

61. Application for amendment of a land use scheme by rezoning of an Erf

- (1) An applicant, who wishes to rezone land, may apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) An applicant is prohibited from rezoning two or more erven using a single amendment scheme number.
- (3) A rezoning approval lapses after a period of five years calculated from the date of approval or the date that the approval comes into operation if, within that five years' period —
 - (a) the conditions of approval contemplated in section 49 have not been met; and
 - (b) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments.
- (4) An applicant may, prior to the lapsing of an approval, may apply for an extension of the period contemplated in subsection (3), in accordance with the provisions of section 110.
- (5) The Municipality may grant an extension of the two-year period contemplated in subsection (2), but the two-year period together with any extension that the Municipality grants, may not exceed five years.
- (6) Upon compliance with subsection 3(a) and (b), the approval of the rezoning is confirmed and cannot lapse and the Municipality or the applicant, if authorised in writing by the Municipality, must publish a notice in the *Provincial Gazette* of the amendment of the land use scheme and it comes into operation on the date of publication of the notice.

- (7) If a rezoning approval lapses, the zoning applicable to the erf prior to the approval of the rezoning applies.

Part 4:
Restrictive Condition of a Title
(Schedule 11 is applicable)

62. Amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land

- (1) The Municipality may, of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the Municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) The Municipality must, in accordance with section 95, serve a notice of its intention to consider an application under subsection (1) to be served on —
- (a) all organs of state that may have an interest in the title deed restriction;
 - (b) every holder of a bond encumbering the land;
 - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
 - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (4) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following —
- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
 - (d) the social benefit of the restrictive condition remaining in place in its existing form;
 - (e) the social benefit of the removal or amendment of the restrictive condition; and
 - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

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

- (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in section 62(1), submit the following to the Registrar of Deeds —
- (a) a copy of the original title deed;
 - (b) a copy of the original letter of approval; and
 - (c) a copy of the notification of the approval.
- (2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in section 62(1), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

Part 5:**Amendment or Cancellation in Whole or in Part of a General Plan of an Approved Township
(Schedule 14 is applicable)****64. Amendment or cancellation in whole or in part of a General Plan of an approved township**

- (1) An applicant who wishes to amend or cancel in whole or in part a general plan of an approved township may apply to the Municipality in the manner provided for in Chapter 6.
- (2) The Municipality may approve the amendment or cancellation of a General plan, including conditions of approval contemplated in section 49, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
- (3) When the Municipality approves an application in terms of subsection (2), any public place that is no longer required by virtue of the approval must be closed.
- (4) The Municipality must notify the Surveyor-General of an approval in terms of subsection (2), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the General plan.
- (5) An approval of an amendment or cancellation of a General plan in terms of subsection (2), remains valid for the period contemplated in section 69(1) calculated from the date of approval of the amendment or cancellation in terms of subsection (2).

65. Notification to Surveyor General

- (1) After the Municipality has approved or refused an application for the alteration, amendment or cancellation of a general plan, the Municipality must notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.
- (2) An applicant who has been notified that his or her application has been approved must, within a period of twelve months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he or she fails to do so the application lapses.
- (3) Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor-General may lawfully lay down, the Surveyor-General must notify the Municipality accordingly, and where the Municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the Municipality must notify the applicant, and thereupon the application lapses.
- (4) After the Surveyor-General has altered or amended the general plan or has totally or partially cancelled it, in terms of section 30 (2) of the Land Survey Act, 1997, he or she must notify the Municipality.
- (5) On receipt of the notice contemplated in subsection (4) the Municipality must publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality must, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.
- (6) The Municipality must provide the Registrar of Deeds with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subsection (5).

66. Effect of amendment or cancellation of general plan

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

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

Part 6:
Subdivision or Consolidation
(Schedule 12 and Schedule 13 is applicable)

67. Application for subdivision or consolidation

- (1) An applicant who wishes to subdivide or consolidate land —
- (a) within a proclaimed township; or
 - (b) within a farm, farm portion or agricultural holding,
- may apply in writing to the Municipality as prescribed in Schedule 12 or Schedule 13 of this By-law and at the same time lodge a diagram setting out the proposed subdivision or consolidation, and such application must be accompanied by fees as may be prescribed.
- (2) An applicant who wishes to subdivide any land may not do so, if in the opinion of the Municipality such subdivision constitutes a township.
- (3) No person may subdivide or consolidate land without the approval of the Municipality, unless the subdivision or consolidation is exempted under section 70.
- (4) An applicant who wishes to subdivide or consolidate land must apply to the Municipality for the subdivision or consolidation of land in the manner provided for in Chapter 6.
- (5) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision or consolidation.
- (6) If the Municipality approves a subdivision or consolidation, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of —
- (a) the Municipality's decision to approve the subdivision or consolidation;
 - (b) the conditions of approval contemplated in section 49; and
 - (c) the approved subdivision or consolidation diagram.
- (7) After the provisions of subsection (1) to (4) have been complied with, the Municipality must consider the applications as contemplated in subsection (1) and it may approve or refuse it, provided that where the Municipality fails to approve or refuse an application to subdivide or consolidate land as contemplated in subsection (1) within a period of twelve months from the date of receipt of the application, it shall be deemed that the Municipality has approved the application; provided that where an application is deemed to be approved the following standard conditions shall apply—
- (a) the relocation of any engineering services including the cancellation or registration of servitudes to protect such engineering services must be done by the applicant and at his/her cost, to the satisfaction of the Municipality;
 - (b) access to the subdivided or consolidated property must be to the satisfaction of the Municipality;
 - (c) the applicant shall alter the buildings as may be required to comply with the provisions of the National Building Regulations and Standards Act, 1977, (Act 103 of 1977); and
 - (d) the Municipality must certify to the Surveyor-General and Registrar of Deeds that the subdivision or consolidation diagram may be approved and that the subdivision or consolidation may be registered; subject to such conditions as it may deem expedient.
- (8) A confirmation from the Municipality in terms of section 68(1) (b) and 68(2)(b) that all conditions of approval contemplated in section 49 have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

68. Confirmation of subdivision or consolidation

- (1) Subdivision —
- (a) upon compliance with section 67(6), the subdivision or part thereof is confirmed and cannot lapse;
 - (b) upon confirmation of a subdivision or part thereof, the zonings indicated on the approved subdivision plan as confirmed cannot lapse;
 - (c) the Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 67(5) for the subdivision or part thereof;
 - (d) no building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed or the Municipality approved the construction prior to the subdivision being confirmed.
- (2) Consolidation —
- (a) upon compliance with section 67(6), the consolidation is confirmed and cannot lapse;
 - (b) upon confirmation of a consolidation, the zonings indicated on the approved consolidation plan as confirmed cannot lapse;
 - (c) the Municipality must in writing confirm to the applicant or to any other person at his or her written request that a consolidation is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 67(5) for the subdivision or part thereof;
 - (d) no building or structure may be constructed on a land unit forming part of an approved consolidation unless the consolidation is confirmed or the Municipality approved the construction prior to the consolidation being confirmed.

69. Lapsing of subdivision or consolidation and extension of validity periods

- (1) If a subdivision or consolidation application is approved but no consequent registration by the Registrar of Deeds takes place within three years of the approval, the subdivision or consolidation approval lapses, unless an application for extension of time frame is applied for in terms of section 110 of this By-law.
- (2) An applicant may, prior to the lapsing of an approval, apply for an extension of the period referred to in subsection (1), in accordance with the provisions of section 110 of this By-law.
- (3) The Municipality may grant extensions to the period contemplated in subsection (1), which period together with any extensions that the Municipality grants, may not exceed five years.
- (4) If an approval of a subdivision or consolidation lapses as referred to in subsection (1) —
- (a) the Municipality must notify the Surveyor-General accordingly; and
 - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision or consolidation has lapsed.

70. Exemption of subdivision or consolidation

- (1) An applicant, who wishes to obtain an exemption of subdivision or consolidation, may apply in writing to the Municipality.
- (2) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:
- (a) if the subdivision or consolidation arises from the implementation of a court ruling;
 - (b) if the subdivision or consolidation arises from an expropriation;
 - (c) a minor amendment of the common boundary between two or more land units if the resulting change in area of any of the land units is not more than 10 per cent (10%);
 - (d) the registration of a servitude or lease agreement for the provision or installation of —

- (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
 - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
 - (iii) the imposition of height restrictions;
 - (e) the exclusive utilisation of land for agricultural purposes, if the utilisation—
 - (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
 - (ii) does not lead to urban expansion.
 - (f) the subdivision and consolidation of a closed public place with an abutting erf; and
 - (g) the granting of a right of habitation or usufruct;
 - (h) the subdivision of land for the purpose of the construction or alteration of roads or any other matter related thereto;
 - (i) the subdivision of land in order to transfer ownership to the Municipality or other organ of state;
 - (j) the subdivision of land in order to transfer ownership from the Municipality or other organ of state, excluding a subdivision for the purposes of alienation for development;
 - (k) the subdivision of land where the national or provincial government may require a survey, whether or not the national or provincial government is the land-owner; and
 - (l) the subdivision of land in existing housing schemes in order to make private property ownership possible.
- (3) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter and impose any condition it may deem necessary.
- (4) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 67 to 70.

71. Services arising from subdivision or consolidation

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

- (2) Subsequent to the granting of an application for consolidation in terms of this By-law the owner of any land unit originating from the consolidation must —
 - (a) remove all the services as indicated in subsection 1 (a) above at his/her cost; and
 - (b) comply with all the conditions imposed in terms of section 49 of this By-law.

**Part 7:
Permanent closure of Public Place
(Schedule 15 is applicable)**

72. Closure of public places

- (1) The Municipality may on its own initiative or on application close a public place or any portion thereof in accordance with the procedures in Chapter 6.
- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the Municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (4) The Municipal Manager may, without complying with the provisions of this Chapter temporarily close a public place —
 - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
 - (c) if the street or place is, in the opinion of the Municipal Manager, in a state dangerous to the public;
 - (d) by reason of any emergency or public event which, in the opinion of the Municipal Manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
 - (e) for any other reason which, in the opinion of the Municipal Manager, renders the temporary closing of the public place necessary or desirable.
- (5) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.
- (6) The provisions of this section shall only apply once the Local Government Ordinance, 1939 (Ord. 17 of 1939) is repealed or does not contravene section 2 (2) of the Act.

**Part 8:
Consent Use
(Schedule 17 is applicable)**

73. Application for consent use

- (1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in section 49.

- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 49.
- (4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subsection (1) lapses after a period of two years or shorter period as the Municipality may determine calculated from the date that the approval comes into operation, if within the two-year period —
 - (a) the consent use is not utilised in accordance with the approval thereof; or
 - (b) the following requirements, if applicable, are not met —
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (6) The Municipality may grant extensions to the period contemplated in subsection (5) and the granting of an extension may not be unreasonably withheld by the Municipality, which period together with any extensions that the Municipality grants, may not exceed five years.

Part 9:

Land Use on Communal Land or in Rural Areas (Schedule 26 is applicable)

74. Land development application on communal land or in rural areas

- (1) An applicant who wishes to lodge a land development application on communal land or in rural areas must apply to the Municipality in the manner provided for in Chapter 6.
- (2) An applicant who wishes to apply for a “major impact development” on communal land or in rural areas may do so in the manner provided for in Chapter 6.
- (3) No land development application on communal land or in rural areas may be accepted by the Municipality without a recommendation letter from the Traditional Local Authority or power of attorney signed by the property owner.
- (4) Major impact development contemplated in subsection (2) are listed in schedule 26 (3) to this By-law.

Part 10:

Departure from provisions of Land Use Scheme (Schedule 16 is applicable)

75. Application for permanent or temporary departure from the provisions of the land use scheme

- (1) An application for a permanent departure from the provisions of the land use scheme is an application that will result in the permanent amendment of the land use scheme provisions applicable to land, and includes —
 - (a) the relaxation of development parameters such as building line, height, coverage or number of storeys; and
 - (b) the departure from any other provisions of a land use scheme that will result in the physical development or construction of a permanent nature on land that will not contravene with the purpose of the land use scheme in terms of section 17 of this By-law.

- (2) An application for a temporary departure from the provisions of the land use scheme is an application that does not result in an amendment of the land use scheme provisions applicable to land, and includes —
 - (a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
 - (b) the erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, workshops or such other uses as may be necessary during the erection of any permanent building or structure on the land;
 - (c) the occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall;
 - (d) the use of land or the erection of buildings necessary for the purpose of informal retail trade;
 - (e) any other application to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone.
- (3) An applicant may apply for a departure in the manner provided for in Chapter 6.
- (4) The Municipality may —
 - (a) grant approval for a departure contemplated in subsection (2)(a) for the period of validity of the prospecting license after which period the approval lapses; and
 - (b) grant approval for a departure contemplated in subsection (2)(b) for the period requested in the application or the period determined by the Municipality after which period the approval lapses.
- (5) The Municipality may grant extensions to the period that it determines in terms of subsection (4)(b), which period together with any extensions that the Municipality grants, may not exceed five years and the granting of the extension may not be unreasonably withheld by the Municipality.
- (6) A temporary departure contemplated in subsection (2) may not be granted more than once in respect of a particular use on a specific land unit.
- (7) A temporary departure contemplated in subsection (2)(b) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert to its previous lawful use upon the expiry of the period contemplated in subsection (4)(b).

Part 11:

General Matters

76. Power of attorney

- (1) Where any land development application, other application or request, either in terms of this By-law, land use scheme in operation or any other applicable law relating to municipal planning is made on behalf of the owner of a property, the person making the application or request shall submit a power of attorney signed by the owner in terms of which he/she is authorized to do so, which power of attorney shall be in accordance with form PLM: F-17 to this By-law.
- (2) Where any person acts, performs or appears in any capacity on behalf of the owner of property in terms of this By-law, land use scheme or any other law in any engagement with the Municipality, the Municipal Planning Tribunal, Authorised Official or Municipal Appeals Tribunal, the person so doing shall provide a power of attorney authorizing such person to do so on behalf of the owner in accordance with form PLM: F-17 to this By-law.
- (3) Where the Municipality or any official duly authorized to engage in any manner with any person who in terms of this By-law, land use scheme or other relevant legislation, is required to submit an application, any documentation, correspondence or engage in discussions or negotiations on agreements or any other act in terms of this By-law, land use scheme or other relevant legislation,

nothing contained herein shall oblige the Municipality to engage with any other person(s) or legal entity other than the person(s) or legal entity, holding the power of attorney on behalf of the owner of property.

77. Simultaneous Land Development Applications

- (1) An applicant who wishes to lodge a simultaneous land development application is subjected to a pre-application consultation in terms of section 53 of this By-law.
- (2) Schedule 27 to this By-law list the types of land development application that cannot be lodged simultaneously.

78. Ownership of public places and land required for municipal engineering services and social facilities.

- (1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vest in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed in terms of section 49 determine that land designated for the provision of engineering services, public facilities or social infrastructure on an approved subdivision plan, be transferred to the Municipality upon confirmation of the subdivision or a part thereof.

79. Continuation of application by new owner

- (1) If land that is the subject of any land development application in terms of this By-law is transferred to a new owner before the conclusion of such application, the new owner may continue with the application as the successor in the title to the previous owner and the new owner will be regarded as the applicant for the purposes of this By-law.
- (2) The new owner must inform the Municipality in writing of the continuation of the application and must simultaneously provide the Municipality with a new power of attorney, if necessary.
- (3) The new owner of land must provide the Municipality with the new title deed or proof of ownership as and when it becomes available after the date of actual registration of the property.

80. Naming and numbering of streets

- (1) If, as a result of the approval of a land development application, streets or roads are created, whether public or private, the Municipality must approve the naming of streets and must allocate a street number for each of the erven or land units located in such street or road.
- (2) The proposed names of the streets and numbers must be submitted as part of an application for township establishment and/or division of a township as contemplated in sections 54 and 55 of this By-law.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.
- (4) The Municipality must, within 28 days of the approval of street names related to land development applications in writing inform the Surveyor General of the approval thereof as contemplated in subsection (1).
- (5) The owner of the land development application must erect street name boards or pavement-curb according to the name board specifications determined by the Municipality.

- (6) No person may alter or amend any street name previously approved by the Municipal Council without the Municipal Council approving the amendment/alteration; provided that any unauthorised amendment or alteration shall be regarded as an offence in terms of this By-law.
- (7) The Municipality as the sole custodian of street addresses must allocate a street number for each property located in public and private streets/roads read with subsection (1).
- (8) An owner of property(ies) to which a street number has been allocated as envisaged in subsection (1) and (7), shall ensure that the number as approved for that property is displayed and remain displayed.
- (9) In the case of corner stands, the owner may request the street address to be amended by the Municipality to the side where the entrance is. The street address number must be placed according to the street in which the street address entrance is situated as approved by the Municipality.
- (10) The Municipality may, by written notice, direct the owner of a property to display the number allocated to the property and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such land shall, within 28 days of the date of such notice, affix the allocated number on the premises in accordance with such notice.
- (11) The Municipality may direct the owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

81. Lodging copy of plans, diagrams and/or general plans with the Municipality

- (1) The applicant must, within a period of three months from the date upon which the Surveyor-General has approved the plans, diagrams and/or general plans resulting from the approval of a land development application in terms of this By-law, lodge a certified copy or tracing of such plans, diagrams and/or general plans with the Municipality.
- (2) Where the applicant fails to comply with the provisions of subsection (1), the Municipality may obtain a copy or tracing contemplated in subsection (1) from the Surveyor-General and recover the costs from the applicant.

82. Approval of Building Plans and Registration

- (1) Over and above the requirements with regard to a provisional authorisation in terms of section 7(6) of the National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977), the Municipality shall consider when and whether the land use rights on the property to which the authorisation relates, will come into operation in terms of the provisions of this By-law and specifically the provisions relating to the lapsing of land development applications and land use rights and section 43(2) of the Act.
- (2) 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 land which is the subject of any land development application, save in accordance with such approval.
- (3) The Registrar of Deeds shall not register any transaction in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Sectional Titles Act, 1986 (Act No. 95 of 1986), where such registration must be authorized in terms of a land development application including the imposition of a condition of title, imposed by the Municipality.

83. Conditions imposed prior transfer and registration of Erf/Erven.

- (1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any application, the owner must, at his or her cost and to the satisfaction of the Municipality, survey

and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.

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

84. First transfer

Where an owner of land to which an application relates is required to transfer land to —

- (a) the Municipality; or
- (b) an owners' association,

by virtue of a condition set out in the conditions to the approval contemplated in section 49, the land must be so transferred at the expense of the applicant, within a period of six months from the date of the land use rights coming into operation in terms of section 59, or within such further period as the Municipality may allow, but in any event prior to any registration or transfer of any erf, portion, opening of a sectional title scheme or unit within the development.

85. Certification by Municipality

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.
- (2) The Municipality must not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with —
 - (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
 - (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
 - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
 - (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred to the owners' association; and
 - (e) proof that the conditions of approval have been complied with before the transfer of erven.

86. Application affecting national and provincial interest

- (1) In terms of section 52 of the Act an applicant must refer any application which affects national interest to the Minister for comment, which comment is to be provided within 21 days as prescribed in section 52(5) of the Act.

- (2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.
- (3) The Municipal Planning Tribunal or Authorised Official as the case may be, may direct that an application before it, be referred to the Minister if such an application in their opinion affects national interest and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.
- (4) The Municipality is the decision maker of first instance as contemplated in section 33(1) of the Act and the national department responsible for spatial planning and land use management becomes a party to the application that affects national interest.
- (5) If provincial legislation makes provision for applications which may affect provincial interest, the provisions of this section apply with the necessary changes unless the provincial legislation provides for other procedures.

CHAPTER 6 GENERAL APPLICATION PROCEDURES

87. Applicability of Chapter

This Chapter applies to all types of land development applications contemplated in section 51 submitted to the Municipality accompanied by the relevant schedules and applicable forms.

88. Procedures for making an application

- (1) The Municipality may determine the procedure and requirements to any application required in terms of this By-law, which includes —
 - (a) information specifications relating to matters such as size, scale, colour, hard copy, number of copies, electronic format and file format;
 - (b) the manner of submission of an application; and
 - (c) any other procedural requirements not provided for in this By-law in accordance with the guidelines determined by the Municipality in accordance with section 186, if the Municipality has determined guidelines.
- (2) A determination contemplated in subsection (1) may —
 - (a) relate to the whole application or any part of it; and
 - (b) differentiate between types of applications contemplated in section 51, categories of applications contemplated in section 32 and 33 or the type of applicant contemplated in section 45 of the Act.
- (3) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter 5 or the relevant section of this By-law and the determination made by the Municipal Manager.

89. Information required

- (1) Any application required in terms of this By-law must be accompanied by a complete and signed application form attached to this By-law.
- (2) Any application referred to in subsection (1) must be accompanied by —
 - (a) a special power of attorney signed by the owner if the applicant is not the owner of the land, in order to authorise the applicant to make the application on behalf of the owner and; if the owner is married in community of property and co-owners, a special power of attorney must be signed by all parties involved;

- (b) a company resolution is required if the owner of the land is a company, closed corporation, body corporate or owners' association, in order to proof that the appointed person is authorised to act on behalf of the company, closed corporation, body corporate or owners' association;
 - (c) an extract of minutes from board of trust; signed by all the trustees is required if the land is owned by a trust; in order to proof that the appointed trustee is authorised to act on behalf of the trust;
 - (d) a written motivation memorandum for the application based on the criteria for consideration of the application; the motivation must contain at least the following information —
 - (i) reference to the objective and principles contained in this By-law;
 - (ii) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how an application complies with it or deviate from it;
 - (iii) the need and desirability of the application; and
 - (iv) discuss the application in terms of the development principles, norms and standards as referred to in Chapter 2 of the Act;
 - (e) proof of payment of application fees; and
 - (f) in the case of an application for development on communal land or in rural areas referred to in section 74, the power of attorney or recommendation letter from traditional local authority referred to in section 74(2).
- (3) In addition to the documents referred to in subsection (2), an application referred to in subsection (1) must be accompanied by the following documents —
- (a) in the case of an application for the establishment of a township or the extension of the boundaries of a township in terms of section 54, the documents contemplated in Schedule 8;
 - (b) in the case of an application for the division of a township in terms of section 55, the documents contemplated in Schedule 9;
 - (c) in the case of an application for rezoning of land in terms of section 61, the documents contemplated in Schedule 10;
 - (d) in the case of an application for the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land, in terms of section 62, the documents contemplated in Schedule 11;
 - (e) in the case of an application of the amendment or cancellation in whole or in part of a general plan of a township, in terms of section 64 documents contemplated in Schedule 14;
 - (f) in the case of an application for the subdivision or consolidation of any land, in terms of section 67 the documents contemplated in Schedule 12 and Schedule 13;
 - (g) in the case of the permanent closure of any public place, in terms of section 72, the documents contemplated in Schedule 15;
 - (h) in the case of an application for consent use in terms of section 73, the documents contemplated in Schedule 17;
 - (i) in case of a land development application on communal land or in rural areas in terms of section 74 the documents contemplated in Schedule 26.
 - (j) in the case of an application for the permanent or temporary departure from the provisions of land use scheme, in terms of section 75 the documents contemplated in Schedule 16.
- (4) The Municipality may make a determination or issue guidelines relating to the submission of additional information and procedural requirements.

90. Application fees

- (1) Where in terms of this By-law the applicant is required to pay an application fee, such fee shall be determined by the Municipality and shall be payable by the applicant prior to or simultaneously with the submission of an application.
- (2) This By-law shall not prevent the Municipality from determining application fees for any information, requests, consents or permissions either in terms of this By-law, Land Use Scheme or other law dealing with land development.
- (3) Application fees paid to the Municipality are non-refundable and proof of payment must accompany the application.
- (4) Fees applicable to application processes and/or requests and certification shall be dealt with as part of the charges and tariffs published by the Municipality in terms of the Municipal System Act, 2000 (Act No. 32 of 2000).
- (5) Where any charges and tariffs have been published in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), prior to the coming into operation of this By-law, with reference to any law dealing with land development applications, processes and/or requests including certifications, such charges and tariffs shall be applicable to application fees in accordance with the type of land development application, processes and/or requests and certifications as defined or provided for in terms of this By-law.
- (6) The Municipality may, in its discretion, exempt any person from the payment of the fees prescribed in terms of subsection (1), provided that the Municipality shall with the determination of fees indicated in subsection (1), also determine criteria for exemptions as set out in Schedule 18 to this By-law.
- (7) Land development applications which, prior to the enactment of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), were dealt with by spheres of government other than a Municipality, shall be subject to the payment of fees for such in terms of the categories of land development applications provided for in subsection (4) to (6) as may be determined by the Municipality, provided that the Municipality shall after the publication of this By-law, ensure that when its charges and tariffs are amended in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), the fees for land development applications in terms of this By-law are incorporated therein.

91. Grounds for refusing to accept application

The Municipality may refuse to accept an application if —

- (a) the Municipality has already decided on the application within a period of twenty-four months, unless the application decided upon is proclaimed in terms of the provisions this By-law;
- (b) there is no proof of payment of fees;
- (c) the application is not accompanied by forms attached to this By-law or does not contain the documents/information required for the submission of an application as set out in section 89;
- (d) the applicant fails to comply to with conditions imposed prior to transfer and registration of erf or erven as contemplated in section 83 of this By-law; and
- (e) the application subjected to a pre-application consultation is not accompanied by authorisation letter from the Municipality.

92. Receipt of application and request for further documents

The Municipality must —

- (a) record the receipt of an application in writing or by affixing a stamp on the application on the day of receipt and issue proof of receipt to the applicant;
- (b) notify the applicant in writing of any outstanding or additional plans, documents, other information or additional fees that it may require within 28 days of receipt of the application or

the further period as may be agreed upon, failing which it is regarded that there is no outstanding information or documents; and

- (c) if the application is complete, notify the applicant in writing that the application is complete within 28 days of receipt of the application.

93. Additional information

- (1) The applicant must provide the Municipality with the information or documentation required for the completion of the application within 28 days of the request thereof or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in subsection (1) read with section 94(1) of this By-law.
- (3) The Municipality must notify the applicant in writing of the refusal to consider the application and must close the application.
- (4) An applicant has no right of appeal to the appeal authority in respect of a decision contemplated in subsection (3) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must submit a new application and pay the applicable application fees.

94. Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete and that the notices may be placed as contemplated in this Chapter, within 28 days of receipt of the additional plans, documents or information required by it or if further information is required as a result of the furnishing of the additional information.
- (2) The date of the notification that an application is complete is regarded as the date of submission of the application.
- (3) If further information is required, section 93 applies to the further submission of information that may be required.

95. Public Participation and circulation

- (1) If the application is complete, as may be determined by the Municipality in terms of section 94, the applicant must give notice of the application —
 - (a) by publishing once, a week for 2 consecutive weeks, a notice in such form and such manner in English and one other official language commonly spoken in the area, in the *Provincial Gazette* and two local newspapers as prescribed in schedule 20 to this By-law which applies *mutatis mutandis*, to this subsection;
 - (b) by posting a notice as contemplated in subsection (1)(a), in such form as may be prescribed in a conspicuous place to the satisfaction of the Municipality, on his/her property(ies) as prescribed in Schedule 20 to this By-law which applies *mutatis mutandis* and the applicant must maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subsection(1)(a) above, provided that the Municipality may, in its discretion, grant exemption from compliance with the provisions of this subsection;
 - (c) by delivering a notice of the application as prescribed in Schedule 20 to this By-law which applies *mutatis mutandis* to all the adjoining property owners of the property in respect of which the application is brought, provided that, if such owners form part of a body corporate, it shall be deemed sufficient that copies be delivered in the post boxes of the units and where the trustees, can be identified, to the satisfaction of the Municipality, to the trustees of the body corporate; and

- (d) in the case of copies or notices of an application being delivered to a juristic person or organ of state, the applicant shall provide proof to the satisfaction of the Municipality, that he or she has obtained the contact details of the juristic person or a Director General or equivalent of an organ of state together with proof of delivery of the copies; provided that, all the notices contemplated in subsection (1)(a) to (d) shall be placed and delivered on the same date and the periods for submission of objections and/or comments contemplated therein shall expire at the same time.
- (2) The Municipality may, in its discretion in order to bring the application to the attention of the general public or interested parties, require the applicant to give and deliver further notice of the application in the form and manner as may be required by the Municipality, provided that such further notice shall be done simultaneously with the notices as contemplated in subsection (1) and provide for the same objection periods.
- (3) The applicant must submit proof to the satisfaction of the Municipality that he or she has complied with the provisions of subsection (1) or (2) above.
- (4) On receipt of an application in terms of subsection (1) or (2) the applicant may of his or her own accord or the Municipality may direct the applicant to forward a copy of the application to —
- (a) any other person who, in the opinion of the Municipality, may be interested in the application; and
 - (b) a person who claims to be an interested person in terms of section 45(3) of the Act and subject to the provisions of sections 45(2) to 45(5) of the Act.
- (5) Where an applicant has on behalf of the Municipality delivered a notice of the application to any person or body contemplated in subsection (4) he or she shall submit proof to the satisfaction of the Municipality that he or she has done so in terms of subsection (3).
- (6) The applicant may of his or her own accord or the Municipality may direct the applicant to forward a copy of the application to —
- (a) relevant national and provincial departments which in the opinion of the Municipality may be interested or affected by the application in terms of the legislation that they administer or based on practical considerations;
 - (b) an affected Municipality or body providing any engineering service(s) contemplated in Chapter 7 of this By-law to the land development area concerned;
 - (c) any internal Business Unit of the Municipality which in the opinion of the Business Unit responsible for City Planning, may have an interest in the application; and
 - (d) every person to whom or body or organ of state to which a notice of the application has been delivered to may, within a period of 60 days from the date on which the copy was forwarded to him or her or it, or such further period as the Municipality may allow, comment in writing thereon; provided that —
 - (i) where no comments were received within the prescribed period in terms of subsections (4) to (6) it may be deemed by the Municipality that the persons or body have no comments to offer read with Regulation 16(10) of the Regulations to the Act;
 - (ii) where in the opinion of the Municipality they cannot consider the application without the said comments, the Municipality may require that the comments be obtained, by the applicant or the Municipality prior to the consideration of the application; and
 - (iii) where an applicant has on behalf of the Municipality delivered a notice of the application to any person or body or organ of state contemplated in subsection (6) he or she shall submit proof to the satisfaction of the Municipality that he or she has done so.
- (7) All notices and copies of the land development application must indicate in the notices that persons intending to lodge objections or provide comments shall provide contact details in their objections

and/or comments, for purposes of the notification of the hearing of these objections and comments contemplated in section 104 of this By-law, provided that, if the Municipality is unable to deliver a notice to objectors and/or commenting persons of the hearing as contemplated in section 104 of this By-law as a result of the failure by the objector or person providing comments, to provide contact details, the application process shall not be suspended or postponed on that basis alone.

- (8) After the closing date for objections and/or comments in terms of subsections (6) to (7), the Municipality shall, within 14 days thereof, send copies of all objections and/or comments received by the Municipality, to the applicant; provided that —
- (a) no objections and/or comments not received within the prescribed period contemplated in subsection (6) to (7) read with Schedule 20 shall be entertained or sent to the applicant; and
 - (b) only objections and comments with the necessary contact details as contemplated in subsection (7) shall be notified of a hearing contemplated in section 104 of this By-law; provided further that —
 - (i) objections and/or comments without contact details shall be considered by the Municipal Planning Tribunal, but the person concerned will not be invited to a hearing; and
 - (ii) objections and comments in the form of a petition and/or standard letters by objectors or interested persons including communities shall only be dealt with by the Municipality for purposes of correspondence and/or notification of objectors and interested persons as one contact person and only the co-ordinator of the petition or, in the absence of any details of the co-ordinator, one person who is part of the petition or standard letter shall be selected by the Municipality and notified and the provisions of section 104(5) of this By-law shall apply *mutatis mutandis*.
- (9) The applicant may within a period of 14 days from the date on which he or she has received copies of the objections and/or comment from the Municipality, reply to any objection and/or comments; provided that if no reply is received within the prescribed period it shall be deemed by the Municipality that the applicant has waived his or her right of reply to the objection and/or comments.

96. Evaluation of application

- (1) After the provisions of sections 95 of this By-law have been complied with, the land development application shall be evaluated by the Business Unit responsible for City Planning.
- (2) For purposes of evaluating the application, the Municipality may require the applicant to provide additional information which shall be requested from the applicant in writing at his or her last known address, proof of which must be held by the Municipality, provided that —
- (a) the Municipality shall indicate the type of information required which may include professional and/or technical reports;
 - (b) the Municipality shall determine a date by which the applicant must provide the information as contemplated in Regulation 16(9) of the Regulations to the Act;
 - (c) the applicant may request in writing that the date contemplated in subsection 2(b) be extended by the Municipality, which extension may be granted or refused or may be granted subject to any conditions it deems expedient; and
 - (d) if the applicant fails to provide the additional information to the satisfaction of the Municipality, within the prescribed period contemplated in subsection 2(b), the provisions of Regulation 16(9) of the Regulations to the Act shall apply; provided further that —
 - (i) if notice of the land development application was given in terms of the provisions of this By-law calling for interested persons to object or provide comments; and
 - (ii) objections and/or comments were received on the land development application; and
 - (iii) the Municipality shall deliver a notice to the persons contemplated in subsection 2(d)(ii) that the application is deemed to be refused in terms of Regulation 16(9) of the Regulations to the Act.

- (3) The Business Unit responsible for City Planning shall evaluate the application with due regard to the content of the Act and this By-law and shall for purposes of the consideration of the application prepare a report as contemplated in section 32 and 33 of this By-law.

97. Withdrawal of application

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

98. Requirements for intervener status

- (1) Where an application has been submitted to the Municipality, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the Municipal Planning Tribunal or the Authorised Official in writing to be granted intervener status.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she —
- (a) does not collude with any of the parties; and
 - (b) is willing to deal with or act in regard to the application as the Municipal Planning Tribunal or the Authorised Official may direct.
- (3) The Municipal Planning Tribunal or the Authorised Official must determine whether the requirements of this section have been complied with and must thereafter submit a copy of the application to the parties of the appeal.
- (4) The presiding officer of the Municipal Planning Tribunal or the Authorised Official must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer or the Authorised Official is final and must be communicated to the petitioner and the parties.

99. Amendments prior to approval

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

100. Further public notice

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

101. Cost of notice

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

102. Applicant's right to reply

- (1) Copies of all objections or comments lodged with the Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 28 days from the date of the provision of the objections or comments, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections or comments.
- (3) The applicant may before the expiry of the 28 days' period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 28 days or within an additional period of 14 days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections or comments lodged with the Municipality, additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the information within the timeframes contemplated in subsection (5), section 93 (2) to (5) with the necessary changes, applies.

103. Written assessment of application

- (1) An employee authorised by the Municipality must in writing assess an application and recommend to the decision-maker whether the application must be approved or refused.
- (2) An employee authorised by the Municipality must prepare a site inspection report to be attached to the written assessment, after a routine inspection contemplated in section 107.
- (3) An assessment of an application must include a motivation for the recommendation based on the compliance with the applicable municipal policies relevant to land development applications and where applicable, the proposed conditions of approval contemplated in section 49 of this By-law.

104. Oral Hearing of objections

- (1) In terms of section 104 of this By-law, read with section 40(1) of the Act, the Municipal Planning Tribunal, shall hear objections lodged by an interested person, it shall determine a day, time and place for the hearing.
- (2) Not less than 21 days prior to the day determined in terms of subsection (1), the Municipality shall deliver a notice of the day, time and place so determined, to every objector, the applicant and every other person who, in the opinion of the Municipality, has any interest in the matter.
- (3) At a hearing contemplated in subsection (1) —
 - (a) the Municipal Planning Tribunal shall hear and consider any preliminary issues and *points in limine* which may be raised by any party to the hearing first;
 - (b) after having heard such preliminary issues and *points in limine* the Municipal Planning Tribunal shall take such decisions and give such directives thereon, as it deems appropriate;
 - (c) in the event of a *point in limine* being upheld or partially upheld, including any conditions or directives that may be issued by the Municipal Planning Tribunal, which results in the hearing not being able to continue, the hearing will terminate;
 - (d) if the Municipal Planning Tribunal is satisfied that all *points in limine* procedural matters have been complied with, it shall hear the objections as contemplated in subsection (1);
 - (e) the Municipal Planning Tribunal, having dealt with all preliminary issues and *points in limine* which may have been raised in terms of paragraph (a) to (c), may determine that no further

points in limine may be raised during the proceedings, and has then concluded the procedural issues relating to the hearing, as a first order of business;

- (f) every objector, interested person or body who have been notified of the hearing or persons as determined in terms of subsection (2) as an interested person, may set out the grounds of his or her objection and in accordance with section 45(3) of the Act shall have the burden of establishing his or her status as an interested person;
 - (g) every objector, interested person or body contemplated in paragraph (f) and the applicant, including the Municipality or any of its Departments, may state his or her or its case and adduce evidence in support thereof or authorize any other person to do so on his/her behalf;
 - (h) every objector, interested person or body contemplated in paragraph (f) may reply to any matter raised by any other objector, interested person or body in terms of paragraph (g);
 - (i) any person referred to in paragraph (a) to (h) who acts on behalf of an owner or anybody or person shall present a power of attorney, instructions and/or minutes or any other documentation which in the opinion of the Municipal Planning Tribunal is necessary to ensure that such representation is authorized, read with section 46 of this By-law;
 - (j) notwithstanding the provisions of paragraph (a) to (i) the Municipal Planning Tribunal may determine the order in which any party to the hearing shall address the Municipal Planning Tribunal;
 - (k) the Municipal Planning Tribunal members may ask questions for clarity and the Presiding Officer may allow any person as contemplated in paragraph (a) to (i) to ask questions for clarity and no cross examination shall be allowed;
 - (l) should experts be called by any party for purposes of the hearing, within any particular field to adduce evidence or provide any documents, the other parties, including the Municipal Planning Tribunal, shall at least 7 days prior to the date of the hearing, be provided with a list of experts to be called and copies of the documents to be submitted, with an indication of the expertise to be used;
 - (m) the Municipal Planning Tribunal shall conduct the hearing substantially in accordance with the Code of Conduct and Operational Procedures as approved by Municipal Council and as substantially prescribed in Schedule 3 to this By-law, provided that for purposes of conducting a hearing in terms of this subsection the chairperson contemplated in section 36(4) of the Act or the Presiding Officer as contemplated in section 40(3) of the Act, may issue directives to the Municipal Planning Tribunal members in that regard; and
 - (n) the Municipal Planning Tribunal may take any decision on a land development application and impose any condition it deems expedient as contemplated in section 40(7) of the Act read with the provisions relating to specific land development applications in terms of Chapter 5 of this By-law and shall not be bound by agreements that were reached between any applicants, objectors or interested parties, including conditions imposed for purposes of the withdrawal of objections or negative comments by interested and affected parties.
- (4) A hearing contemplated in subsection (1) shall be open to the public provided that no member of the public shall be regarded as a party to the hearing, or have any right of making oral submissions or comments, except as provided for in terms of section 45(2) of the Act, after having complied with the provisions of the said section.
- (5) Where the objectors or interested persons are notified as contemplated in subsection (2), such objections and comments shall be submitted in the following manner —
- (a) under cover of one letter or document by more than one person;
 - (b) by more than one person through a petition, signed by multiple signatories; or

- (c) multiple letters that are substantially the same,

it shall be deemed sufficient compliance with subsection (2) if the person who has co-ordinated the documents in subsection(5)(a) to (c) and one signatory thereto are notified as contemplated in subsection (2).

- (6) The Municipal Planning Tribunal must consider all objections and comments by interested persons and after hearing the objectors, comments, the applicant or any other parties to the hearing, approve, or approve with amendments, or refuse, or postpone, or refer the land development application before it back for further investigation and a report; provided that —
- (a) in the approval and imposition of conditions for a land development application it sets out the conditions of approval as may be required in terms of the provisions of this By-law for specific land development applications read with section 48 and 49 of this By-law;
- (b) it may for purposes of compliance with the conditional approval set timeframes within which the applicant and/or owner shall comply with the conditions of approval; provided further that it may not set any timeframes or alternative procedures for extensions of time, for compliance with conditions of approval, which are in conflict with timeframes and procedures for extensions of time as determined in terms of this By-law or section 43(2) of the Act; and
- (c) the Municipal Planning Tribunal shall in terms of section 40(6) of the Act, provide reasons for its decisions.
- (7) The Municipal Planning Tribunal may conduct an investigation into any matter related to the land development application before it, including a site inspection and a request for further information to any person to furnish such information, as it may deem expedient; provided that nothing shall prevent the Municipal Planning Tribunal from requesting any additional information or documentation that may be required for the consideration of the application.
- (8) The Municipality must, after the minutes of the Municipal Planning Tribunal have been approved, without delay and in writing, communicate or deliver a notice to the applicant, and/or an objector or any person who in the opinion of the Municipality has an interest in the decision, of its decision taken by virtue of subsection (6) subject to any provisions contained in this By-law related to specific type of land development applications and subsection (6) shall apply *mutatis mutandis*.

105. Decision-making period

The Municipal Planning Tribunal or the Authorised Official must consider and decide on the application within the period referred to in regulation 16(4) and (5) of the Regulations to the Act.

106. Failure to act within time period

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of this By-law and the applicant or interested person may report the non-performance of the Municipal Planning Tribunal or Authorised Official to the Municipal Manager, who must report it to the Council and Mayor unless the applicant fails to comply with section 93 read with section 94 of this By-law.

107. Powers to conduct routine inspections

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application or investigating an alleged illegal land use in terms of this By-law and to prepare a report contemplated in section 103.
- (2) When conducting an inspection, the authorised employee may —
- (a) request that any record, document or item be produced to assist in the inspection;
- (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;

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

108. Determination of application

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

109. Notification of decision

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

110. Extension of time for fulfilment of conditions of approval

- (1) If an applicant wishes to request an extension of the time provided for in the approval in order to comply with the conditions of approval, this request must be in writing and submitted to the Municipality at least in advance of the date on which the approval is due to lapse.
- (2) Any request for an extension of time must be accompanied by the reasons for the request.
- (3) The Municipality may not unreasonably withhold an approval for the extension of time.
- (4) Following receipt of a request for an extension of time, the Municipality must issue a decision in writing to the applicant.

111. Post approval errors and omissions

Where the Municipality is of the opinion that an error or omission in an approved land development application occurred, in the approval thereof and it may be corrected without the necessity for a new application to be brought or the preparing of an amendment scheme to the Land Use Scheme, it may correct such error or omission by —

- (a) referring to the original approval and quoting in the amended approval the error and/or omission that occurred and the manner in which it is corrected; or
- (b) by notice in the Provincial Gazette, correct such error or omission as the case may be, where this By-law, the land use scheme or other law requires a notice to be placed in the *Provincial Gazette*; provided that —
 - (i) an amendment or notice as contemplated in paragraph (a) and (b) shall not amend the date of the approval or coming into operation of the land development application for purposes of section 43(2) of the Act or this By-law.

112. Withdrawal of approval

- (1) The Municipality may withdraw an approval granted if the applicant or owner fails to comply with a condition of approval, prior to doing so —
 - (a) the Municipality must serve a notice on the owner—
 - (i) informing the owner of the alleged breach of the condition;
 - (ii) instructing the owner to rectify the breach within a specified time period; and
 - (iii) allowing the owner to make representations on the notice within a specified time period.
- (2) An applicant—
 - (a) who does not wish to proceed with the implementation or the development of land based on an approved land development application; or
 - (b) who wishes to avoid the payment of development charges and monies for the provision of open spaces or parks, as may be levied by the Municipality in terms of Chapter 7 of this By-law,

may within a period of 60 days from the date of having been notified of the approval of the land development application by the Municipal Planning Tribunal, Authorised Official or Municipal Appeals Tribunal, notify the Municipality in terms of this By-law.

113. Procedure to withdraw an approval

- (1) The Municipality may withdraw an approval granted —
 - (a) after consideration of the representations made in terms of section 112(1)(a)(iii); and
 - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 112(1)(a)(ii).
- (2) An applicant may request the Municipality to withdraw the approval by—
 - (a) submitting a written request for withdrawal to the Municipality and to any interested person or body that submitted an objection or made a representation on the application; and
 - (b) providing proof to the satisfaction of the Municipality, that all interested person or body has been notified.
- (3) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the activity immediately.
- (4) The approval is withdrawn from date of notification of the owner.

114. Exemptions to facilitate expedited procedures

- (1) The Municipality may in writing exempt any person from complying with any procedural provision of this By-law upon good cause shown.
- (2) An application for exemption must be in writing setting out which section of the By-law exemption is being applied for accompanied by a full motivation why such exemption should be granted.
- (3) Such application shall be considered by the Municipality and a decision shall be made on the application within 14 days from date of receipt of such application and the applicant shall be informed in writing of such decision.

CHAPTER 7 ENGINEERING SERVICES AND DEVELOPMENT CHARGES

Part 1: Provision and Installation of Engineering Services

115. Responsibility for providing engineering services

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

116. Installation of engineering services

- (1) The applicant must provide and install the internal engineering services, including private internal engineering services, in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant must lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.
- (2) The Municipality must have regard to such standards as the Minister or the Member of the Executive Council may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.
- (3) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.
- (4) The Municipality must, where any private roads, private open spaces or any other private facilities or engineering services are created or to be constructed with the approval of any application set the standards for the width and or any other matter required to provide sufficient access and engineering services; including but not limited to —
 - (a) roadways for purposes of sectional title schemes to be created; and
 - (b) the purpose and time limit in which private roads, private engineering services and private facilities are to be completed.

117. Engineering services agreement

- (1) An applicant and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.
- (2) The engineering services agreement must —
 - (a) classify the services as internal engineering services, external engineering services or private engineering services;
 - (b) be clear when the developer is to commence with construction of internal engineering services, whether private engineering services or not, and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
 - (c) provide for the inspection and handing over of internal engineering services to the Municipality

- or the inspection of private internal engineering services;
- (d) determine that the risk and ownership in respect of such services must pass to the Municipality or the owners' association as the case may be, when the Municipality is satisfied that the services are installed to its standards;
 - (e) require the applicant to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
 - (f) provide for the following responsibilities after the internal services have been handed over to the Municipality or the owners' association —
 - (i) when normal maintenance by the relevant authority or owners' association must commence;
 - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
 - (iii) the rights of the relevant authority or owners' association if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
 - (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
 - (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
 - (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
 - (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include —
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water-pipe terminating at a water meter; and
 - (iii) an electricity house connection cable terminating on the relevant erf; and
 - (k) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others —
 - (i) water reticulation;
 - (ii) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
 - (iii) roads and storm-water drainage;
 - (iv) electricity reticulation (high and low tension);
 - (v) street lighting.
- (3) The engineering services agreement may require that performance guarantees be provided, or otherwise, with the provision that —
- (a) the obligations of the parties with regard to such guarantees are clearly stated;
 - (b) such guarantee is irrevocable during its period of validity; and
 - (c) such guarantee is transferable by the person to whom such guarantee is expressed to be payable.
- (4) Where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading of services must be recorded in the engineering services agreement.

118. Abandonment or lapsing of land development application

Where an application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 117 lapses and if the owner had installed any engineering services before the lapsing of the application in terms of the engineering services agreement, he or she must have no claim against

the Council with regard to the provision and installation of any engineering services of whatsoever nature.

119. Internal and external engineering services

For the purpose of this Chapter —

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

Part 2: Development Charges

120. Payment of development charges

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of —
 - (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme; and
 - (b) open spaces or parks or other uses, such as social facilities and services, where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If an application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must be informed of the amount of the development charge and must, subject to section 117, pay the development charge to the Municipality.
- (3) An owner who is required to pay a development charge in terms of this By-law must pay such development charge to the Municipality before —
 - (a) any land use right is exercised;
 - (b) any connection is made to the municipal bulk infrastructure;
 - (c) a written statement contemplated in section 118 of the Municipal System Act (Act No 32 of 2002) is furnished in respect of the land;
 - (d) a building plan is approved in respect of —
 - (i) the proposed alteration of or addition to an existing building on the land; and
 - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
 - (e) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

121. Offset of development charges

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services and, if applicable, the cost of internal infrastructure where additional capacity is required by the Municipality, against the applicable

development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.

- (2) The owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) If the cost of the installation of the external engineering services exceeds the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.
- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 117.

122. Payment of development charges in instalments

The Municipality may —

- (a) in the circumstances contemplated in section 121(1) of this By-law, allow payment of the development charge contemplated in section 120 in instalments agreed to in the engineering services agreement which must comply with the timeframes provided for in the Municipality's Credit Control and Debt Collection By-law or policy, or if last-mentioned By-law does not provide for such instalments over a period not exceeding three years;
- (b) in any case, allow payment of the development charge contemplated in section 119 to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction; and
- (c) in exercising the power conferred by paragraphs (a) or (b), impose any condition, including a condition for the payment of interest.

123. Refund of development charges

No development charge paid to the Municipality in terms of section 120 or any portion thereof must be refunded to an applicant or owner, provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 122 the Municipality may, on such terms and conditions authorise the refund of development charges or any portion thereof.

124. General matters relating to contribution charges

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

CHAPTER 8 APPEAL PROCEDURES

Part 1: Establishment of Municipal Appeal Tribunal

125. Establishment of Municipal Appeal Tribunal

The Municipality must, if it decides to implement section 51(6) of the Act, establish a Municipal Appeal Tribunal in accordance with the provisions of this Part and the Municipal Appeal Tribunal is hereby authorised to assume the obligations of the appeal authority.

126. Institutional requirements for establishment of Municipal Appeal Tribunal

- (1) The Municipality, in establishing a Municipal Appeal Tribunal in terms of section 125, must —
 - (a) determine the terms and conditions of service of the members of the Municipal Appeal Tribunal;
 - (b) identify any additional criteria that a person who is appointed as a member of the Municipal Appeal Tribunal must comply with;
 - (c) consider the qualifications and experience of the persons it is considering for appointment to the Municipal Planning Tribunal, make the appropriate appointments and designate the chief presiding officer;
 - (d) inform the members in writing of their appointment;
 - (e) publish the names of the members of the Municipal Appeal Tribunal and their term of office in the *Provincial Gazette*;
 - (f) determine the location of the office where the Municipal Appeal Tribunal must be situated; and
 - (g) develop and approve operational procedures for the Municipal Appeal Tribunal.
- (2) The Municipality may not appoint any person to the Municipal Appeal Tribunal if that person —
 - (a) is disqualified from appointment as contemplated in section 128; or
 - (b) if he or she does not possess the knowledge or experience required in terms of section 127 or the additional criteria determined by the Municipality in terms of subsection (1)(b).
- (3) The Council must —
 - (a) remunerate members of the Municipal Appeal Tribunal for each hearing of the Municipal Appeal Tribunal in accordance with the rates determined by Treasury, and as well as professional fees; and
 - (b) designate an employee of the Municipality or appoint a person as secretary to the Municipal Appeal Tribunal.

127. Composition, term of office and code of conduct of Municipal Appeal Tribunal

- (1) The Municipal Appeal Tribunal must consist of a minimum of three members to a maximum of fifteen members which may include —
 - (a) a member who is a persons registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
 - (b) a member who is a persons registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
 - (c) a member who is a person's either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
 - (d) a member who is a person who is registered as a professional land surveyor in terms of the Professional and Technical Surveyors' Act, 1984 (Act No. 40 of 1984), or a Geomatics professional in the branch of land surveying in terms of the Geomatics Profession Act, 2013 (Act No. 19 of 2013); and

- (e) any member who has other relevant expertise or profession as delegated by the responsible authority in terms of section 56 of the Act.
- (2) The chief presiding officer must designate at least three members of the Municipal Appeal Tribunal to hear, consider and decide a matter which comes before it and must designate one member as the presiding officer.
- (3) No member of the Municipal Planning Tribunal may be appointed as a member of the Municipal Appeal Tribunal.
- (4) If a person referred to in subsection (3) is a member of the Municipal Appeal Tribunal his or her membership renders the decision of the Municipal Appeal Tribunal on that matter null and void.
- (5) The term of office of the members of the Municipal Appeal Tribunal is five years.
- (6) After the first terms of office of five years referred to in subsection (5) has expired the appointment of members of the Municipal Appeal Tribunal for the second and subsequent terms of office must be in accordance with the provisions of this Part.
- (7) A member whose term of office has expired may be re-appointed as a member of the Municipal Appeal Tribunal.
- (8) Members of the Municipal Appeal Tribunal must sign and uphold the code of conduct contemplated in Schedule 4.

128. Disqualification from membership of Municipal Appeal Tribunal

- (1) A person may not be appointed or continue to serve as a member of the Municipal Appeal Tribunal, if that person —
 - (a) is not a citizen of the Republic of South Africa, and does not reside in the Limpopo province
 - (b) is a member of Parliament, a provincial legislature or House of Traditional Leaders;
 - (c) is an official in the employ of the municipality who decided the application or who is a member of the Municipal Planning Tribunal;
 - (d) is an un-rehabilitated insolvent;
 - (e) is of unsound mind, as declared by a court;
 - (f) has at any time been convicted of an offence involving dishonesty;
 - (g) has at any time been removed from an office of trust on account of misconduct; or
 - (h) has previously been removed from a Municipal Planning Tribunal or Municipal Appeal Tribunal for a breach of any provision of the Act and the By-law.
- (2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).

129. Termination of membership of Municipal Appeal Tribunal

- (1) A person's membership of the Municipal Appeal Tribunal may be terminated by a decision of Council if there are good reasons for doing so after giving such member an opportunity to be heard.
- (2) The reasons for removal referred to in subsection (1) may include, but are not limited to —
 - (a) misconduct, incapacity or incompetence; and
 - (b) failure to comply with any provisions of the Act or this By-law.
- (3) If a member's appointment is terminated or a member resigns, the Municipality must publish the name of a person selected by the Municipality to fill the vacancy for the unexpired portion of the vacating member's term of office.
- (4) The functions of the Municipal Appeal Tribunal must not be affected if any member resigns or his or her appointment is terminated.

Part 2: Management of an Appeal Authority

130. Presiding officer of appeal authority

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

131. Bias and disclosure of interest

- (1) No presiding officer or member of the appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the Authorised Official and he or she made the decision that is the subject of the appeal.
- (2) A member of the Municipal Appeal Tribunal —
 - (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;
 - (b) may not attend, participate or vote in any proceedings of the appeal authority in relation to any matter in respect of which the member has a conflict of interest.
- (3) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in this section must recuse himself or herself from the appeal hearing.
- (4) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.
- (5) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.
- (6) For the purpose of this Chapter “conflict of interest” means any factor that may impair or reasonably give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.
- (7) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following —
 - (a) a person with whom the presiding officer or member has a personal, familiar or professional relationship;
 - (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
 - (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer’s or member’s participation in the adjudication of the matter would be inappropriate.

132. Registrar of appeal authority

- (1) The Municipal Manager is the registrar of the appeal authority.
- (2) The Council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority.
- (3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the Council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.

- (4) Any person appointed or designated under subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

133. Powers and duties of registrar

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

Part 3: Appeal Process

134. Commencing of appeal

- (1) An appellant must commence an appeal by delivering a Notice of Appeal in a form as set out in PLM: F-11 to the Municipal Manager and the parties to the original application within 21 days as contemplated in section 51 of the Act.
- (2) The Municipal Appeals Tribunal shall consider the appeal with due regard to —
- (a) the content of the report;
 - (b) the record of proceedings;
 - (c) all approved policies of the Municipality, its Integrated Development Plan and the Municipal Spatial Development Framework and its components as contemplated in the Municipal Systems Act, 2000 (Act No.32 of 2000); and
 - (d) subject to the provisions of the Act and specifically sections 40 and 42 thereof which shall apply *mutatis mutandis* to the consideration of an appeal and may for that purpose —
 - (i) carry out an inspection or institute any investigation; but
 - (ii) may not consider any new evidence on the Land Development Application that may negatively affect the respective rights and obligations of interested and affected parties.

135. Notice of appeal

- (1) A Notice of Appeal must clearly indicate —
 - (a) whether the appeal is against the whole decision or only part of the decision;
 - (b) where applicable, whether the appeal is against any conditions of approval contemplated in section 49 of an application and which conditions;
 - (c) the grounds of appeal including any findings of fact or conclusions of law;
 - (d) a clear statement of the relief sought on appeal;
 - (e) any issues that the appellant wants the appeal authority to consider in making its decision; and
 - (f) a motivation of an award for costs.
- (2) An appellant may, within 7 days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

136. Notice to oppose an appeal

A notice to oppose an appeal must be delivered to the Municipal Manager within 21 days from delivery of the notice of appeal referred to in section 135 and it must clearly indicate —

- (a) whether the whole or only part of the appeal is opposed;
- (b) whether any conditions of approval contemplated in section 49 of an application are opposed and which conditions;
- (c) whether the relief sought by the appellant is opposed;
- (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute; and
- (e) a clear statement of relief sought on appeal.

137. Screening of appeal

- (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether —
 - (a) the appellant has applied to the municipality in the form as set out in PLM: F-11;
 - (b) it is submitted within the required time limit; and
 - (c) the appeal authority has area over the appeal.
- (2) If a Notice of Appeal does not comply with the form approved by the Council, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.
- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.
- (5) If the appeal relates to a matter that appears to be outside the area of the appeal authority, it must notify the parties in writing.
- (6) The appeal authority may invite the parties to make submissions on its area and it will then determine, based on any submissions received, if it has area over the appeal and must notify the parties in writing of the decision.

- (7) The provisions of this section apply, with the necessary changes, to a notice to oppose an appeal contemplated in section 136.
- (8) The required information in subsection (1) must comply with the provision of regulation 30 (2) of the Regulation to the Act.

**Part 4:
Parties to an appeal**

138. Parties to appeal

The parties to an appeal before an appeal authority are —

- (a) the appellant who has lodged the appeal with the appeal authority in accordance with section 51(1) of the Act and this Chapter;
- (b) the applicant, if the applicant is not the appellant as contemplated in paragraph (a);
- (c) the Municipal Planning Tribunal or the Authorised Official who made the decision; or
- (d) any person who has been made a party to the proceeding by the appeal authority after a petition to the appeal authority under section 45(2) of the Act to be granted intervener status.

139. Intervention by interested person

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

**Part 5:
Area of Appeal Authority**

140. Area of appeal authority

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

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

141. Written or oral appeal hearing by appeal authority

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

142. Representation before appeal authority

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

143. Opportunity to make submissions concerning evidence

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

Part 6: Hearings of Appeal Authority

144. Notification of date, time and place of hearing

- (1) The appeal authority must notify the parties of the date, time and place of a hearing no later than 14 days after the municipal manager submitted the appeal to the appeal authority as contemplated in regulation 25(1) of the Regulations to the Act.
- (2) The appeal authority will provide notification of the hearing to the appellant at the appellant's address for delivery.

145. Hearing date

- (1) A hearing will commence on a date determined by the registrar, the hearing may not take place later than 60 days from the date on which the municipal manager submitted the appeal to the appeal authority as contemplated in regulation 25(1) of the Regulations to the Act.
- (2) The parties and the presiding officer may agree to an extension of the date referred to in subsection (1).

146. Adjournment

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

147. Urgency and Condonation

- (1) The registrar may —
 - (a) on application of any party to an appeal, direct that the matter is one of urgency, and determine such procedures, including time limits, as he or she may consider desirable to fairly and efficiently resolve the matter;
 - (b) on good cause shown, condone any failure by any party to an appeal to comply with this By-law or any directions given in terms hereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person.

- (2) Every application for condonation made in terms of this section must be —
 - (a) served on the registrar;
 - (b) accompanied by a memorandum setting forth the reasons for the failure concerned; and
 - (c) determined by the presiding officer in a manner he or she considers proper.
- (3) Where a failure is condoned in terms of subsection (1)(b), the applicant for condonation must comply with the directions given by the registrar when granting the condonation concerned.

148. Withdrawal of appeal

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

Part 7: Oral hearing procedure

149. Location of oral hearing

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

150. Presentation of each party's case

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

151. Witnesses

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

152. Proceeding in absence of party

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

153. Recording

Hearings of the appeal authority must be recorded in hard copy and electronic format. The records must be stored as per the provision of records management that are in place or use.

154. Oaths

Witnesses are required to give evidence under oath or confirmation.

155. Additional documentation

- (1) Any party wishing to provide the appeal authority with additional documentation not included in the appeal record should provide it to the appeal authority at least 3 days before the hearing date.

- (2) The registrar must distribute the documentation to the other party and the members of the appeal authority.
- (3) If the party is unable to provide the additional documentation to the appeal authority at least 3 days prior to the hearing, the party may provide it to the appeal authority at the hearing.
- (4) The party must bring copies of the additional documentation for the members of the appeal authority and the other party.
- (5) If the additional documentation brought to the hearing is substantive or voluminous, the other party may request an adjournment from the appeal authority.

Part 8:

Written hearing procedure

156. Commencement of written hearing

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

157. Presentation of each party's case in written hearing

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given 21 days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Authorised Official.
- (4) The Municipal Planning Tribunal or the Authorised Official has 21 days in which to provide a submission in response.
- (5) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

158. Extension of time to provide a written submission

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

159. Adjudication of written submissions

- (1) Following receipt of any written submissions from the parties, the municipal manager must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.
- (2) If no written submissions are received from the parties, the municipal manager will forward the existing appeal record to the appeal authority for adjudication.
- (3) Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.
- (4) The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given 7 days to provide a written submission in response.

**Part 9:
Decision of appeal authority**

160. Further information or advice

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

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

161. Decision of appeal authority

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

162. Notification of decision

The registrar must notify the parties of the decision of the appeal authority in terms of section 169, together with the reasons thereof within 7 days after the appeal authority handed down its decision.

163. Directives to Municipality

The appeal authority must, in its decision, give directives to the Municipality as to how such a decision must be implemented and which of the provisions of the Act and the Regulations have to be complied with by the Municipality as far as implementation of the decision is concerned.

**Part 10:
General**

164. Expenditure

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

**CHAPTER 9
TRANSITIONAL PROVISIONS**

165. Application of this By-law and Conflict of Laws

- (1) The provisions of this By-law apply to all properties within the jurisdictional geographical area of the Polokwane Municipality, including properties owned by the state.
- (2) This By-law binds every owner and their successor-in-title and every occupier of a property(ies), including the state.
- (3) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (4) Where —
 - (a) any provision of a land use scheme is in conflict with the provisions of this By-law, the provisions of this By-law shall prevail; and
 - (b) any provision of this By-law is in conflict with the provision of the Act or any provincial planning and development legislation, this By-law shall only prevail in so far as it relates to Municipal Planning.

- (5) Where there is a conflict between this By-law and another By-law, this By-law prevails over the affected provision of the other By-law in respect of any Municipal Planning matter.

166. Pending land development applications in terms of other legislation before the Municipality

- (1) Any land use or development application or other matter in terms of any provision of national or provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, shall be dealt with in terms of that legislation, provided that —
- (a) if that legislation is repealed and in terms of that legislation's transitional provisions; or
 - (b) in the absence of any transitional provisions in that legislation or other law; or
 - (c) where legislation becomes inconsistent with the Act as a result of the enactment of this By-law; it may in consultation with the applicant be dealt with in terms of this By-law, read with section 2(2) and section 60 of the Act; provided that —
 - (i) the timeframes in terms of this By-law for the processing and deciding on land development applications shall not be applicable to any applications dealt with in terms of subsection (1)(a) to (c);
 - (ii) but the timeframes after approval of a land development application in terms of subsection (1)(a) to (c) read with section 43(2) of the Act shall apply;
 - (d) a land development application contemplated in subsection 1(a) to (c), to be dealt with in terms of this By-law, shall be dealt with in accordance with the type and format of land development applications capable of being submitted in terms of this By-law as may be determined by the Municipality.
- (2) Reference to the Municipality in terms of legislation contemplated in subsection (1), shall be reference to the Municipal Planning Tribunal or Authorised Official for purposes of the consideration and decision making on land development applications, in that legislation.
- (3) Land development applications contemplated in subsection (1) shall be dealt with as categorised in terms of section 32 and 33 of this By-law.
- (4) Subsection (3) shall apply *mutatis mutandis* for purposes of dealing with land development applications in terms of subsection (1)(a) and (b).

167. Pending land development applications and land use with the adoption of a new land use scheme

- (1) Where on the date of the coming into operation of an approved Land Use Scheme in terms of sections 26 and 27 of the Act and section 16 of this By-Law —
- (a) any land or building is being used; or
 - (b) within one month immediately prior to that date, was used,

for a purpose, which is not a purpose for which the land concerned has been zoned in terms the Land Use Scheme contemplated section 17 of this By-Law, but —

- (i) which is otherwise lawful; and
- (ii) not subject to any prohibition in terms of this By-law,

the use 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) must—
- (a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;
 - (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (1) or such further period as the Municipality may allow; and
 - (c) where on the date of the coming into operation of a land use scheme in terms of

subsection (1) —

- (i) a building, erected in accordance with an approved building plan, exists on land to which the land use scheme relates;
 - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the land use scheme, the building shall for a period of 15 years from that date be deemed to comply with that provision.
- (3) Where a period of 15 years, in terms of subsection (2), has commenced in the opinion of the Municipality, from a particular date, in respect of any land or building, no regard shall be had to those provisions of the adopted Land Use Scheme affecting the land use rights on the property(ies), which comes into operation after that date.
- (4) Within one year from the date of the coming into operation of an approved Land Use Scheme:
- (a) the holder of a right contemplated in subsection (1) may deliver a notice to the Municipality in writing that he or she is prepared to forfeit that right; and
 - (b) the owner of a building contemplated in subsection (2)(c) may deliver a notice to the Municipality in writing that he or she is prepared to forfeit any right acquired by virtue of the provisions of that subsection.
- (5) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (1)(a), such allegation shall be deemed to be correct until the contrary is proved.
- (6) Where any land use provisions are contained in any title deed, deed of grant or 99 year leasehold, which did not form part of a Land Use Scheme, such land use provisions shall apply as contemplated in subsection (1).
- (7) If the geographic area of the Municipality is demarcated to incorporate land from another Municipality then the Land Use Scheme applicable to that land shall prevail until the Municipality amends, repeals or replaces it subject to sections 16 and 31 of this By-law.

168. Land development applications to be submitted after the coming into operation of this By-law

- (1) In terms of the Act and specifically the Regulations, the Municipality may determine the processes and procedures for spatial planning, land use, land use management and land development including land development application, consistent with the Act and upon coming into operation of this By-law, any legislation providing alternative or parallel processes and procedures other than any determined by the Municipality, shall be deemed to be inconsistent with the Act as contemplated section 2(2) of the Act.
- (2) Upon the coming into operation of this By-law all land development applications and processes and procedures related thereto shall be submitted and dealt with in terms of this By-law.

169. Appeals pending or submitted in terms of other legislation upon the coming into operation of this By-law

Upon the coming into operation of this By-law, any other legislation, which as a result of the coming into operation of this By-law or in terms of section 2(2) of the Act, is inconsistent with the Act, and which provides for an appeal procedure against a decision of the Municipality on a land development application shall be dealt with by the Municipal Appeals Tribunal, in terms of the processes and procedures as contemplated in that legislation.

CHAPTER 10 GENERAL PROVISIONS

170. Delegations

- (1) Any power conferred in this By-law, Act, land use scheme or any other law on the Municipality may be delegated by the Municipality in terms of section 59 of the Municipal Systems Act, 2000 (Act No.32 of 2000) and section 56 of the Act, to any official within its employ, which may include the power to sub-delegate as may be determined by the Council, except in so far as it is a requirement of the Act that applications be dealt with in terms of the categories contemplated in sections 32 and 33 of this By-law.
- (2) Where in terms of subsection (1) an official is delegated to consider category 2 land development applications as contemplated in section 33 of this By-law, Chapter 5 of this By-law shall apply *mutatis mutandis* to his or her consideration of a land development application.
- (3) Where this By-law requires any discretionary power or opinion to be expressed by the Municipality, such discretion and opinion shall be exercised or expressed, by the official authorized in terms of the delegations contemplated in subsection (1) or, in the absence of a specific delegation by the Director of Economic Development and Planning.

171. 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 a reasonable time 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;
- (c) any document containing confidential proprietary information may only be disclosed with the consent of the owner thereof;
- (d) where such documents or information can reasonably be accessed at the Municipality's public information counters as public information the Municipality shall not be obliged to provide such information other than making the information available at such public information counters and subject to paragraphs (b) and (c) copies may be requested at those counters;
- (e) the Municipality shall not provide information where the provision thereof constitutes research on behalf of the applicant or interpretation of information; and
- (f) information provided in terms of this subsection may be provided electronically by the Municipality where practically possible.

172. False or misleading information in connection with application

Any person who wilfully, or with intent to defraud, furnishes false or misleading information in connection with an application contemplated in this By-law shall be guilty of an offence.

173. Excision of land from Agricultural Holding Register

- (1) If required to do so the Applicant shall be responsible for the excision of land from an Agricultural Holding.
- (2) If the excision of an Agricultural Holding is required as a result of a township establishment application it may be included as a pre-proclamation condition in terms of section 57 of this By-law.
- (3) The endorsement of the Agricultural Holding Title by the Registrar of Deeds, to the effect that it is excised and known as a farm portion for purposes of a township establishment application, can be

done simultaneously with the endorsement of the title deed of the farm portion and the opening of a township register in terms of section 58 of this By-law.

- (4) The Municipality shall issue a certificate certifying that the pre-proclamation conditions have been complied with in terms of section 57 of this By-law and in so certifying it may require that certain conditions be complied with together with the opening of a township register, which may include the registration of the excision of an Agricultural Holding.
- (5) If an applicant wishes to excise an Agricultural Holding from the Agricultural Holding Register at the Registrar of Deeds for whatever purpose, including the removal of restrictive conditions of title applicable to Agricultural Holding, the Municipality shall only regard proof of such excision as being the endorsed title deed of the Agricultural Holding by the Registrar of Deeds and a copy of the farm title deed created at the Registrar of Deeds as a result of the excision.
- (6) Where the Municipality is authorized to grant permission for the excision of an Agricultural Holding in terms of any other law, the applicant shall submit an application for excision as may be prescribed in Schedule 19 to this By-law; provided that an application for excision shall not be regarded as a land development application for purposes of this By-law.
- (7) The Municipality shall consider the permission application submitted in terms of subsection (6) and may make a recommendation on whether it is in a position to grant the application for excision of an Agricultural Holding and may do so subject to such condition as the Municipality may deem expedient or postpone or refuse the application.
- (8) The applicant shall upon receipt from the Municipality of a recommendation for granting the application contemplated in subsection (7) for excision without delay submit the recommendation to the Surveyor-General, with a request for a new property description of the farm into which the Agricultural Holding will be incorporated.
- (9) The applicant shall upon receipt of a new farm description as contemplated in subsection (8) from the Surveyor-General submit, proof to the satisfaction of the Municipality of—
 - (a) the new farm description; and
 - (b) a draft surveyed diagram; and confirm that he/she wishes to proceed with the excision, quoting the new farm portion number contemplated in subsection (8).
- (10) The Municipality shall consider the information provided and may grant the permission for the excision application contemplated in subsections (6) and (9) and may impose any condition it deems expedient and for purposes of granting the excision application shall issue a certificate that excision of the Agricultural Holding has been approved.
- (11) The Municipality shall deliver a notice to the applicant of its decision in terms of subsection (10) and the applicant shall deliver to the Surveyor-General and the Registrar of Deeds a copy of the excision certificate contemplated in subsection (10).
- (12) An excision application granted in term of subsection (10) shall only be valid upon the date on which the title deed of the Agricultural Holding has been endorsed by the Registrar of Deeds to the effect that the Agricultural Holding has been excised.

174. Not more than one application pending at any time

Except for circumstances where the Municipality has —

- (a) granted its prior consent in writing; or
- (b) in terms of the provisions of this By-law the Municipality permitted simultaneous land development applications to be submitted by an applicant or applicants,

not more than one land development application may at any time be pending before the Municipality on the same property either in terms of this By-law or any other legislation, which application seeks to accomplish the same or similar approval of a land development application, as contemplated in this By-law, unless specifically provided for in terms of the provisions of this By-law read with section 77 of this By-law.

175. Enforcement of this By-law and provisions of the Land Use Scheme and other relevant provisions

- (1) The observance and enforcement of this By-law, land use scheme or of conditions imposed by the Municipality as a result of any land development application either in terms of this By-law, and land use scheme or any other law must be read with section 32 of the Act.
- (2) Where the Municipality has, in terms of the provisions of any law, imposed a condition relating to a land development application or any land use right in terms of a land use scheme it must —
 - (a) observe such condition; and
 - (b) refuse to approve —
 - (i) any land development application;
 - (ii) any site development plan or other plan as may be required by the land use scheme in operation; or
 - (iii) any building plan for the erection or alteration of or addition to an existing building; in conflict with any provision of a Land Use Scheme, this By-law or any other law related to land development applications.

176. Offences and penalties

- (1) An owner or other person are guilty of an offence if such owner or person —
 - (a) contravenes or fails to comply with —
 - (i) a decision taken or a condition imposed or deemed to have been taken or imposed by the Municipality in terms of this By-law or any other law relating to land development;
 - (ii) the provisions of the land use scheme;
 - (iii) use of land or permits land to be used in a manner other than permitted by the land use scheme;
 - (iv) contravention notice issued in terms of subsection (5); or
 - (v) use of land or permits land to be used in a manner that constitutes an illegal township as defined in terms of the provisions of this By-law;
 - (b) alters or destroys land or buildings to the extent that the property cannot be used for the purpose set out in the Land Use Scheme or zoning scheme;
 - (c) threatens, obstructs, hinders or fails to permit entry when called upon to do so or uses abusive language to a Development Compliance Officer or any persons lawfully accompanying such Development Compliance Officer in the exercising of a power conferred in terms of subsection (5);
 - (d) furnishes false or misleading information to an official of the Municipality when called upon to furnish information; or
 - (e) supplies particulars, information or answers in a land development application, request or other application, hearing or in an appeal knowing it to be false, incorrect or misleading.
- (2) An owner who permits land to be used in a manner contemplated in subsection (1) and who does not cease such use or who permits a person to breach the provision of subsection (1) is guilty of an offence and upon conviction is liable to the penalties contemplated in subsections (3) and (4).
- (3) Any person convicted of an offence in terms of this By-law, shall be liable to a fine not exceeding Ten Thousand Rand (R10 000,00) or as may be determined by a Court of Law or to imprisonment for a period more or less than 12 months or both such fine and such imprisonment.

- (4) A person convicted of an offence under this By-law who, after conviction, continues with the Action in respect of which he or she was so convicted, is guilty of a continuing offence and liable to a fine not exceeding Five Thousand Rand (R5000,00) or as may be determined by a Court of Law or upon conviction, to imprisonment for a period not exceeding three months or to both such fine and imprisonment, in respect of each day for which he/she has so continued or continues with such Act or omission.
- (5) The Municipality may issue a contravention notice to a person contemplated in subsections (1) to (4) who uses any land or building or causes it to be used in a manner as contemplated in subsection (1) to (4), in writing requiring that person —
 - (a) to discontinue such erection, alteration, addition or other work or such use or cause it to be discontinued; and
 - (b) at his or her own expense —
 - (i) to remove such building or other work or cause it to be removed; or
 - (ii) to cause such building or other work or such use to comply with the provisions of the scheme, and the directive shall state the period within which it shall be carried out.
- (6) The provisions of subsection (1) shall not apply to the erection or alteration of or addition to a building in accordance with an approved building plan.
- (7) Any person who contravenes or fails to comply with a contravention notice issued in terms of subsection (5) shall be guilty of an offence.
- (8) Where any person fails to comply with a contravention notice issued in terms of subsection (5), the Municipality may, whether or not a prosecution has been or will be instituted, remove the building or other works or cause the building or other works executed to comply with the provisions of its land use scheme and recover all expenses incurred in connection therewith from such person.
- (9) In the event of an offence in terms of subsection 1(a)(v) the Municipality may request the Registrar of Deeds to place a *caveat* against the property title deed on which the offence is being committed to the effect that no registration transaction may be registered which shall have the purpose of disposing of any property, portion thereof or unit in a sectional title scheme to facilitate or permit the implementation and continuation of an illegal township in terms of this By-law.
- (10) Where the Municipality, Surveyor-General or Registrar of Deeds has reasonable grounds to believe that any person in the exercising of land use rights, layout plans, divisions or disposal of land, the erection of any building on a subdivision of any land is defeating or is about to defeat any object of this By-law, Land Use Scheme or relevant legislation in whatever manner the Municipality may issue a notice or notices upon such person as contemplated in subsection (5) and the provisions of subsection (6) to and including (9) shall apply *mutatis mutandis*.

177. Warrant of entry for enforcement purposes

- (1) A judge or magistrate for the district in which the land is situated, may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if —
 - (a) Development Compliance Officer has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) prior permission of the occupier or owner of land on which a private dwelling is situated cannot be obtained after reasonable attempts;
 - (c) the owner, occupier or person in control of a private dwelling has refused consent; or
 - (d) the purpose of the inspection would be defeated by the prior knowledge thereof.
- (2) A warrant referred to in subsection (1) may be issued by a judge of the High Court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may be

issued if it appears to the judge or magistrate from information under oath that there are reasonable grounds for believing that an offence in terms of this By-law is being committed and such warrant must specify which of the acts mentioned in section 107 of this By-law may be performed there under by the person to whom it is issued.

- (3) The warrant must contain at least the following information —
 - (a) the statutory provision in terms of which it is issued;
 - (b) the identity of the person who is going to carry out the investigation;
 - (c) the authority conferred on the person concerned;
 - (d) the nature of the investigation to be carried out and the items reasonably expected to be obtained;
 - (e) the premises to be investigated; and
 - (f) the offence which is being investigated.
- (4) A warrant authorises the Development Compliance Officer to enter upon land or to enter the building or premises and to perform any of the acts referred to in section 107 of this By-law as specified in the warrant on one occasion only and that entry must occur:
 - (a) within one month of the date on which the warrant was issued; and
 - (b) at a reasonable hour, except where the warrant is issued on grounds of urgency.

178. Resistance of enforcement Action

- (1) When implementing an order of court or enforcement Action provided for in this By-law, the Development Compliance Officer may use such force as may be reasonably necessary to overcome any resistance against the implementation of the court order or other enforcement action or against the entry onto the premises, including the breaking of any door, or window of such premises, provided that the Development Compliance Officer shall first audibly demand admission to the premises and deliver a notice concerning the purpose for which he or she seeks to enter such premises.
- (2) Nothing contained herein shall prevent the Development Compliance Officer from requesting assistance from the South African Police Service or the Community Safety Directorate of the Municipality in enforcing an order of court.
- (3) The Municipality is exempt from liability for any damage arising out of any actions contemplated in subsection (1).

179. Compliance with the provisions, Schedules and Forms to this By-law

- (1) The Schedules and Forms to this By-law are aimed at assisting the public and the Municipality in dealing with any matter in terms of this By-law and provides draft forms and formats which shall substantially be complied with, in the opinion of the Municipality, by an applicant, owner or anybody or person as contemplated in this By-law.
- (2) Nothing contained in this By-law or any other law shall prohibit the municipal manager from determining through its Schedules or Forms, or subsequent amendments thereof, processes and procedures to be complied with by the owner, applicant or any other person acting in terms of these By-laws, provided that in determining these processes and procedures it shall not do so if the determination materially, in the opinion of the municipal manager, amend this By-law as adopted.
- (3) The Municipality's interpretation of the content of the Schedules and Forms to this By-law shall prevail, provided that where a conflict exists between the content of the Schedules or Forms to this By-law and the By-law, the By-law shall prevail.

- (4) The headings contained in this By-law are for reference purposes only and do not constitute any provisions in the By-law.
- (5) Where any provision of this By-law refers to the Schedules to this By-law, the Schedule in relation to the type of land development application, request, actions or other applications shall be applicable; provided that the Schedules may apply *mutatis mutandis* to other type of land development applications, requests, actions or other applications.
- (6) Where in terms of this By-law any Schedule or Form is applicable and reference is made to any Schedule, Form or provision of the By-law therein, the Schedule, Form or provision shall be applicable *mutatis mutandis*.
- (7) Where any notice is required in terms of this By-law which has the purpose of soliciting public participation, such notices shall be substantially in accordance with the Schedules and Forms to this By-law, provided that, public participation and notices shall comply with the intention of soliciting comments and objections through public participation is to ensure that the public is properly informed of the land development application brought in terms of this By-law the Municipality may require the applicant to amplify or supplement the notices in terms of the Schedules and Forms to this By-law.
- (8) Any documentation issued by the Municipality in terms of the provisions of this By-law—
 - (a) which does not comply with any procedural requirement of the By-law, is nevertheless valid if the non-compliance is not material and does not prejudice any person; and
 - (b) may be amended or replaced without following a procedural requirement of this By-law if —
 - (i) the purpose is to correct an error; and
 - (ii) the correction does not change the rights and duties of any person materially.
- (9) The failure to take any steps in terms of this By-law as a prerequisite for any decision or action does not invalidate the decision or action if the failure —
 - (a) is not material;
 - (b) does not prejudice any person; and
 - (c) is not procedurally unfair.

180. Limitation of liability

Neither the Municipality nor any other person in the employ of the Municipality or acting on behalf of the Municipality, is liable for any damage or loss caused by —

- (a) the exercise of any power or the performance of any duty under this By-law; or
- (b) the failure to exercise any power, or perform any duty under this By-law, unless such failure was unlawful, negligent or in bad faith.

181. Liability for errors or omissions in the Municipality's Land Use Scheme

- (1) The Municipality's land use scheme shall be regarded as the record of land use rights together with the approved and or adopted land development application, its conditions and or any document approved as part of the land development application.
- (2) A zoning or land use right(s) recorded in the land use scheme, read with the general provisions of the land use scheme or the approved or adopted land development application, is presumed to be correct, unless proven otherwise by an applicant or owner.
- (3) A zoning or land use right ceases to exist on the day when it lapses in terms of this By-law or section 43 of the Act, or a condition of approval of a land development application, even if the land use scheme or zoning map still records the land use right as existing.

- (4) The Municipality is exempt from liability for any damage which may be caused by —
 - (a) an error in the land use scheme; or
 - (b) an erroneous presentation by the Municipality about the land use rights or the zoning of a property.

182. Prohibition of works on and use of certain land.

- (1) Where the Municipality intends to acquire land it may subject to subsection (2) prohibit —
 - (a) the proposed erection or alteration of or addition to any building on the land;
 - (b) any other proposed work on the land; or
 - (c) any particular use of the land.
- (2) Where the Municipality fails within a period of twelve months from the date of a prohibition imposed in terms of subsection (1) to take possession of the land concerned, the prohibition shall lapse and in such a case no further prohibition shall be so imposed in respect of that land.
- (3) Any person who contravenes or fails to comply with a prohibition imposed in terms of subsection (1) shall be guilty of an offence.
- (4) Where any person has erected, altered or added to a building or other work in contravention of a prohibition imposed in terms of subsection (1), the Municipality may remove the building or other work and recover all expenses incurred in connection therewith from such person.

183. 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 26 of this By-law, 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 rights.
- (2) Land may be used only for the purposes permitted by the adopted 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.
- (4) Where a land development application —
 - (a) has been approved, but does not require a notice in terms of this By-law; or
 - (b) requires a notice in terms of this By-law; or
 - (c) requires any other action to bring the land use rights into operation, either in terms of this By-law, land use scheme or any other law, the decision, conditions and documents forming part of the land development application approved shall similarly have force of law.

184. Provision of open spaces and parks

- (1) Where, in terms of this By-law, a land use scheme or other legislation, a land development application is approved by the Municipality, Municipal Planning Tribunal, Municipal Appeals Tribunal or Authorised Official and a condition is imposed or it is required that land for the provision of open spaces or parks be provided by the owner in terms of the provisions of this By-law, the Municipality may —
 - (a) determine that the requirement be met by providing for —
 - (i) public open space;
 - (ii) private open space;

- (iii) conservation areas, the flood line area; or
 - (iv) any areas for the benefit of the community or public as may be determined by the Municipality;
 - (b) not require an area in excess of the area calculated in terms of Schedule 18 to this By-law.
- (2) Nothing contained in this By-law shall oblige the Municipality to accept land for the provision of open spaces and parks and the Municipality may *in lieu* of the provision of open spaces and parks require that the owner of property, on which a land development application has been approved, pay an amount of money *in lieu* of the provision of land for open spaces and parks as contemplated in Section 120(1) (b) of this By-law.
- (3) In the event of the Municipality deciding on monetary payment instead of the provision of open spaces and parks the money payable shall be done in accordance with a policy approved by the Municipality and applicable formulate provided for and in accordance with Schedule 18 to the By-law.
- (4) Where monies are payable as contemplated in subsections (2) and (3) for the provision of open spaces and parks, the Municipality may determine that the amount of money may be re-calculated annually until the rights have come into operation in terms of the provisions of this By-law.
- (5) In the calculation of an area of land for the provision of open spaces and parks as contemplated in subsection (3) read with Schedule 18 to the By-law, the following areas shall not be included as an area of land for the provision of open spaces and parks —
- (a) parking areas or roads and/or roadways;
 - (b) private open spaces and gardens, unless the Municipality is convinced that the said areas will be for the use and benefit of a community or the public;
 - (c) children's playground as contemplated in a land use scheme;
 - (d) club houses, recreational areas and facilities;
 - (e) any area for engineering services including but not limited to Storm water systems or attenuation ponds or a servitude area for power lines which, in the opinion of the Municipality cannot be regarded as open spaces or parks for the benefit of the community or public; and
 - (f) any other area which in the opinion of the Municipality shall not contribute to the open spaces and parks system of the Municipality and are for the exclusive use of only specific residents.
- (6) In the provision of open spaces and parks of whatever nature as contemplated in subsection (3) the formulae in terms of Schedule 18 to this By-law shall apply, provided that the Municipality may determine the formulae applicable to dwelling units or residential units, other than residential units zoned "Residential 1, 2, 3 and 4" or any other residential zoning that may be developed during amendment of the Land Use scheme in term of chapter 3 of this By-law, in which case the formulae in Schedule 18 to this By-law shall apply irrespective of the use zone.
- (7) Any areas of land to be provided for purposes of open spaces and parks, may at the request of the Municipality or as a condition of approval of a land development application, be made subject to the requirement that —
- (a) a servitude be registered by and at the cost of the owner of a land development area for purposes of protecting or securing the land for the use and benefit of the community, public or specific groups of persons, prior to the exercising of any land use rights granted by virtue of the land development application or at a time as may be determined by the Municipality and subject to section 85 of this By-law; and
 - (b) the land be transferred to the Municipality or any other entity to the satisfaction of the Municipality for purposes of providing open spaces and parks for the use and benefit of the public, the community or residents or groups of residents to be kept open in trust for their use and benefit subject to section 85 and 86 of this By-law.

- (8) Nothing contained in this section shall prohibit the Municipality from accepting an area of land for the provision of open spaces and park or oblige it to accept land that do not form part of a land development area or is located on a property that do not form part of a land development area, provided that —
- (a) in the event of the Municipality accepting an area of land as contemplated in subsection (8), such land shall be owned by the owner of property on which the land development application is brought; and
 - (b) the owner shall be responsible for the development and maintenance of the area of land provided for in terms of subsection (8).
- (9) Where any open space or parks are created as a result of a land development application and it is intended as public open space or parks, such public open space or parks shall be vested in terms of section 113(3) of this By-law.

185. Language of Communication, Land Development Applications, Notices and related matters

- (1) This By-law on commencement will be published in English, provided that on request to the Municipality it may be provided either wholly or in part in the languages adopted by the Municipality as the official language of communication.
- (2) Where practicably possible any and all land development applications, requests, reports, documentation or communication with or to the Municipality in terms of this By-law, should be in English; provided that —
- (a) where such land development applications, requests, reports, documentation or communication are in one of the official languages adopted by the Municipality, other than English, the Municipality may require that it be translated prior to dealing with it;
 - (b) if translated by the Municipality's language services the time delay shall not be calculated as part of the phases as contemplated in Regulation 16 of the Regulations to the Act and such time shall be excluded;
 - (c) where the applicant submits the application in terms of subsection (2) and have at its own costs translated the application thereafter, the date of the receipt of the translated land development application shall be the date upon which the application shall be regarded as submitted;
 - (d) where in terms of subsection (a) the Municipality's language services translate any land development application, request, report, documentation or communication, the Municipality shall not be held accountable for the accuracy of the translation; and
 - (e) where a registered title deed contains conditions or servitudes in any other language than English, the applicant and Municipality shall not be obliged to translate the condition or servitude provision.
- (3) All notices for the adoption of any land development application, amendments scheme, Land Use Scheme or other application, by notice in the Provincial Gazette in terms of this By-law, shall be placed in English only; provided that any interested person may request that it be translated either wholly or in part by the Municipality in terms of its approved and adopted language policy.

186. Policy, procedure, determination, standard, requirement and guidelines

- (1) The Municipality may adopt a policy, procedure, determination, standard, requirement or guidelines, not inconsistent with the provisions of the Act and this By-law, for the effective administration of this By-law.
- (2) Unless the power to determine is entrusted to the Council, another person or body, the Municipal Manager may determine anything which may be determined by the Municipality in terms of the Act, the Regulations or this By-law.

- (3) The Municipality must make available any policy, procedure, determination, standard, requirement or guidelines.
- (4) An applicable policy, procedure, determination, standard, requirement and guidelines apply to an application submitted and decided in terms of this By-law.

187.Short Title and commencement

- (1) This By-law is to be known as the “**Polokwane Municipal Planning By-law, 2017**”
- (2) This By-law shall commence on the date of publication in the *Provincial Gazette*.



**DOCUMENT CONTAINING POLOKWANE MUNICIPAL
PLANNING BY-LAW SCHEDULES, 2017.**

SCHEDULE 1**INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE POLOKWANE MUNICIPAL PLANNING TRIBUNAL**

In terms of the Act, the Polokwane Local Municipality hereby invites nominations for officials or employees of the *(insert name of organ of state or non-governmental organisation contemplated in Regulation 3(2)(a) of the Regulations to the Act)* to be appointed to the Polokwane Municipal Planning Tribunal for its term of office.

The term of office of members will be five years calculated from the date of appointment.

Nominees must be persons registered with the professional bodies contemplated in section 37(10) (a) to (k) of the Polokwane Municipal Planning By-law, 2017 who have leadership qualities, knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

- (a) the name, address and identity number of the nominee;
- (b) the designation or rank of the nominee in the organ of state or non-governmental organisation;
- (c) a short curriculum vitae of the nominee; and
- (d) certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Nominations must be sent to:

The Municipal Manager

Polokwane Local Municipality

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),

ID No (of nominee),

hereby declare that —

- (a) I am available to serve on the Polokwane Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me or I am not willing to serve as a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) there is no conflict of interest or I have the following interests which may conflict with the Polokwane Municipal Planning Tribunal which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Act, to serve on the Polokwane Municipal Planning Tribunal and I authorise Polokwane Local Municipality to verify any record in relation to such disqualification or requirement.
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Polokwane Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

CLOSING DATE: (INSERT DATE)

Signature of Nominee

Full Names of Nominee

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

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

SCHEDULE 2

CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE POLOKWANE MUNICIPAL PLANNING TRIBUNAL

CLOSING DATE: (INSERT DATE)

In terms of the Act, the Polokwane Local Municipality hereby call for nominations for members of the public to be appointed to the Polokwane Municipal Planning Tribunal for its term of office.

The term of office of members will be five years calculated from the date of appointment of such members by the Polokwane Local Municipality.

Nominees must be persons registered with the professional bodies contemplated in section 37(10)(a) to (k) of the Polokwane Municipal Planning By-law, 2017, who have leadership qualities, knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

- (a) the name and address of the nominator, who must be a natural person and a person may nominate himself or herself;
- (b) the name, address and identity number of the nominee;
- (c) motivation by the nominator for the appointment of the nominee to the Polokwane Municipal Planning Tribunal (no less than 50 words and no more than 250 words);
- (d) a short curriculum vitae of the nominee; and
- (e) certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

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

Nominations must be sent to:

The Municipal Manager
Polokwane Local Municipality

For Attention: _____

For Enquiries: _____

Tel: _____

I, (full names of nominee),

ID No (of nominee),

hereby declare that –

- (a) I am available to serve on Polokwane Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me/ I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) There is no conflict of interest or I have the following interests which may conflict with the Polokwane Municipal Planning Tribunal and which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Act to serve on the Polokwane Municipal Planning Tribunal and I authorise the Polokwane Local Municipality to verify any record in relation to such disqualification or requirement;
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Polokwane Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

Signature of Nominee

Full Names of Nominee

SCHEDULE 3**CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL,
OPERATING PROCEDURES AND GUIDELINES****PROCEDURE FOR THE MUNICIPAL PLANNING TRIBUNAL TO CONSIDER LAND DEVELOPMENT
APPLICATIONS**

This Code of Conduct aims at providing a foundation for procedures to be followed by the Municipal Planning Tribunal or Authorised Official to consider Development Applications in terms of the applicable legislations and that authorises the Municipality to take decisions.

1. INTRODUCTION: THE PROCESS OF SUBMISSION OF LAND DEVELOPMENT APPLICATIONS

- (1) The process refers to all land development applications submitted in terms of this By-law, the Act or other relevant legislation i.e. national, provincial or municipal.
- (2) Applicants lodge a land development application with the Business Unit responsible for City Planning or as the case may be. Depending on the nature of the application, an application will be advertised or not. The method of advertising may differ from one type of application to the other. The application is circulated to various departments within the Municipality as well as those bodies the Municipality is obliged to consult with as prescribed by the different legislation.
- (3) The different types of land development applications submitted have different procedural requirements, which include different prescribed fees, specific documentations, different advertising requirements, affidavits, etc.
- (4) Upon submission of the land development applications the administration must ensure that all procedural requirements have been met in terms of the relevant legislations.
- (5) The Deputy Chairperson for the Municipal Planning Tribunal and committees assigned to him/her must ensure that all relevant documents have been submitted for consideration of the land development application and may for that purpose prepare a report if required to that effect.
- (6) Once all the advertising periods, as well as circulation dates have expired the application is ready to be processed by the administration.
- (7) The Business Unit responsible for City Planning prepares a report capturing the assessment that include assessment and evaluation of evidence presented by the applicant or other parties to the application for their burden of proof in terms of the Act and need and desirability or any other compliance for the application to be considered including policy frameworks, responses to all comments received and specifically dealing with objections.
- (8) Once a report has been prepared by the Business Unit responsible for City Planning it will be determined whether the application can be dealt with in terms of powers delegated to the Authorised Official in terms of the categorisation of development applications or whether the application must be referred to the Municipal Planning Tribunal for decision-making in terms of their functions and delegated powers.
- (9) If an application is referred to the Municipal Planning Tribunal, all relevant documentation, the applicant's memorandum, objections, the applicant's reply to the objections and the official's comments are annexed to a report which sets out the basis of the application.
- (10) The administration responsible for supporting the Municipal Planning Tribunal arranges for a public hearing contacting all objectors and advising them to attend a site inspection and the hearing. It is

important to send out the notification strictly in accordance with the requirements of the relevant legislation, in most instances fourteen days' notice plus seven days for postal delivery for the hearing.

2. OPERATIONAL FRAMEWORK FOR THE MUNICIPAL PLANNING TRIBUNAL

- (1) The policy guidelines and operation framework are intended to assist the Municipal Planning Tribunal with decision-making on land development applications and should work towards the implementation of the Integrated Development Plan for Council. These policies would include proposed densities, areas where mixed land use could be supported and policy statements with regard to the treatment of development corridors, etc. before they can be implemented. The most important policy document being the Municipal Spatial Development Framework ("MSDF") and its components.
- (2) The Municipal Spatial Development Framework must be adhered to at all times unless it may be departed from as provided for in terms of the Act or this By-law.
- (3) In terms of the relevant municipal planning legislation the Municipality may take certain decisions with regard to land development applications.
- (4) In taking decisions as contemplated in the various land development pieces of legislation, such decisions may be regarded as an administrative action in terms of administrative law. The Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000) should be complied with at all times. All administrative actions should be lawful, reasonable and procedurally fair. Furthermore, the Municipal Planning Tribunal can be regarded as a quasi-judicial body in the execution of its responsibilities.
- (5) A quasi-judicial act or function refers to an act or function, which influence the liberty, property or other existing rights of an individual. Submissions made to the Municipal Planning Tribunal will range from new development to change of land use rights on a given site, and they involve both public and private sector initiatives, all of which need to be assessed in terms of their strategic influence on the whole of the Polokwane Municipal area.
- (6) Any quasi-judicial body is required to comply with the rules of natural justice, as well as administrative action. The legislations dealing with land development provides that certain requirements be adhered to with regards to any decision that may be taken by the Municipal Planning Tribunal and no discretion exists to deviate there from.
- (7) In order to remain objective in the decision-making process, the applicant will only discuss the application with the relevant officials and objectors prior to the hearing. If the matter is discussed with any member of the Municipal Planning Tribunal prior to the hearing, it could be construed that, a decision taken by the Municipal Planning Tribunal where such interaction did take place, that such a decision is not objective. The planning official will negotiate conditions and problem areas with the applicant and the service departments may need to discuss specific issues relating to implementation. The rules of natural justice, however, indicate that it would be fair to all parties concerned, if negotiations take place prior to the Municipal Planning Tribunal hearings.
- (8) In order to save time and to ensure that matters do not have to be postponed unnecessarily, applicants and objectors would be requested to submit *points in limine* prior to the meeting. These *points in limine* should be submitted, in writing to the administration supporting the Municipal Planning Tribunal within a specific time frame. These may then be dealt with administratively, in consultation with the legal department, prior to the meeting. If necessary, the meeting date may be changed to accommodate the correction of matters i.e. if all objectors did not receive notification of the meeting.
- (9) The rules of natural justice, which should be adhered to, include the *nemo index insua causa* rule, i.e. no person may be a judge in his own case. Various case law confirms the above and goes further to

apply the principle that "justice should not only be done, but should be seen to be done". In other words, even if it can indisputably be proven that a person is not biased, if it appears to the layman that somebody may be biased he or she must recuse themselves from the decision making process.

- (10) A member of the Municipal Planning Tribunal shall not take part in the discussion of or the making of decisions about any matter before the Tribunal in which he or she or his or her spouse, immediate family, partner of employer or the partner or employer of his or her spouse has, directly or indirectly, may have any pecuniary interest read with section 38 of the Act.

3. SITE INSPECTION

- (1) Applicants, interested parties and objectors will be requested to bring evidence along to the hearing such as photographs, video recordings, models, etc. with regards to any physical features they wish to base their submission on.
- (2) Parties will be permitted to argue the relevance of a site inspection at the hearing if they so wish.
- (3) The Municipal Planning Tribunal will decide whether to go on a site inspection or not. This will follow the next day of the hearing where after the hearing will be concluded or where the Department deems it necessary the site inspection can be arranged before the hearing of the land development application.
- (4) In the case where it has been argued and agreed that the inspection of the site is important, the inspection must be attended by a quorum of the Municipal Planning Tribunal and preferably all the members of the Municipal Planning Tribunal who are due to hear the matter.

The procedure adopted to facilitate this is as follows —

The parties agree at the hearing at what time the inspection will take place either on the day, or if the site inspection is scheduled prior to the hearing, as may be determined at the site inspection. The procedure adopted to facilitate this is as follows —

* At the inspection the parties are entitled to point out physical features that they intend arguing as being important during the hearing. There shall be no arguments or debates at the site and during the site inspection.

- (a) The following points should be noted with regard to site inspections —
 - (i) all the Municipal Planning Tribunal members will concentrate on the physical features pointed out by the parties to the hearing and will at all relevant times pay full attention to the submissions made on site.
 - (ii) the Municipal Planning Tribunal members will follow the Chairman/Presiding Officer on the tour of the site and/or relevant building(s). The inspection will be of a visual nature elucidated by questions or requests for further particulars. No doors, cabinets or drawers are to be opened unless the applicant or his or her representative offers to do so.
 - (iii) the Chairperson/Presiding Officer will meet the applicant and/or representatives of the applicant and explain the nature and purpose of the site inspection.
 - (iv) the site inspection will be regarded as concluded when the Chairman/Presiding Officer has ascertained that there are no further questions to be asked and inform the participants where and at which time all parties will meet again to conclude the hearing.
 - (v) No bias towards a decision should be communicated by any Tribunal member at this stage. All members are to remain objective, until the hearing is concluded. Concerns and objections by Tribunal members should be raised in the Tribunal in committee session.
 - (vi) Tribunal members and/or officials will switch off their cellular telephones and/or pagers during site inspection and the formal hearing.
 - (vii) No discussion of any nature whatsoever will be allowed on the bus, should a bus be used, on the merits or physical features or any time prior or after the site inspection thereof.

4. ORDER OF HEARING

- (1) In order to ensure that proceedings of the Tribunal take place in a dignified atmosphere. The Municipal Planning Tribunal members are requested to refrain from criticizing other officials, expressing disagreement with other members of the Tribunal or making statements, which could be construed as pre-judgment of the issue before the or during the hearing itself. Members are free to express themselves fully at the decision making stage of the proceedings. Members should respect the procedures by asking leave from the chair to leave the proceedings.
- (2) If any Municipal Planning Tribunal member or his or her family has a vested interest as contemplated in section 38 of the Act, in the application, he or she should recuse himself or herself from the hearing for the application.
- (3) The Appeal Court has expressed itself as follows regarding the principles that govern properly conducted meetings:
 - * *The Municipal Planning Tribunal has specially been created to deal with disputes relating to administration and are not bound to follow the procedure of a court of law. Certain elementary principles, speaking generally, they must have due and proper opportunity of producing their evidence and stating their contentions, (and the statutory duties imposed must be honestly and impartially discharged). These elementary principles must be regarded as embodied in the Act, and regulations running counter to them could be upheld."*
- (4) The above principles should be seen to be observed both at the site inspection and the hearing in order to enhance the reputation of the Tribunal as a credible body and to ensure that the Tribunal proceedings cannot be attacked in the courts on the basis that such principles were not properly observed.
- (5) The procedure adopted in the hearing shall be in accordance with section 104(3) of this By-law;

5. IN-COMMITTEE DISCUSSIONS

- (1) The Tribunal may approve the application as submitted, in an amended form subject to conditions, refuse the application or postpone its decision as contemplated in the provisions of this By-law read with section 35, 40 and 42 of the Act. The Tribunal should also take a decision on the merit of an application and look at all the relevant information and disregard the irrelevant information. The Tribunal has to apply its mind in the consideration of an application before it.
- (2) The Chairman/Presiding Officer facilitates the Tribunal discussions. It is the duty of the legal adviser to ensure that the decision that is made can be substantiated by the relevant facts and can be upheld in a court of law. The proceeding is also recorded and the Tribunal should state its reasons for the decision on record.
- (3) If the Tribunal intends to change the conditions of an application substantially, it should be done in consultation with the parties to the application. The development planning legislation makes provision for the amendment of the application, after consultation with the applicant and/or parties to the Tribunal hearing. However, no greater rights than that which has been applied for and consequently advertised may be asked for or given or where the rights of an interested and affected party are affected whether the rights are increased or not can be granted in an amended form.
- (4) An application can only be postponed for relevant reasons. These include: by request and agreement of the objectors, if points *in limine* were raised, adequate notification of the hearing was not received, etc.

- (5) Consideration of the application should be done with due regard to all relevant facts, policies and in particular the Integrated Development Plans and Municipal Spatial Development Framework with reference to section 35 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) and section 35, 40 and 42 of the Act. It is the responsibility of the Council to formulate policy, including consultation with all stakeholders not that of the Municipal Planning Tribunal and this should be taken into account.

6. OBJECTIVES AND DEVELOPMENT PRINCIPLES FOR CONSIDERATION

The objectives and development principles as set out in section 3, 6 and 7 of the Act must be considered by the Municipal Planning Tribunal in their consideration of the land development applications, however specific reference thereto during the deliberation and decision of applications shall not be required.

7. ASSISTANCE IN TAKING DECISIONS

(1) Council Policies

Some of the developed areas of Polokwane Local Municipality are subject to development policies that were developed for those areas. These are in many cases very detailed and address the specific needs and dynamics of the various areas. These policy documents were drawn up in consultation with the affected community and have been approved by Council. The policies also included an evaluation of the infrastructure capacity and transportation routes, and development proposals were made accordingly.

(2) Official's Comments

The Business Unit responsible for City Planning or as the case may be assesses applications that are submitted to the Municipality. Planning staff is trained to assess the impacts of development and make recommendations thereon. The Municipal Planning Tribunal is a quasi-judicial body, and therefore need to make the final decision on development applications, but the planning staff act in an advisory capacity as professionals in planning in the Municipality to the Municipal Planning Tribunal. Note that the Business Unit responsible for City Planning is not a party to the application, but merely provides a professional assessment of the application and recommendations to guide and assist the Municipal Planning Tribunal to make a decision and for that purpose the report shall include the information as contained in this By-law but for summary may include —

- (a) site details and important physical factors that may impact on the development;
- (b) development context of the area that may impact on the site;
- (c) history of development in terms of use, scale and intensity;
- (d) impact of the proposed development on the surrounding properties and area;
- (e) assessment of proposed development in terms of Council policies and infrastructure; and
- (f) recommendations from a town planning point of view.

It is the responsibility of the planning official to obtain the comments of the other service departments and affected parties and to assess the appropriateness of the development.

(3) The Chair/Presiding Officer and Legal Adviser

The legal adviser, assist the Tribunal to make decisions that are in accordance with the various procedures and guidelines stated in legislation. The legal adviser should also advise the Tribunal of the scope of decisions that may be made, and the necessary procedures to be followed.

If reasons for the Tribunal decision are required, it is the responsibility of the legal adviser to ensure reasons are recorded for the tribunal discussion. The legal adviser and/or chairperson/presiding officer have to represent and state the reasons for Tribunal decisions. It is thus imperative that the correct procedures and motivations be used in decision making. The legal adviser should ensure that a quorum is present at all times, that the members of the hearing were present at the site inspection and that the relevant legislation is adhered to at all times.

(4) Infrastructure Capacity

There is a close relationship between the availability of infrastructure and development that can take place. In terms of the relevant development planning legislation and it is the responsibility of the Municipality to ensure that the development is provided with the necessary infrastructure or that arrangements have been made for the provision thereof.

(5) 3rd party agreements and conditional withdrawal of objections

In terms of section 104(3)(n) of this By-law the Municipal Planning Tribunal shall not be bound by agreements reached between parties to the land development application and the assessment and imposition of conditions shall be done based on the facts and merits in front of it.

8. APPLICABLE LEGISLATION AND LAND USE SCHEME

- (1) All members of the Tribunal shall have a duty to familiarize themselves with the content of any legislation, policy, plan framework in terms of which they consider any matter before it and the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 2 of 2000).
- (2) They shall have specific regard to what shall be required by the applicant to be proven in terms of the said legislation in order for the land development application or any matter before it, to be considered.

9. NOTICE V. AGENDA

A notice in terms of this By-law to any member whether in the form of an agenda or not, shall have the same purpose as a subpoena to serve on the Municipal Planning Tribunal and only formal apologies and alternative arrangements approved by the Chairperson/Presiding Officer appointed in terms of the Act, shall be accepted.

10. ATTENDANCE REGISTER

Every member attending a meeting must sign his or her name in the attendance register.

11. ADJOURNMENT IN THE EVENT OF NO QUORUM

- (1) If a quorum is not present at the expiry of 30 minutes after the time scheduled for a meeting, the meeting may not be held unless it is decided, with the consent of the majority of the members present, that a further 15 minutes should be allowed to enable a quorum to be present.
- (2) The quorum at the hearing(s) of the Tribunal will be three or more members, including the Chairperson and of which one member shall be a non-municipal official as contemplated in section 40(2) of the Act.

12. METHOD OF VOTING DURING MEETING(S)

- (1) The members of Municipal Planning Tribunal will be required to vote in favour of or against the recommendation of the report(s) or make any other recommendation and vote for the said recommendation.
- (2) Should there be an equal number of votes in respect of a proposal/application during meeting(s) the Chairperson/Presiding Officer of a Tribunal must record his or her casting vote.

13. CONSIDERATION OF THE MINUTES OF A PREVIOUS MEETING(S)

Due to the rotation of members of the Municipal Planning Tribunal the minutes must be circulated to all members and it may be amended in accordance with any comments received by the Chairperson and signed off by him or her.

14. RECORDING

Municipal Planning Tribunal is a tribunal of record and all the documents submitted and the proceedings of the committee shall, consequently be recorded. Provision must also be made for the recording of the proceedings during the site inspection, alternatively, that such proceedings be read into the record by the Chairperson or his or her nominee during the site inspection subject to sections 104(7), 134(2) and 135 of this By-law.

.....

15. DECLARATION

I,hereby declare that I have read and understand the contents of the Code of Conduct. I further declare that I will be bound by the Code of Conduct and Operational Procedures in my participation as a member of the Municipal Planning Tribunal at all times.

.....

Signature

.....

Date

SCHEDULE 4

CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL APPEAL TRIBUNAL

I, the undersigned,

Full names: _____
 Identity Number: _____
 Residing at: _____

do hereby declare that I will uphold the Code of Conduct of the Municipal Appeal Tribunal contained hereunder:

1. General conduct

- (1)I, as a member of the Municipal Appeal Tribunal will at all times—
- (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose my personal interests in any decision to be made in the appeal process in which I serve or have been requested to serve; and
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which I have a personal interest and I will leave any chamber in which such matter is

under deliberation unless my personal interest has been made a matter of public record and the Municipality has given written approval and has expressly authorised my participation.

(2) I will not, as a member of the Municipal Appeal Tribunal —

- (a) use the position or privileges as a member of the Municipal Appeal Tribunal or confidential information obtained as a member of the Municipal Appeal Tribunal for personal gain or to improperly benefit another person; and
- (b) participate in a decision concerning a matter in which I or my spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

2. Gifts

I will not, as a member of the Municipal Appeal Tribunal receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended or expected to influence my objectivity as a member of the Municipal Appeal Tribunal.

3. Undue influence

I will not, as a member of the Municipal Appeal Tribunal —

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

Signature of Member: _____

Full Names: _____

Date: _____

SCHEDULE 5

DISCLOSURE OF INTERESTS FORM

I, the undersigned,

Full names: _____

Identity Number: _____

Residing at: _____

do hereby declare that —

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

CONFLICTING INTERESTS

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

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

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

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

- (e) I am South African citizen or a permanent resident in the Republic;
- (f) I am not a Member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a court of law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a Tribunal for a breach of any provision of the Act, or provincial legislation or the Polokwane Municipal Planning By-law, 2017.
- (l) I have not been found guilty of misconduct, incapacity or incompetence; or

- (m) I have not failed to comply with the provisions of the Act, 2013 or provincial legislation or the Polokwane Municipal Planning By-law, 2017.

Signature of Nominee: _____

Full Names: _____

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

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

COMMISSIONER OF OATHS

FULL NAMES: _____

DESIGNATION: _____

ADDRESS: _____

* Delete the option that is not applicable

SCHEDULE 6**LAND USE SCHEME REGISTER**

A land use scheme register as contemplated in section 30 of this By-law may where applicable include the following information relating to land development applications as contemplated in sections 54, 55, 61 and 73 of this By-law —

- (a) date of application of the land development application;
- (b) name and contact details of the applicant;
- (c) the land development application type;
- (d) property description;
- (e) existing zoning;
- (f) amendment scheme number;
- (g) annexure number;
- (h) decision and date;
- (i) date of adoption and publication; and
- (j) any other information which in the opinion of the Municipality shall be required to assist land development in general, provided that information in paragraph 1(a) to (i) can be made available to the public but information in terms of paragraph 1(j) need not be made available.

SCHEDULE 7**ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR RESERVATION OF A TOWNSHIP NAME IN TERMS OF SECTION 54 (2)(D) OF THIS BY-LAW**

1. Before the submission of a township establishment or extension of boundaries application as contemplated in section 54 of this By-law or a division of a township as contemplated in section 55 of this By-law a request for approval for the reservation of a township name must be submitted to the Municipality.
2. The applicant shall for purposes of a complete submission for a request for reservation of a township name at least submit the following documentation —
 - (a) an original official receipt or proof of payment for the application fee, the request will not be processed before confirmation has been received of payment;
 - (b) a covering letter with the written request for a new township name;
 - (c) if the applicant is not the owner of the property(ies) a power of attorney that complies with the provisions of section 76 of this By-law;
 - (d) a copy of the Title Deed which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;
 - (e) a locality plan indicating where the proposed township establishment or division of the township establishment will be as well as the exact boundaries of the proposed township; and
 - (f) the township layout plan on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 as determined by the Municipality.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 8**ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE ESTABLISHMENT OF A TOWNSHIP OR THE EXTENSION OF THE BOUNDARIES OF A TOWNSHIP IN TERMS OF SECTION 54 OF THIS BY-LAW**

An applicant who wishes to apply in terms of section 54 of this By-law for the establishment of a township or extension of the boundaries of a township, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-2 (with Part C to D), PLM: F-10(A) and PLM: F-10(A1) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the maps and documents indicated below —

- (a) proof of payment (i.e application fee “*please consult approved tariffs for application*”);
- (b) the completed and signed application Form;
- (c) a copy of title deed/ leasehold title/ deed of grant of the land;
- (d) bondholder’s consent (if the land is encumbered by a bond);
- (e) power of Attorney (if the property is not registered in the applicant’s name);
- (f) company resolution (if the property is registered in the company’s name);
- (g) minerals’ holder’s consent (if applicable);
- (h) motivational Memorandum (as contemplated in section 89(2)(d));
- (i) locality plan/map;
- (j) layout plan;
- (k) draft conditions of establishment for the proposed township in the format approved by the Council;
- (l) EIA approval/exemption (if a listed activity);
- (m) traffic impact study (if required by relevant department);
- (n) geotechnical report compiled and signed by suitably qualified professional;
- (o) flood line certificate (if property is subject to flooding);
- (p) feasibility study;
- (q) services report;
- (r) proof of site notice and affidavit;
- (s) adverts from newspaper/ gazette and affidavit; and
- (t) township name reservation letter.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 9**APPLICATION REQUIREMENTS FOR AN APPLICATION FOR THE DIVISION OF A TOWNSHIP IN TERMS OF SECTION 55 OF THIS BY-LAW**

1. An applicant who wishes to apply in terms of section 55 of this By-law for a division of a township, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-3 (with Part C to D of PLM: F-2) and PLM: F-10(B) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the maps and documents indicated in paragraph 3 below.
2. The applicant must first ensure that he or she has applied in accordance with schedule 7 to this By-law and received approval for the township name(s) for the division of the township from the Business Unit responsible for City Planning. The applicant must ensure that the township name reservation letter is submitted with the land development application.
3. The applicant shall submit at least for purposes of a complete submission of an application in terms of section 55 of this By-law the following documentation —

- (a) an original official receipt or proof of payment of the application fee; the application will not be processed before confirmation of payment has been received;
- (b) a covering letter addressed to the Business Unit responsible for City Planning;
- (c) the completed and signed application forms as set out in PLM: F-1 and PLM: F-3 (with Part C to D of PLM: F-2) and PLM: F-10(B) to this By-law;
- (d) township name reservation letter;
- (e) draft amendment scheme (annexure and map) prepared in the format as contemplated in the applicable land use scheme and or town planning scheme read with section 29 of this by-law for purposes of incorporation into the land use scheme in terms of section 55(2)(d) of this By-law; provided that the draft amendment scheme map indicates the following if applicable —
 - (i) the boundaries, description of surrounding properties and the property(ies) description of all property(ies), townships, agricultural holdings, farms, lots, plots, portions of the land development application property(ies);
 - (ii) the scale;
 - (iii) the true north;
 - (iv) the position and names of all municipal, provincial and national streets, roads, thoroughfares;
 - (v) the position and names of all open spaces and squares;
 - (vi) the position of every rail reserve;
 - (vii) all lines of no access;
 - (viii) proposed use zone(s);
 - (ix) existing and proposed building lines and building restriction area(s); and
 - (x) a legend;
- (f) if the applicant is not the owner of property(ies) a power of attorney that complies with the provisions of section 76 and Form PLM: F-16 this By-law;
- (g) if the property is encumbered by a bond, the bondholder's consent;
- (h) a motivational memorandum with reasons for the division a township and the manner in which it will be done;
- (i) the approved conditions for the establishment of the township to be divided together with the township layout plan(s) indicating the individual divisions;
- (j) proof of compliance with section 56 or proof of compliance with section 55(2)(d) of this By-law;
- (k) a land surveyor's certificate including a land audit report from a land surveyor indicating whether and how the property(ies) are affected by the conditions of title or servitudes recorded in the title deed(s) affect the proposed land development;
- (l) a conveyancer's certificate including a land audit report from a conveyancer, indicating who the registered owner of the property(ies) is, the conditions of title or servitudes recorded in the title deed(s), how these conditions of title or servitudes affect the proposed land development, as well as the mortgage bond registered against the property. The report must indicate how to deal with such conditions or restrictions in the proposed conditions of establishment;
- (m) a geo-technical (including geology) report classifying the soil types, indicate risk classifications and recommended type of development and the National Building Regulation Classification;
- (n) proposed township layout plans per proposed division that complies with the requirements as set out in PLM: F-10(A1) to this By-law, preferably maximum A3 size;
- (o) the proposed revised statements of conditions of approval;
- (p) a copy of the title deed which is registered in the deeds office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft title deed shall not be acceptable; and

4. The Municipality may require other documents, such as further copies of the plan of the proposed township, drawn to such scale as required, site plans and transport impact studies, to be submitted in support of the application before the application is finalized.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 10

REQUIREMENTS AND ADDITIONAL DOCUMENTS FOR AN APPLICATION IN TERMS OF SECTION 61 OF THIS BY-LAW FOR THE AMENDMENT OF A LAND USE SCHEME KNOWN AS REZONING.

1. An applicant who wishes to apply in terms of section 61 of this By-law for the amendment of a land use scheme also known as rezoning, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-4, PLM: F-10(C) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the maps and documents indicated below —
- (a) an amendment scheme number (“*one amendment scheme number per erf*”);
 - (b) proof of payment (i.e application fee (“*please consult approved tariffs for application*”));
 - (c) the completed and signed application form;
 - (d) a copy of title deed/ leasehold title/ deed of grant of the land;
 - (e) bondholder’s consent (if the land is encumbered by a bond);
 - (f) power of attorney (if the property is not registered in the applicant’s name);
 - (g) company resolution (if the property is registered in the company’s name);
 - (h) motivational memorandum (as contemplated in section 89(2)(d));
 - (i) locality plan/map;
 - (j) land use/zoning plan/map;
 - (k) draft SDP/ site plan;
 - (l) development controls: height; far; coverage; no of units and no of parking;
 - (m) map 3’s and scheme clauses;
 - (n) proof of site notice and affidavit; and
 - (o) adverts from a local newspaper/ gazette and affidavit.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 11

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR THE AMENDMENT, SUSPENSION OR REMOVAL OF A RESTRICTIVE OR OBSOLETE CONDITION, SERVITUDE OR RESERVATION REGISTERED AGAINST THE TITLE OF THE LAND IN TERMS OF SECTION 62 OF THIS BY-LAW

1. An applicant who wishes to apply in terms of section 62 of this By-law for the amendment, suspension or removal of a restrictive or obsolete condition, servitude or reservation registered against the title deed relating to his or her property, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-5, PLM: F-10(D) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by documents indicated below —
- (a) proof of payment (i.e application fee (“*please consult approved tariffs for application*”));
 - (b) the completed and signed application form;
 - (c) a copy of title deed/ leasehold title/ deed of grant of the land;
 - (d) bondholder’s consent (if the land is encumbered by a bond);
 - (e) power of attorney (if the property is not registered in the applicant’s name);
 - (f) company resolution (if the property is registered in the company’s name);
 - (g) motivational memorandum must —
 - (i) clearly indicate precisely which conditions are to be removed, amended or suspended;

- (ii) indicate the future development of the area; and
- (iii) contain a thorough motivation, from a land use point of view, of the proposed removal/ amendment of the conditions in the title deed including, but not restricted to, the need and desirability of the application;
- (h) locality plan/map;
- (i) land use plan/map;
- (j) draft SDP/ site plan;
- (k) proof of registered letters/ notices to adjoining property owners;
- (l) proof of site notice and affidavit.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 12

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR SUBDIVISION IN TERMS OF SECTION 67 OF THIS BY-LAW

1. An applicant who wishes to apply in terms of section 67 of this By-law for subdivision relating to a property, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-7, PLM: F-10(E) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the documentation indicated in paragraph 2 below.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the application —
 - (a) proof of payment (i.e application fee “*please consult approved tariffs for application*”);
 - (b) the completed and signed application form;
 - (c) a copy of title deed/ leasehold title/ deed of grant of the land;
 - (d) bondholder’s consent (if the land is encumbered by a bond);
 - (e) power of attorney (if the property is not registered in the applicant’s name);
 - (f) company resolution (if the property is registered in the company’s name);
 - (g) motivational memorandum (as contemplated in section 89(2)(d));
 - (h) locality plan/map;
 - (i) zoning certificate;
 - (j) draft SDP/ site plan;
 - (k) development controls: height; FAR; coverage; No of units and No of parking;
 - (l) proposed subdivision diagram; and
 - (m) the appropriate consent where required in terms of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970).

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 13

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR CONSOLIDATION IN TERMS OF SECTION 67 OF THIS BY-LAW

1. An applicant who wishes to apply in terms of section 67 of this By-law for consolidation of properties, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-7, PLM: F-10(E) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the documentation indicated in paragraph 2 below.

2. The applicant shall submit at least but not limited to the following documentation upon submission of the application —
- (a) proof of payment (i.e application fee “please consult approved tariffs for application”);
 - (b) the completed and signed application form;
 - (c) a copy of title deed/ leasehold title/ deed of grant of the land;
 - (d) bondholder’s consent (if the land is encumbered by a bond);
 - (e) power of attorney (if the property is not registered in the applicant’s name);
 - (f) company resolution (if the property is registered in the company’s name);
 - (g) motivational memorandum (as contemplated in section 89(2)(d));
 - (h) locality plan/map;
 - (i) zoning certificate;
 - (j) draft SDP/ site plan;
 - (k) development controls: height; FAR; coverage; No of units and No of parking;
 - (l) proposed consolidation diagram.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 14

ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION OF THE AMENDMENT OF TOTAL OR PARTIAL CANCELLATION OF A GENERAL PLAN IN TERMS OF SECTION 64 OF THIS BY-LAW

1. An applicant who wishes to apply in terms of section 64 of this By-law for an application of the amendment of total or partial cancellation of a general plan, shall apply to the Municipality in the forms as set out in PLM: F-1, PLM: F-6 submitted together with PLM: F-2(Part C to D) to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the documentation indicated below —
- (a) proof of payment (i.e application fee “*please consult approved tariffs for application*”);
 - (b) the completed and signed application form;
 - (c) copy of the title deed which is registered in the deeds office at the time when the application is submitted of the land affected by the alteration, amendment or total or partial cancellation;
 - (d) bondholder’s consent (if the land is encumbered by a bond);
 - (e) copies of the relevant sheet of the general plan which may be reduced copies of the original;
 - (f) copies of a plan of the township showing the proposed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
 - (g) power of attorney (if the property is not registered in the applicant’s name);
 - (h) company resolution (if the property is registered in the company’s name);
 - (i) motivational memorandum (as contemplated in section 89(2)(d));
 - (j) proof of registered letters/ notices to adjoining property owners; and
 - (k) adverts from newspaper/ gazette and affidavit.
2. The applicant shall submit after approval of the amendment, amendment or total or partial cancellation of the general plan of an approved township or a division of land —
- (a) a certified copy of the altered, amended or totally or partially cancelled general plan;
 - (b) a statement indicating —
 - (i) the use of the land affected by such alteration, amendment or cancellation;
 - (ii) every condition imposed, amended or deleted in terms of section 66 of this By-law governing the use of the land contemplated in subparagraph (i).

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 15**ADDITIONAL DOCUMENTS REQUIRED FOR THE PERMANENT CLOSURE OF A PUBLIC PLACE IN TERMS OF SECTION 72 OF THIS BY LAW**

1. The Municipality may on its own initiative or on application close a public place or any portion thereof in terms of section 72, and an applicant who also wishes to have a public place closed or a portion of a public place closed must apply to the Municipality, and such application shall in addition to the fees prescribed or determined, be accompanied by the documentation indicated in paragraph 2 below.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the application —
 - (a) proof of payment (i.e application fee “*please consult approved tariffs for application*”);
 - (b) the completed and signed application form;
 - (c) a copy of title deed/ leasehold title/ deed of grant of the land;
 - (d) power of attorney (if the property is not registered in the applicant’s name);
 - (e) company resolution (if the property is registered in the company’s name);
 - (f) motivational memorandum (as contemplated in section 89(2)(d));
 - (g) locality plan/map;
 - (h) zoning certificate;
 - (i) draft SDP/ site plan; and
 - (j) adverts from newspaper/*gazette*, proof of site notice and affidavit.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 16**ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR TEMPORARY OR PERMANENT DEPARTURE FROM THE PROVISIONS OF THE LAND USE SCHEME IN TERMS OF SECTION 75 OF THIS BY-LAW**

1. An application for temporary or permanent departure must, in addition to the documentation referred to in section 89(2), be accompanied by —
 - (a) a power of attorney from the registered owner of the land if the applicant is not the registered owner;
 - (b) if the land is encumbered by a bond, the bondholder’s consent;
 - (c) a locality plan;
 - (d) a copy of the title deed which is registered in the deeds office at the time when the application is submitted;
 - (e) a copy of the zoning certificate, including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable; and
 - (f) motivational memorandum (as contemplated in section 89(2)(d)).

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 17**ADDITIONAL DOCUMENTS REQUIRED FOR AN APPLICATION FOR CONSENT USE IN TERMS OF SECTION 73 OF THIS BY-LAW**

1. An applicant or owner who wish to apply in terms of section 73 of this By-law for consent use relating to his or her property shall apply to the Municipality, and such application shall in addition to the fees prescribed or determined, be accompanied by the documentation indicated in paragraph 2 below.

2. The applicant shall submit at least but not limited to the following documentation upon submission of the application —
- (a) proof of payment (i.e application fee “*please consult approved tariffs for application*”);
 - (b) the completed and signed application form;
 - (c) a copy of title deed/ leasehold title/ deed of grant of the land;
 - (d) power of attorney (if the property is not registered in the applicant’s name);
 - (e) company resolution (if the property is registered in the company’s name);
 - (f) motivational memorandum (as contemplated in section 89(2)(d));
 - (g) locality plan/map;
 - (h) zoning certificate;
 - (i) draft SDP/ site plan;
 - (j) development controls: height; FAR; coverage; No of units and No of parking; and
 - (k) adverts from newspaper/ proof of site notice and affidavit.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 18

EXEMPTION OF FEES IN TERMS OF SECTION 90(6) OF THIS BY-LAW

1. An applicant may request the Municipality for exemption of payment of application fees and/or fees for a copy of the land use scheme or any component thereof in the following instances —
 - (a) the proposed land development application will be for national, provincial or municipal uses; and/or
 - (b) municipal projects and/or consultants that have been appointed by the Municipality to lodge a specific land development application or project; and/or
 - (c) academic research projects.

2. The applicant must submit at least the following documentation before submission of a land development application as contemplated in Chapter 6 of this By-law for completeness of his or her request —
 - (a) written motivation with the reasons for exemption of fees;
 - (b) proof that the proposed development will be of national, provincial or municipal purposes or interest;
 - (c) proof of ownership of the proposed application property(ies); and
 - (d) proof to the satisfaction of the Municipality that the project is for academic research.

3. Exemption for payment of application fees must be granted before the submission of a land development application, failing which section 90(3) of this By-law shall apply.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 19

EXCISION OF AN AGRICULTURAL HOLDING IN TERMS OF SECTION 173(6) OF THIS BY-LAW

1. An owner of a property(ies) who wishes to apply for the excision of an agricultural holding from the Agricultural Holding Register and the Registrar of Deeds as contemplated in terms of section 173(6) of this By-law, shall apply to the Municipality in the forms as set out in PLM: F-1 and the applicable form in terms of the Transvaal Agricultural Holding Act ,1919 (Act No. 22 of 1919). Unless the provincial legislations are repealed, the applicable form may be prescribed by the Municipality and such application

shall, in addition to the fees prescribed be accompanied by the maps and documents indicated in paragraph 2 below.

2. The applicant shall for purposes of a complete submission of an application in terms of section 173(6) of this By-law at least submit the following documentation —
 - (a) an original official receipt or proof of payment of the application fee; the application will not be processed before confirmation of payment has been received;
 - (b) a covering letter addressed to the Business Unit responsible for City Planning;
 - (c) the completed and signed application form as set out on PLM: F-1;
 - (d) a power of attorney that complies with the provisions of section 76 and PLM: F-16 of this By-law;
 - (e) if the property is encumbered by a bond, the bondholder's consent;
 - (f) a motivational memorandum with at least the following information —
 - (i) indicate the reasons for the proposed excision of the agricultural holding; and
 - (ii) indicate any other land development application submitted that necessitates the excision of the agricultural holding from the Agricultural Holding Register;
 - (iii) purpose of the excision application (whether it is intended to remove the restrictive conditions relevant to Agricultural Holdings or are as a result of an application contemplated in paragraph (b);
 - (iv) if the Agricultural Holding is excised the farm register into which it will be re-incorporated with an indication whether that farm is exempted in terms of the Subdivision of Agricultural Land, 1970 (Act No. 70 of 1970);
 - (g) a locality plan indicating where the agricultural holding is situated be as well as the exact boundaries of the proposed division(s) of the agricultural holding;
 - (h) a copy of the approved Agricultural Holding diagram or General Plans as approved by the Surveyor-General;
 - (i) the agricultural holding layout plan on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 as the case may be, or as determined by the Municipality; and
 - (j) a copy of the title deed which is registered in the deeds office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property, provided that a draft title deed shall not be acceptable.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 20

REQUIREMENTS FOR THE PUBLIC PARTICIPATION OF APPLICATIONS AND SUBMISSION OF PROOF THEREOF IN TERMS OF SECTION 95(1) TO (3) OF THIS BY-LAW

1. Notices must be published once a week for two consecutive weeks in a local newspaper and in the *Provincial Gazette* in English and one other official language commonly spoken in the area as set out in PLM: F-12, PLM: F-13, PLM: F-14, PLM: F-15 or PLM: F-16 to this By-law or other provisions, as the case may be.
2. A notice as set out in PLM: F-12, PLM: F-13, PLM: F-14, PLM: F-15 or PLM: F-16 to this By-law or other provisions as the case may be must be placed on the property boundary clearly visible to the general public and maintained for a period of at least 14 days from the date of first publication. The placard must be at least 594 mm x 420 mm and the lettering on the notices shall be at least 6 mm high, legible, upright and in print.

3. A notice as set out in PLM: F-12, PLM: F-13, PLM: F-14, PLM: F-15 or PLM: F-16 to this By-law or other provisions, as the case may be must be sent by registered mail or delivered by hand to each owner of a property that abuts the land development application area and adjacent street, not later than the date of the first publication.

The diagrams below indicate which adjoining owner(s) of properties surrounding the land development application area must be notified by means of a notice.

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

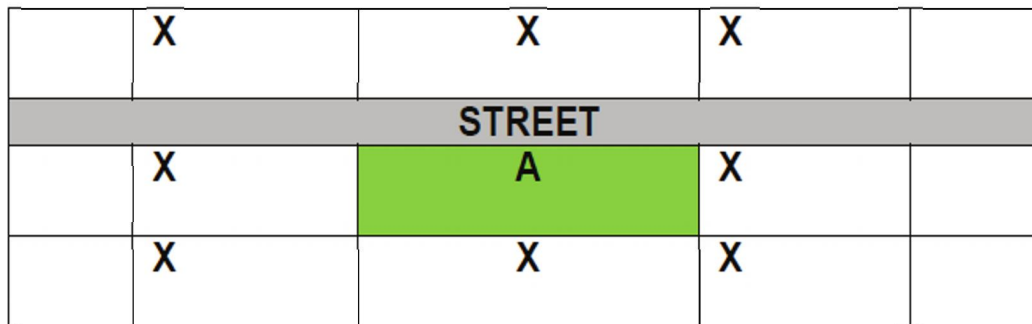
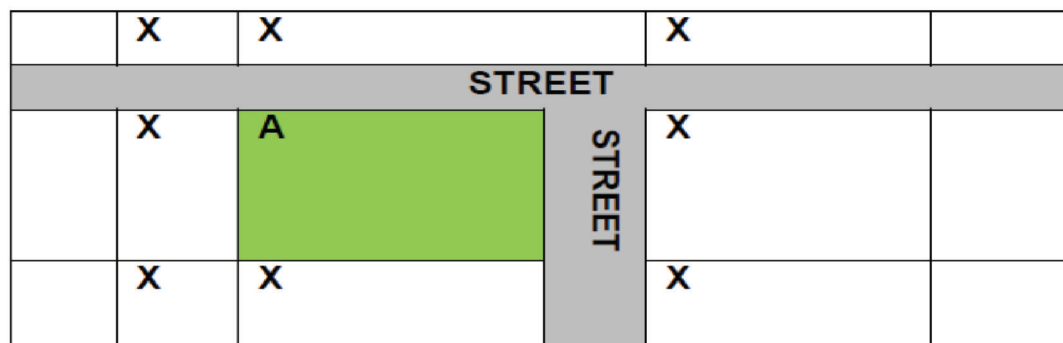


Diagram B: Land development area on a corner of two streets



Erven marked **A** represent the land development area (application property).
 Erven marked **X** represent the properties whose owners must receive the notice.

4. In terms of section 93 (3) of this By-law, the applicant must submit proof in the following manner to the satisfaction of the Municipality that he or she has complied with all the provisions of this By-law or relevant legislation —
- (a) the applicant must submit the full pages of the newspapers and *Provincial Gazette* in which the notice appeared or certificates from the editors of the newspapers and *Provincial Gazette*;
 - (b) the applicant must submit an affidavit in compliance with PLM: F-18 to this By-law, stating that the provisions of section 95(1) of this By-law have been complied with;
 - (c) the applicant must submit two legible dated photographs of the placard notice as contemplated in section 95(1)(b) of this By-law, not smaller than half-postcard size —
 - (i) one close-up of the notice to clearly show the wording; and
 - (ii) one from a distance across the road to show the visibility of the notice;
 - (d) the applicant must submit proof that a notice as prescribed in section 95(1)(c) of this By-law and in accordance of PLM: F-12, PLM: F-13, and PLM: F-14, PLM: F-15 or PLM: F-16 to this By-law as the case may be, have been sent by registered mail or delivered by hand to every

owner of land directly adjacent to and opposite the land development area provided that proof of compliance with this requirement may include —

- (i) an affidavit by the applicant of compliance to the satisfaction of the Municipality; and
- (ii) where the owner of the adjoining property(ies) cannot be traced and proof having been submitted of the efforts made by the applicant and in the opinion of the Municipality the owner cannot be traced, by affixing of the notice contemplated in section 95(1)(c) of this By-law on the property(ies) and taking a photograph which indicates the date on which it was taken.

5. In terms of section 95(8) of this By-law a copy of every objection and/or comment that is received by the applicant must be submitted to the Municipality. The applicant will also receive a copy of each objection and/or comment from the Business Unit responsible for City Planning.
6. When an application for rezoning to a category of land use zoning or use zone for “Special” is made, the notices in the newspapers and *Provincial Gazette* and placard notices must clearly specify what new land use rights, which may not be defined in the land use scheme, are envisaged with the proposed zoning as well as a clear description of the intended development on the application site.
7. When an application is made for a category of land use zoning or use zone other than “Special”, the category of land use zoning or use zone formulated in the land use scheme must be mentioned in the notices.
8. The notice must clearly indicate the current zoning of the property and the new category of zoning or use zoned to which the land use scheme will be amended through the land development application.
9. Notices have the intention of placing the public in a position to provide comment and/or objections to the land development application and therefore shall contain all information which in the opinion of the Municipality shall comply therewith and shall specifically allow for the application to be open for inspection to look at the detail of the land development application to be considered by the Municipality.
10. Notices shall specifically when soliciting or calling for objections and/or comments require that for purposes of commenting or objecting the objector or interested person shall provide contact details as contemplated in this By-law to enable the Municipality to correspond or send notices to the objectors and/or interested parties.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 21

REQUIREMENTS FOR EXTENSION OF TIME AS MAY BE ALLOWED IN TERMS OF SECTION 110 OF THIS BY-LAW

1. An applicant who wishes to request the Municipality, in terms of any provision of this By-law to allow an extension of time on any land development application, as the case may be, must do so where practically possible at least one month before the expiry date of the time as provided for in this By-law or approval of a land development application to comply with any provision and/or condition(s) of approval.
2. The applicant shall at least for purposes of a complete submission of a request in terms of this By-law submit the following documentation —
 - (a) an original official receipt or proof of payment of the request application fee; the application will not be processed before confirmation of payment has been received;

- (b) a covering letter addressed to the Business Unit responsible for City Planning;
- (c) the completed and signed application form as set out in PLM:F-9 to this By-law;
- (d) if the applicant is not the owner of the property(ies) a power of attorney that complies with the provisions of section 76;
- (e) compelling reasons for the request for extension of time;
- (f) proof of submission of documents to the Surveyor-General if relevant; and
- (g) summary of the progress of the application.

*The municipality may request any other document(s) it may deem necessary.

SECHEDULE 22

WITHDRAWAL OF A LAND DEVELOPMENT APPLICATION IN TERMS OF SECTION 97 OF THIS BY-LAW

An owner or applicant may request the Municipality to withdraw a land development application as contemplated in terms of section 97 of this By-law and for purposes of completion at least submit the following documentation —

- (a) submit proof that the applicant requesting withdrawal, have the authority to do so;
- (b) a written notification for the withdrawal;
- (c) submit proof that all the persons as contemplated in section 95(1) to (8) of this By-law have been notified of the request for withdrawal of the land development application; and
- (d) submit an acknowledgement that the owner shall not have any claim for any re-instatement of such land development application.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 23

AMENDMENT OF A LAND DEVELOPMENT APPLICATION PRIOR TO APPROVAL IN TERMS OF SECTION 99 OF THIS BY-LAW

1. An applicant may apply to the Municipality for the amendment of his or her land development application in terms of section 99 of this By-law and shall for purposes of a complete submission of such application, submit at least the following documentation —
 - (a) an original official receipt or proof of payment for the application fee, the application will not be processed before confirmation has been received of payment; and
 - (b) the completed and signed application form PLM: F-8(with PLM: F-2 Part C to D) to this By-law for an application for the amendment of the layout plan of a township as contemplated in terms of section 54(7) of this By-law;
 - (c) a covering letter addressed to the Business Unit responsible for City Planning;
 - (d) a motivational memorandum clearly indicating the reasons for the amendment as well as the proposed amendment;
 - (e) all documents relevant to the proposed amendment including —
 - (i) a revised set of the draft amendment scheme referring to a draft amendment scheme map and a draft annexure;
 - (ii) proposed conditions of approval; or
 - (iii) proposed statement of conditions of establishment;

- (iv) proposed amended layout plan, diagrams;
- (v) proposed amended site plans; and
- (vi) any other relevant documentation, reports and information.

2. Notice of the amendment if required by the Municipality in terms of section 99 of this By-law shall be published in accordance with schedule 20 to this By-law and proof thereof shall be submitted in accordance with schedule 20 to this By-law.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 24

CORRECTION OF POST APPROVAL ERRORS OR OMISSION IN TERMS OF SECTION 111 OF THIS BY-LAW

1. An applicant who wishes to request the Municipality to correct an error or omission in terms of section 111 of this By-law on and approved land development application must for purposes of completion of his or her submission at least submit the following documentation —
 - (a) a motivational memorandum that clearly indicates the reasons for the submission as well as the alleged error or omission with specific reference to whether the error or omission is so material as to constitute a new land development application or not as is required to be considered by the Municipality in terms of this By-law;
 - (b) substantial proof such as an official approval of land use rights must be submitted that clearly and without any doubt indicates the error or omission;
 - (c) the proposed corrected approval letter, development controls, amendment scheme map and/or annexure statement of conditions of establishment, layout plan or any other document that must be corrected; and
 - (d) if the application was adopted, promulgated or declared, in accordance with this By-law as the case may be, a correction notice shall be published in the *Provincial Gazette*.

*The municipality may request any other document(s) it may deem necessary.

SCHEDULE 25

CONTRIBUTIONS PAYABLE AND PROVISION OF LAND FOR OPEN SPACES AND PARKS IN TERMS OF THIS BY-LAW

1. Determination of amount or contribution payable in respect of provision of open spaces (private open space or public open space) or parks.
2. Where, by virtue of or in terms of the provisions of this By-law an owner of land on which a land development application is approved (excluding a township establishment in terms of section 54 is required to pay an amount of money or a contribution to the Municipality in respect of the provision of open spaces or parks, such amount or contribution shall be determined substantially, in the opinion of the Municipality, in accordance with the formula—

$$\frac{(a - b) \times c \times e}{d}$$

in which formula

“a” represents the number of residential units which may be erected on the land to which the application relates in terms of the approved application;

“b” represents the number of residential units which could have been erected on the land contemplated in paragraph (a) prior to the approval of the application;

“c” represents:

- (a) 24 m² where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 1 or 2 purposes or for purposes as may be determined by the Municipality from time to time, as the case may be;
- (b) 18 m² where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 3 or 4 for purposes as may be determined by the Municipality from time to time or as the case may be; (e.g. retirement village)

“d” represents the area of the land contemplated in paragraph (a) in m²;

“e” represents the site value of the land contemplated in paragraph 1 —

- (a) as reflected in the valuation roll or the supplementary valuation roll of the local authority; or
- (b) if the land is not reflected in the valuation roll or supplementary valuation roll of the Municipality, as determined by a valuer
 - (i) who is a member of the South African Institute of Valuers; or
 - (ii) as defined in the Local Government Property Rates Act, 2004 (Act No. 6 2004).

3. Provision of Land for Open Spaces (private open space or public open space) or Parks including where a division of township application —

- (a) where, in terms of sections 59 the Municipality of an application to establish a township, imposes a condition requiring the applicant to provide land for open spaces or parks, the area of that land shall be determined substantially, in the opinion of the Municipality, in accordance with the formula:

$a \times 24 \text{ m}^2 + b \times 18 \text{ m}^2$, in which formula

“a” represents the number of residential units which may be erected on land in the township which, in terms of the land use scheme concerned, is to be zoned “Residential 1” or “Residential 2” or as may be determined by the Municipality from time to time, as the case may be;

“b” represents the number of residential units which may be erected on land in the township which, in terms of the town planning scheme concerned, is to be zoned “Residential 3” “Residential 4” or “Residential 5” or as may be determined by the Municipality from time to time, as the case may be;

- (b) any area of land in a proposed township which is subject to flooding by a 1:100-year flood shall be shown on the plan of the township as an open space or park if so required by the

Municipality concerned and such area may at the request be protected by means of a servitude and shall be indicated in terms of a zoning for the purpose for which it is set aside;

- (c) if, in a proposed township, part of any area of land subject to flooding by a flood contemplated in paragraph (2) is less than 32 m measured from the centre of a water course, the area of land shown as an open space or park on the plan of the township shall be extended to measure 32 m from the centre of the water course; and
- (d) the area of land to be provided for open spaces or parks in terms of paragraph (1), may not be reduced by the area of land to be shown as open spaces or parks in terms of paragraph (2) and (3); provided that the Municipality may give consent to reduce this requirement.

SCHEDULE 26

ADDITIONAL DOCUMENTS AND INFORMATION REQUIRED FOR LAND DEVELOPMENT APPLICATIONS ON COMMUNAL LAND OR IN RURAL AREAS IN TERMS OF SECTION 74 OF THIS BY-LAW

1. An applicant or owner who wish to apply in terms of section 74 of this By-law for land development application on communal or in rural areas must apply to the municipality, and such application must in addition to the fees prescribed or determined, be accompanied by the documentation indicated in paragraph 2.
2. The applicant must submit the following documentation upon submission of the application —
 - (a) proof of payment (i.e application fee “please consult approved tariffs for application”);
 - (b) the completed and signed application form;
 - (c) a copy of title deed/ leasehold title/ deed of grant of the land/approval or recommendation letter from Traditional Local Authority;
 - (d) power of attorney (if the land is granted or issued to the company by the Traditional Local Authority reference to (c) above);
 - (e) company resolution (if the land is granted or issued to the company by the Traditional Local Authority reference to (c) above);
 - (f) motivational memorandum (as contemplated in section 89(2)(d));
 - (g) locality plan/map;
 - (h) zoning certificate (in terms of the land use scheme if applicable);
 - (i) draft SDP/ site plan; and
 - (j) development controls: height; FAR; coverage; No of units and No of parking (in terms of the land use scheme if applicable).
3. For the purpose of section 74(2) of this By-law, “Major impact development” includes any of the following —
 - (a) abattoir;
 - (b) cemetery;
 - (c) community services, including educational institutions and health care facilities;
 - (d) crematorium and funeral parlour;
 - (e) filling station and public garage;
 - (f) lodge;
 - (g) high density residential;
 - (h) industry and light industry;
 - (i) mining;
 - (j) office park;

- (k) shopping complex and centres;
- (l) demarcation of sites (to be lodged only by traditional local authority); and
- (m) any other development which may require a specialist report, including a geotechnical report or environmental impact assessment.

4. For the purpose of “major impact development” as contemplated in section 74(2) of this By-law, “Specialist Report(s)” must accompany the application, and such specialist report include —
- (a) Market (socio-economic) studies;
 - (b) environmental impact studies;
 - (c) traffic impact studies;
 - (d) geotechnical report or studies;
 - (e) feasibility studies;
 - (f) any other specialist report and/or consent from any sector department that may be deemed necessary;

The municipality may request any other document(s) it may deem necessary.

SCHEDULE 27

TYPE OF LAND DEVELOPMENT APPLICATIONS THAT MAY NOT BE SUBMITTED SIMULTANEOUSLY IN TERMS OF SECTION 77 OF THIS BY-LAW.

The type of applications that may not be lodged simultaneously, include but not limited to the following —

- (a) application for rezoning and consolidation;
- (b) application for rezoning and subdivision;
- (c) application for rezoning and removal of restrictive title conditions;
- (d) application for rezoning and closure of public places; or
- (e) application for consolidation and closure of public places.

SCHEDULE 28

PRE-APPLICATION CONSULTATION PROCEDURE IN TERMS OF SECTION 53 OF THIS BY-LAW

The purpose of a pre-application consultation is to —

- (a) provide the applicant an opportunity to present the proposed application;
- (b) determine the required information to be submitted with the application;
- (c) offer efficient, friendly and profession advice to applicant;
- (e) fast track the processing of land development application;
- (f) give effect to the right to administrative action that is lawful by ensuring that the correct application procedure is followed;
- (g) to strengthen working relationship between the applicant and municipal officials.

1. INTRODUCTION

An applicant, who wishes to apply in terms of section 53 of this By-law for a pre-application consultation meeting, must apply to the Municipality in a form as set out in PLM: F-19 to this By-law.

2. TIMING AND FREQUENCY OF PRE-APPLICATION CONSULTATION

- (1) The Chief Town Planner within City Planning must arrange a pre-application consultation. The consultation must be arranged within 7 days of receipt of a form as set out in PLM: F-19 to this By-law.

- (2) During a pre-application consultation meeting, representation from the following departments is compulsory: Spatial Planning; Land Use Management; Planning Control and Outdoor Advertising.
- (3) Other departments such as Building Control; Water and Sanitation; Roads and Storm Water or any other department deemed necessary may be required from time-to-time and will be invited to a pre-application consultation meeting on an “as needed” basis.
- (4) The 7 days as provided in subsection (1) above will be determined as follows —
 - (a) the submission for pre-application consultation meeting request shall be between Mondays and Wednesdays during office hours, and no request will be accepted on Thursdays and Fridays;
 - (b) an applicant will be given a minimum of 10 minutes to present the proposed development; and further 20 minutes must be reserved for discussion; and
 - (c) a maximum of an hour may be granted for each pre-application consultation meeting.

3. CONDUCTING OF THE PRE-APPLICATION CONSULTATION

- (1) The applicant must provide the Municipality with, at minimum, general information sufficient to indicate the intention of the development proposal. This information must include the locality map of the subject property and a description of the intended development. The applicant must also be prepared to answer general questions related to proposed development. The information received must be circulated to the applicable departments in advance.
- (2) The applicant must present the proposal, following which municipal officials will ask questions and provide preliminary comments related to the proposal

4. PRE-APPLICATION CONSULTATION FORM

A pre-application consultation form will include general information concerning the development proposal, including name of the property owner and applicant, nature and intention of the proposal, location, and other such matters related to the proposed development. The form will also indicate the information required to be submitted to the Municipality in order to allow an efficient and comprehensive review of the development proposal.

5. PRE- APPLICATION CONSULTATION MEETING NOT HELD

- (1) In the event that a pre-application consultation meeting is not held, the Municipality will in its sole discretion re-schedule the meeting thereafter.
- (2) In the event that a pre-application consultation meeting is not held for land development applications subjected to a compulsory pre-application consultation in terms of section 53(1) and 53(2) of this By-law, an authorisation letter will not be issued.
- (3) A formal receipt of a land development application will not occur, nor processing of it be formally initiated, until the provisions of section 53 of this By-law have been complied with.
- (4) The required processing timeframes as set out in the Spatial Planning and Land Use Management Act (Act No. 16 of 2013) will not be initiated until such time the “authorisation letter” has been issued and the application is confirmed complete in terms of section 94 of this By-law.

*The municipality may request any other document(s) it may deem necessary.



DOCUMENT CONTAINING POLOKWANE MUNICIPAL PLANNING BY-LAW FORMS, 2017.

NOTE:

The Polokwane Municipality hereby makes available to the public/applicants the MS Word format of the Forms as contemplated in the Polokwane Municipal Planning By-law 2017 in order to assist them with preparing and submitting land development applications.

The applicants have to comply with the provisions of the Polokwane Municipal Planning By-law by including the Forms in terms of section 179 of the By-law. Therefore, they must ensure that the Forms are not amended in so far as the requirements contained therein are concerned. The applicants may, however, add the information required from them on the Forms for the purposes of indicating information related to the submission of their land development applications. Should it be found that the Forms have been altered or amended in order to deviate from the requirements as set out in the Polokwane Municipal Planning By-law, the application will not be accepted and in terms of section 172 of the Polokwane Municipal Planning By-law it may constitute an offence to provide misleading or false information.

Applicants are required to familiarise themselves with the content of the legislation, the Land Use Scheme and/or any policies applicable within the Polokwane Municipality.

COMPILED BY:
CITY PLANNING AND PROPERTY MANAGEMENT
Spatial Planning SBU

PLM: F-1

APPLICATION FORM TO BE SUBMITTED FOR ANY APPLICATION AND/OR REQUEST WITH THE APPLICANT AND OWNER DETAILS AS REQUIRED IN TERMS OF POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

APPLICANT DETAILS			
Please indicate the type of applicant :			
Individual	<input type="checkbox"/>	Legal Entity / Other	<input type="checkbox"/>
Applicant Details: Individual			
Title			
Initials			
First Name(s)			
Surname			
Preferred Name			
ID Number			
Marital status if the owner is the applicant	Single/not married <input type="checkbox"/>	In community of property <input type="checkbox"/>	
	Out of community of property <input type="checkbox"/>		
Applicant Details: Legal Entity / Other			
Name			
Registration number			
Representative name			
Physical Address of the Applicant			
Physical Address(Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Physical Address (Home)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Postal Address of the Applicant			
Postal Type	PO Box <input type="checkbox"/>	Physical Address (Home) <input type="checkbox"/>	
	Private Bag <input type="checkbox"/>	Physical Address (Work) <input type="checkbox"/>	
Postal Number			
Township		Postal Code	
Communication Details of the Applicant			
E-Mail Address			
Cell Phone			
Home Phone			
Work Phone			
Home fax			
Work fax			
Preferred method of communication – please indicate			

OWNER DETAILS			
Please indicate the type of applicant :			
Individual	<input type="checkbox"/>	Legal Entity / Other	<input type="checkbox"/>
Owner Details : Individual			
Title			
Initials			
First name			
Surname			
Preferred name			
ID Number			
Marital status	Single/not married	<input type="checkbox"/>	In community of property
	Out of community of property	<input type="checkbox"/>	<input type="checkbox"/>
Owner Details: Legal Entity/other			
Name			
Registration number			
Representative name			
Physical Address of the Owner			
Physical Address (Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Physical Address (Home)			
Address Line 1(street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Postal Address of the Owner			
Postal Type	PO Box	<input type="checkbox"/>	Physical Address (Home)
	Private Bag	<input type="checkbox"/>	Physical Address (Work)
			<input type="checkbox"/>
			<input type="checkbox"/>
Postal Number			
Township		Postal Code	
City			
Communication Details of the Owner			
E-Mail Address			
Cell Phone			
Home Phone			
Work Phone			
Preferred method of communication – please indicate			
FOR OFFICIAL USE			

Receipt Amount	
Receipt Number	
Payment Date	
Application Form Date	

I,being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE DATE:

PLM: F-1(A)

APPLICATION FORM FOR USE OF SITE ON COMMUNAL LAND OR IN RURAL AREAS IN TERMS IN TERMS OF SECTION 74 AND AS REQUIRED IN TERMS OF SCHEDULE 26 OF POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

APPLICANT DETAILS			
Please indicate the type of applicant :			
Individual	<input type="checkbox"/>	Legal Entity / Other	<input type="checkbox"/>
Applicant Details			
Title			
Initial			
First Name(s)			
Surname			
ID Number			
Cell/ Tel Number			
Address of the Applicant			
Physical Address			
		Code	
Postal Address			
		Code	


PROPERTY INFORMATION	
Area/ Village	
Site Number/ Land Portion	
Size (m ² / ha)	
Traditional Authority	
Headmen	
Applicable Land Use Scheme	
Current Use of Property	

PROPOSED USE /APPLICATION FOR:			
Place of Public Worship(e.g. Church)		Telecommunication Mast	
Spaza/ Tuck-Shop		Filling Station/Public Garage	
Tarven		Residential	
Cafe/Restaurant/		High Density Residential	
General Dealer		Offices	
Supermarket		Scrap-yard	
Hardware		Shopping Complex/Mall	
Brickyard		Agricultural Use (e.g. Farming)	
Butchery		Liquor Restaurant/ Bottle Store	
Abattoir		Drop-in-Centre	
Funeral Parlour		Pre-School	
Guest House/ Lodge		Crèche/Day Care Centre	
Cemetery		Health care facilities	
Other:		Specify:	

Surrounding land uses (only of Erven/stands direct adjacent to the site of application)

	8	7	6	
--	---	---	---	--

	1		5	
	2	3	4	

 Site of application

STAND NUMBER

LAND USE

- | | |
|----------|-------|
| 1. _____ | _____ |
| 2. _____ | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |
| 5. _____ | _____ |
| 6. _____ | _____ |
| 7. _____ | _____ |
| 8. _____ | _____ |

TRADITIONAL AUTHORITY’S CONSENT

	Traditional Local Authority Stamp: Headman
Name of Traditional Authority: _____	Name of Headman: _____

NB: Attach letter from the Traditional Authority as well.

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees	Motivational Memorandum	Traffic Impact Study (if required by relevant department)
Power of Attorney (If applicable)	Locality Map	Geotechnical Report/Letter signed by a qualified Engineer (If applicable)
Consent from Ward Councillor	Layout Plan/ Draft SDP or Site Plan	Flood line Certificate (If property is subject to flooding)
Tribal Authority Letter	Proof of consent from adjoining property owners or institutions within 250m radius	Feasibility Study (If applicable)
ID Copy (individual)	EIA executive Summary if relevant (If a listed activity)	Services Report (If applicable)

Additional documents required:

- A locality map, must show the location of the site (where in the area/village and the site or stand is situated and also show significant adjacent or nearby land uses such as a school, clinic, church, shop).
- A site plan, must show the proposed development on the site or stand.
- Applications that require specialist reports, studies and/or consent from any sector department are contemplated in schedule 26 of this By-law.

I, being the applicant

described herein, declare that the above information is correct. I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the owner and /or applicant at any time regarding the application.

SIGNATURE DATE:

FOR OFFICIAL USE ONLY

Application received by:				
Date received				
Correct application fee paid	Yes	No	Amount	

PLM: F-2

APPLICATION FORM FOR A TOWNSHIP ESTABLISHMENT OR EXTENSION OF BOUNDARIES OF A TOWNSHIP IN TERMS OF SECTION 54 AND AS REQUIRED IN TERMS OF SCHEDULE 8 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

PART A: PROPERTY INFORMATION

Complete this section for each property (make a separate copy for each property)

Agricultural Holding / Farm			
Plot / Farm No		Portion	
Title Deed No/ Certificate of Registered Title No			
Size of property			
Name of Bond Holder			
Mortgage Bond Account No		Date of Bond	

PART B: EXISTING LAND USE INFORMATION

Town-planning or Land Use Scheme	
Present Zoning	
Existing Development	

PART C: PROPOSED TOWNSHIP

Name and Extension of the proposed township							
Use zone no	Proposed use zone	Erf no	Average size m ²	Height	FAR	Coverage	Other development control measures (density)

PART D: GENERAL INFORMATION

Is the property situated within 3 km of a sewerage disposal works?		Yes	No
Name the local authorities or authorised bodies that provide the following services:			
Water			
Electricity			
Sewerage			
Roads and storm water			
Is the existing development (structures and land use) on the property described in the memorandum?		Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage Resource Act, Act 25 of 1999?		Yes	No
PAYMENT OF OPEN SPACES AND PARKS/DWELLING UNITS			
Does the layout plan provide for open spaces or parks according to sections 120 and 184 of this By-law?		Yes	No
Motivate if answer is "no" above			
Provide the total number of dwelling units on all Erven in the proposed township			
ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES			
Is any part of the proposed development, forming the subject of this application, deemed to be a "listed Activity" in terms of the National Environmental Management Act with specific reference to the regulations promulgated under Section 24(5) thereof?		Yes	No
If "Yes" please provide the reference number of the application submitted to the environmental authorities with regard to the requirement to procure environmental authorization to conduct the listed Activity as aforesaid: Reference Number			
Provide the contact details of the appointed Environmental Assessment Practitioner: Name: Contact Details			
Indicate which process has been initiated	Basic	Yes	No
	Scoping	Yes	No
	None	Yes	No
Appointed environmental consultant	Name		
	Contact details		
If the development is not a "listed Activity" or if the above EIA process has not been initiated, have the on-site ecological issues been discussed in the memorandum?		Yes	No
The applicant acknowledge that he/she is responsible to forward a copy of the application to external bodies and to submit proof thereof to the Municipality.		Yes	No

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering Letter		Township Reservation Letter	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholders Consent		Motivating Memorandum	
Draft annexure		Draft amendment scheme map		Conveyancer's Certificate	
Land Surveyor Certificate		Geo-technical Report		Township Layout Plan	
Locality Plan		Statement of conditions		Application to Dpt. Minerals and Energy or compliance with section 54 of Act 28 of 2002	
EIA executive Summary if relevant		Registered Title Deed and/or notarial deeds		Zoning Certificate	
Proof of Served letters to the adjoining owners/registered mail within a radius of 500m		Form PLM: F-1		PLM: F-10(A1)	
Form PLM: F-10(A)					

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the owner at any time regarding the application.

SIGNATURE DATE:

PLM: F-3

APPLICATION FORM FOR A DIVISION OF A TOWNSHIP IN TERMS OF SECTION 55 AND AS REQUIRED IN TERMS OF SCHEDULE 9 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

NOTE: PLM: F-2 (PART C TO D) MUST BE SUBMITTED TOGETHER WITH PM: F-6.

COMPLETE A PM: F-6 FORM FOR EACH DIVISION OF THE APPROVED TOWNSHIP

1. Name and extension of the approved Township:
2. Date of approval of township to be divided:
3. Has extension of time in terms of section 110 been granted?
 Yes No Not applicable
4. Has the general plan of the township to be divided been approved by the Surveyor-General?
 Yes No
5. Division of township in separate townships, namely:

6. APPROVED ZONING

Details of approved zoning of the township to be divided as per plan.....

Use zone no	Proposed use zone	Erf no	Size m ²	Height	FAR	Coverage	Other development control measures (density)

7. PROPOSED ZONING FOR SEPARATE TOWNSHIPS

Details of proposed zoning for township:

Use zone no	Proposed use zone	Erf no	Average size m ²	Height	FAR	Coverage	Other development control measures (density)

(Complete a separate table for each new township.)

8. PROVISION FOR OPEN SPACES AND PARKS AND DWELLING-UNITS

POLOKWANE MUNICIPAL PLANNING BY-LAW 2017

Details of the provision of open spaces and parks and total number of dwelling-units for separate townships

Township name	Is payment required for the provision of open spaces and parks?			Total number of dwelling-units
	Yes	No	If "No", why not?	

REQUIRED DOCUMENTATION

Receipt of application fees		Covering Letter		Township Reservation Letter	Name
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholder's Consent		Motivating Memorandum	
Approved conditions of Establishment		Draft annexure per proposed township		Draft amendment scheme map per proposed township	
Proof of compliance with section 55(2)(d) or section 56		Land Surveyor Certificate		Geo-technical Report	
Conveyancer's Certificate		Locality Plan		Proposed Statement of conditions	
Township Layout plan		EIA executive Summary if relevant		Registered Title Deed or notarial deeds	
Application to Dpt. Minerals and Energy or compliance with section 54 of Act 28 of 2002		Zoning Certificate		Form PLM: F-1	
Form PLM: F-3		Form PLM: F-10(B)			

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE DATE:

PLM: F-4

APPLICATION FORM FOR AMENDMENT OF LAND USE SCHEME ALSO KNOWN AS REZONING IN TERMS OF SECTION 61 AND AS REQUIRED IN TERMS OF SCHEDULE 10 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

PROPERTY INFORMATION

Complete this section for each property (make a separate copy for each property)

Township			
Erf No		Portion	
Street name			
Street number			

REZONING DETAILS

Town-planning or Land Use Scheme			
Present Zoning			
Property Size (m ²)			
Present Height (Scheme)			
Present Density (Scheme)			
Present Coverage (Scheme)			
Present Floor Area Ratio (FAR)			
Present Annexure No			
Present Amendment Scheme No			
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			
Title Deed/ Notarial Deed No			
Restrictive Title Deed Condition paragraph No			
Proposed Use Zone			
Proposed Primary Right			
Proposed number of units			
Proposed density			
Proposed Density (m ² /units per ha)			
Proposed Height (m/storey)			
Proposed coverage (%)			
Proposed Floor Area Ratio (FAR)			
Applicant responsible to request comments from external departments/institutions?	Yes	No	N/a

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering Letter		Application Form PLM: F-1	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholders Consent		Motivating Memorandum	
EIA executive Summary if relevant		Draft annexure		Draft amendment scheme map	
Locality Plan		Land Use Plan		Zoning Plan	
Site Plan		Registered Title Deed and/or notarial deed		Zoning Certificate	
Proof of Served letters to the adjoining owners/registered mail within a radius of 150m		Form PLM: F-10(C)			

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE: DATE:

PLM: F-5

APPLICATION FORM FOR AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE TITLE CONDITIONS IN TERMS OF SECTION 62 AND AS REQUIRED IN TERMS OF SCHEDULE 11 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

PROPERTY INFORMATION

Complete this section for each property (make a separate copy for each property)

Township / Agricultural Holding / Farm		Portion	
Erf / Plot / Farm No			
Street Name			
Street Number			
Town-planning or Land Use Scheme			
Present Annexure No			
Present Zoning			
Property Size (m ²)			
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			

REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIONS IN TITLE DEED

Title Deed Number	
Indicate the conditions to be removed, or suspended in the Title Deed	
Indicate the conditions to be amended in the Title Deed	

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering Letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholders Consent		Locality Plan	
Registered Title Deed and/or notarial deed		Zoning Certificate		Proof of Served letters to the adjoining owners/registered mail within a radius of 150m (Township) or Radius of 1000m (Farms/holdings).	
Form PLM: F-1		Form PLM: F-10(D)			

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE: DATE:

PLM: F-6

APPLICATION FORM FOR THE AMENDMENT OR CANCELLATION IN WHOLE OR IN PART OF A GENERAL PLAN OF AN APPROVED TOWNSHIP IN TERMS OF SECTION 64 AND AS REQUIRED IN TERMS OF SCHEDULE 14 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

NOTE: PLM: F-2 (PART C TO D) MUST BE SUBMITTED TOGETHER WITH PLM: F-6

1. Name and extension of approved township:
2. Date of approval of township:
3. Have the documents contemplated in the above township been lodged at the Surveyor-General?
 Yes No

4. APPROVED ZONING (USE ZONES)

Details of approved zoning (use zones)

Use zone no	Approved use zone	Erf no	Size m ²	Height	FAR	Coverage	Other control (density)	development measures

5. PROPOSED ZONING (USE ZONES)

Details of proposed zoning (use zones)

Use zone no	Proposed use zone	Erf no	Average size m ²	Height	FAR	Coverage	Other control (density)	development measures

REQUIRED DOCUMENTS

Receipt of application fees		Covering Letter		Motivating Memorandum	
Approved conditions of Establishment		Amended Draft annexure		Amended draft amendment scheme map	
Amended Township Layout Plan		Amended Draft Statement of Conditions of establishment		Form PLM: F-2	

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE

DATE:

PLM: F-7

APPLICATION FORM FOR SUBDIVISION OR CONSOLIDATION IN TERMS OF SECTION 67 AND AS REQUIRED IN TERMS OF SCHEDULE 12 OR SCHEDULE 13 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017**PROPERTY INFORMATION**

Complete this section for each property (make a separate copy for each property and complete relevant section)

Township / Agricultural Holding / Farm	
Erf(Erven) / Plot (s)/ Farm(s) No	
Street Name	
Street Number(s)	

SUBDIVISION DETAILS	
Description of Proposed Subdivided Portions	Portion Area(m ²)

CONSOLIDATION DETAILS		
Description of Properties to be Consolidated	Size (m ²)	Present Zoning (Scheme)
Overall size after consolidation:		

Town-planning or Land Use Scheme	
Present Zoning (Scheme)	
Present Height (Scheme)	
Present Density(Scheme)	
Present Coverage (Scheme)	Present FAR (Scheme)

Present Annexure No		Present Amendment Scheme No	
Property Size (m ²)			
Existing Development			
Title Deed Number			
Restrictive Title Deed Condition paragraph No (If any)			
Do all the erven to be consolidated belong to the same owner?			

REQUIRED DOCUMENTS

Receipt of application fees		Covering Letter		Proof of Marital Status of the Owner	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		EIA executive Summary if relevant	
Bondholder's Consent		Motivating Memorandum		Subdivision and/or consolidation Plans	
Subdivision and/or consolidation plans		Locality Plan		Form PLM: F-1	
Registered Title Deed or notarial deeds		Zoning Certificate			
Conveyancer's Certificate if relevant		Land Surveyor Certificate if relevant			
Form PLM: F-10(E)		Power of Attorney			

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE

DATE:

PLM: F-8

APPLICATION FORM FOR REQUEST FOR AMENDMENT PRIOR TO APPROVAL IN TERMS SECTION 99 AS REQUIRED IN TERMS OF SCHEDULE 23 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

LAND DEVELOPMENT APPLICATION INFORMATION

Complete this section for each property (make a separate copy for each property)

Type of land development application (section in terms of the By-law)			
Reference number			
Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion	
Street name			
Street number			
Date the application (existing) was confirmed complete and accepted by the municipality			
Reason(s) for request to amend an application prior to approval			
Date(s) of previous request(s) for amendment of an application prior to approval.			

REQUIRED DOCUMENTS

Official Receipt of fees		Covering Letter		Power of Attorney	
Motivating Memorandum with reasons for amendment of an application		Proof that an existing land development application has been submitted to the Municipality		Summary of progress of the application	

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE DATE:

PLM: F-9

APPLICATION FORM FOR REQUEST FOR EXTENSION OF TIME IN TERMS SECTION 110 OF THIS BY-LAW AND AS REQUIRED IN TERMS OF SCHEDULE 21 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

APPROVED LAND DEVELOPMENT APPLICATION INFORMATION

Complete this section for each property (make a separate copy for each property)

Type of land development application (section in terms of the By-law)			
Reference number			
Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion	
Street name			
Street number			
Date of approval of the land development application			
Date approval will lapse			
Date(s) of previously approved extension of time			

REQUIRED DOCUMENTS

Official Receipt of fees		Covering Letter		Power of Attorney	
Motivating Memorandum with reasons for extension		Proof of submission of documents to Surveyor-General if required		Summary of progress of the application	

I, being the applicant of the property(ies) described herein, declare that the above information is correct and that the required documents and information are attached in compliance with the requirements of the Municipality.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I hereby acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE DATE:

PLM: F-10(A) – Township Establishment or Extension of Boundaries**LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS REQUIRED IN TERMS OF THE SCHEDULES TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017 AND/OR SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE**

RECEIVED FROM:

PROPERTY DESCRIPTION:

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Receipt of payment of the application fees			
			Covering letter			
			Completed Application form of the relevant application (PLM :F-2)			
			Power of Attorney*			
			Company/ Close corporation/Trust resolution*			
			Proof of Members of Company/Close Corporation/Trust*			
			In the instant of the owner being a company: CM 29 form*			
			In the instant of a close corporation: CK 1 or 2 forms*			
			In the instant of a Trust: Letter of appointment of the Trustees *			
			Proof of marriage out / in community of property*			
			Bondholder's consent			
			Motivational Memorandum			
			Proof of served notice to the adjoining owners			
			Draft annexure			
			Draft amendment scheme map			
			Draft statement of conditions of approval			
			Locality Plan			
			Township Layout Plan			
			Zoning Certificate			
			Registered Title Deed and/or Notarial Deed			
			Township Name Reservation Letter			
			Conveyancer's Certificate			
			Land Surveyor Certificate			
			Environmental Impact Assessment executive summary *			
			Flood line Certificate (if property is subject to flooding)			
			Geo-technical Report (including geology) (copies + CD)			
			Transport/Traffic Impact Report (copies + CD)			
			Retail/Feasibility Study*			
			Noise Impact assessment *			
			Application to the Department Minerals and Energy or compliance with section 54 of Act 28 of 2002			

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Form PLM: F-1			
			Form PM: F-10(A)			

I, being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the owner at any time regarding the application.

SIGNATURE DATE:

NOTE: the fields marked with an * must be completed if it applies to the application. If these fields are not completed and the documents are attached to the application, the application will be regarded as incomplete.

FOR OFFICIAL USE ONLY

Application received by:				
Date received				
Correct application fee paid	Yes	No	Amount	

PLM: F-10(A1)**CHECKLIST FOR LAYOUT PLANS FOR A TOWNSHIP ESTABLISHMENT OR EXTENSION OF BOUNDARIES
APPLICATION IN TERMS OF SECTION 54 AND AS REQUIRED IN TERMS OF SCHEDULE 8 TO THE
POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017**

No	Requirements of information to be provided	Yes	No
1	Prints of the layout plan of the proposed township		
2	Township name, extension / number of plan		
3	* Contour lines and values		
4	A bar scale		
5	The true north		
6	The name of the Municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated		
7	The boundaries of the proposed township		
8	The Property description as indicated in the 'Township name reservation letter'		
9	Grid co-ordinates and a reference to the geodetic system used		
10	Existing buildings in the proposed township		
11	Adjoining existing and adjoining proposed streets and roads with their names;		
12	Adjoining proposed public streets/roads with their names and widths		
13	Adjoining Erven, farm portions/agricultural holdings in existing townships or proposed townships in respect of which applications have been submitted or notice has been given in terms of section 54 or 55		
14	Streets, squares and Recreational / Natural Open spaces (Private and Public) in the proposed township		
15	Adjoining Erven in existing townships or proposed townships in respect of which applications have been submitted		
16	Water courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township		
17	Public roads in or abutting the proposed township		
18	All servitude in or abutting the proposed township		
19	Private 'access' Erven (name and widths) in or abutting the proposed township		
20	A table indicting the total number of Erven in the proposed township, the number of Erven for specific purposes (proposed zoning) and their numbers, the minimum size of the Erven, the ruling size of the Erven, the minimum and maximum gradient of the streets, the total length of the streets within the township, the area of streets as a percentage of the total area of the township and the area of parks and open spaces, if any, as a percentage of the total area of the township		
21	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, as the case may be, may approve indicating:		
21.1	The situation of the proposed township on the farm or agricultural holding		
21.2	The routes giving access to the nearest main road and the road network in the vicinity of the township		
21.3	The boundaries of the farm portion or agricultural holding on which the township is to be established		
21.4	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		
21.5	A bar scale, in respect of the locality plan		
21.6	The true north		
22	The Erven in the proposed township accurately drawn to a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000; 1:2 500 or 1: 5000 and numbered consecutively in each block		
23	In an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plan on which the contour values are based		
24	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		
25	Each registered servitude over the land in the proposed township with a reference to the purpose of the servitude, 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		
26	The boundaries and descriptions of the geological zones shall be depicted on the layout plan as well as the original certification thereof of the geologist and the Council		

No	Requirements of information to be provided	Yes	No
	for Geo-science (where applicable);		
27	The 1:50 year and 1:100 year flood line shall be certified on the layout plan (not more than 3 years old)		

* The Contour lines, the value of which shall be based on the datum plane of national geodetic bench-marks based on sea-level as datum plane, or, with the written approval of the authorized local authority concerned, on some other datum plane; and the minimum size of contour intervals shall be determined in accordance with the following:

Gradient of land	Contour interval
Less than 1 in 20 and 1 in 20	1m
Greater than 1 in 20 but less than 1 in 5	2m
1 in 5 and greater	5m

It is hereby certified that, in terms of the provisions of Section 144 of the National Water Act, 1998 (Act 36 of 1998), the area taken up by the proposed township denoted on the plan enclosed herewith is not affected by any 1:50 or 1:100-year flood line or are correctly indicated on the plan.

SIGNATURE

DATE:

PLM: F-10(B) – Division of a Township**LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS REQUIRED IN TERMS OF THE SCHEDULES TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017 AND/OR SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE**

RECEIVED FROM:

PROPERTY DESCRIPTION:

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Receipt of payment of the application fees			
			Covering letter			
			Completed Application form of the relevant application (PLM :F-3, and Part C to D of PLM: F-2)			
			Power of Attorney*			
			Company/ Close corporation/Trust resolution*			
			Proof of Members of Company/Close Corporation/Trust*			
			In the instant of the owner being a company: CM 29 form*			
			In the instant of a close corporation: CK 1 or 2 forms*			
			In the instant of a Trust: Letter of appointment of the Trustees *			
			Proof of marriage out / in community of property*			
			Bondholder's consent			
			Motivational Memorandum			
			Draft statement of conditions of establishment			
			Locality Plan			
			Township Layout Plan			
			Zoning Certificate			
			Registered Title Deed and/or Notarial Deed			
			Township Name Reservation Letter			
			Conveyancer's Certificate			
			Land Surveyor Certificate			
			Geo-technical Report (including geology)			
			Approved conditions of Establishment			
			Amended Township Layout Plan			
			Amended conditions of establishment			
			Amended draft annexure			
			Amended draft amendment scheme map			
			Form PLM: F-1			
			Form PLM: F-10(B)			

I, being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the owner at any time regarding the application.

SIGNATURE DATE:

NOTE: the fields marked with an * must be completed if it applies to the application. If these fields are not completed and the documents are attached to the application, the application will be regarded as incomplete.

FOR OFFICIAL USE ONLY

Application received by:				
Date received				
Correct application fee paid	Yes	No	Amount	

PLM: F-10(C) -Rezoning**LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS REQUIRED IN TERMS OF THE SCHEDULES TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017 AND/OR SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE**

RECEIVED FROM:

PROPERTY DESCRIPTION:

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Receipt of payment of the application fees			
			Covering letter			
			Completed Application form of the relevant application (PLM :F-4)			
			Power of Attorney*			
			Company/ Close corporation/Trust resolution*			
			Proof of Members of Company/Close Corporation/Trust*			
			In the instant of the owner being a company: CM 29 form*			
			In the instant of a close corporation: CK 1 or 2 forms*			
			In the instant of a Trust: Letter of appointment of the Trustees *			
			Proof of marriage out / in community of property*			
			Bondholder's consent			
			Motivational Memorandum			
			Proof of served notice to the adjoining owners			
			Draft annexure			
			Draft amendment scheme map			
			Locality Plan			
			Land Use Plan			
			Zoning Plan			
			Site Plan			
			Zoning Certificate			
			Registered Title Deed and/or Notarial Deed			
			Form PLM: F-1			
			Form PLM: F-10(C)			

I, being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE DATE:

NOTE: the fields marked with an * must be completed if it applies to the application. If these fields are not completed and the documents are attached to the application, the application will be regarded as incomplete.

FOR OFFICIAL USE ONLY

Application received by:				
Date received				
Correct application fee paid	Yes	No	Amount	

PLM: F-10(D) – Amendment, Suspension or Removal of Restrictive Title Conditions

LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS REQUIRED IN TERMS OF THE SCHEDULES TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017 AND/OR SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE

RECEIVED FROM:

PROPERTY DESCRIPTION:

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Receipt of payment of the application fees			
			Covering letter			
			Completed Application form of the relevant application (PLM :F-5)			
			Power of Attorney*			
			Company/ Close corporation/Trust resolution*			
			Proof of Members of Company/Close Corporation/Trust*			
			In the instant of the owner being a company: CM 29 form*			
			In the instant of a close corporation: CK 1 or 2 forms*			
			In the instant of a Trust: Letter of appointment of the Trustees *			
			Proof of marriage out / in community of property*			
			Bondholder's consent			
			Motivational Memorandum			
			List of adjoining owners			
			Locality Plan			
			Site Plan			
			Zoning Certificate			
			Registered Title Deed and/or Notarial Deed			
			Form PLM: F-1			
			Form PLM: F-10(D)			

I, being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the owner at any time regarding the application.
POLOKWANE MUNICIPAL PLANNING BY-LAW 2017

SIGNATURE

DATE:

NOTE: the fields marked with an * must be completed if it applies to the application. If these fields are not completed and the documents are attached to the application, the application will be regarded as incomplete.

FOR OFFICIAL USE ONLY

Application received by:				
Date received				
Correct application fee paid	Yes	No	Amount	

PLM: F-10 (E) – Subdivision or Consolidation**LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS REQUIRED IN TERMS OF THE SCHEDULES TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017 AND/OR SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE**

RECEIVED FROM:

PROPERTY DESCRIPTION:

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	NA
			Receipt of payment of the application fees			
			Covering letter			
			Completed Application form of the relevant application (PLM:F-7)			
			Power of Attorney*			
			Company/ Close corporation/Trust resolution*			
			Proof of Members of Company/Close Corporation/Trust*			
			In the instant of the owner being a company: CM 29 form*			
			In the instant of a close corporation: CK 1 or 2 forms*			
			In the instant of a Trust: Letter of appointment of the Trustees *			
			Proof of marriage out / in community of property*			
			Bondholder's consent			
			Motivational Memorandum			
			Proof of served notice to the adjoining owners *			
			Locality Plan			
			Zoning Certificate			
			Registered Title Deed and/or Notarial Deed			
			Proposed Subdivision Plan*			
			Proposed Consolidation Plan*			
			Proposed simultaneous Subdivision and Consolidation Plan *			
			Environmental Impact Assessment executive summary *			
			Form PLM: F-1			
			Form PLM: F-10(E)			

I, being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the owner at any time regarding the application.

SIGNATURE DATE:

NOTE: the fields marked with an * must be completed if it applies to the application. If these fields are not completed and the documents are attached to the application, the application will be regarded as incomplete.

FOR OFFICIAL USE ONLY

Application received by:				
Date received				
Correct application fee paid	Yes	No	Amount	

PLM: F-11

NOTICE OF APPEAL

APPELLANT DETAILS			
Please indicate the type of appellant:			
Individual	<input type="checkbox"/>	Legal Entity / Other	<input type="checkbox"/>
Appellant Details: Individual			
Title			
Initials			
First Name(s)			
Surname			
Preferred Name			
ID Number			
Appellant Details: Legal Entity / Other			
Name			
Registration number			
Representative name			
Physical Address of the Appellant			
Physical Address(Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Physical Address (Home)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Postal Address of the Appellant			
Postal Type	PO Box <input type="checkbox"/>	Physical Address (Home)	<input type="checkbox"/>
	Private Bag <input type="checkbox"/>	Physical Address (Work)	<input type="checkbox"/>
Postal Number			
Township		Postal Code	
Communication Details of the Appellant			
E-Mail Address			
Cell Phone			
Home Phone			
Work Phone			
Home fax			
Work fax			
Preferred method of communication – please indicate			

APPEAL DETAILS			
Type of application			
Relevant legislation applicable			
Reference number			
Indicate decision maker	MPT (Municipal Planning Tribunal)		AO (Authorised Official)
Date of decision			
PROPERTY DESCRIPTION			
Township/ Agricultural Holding/Farm			
Erf/ Lot/ Plot/ Farm No			
CONCISE AND SUCCINCT GROUNDS OF APPEAL			
LIST OF ATTACHED DOCUMENTS			
RELIEF SOUGHT BY THE APPELLANT FROM THE APPEAL AUTHORITY			

If the appellant wishes to raise any *points in limine* with regard to the appeal it must form part of the documents submitted

Any expert reports must be submitted and copies thereof must be made available to all respondents on lodging of the appeal

REQUIRED DOCUMENTS

Official Receipt of fees	
Proof that all the parties on record to the land development application including the Business Unit responsible for City Planning has been notified of the appeal	
All information on the land development application to which the appeal relates	
Every objection lodged and all comments made in respect of the land development application	
Every reply to an objection or comment	

Declaration:

I/We (*full names*) hereby submit an appeal to the Appeals Authority in terms of section 134 of the Polokwane Municipal Planning By-law, 2017. I declare that I shall be bound by all the provisions of this By-law. I solemnly declare that, to the best of my knowledge and belief, all the information contained herein is true and correct.

Signed:.....

Date:

PLM: F-12

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 95(1)(a) FOR THE ESTABLISHMENT OF A TOWNSHIP /EXTENSION OF BOUNDARIES OF A TOWNSHIP IN TERMS OF SECTION 54 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

POLOKWANE LOCAL MUNICIPALITY

NOTICE OF APPLICATION FOR THE ESTABLISHMENT OF TOWNSHIP/EXTENSION OF BOUNDARIES OF A TOWNSHIP IN TERMS OF SECTION 54 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

..... **EXTENSION**

I/We.....(*full name*) being the applicant hereby give notice in terms of section 95(1)(a) of the Polokwane Municipal Planning By-law, 2017, that I/we have applied to Polokwane Municipality for the establishment of the township/extension of boundaries in terms of section 54 of the Polokwane Municipal Planning By-law, 2017 referred to in the Annexure hereto,

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: Manager: City Planning and Property Management, PO Box 111, Polokwane, 0700 from (*the first date of the publication of the notice set out in section 95(1)(a) of the By-law referred to above*), until (*not less than 28 days after the date of first publication of the notice*).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 28 days from the date of first publication of the advertisement in the Provincial Gazette /..... newspaper.

Address of Municipal offices: closing
 date for any objections and/or comments:

Address of applicant (*Physical as well as postal address*):

Telephone No:

Dates on which notice will be published:

ANNEXURE

Name of township: Extension

Full name of applicant:

Number of erven, proposed zoning and development control measures

The intension of the applicant in this matter is to: (*indicate the proposed development*)

Locality and description of property(ies) on which township is to be established:

The proposed township is situated

*Delete whichever is not applicable

PLM: F-13

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 95(1)(a) FOR A REZONING APPLICATION IN TERMS OF SECTION 61 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

POLOKWANE LOCAL MUNICIPALITY
NOTICE OF A REZONING APPLICATION IN TERMS OF SECTION 61 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

I/We, (full name), being the applicant of property(ies) erf/erven.....

..... (complete description of property as set out in title deed) hereby give notice in terms of section 95(1)(a) of the Polokwane Municipal Planning By-law, 2017, that I/we have applied to Polokwane Municipality for the amendment of the applicable Land Use Scheme/or Town planning Scheme, by the rezoning in terms of section 61 of the of the Polokwane Municipal Planning By-law, 2017, of the property(ies) as described above. The property(ies) is/are situated at:

.....
.....
.....

The rezoning is from
to

The intension of the applicant in this matter is to: (indicate the proposed development)

.....
.....

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: Manager: City Planning and Property Management, PO Box 111, Polokwane, 0700 from (the first date of the publication of the notice set out in section 95(1)(a) of the By-law referred to above), until (not less than 28 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 28 days from the date of first publication of the notice in the Provincial Gazette / newspaper.

Address of Municipal offices:
.....
.....

Closing date for any objections and/or comments:

Address of applicant (Physical as well as postal address):
.....

Telephone No:

Dates on which notice will be published:

*Delete whichever is not applicable

PLM: F-14

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 95(1)(a) FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 62 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

POLOKWANE LOCAL MUNICIPALITY

NOTICE OF AN APPLICATION FOR THE REMOVAL / AMENDMENT / SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 62 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

I/We(full name) being the applicant of property(ies) and/or erf/erven

(complete description of property as set out in title deed) hereby give notice in terms of section 95(1)(a) of the Polokwane Municipal Planning By-law, 2017,that I/we have applied to Polokwane Municipality for the removal/amendment/ suspension of certain conditions contained in the Title Deed in terms of section 62 of the Polokwane Municipal Planning By-law, 2017 of the above- mentioned property. The property(ies) is situated at:

The application is for the removal / amendment / suspension of the following conditionsin Title Deed

The intension of the applicant in this matter is to: (indicate the proposed development)

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: Manager: City Planning and Property Management, PO Box 111, Polokwane, 0700 from..... (the first date of the publication of the notice set out in section 95(1)(a) of the By-law referred to above), until (not less than 28 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 28 days from the date of first publication of the advertisement in the Provincial Gazette / newspaper.

Address of Municipal Offices:

Closing date for any objections and/or comments:

Address of applicant (Physical as well as postal address):

Telephone No:

Dates on which notice will be published:

*Delete whichever is not applicable.

PLM: F-15

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 95(1)(a) FOR THE ALTERATION / AMENDMENT OR PARTIAL CANCELLATION OF A GENERAL PLAN OF A TOWNSHIP IN TERMS OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

POLOKWANE LOCAL MUNICIPALITY

NOTICE OF AN APPLICATION FOR THE ALTERATION/AMENDMENT OR PARTIAL CANCELLATION OF A GENERAL PLAN IN TERMS OF SECTION 64 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

I/we(full name) the applicant hereby gives notice in terms of section 95(1)(a) of the Polokwane Municipal Planning By-law, 2017, that an application has been made for the alteration/amendment/total or partial cancellation of the general plan of the township known as:

.....
.....

The application together with the relevant plans, documents and information will lie for inspection during normal office hours at the Municipal offices, at.....

.....
for a period of 28 days from (the date of first publication of this notice).

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: Manager: City Planning and Property Management, PO Box 111, Polokwane, 0700 from..... (the first date of the publication of the notice) until (not less than 28 days after the date of first publication of the notice).

Closing date for any objections :

Address of applicant (Physical as well as postal address):

.....
.....
.....

Telephone No:

Dates on which notice will be published:

*Delete whichever is not applicable.

PLM: F-16

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 95(1)(a) FOR SUBDIVISION OF PROPERTY(IES) AS CONTEMPLATED IN TERMS OF SECTION 67(1)(c) OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

POLOKWANE LOCAL MUNICIPALITY

NOTICE OF AN APPLICATION FOR A SUBDIVISION OF LAND IN TERMS OF SECTION 67(1)(b) OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

I/We, (full name), being the applicant of hereby give notice, in terms of section 95(1)(a) of the Polokwane Municipal Planning By-law, 2017, that I/we have applied to Polokwane Municipality for the subdivision of the property(ies) described below.

The intension of the applicant in this matter is to: (indicate the proposed development)

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: Manager: City Planning and Property Management, PO Box 111, Polokwane, 0700 from..... (the first date of the publication of the notice) until (not less than 28 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 28 days from the date of first publication of the notice in the Provincial Gazette / newspaper.

Address of Municipal offices:

Closing date for any objections:

Address of applicant (Physical as well as postal address):

Telephone No:

Dates on which notice will be published:

Closing date for any objections:

Description of property(ies):

Number and area of proposed portions:

Proposed Portion in extent approximatelym²

Proposed Remainder..... in extent approximately m²

TOTALm²

*Delete whichever is not applicable.

PLM: F-17

EXAMPLE OF A POWER OF ATTORNEY

I/We,

ID No: the undersigned, hereby nominate, constitute and appoint –
.....

(Include the company name and registration number of the company) and

..... ID No: (name and

ID no of person from the company who in turn is granted authority by the said company) with the power of substitution

to be my/our *legal attorney(s) and *agent(s) in my/our name, place and stead to apply for -

..... (type of application and property description)

at The Polokwane Local Municipality and
in general to do everything to effect the application and to do whatever I/we would do if I/we were present in person
and Acting in the matter; and I/we hereby ratify, allow and confirm, and promise and agree to ratify, allow and confirm
everything and anything my/our *attorney(s) and *agent(s) may do or may permit to be done legally in terms of this
power of attorney.

Signed at on this day of20.....

in the presence of the undersigned witnesses.

AS WITNESSES:

1.....

2.....

.....
Registered Owner

*Delete whichever is not applicable.

PLM: F-18

EXAMPLE OF AFFIDAVIT / AFFIRMATION

TO WHOM IT MAY CONCERN:

I, the undersigned, (*full name and surname*), hereby *make oath/affirm that the placard notice(s) as prescribed in terms of Section 95(1)(a) on Erf No Township, was displayed and maintained in a conspicuous and to the public accessible place, for a period of 14 days from the first day the advertisements were advertised in local newspapers, viz from to, both dates inclusive.

SIGNED (SIGNATURE OF APPLICANT)
on at

I hereby certify that the deponent acknowledges that *he/she was conversant with the contents of this statement and understood it, and that the deponent uttered the following words: "I swear that the contents of this statement are the truth and nothing but the truth, so help me God".

COMMISSIONER OF OATHS:.....

DATE :

*Delete whichever is not applicable.

CONTINUES ON PAGE 258 - PART 3



LIMPOPO PROVINCE
 LIMPOPO PROVINSIE
 XIFUNDZANKULU XA LIMPOPO
 PROFENSE YA LIMPOPO
 VUNDU LA LIMPOPO
 IPHROVINSI YELIMPOPO

**Provincial Gazette • Provinsiale Koerant • Gazete ya Xifundzankulu
 Kuranta ya Profense • Gazethe ya Vundu**

*(Registered as a newspaper) • (As 'n nuusblad geregistreer) • (Yi rhijistariwile tanihi Nyuziphepha)
 (E ngwadisits'we bjalo ka Kuranta) • (Yo redzhistariwa sa Nyusiphepha)*

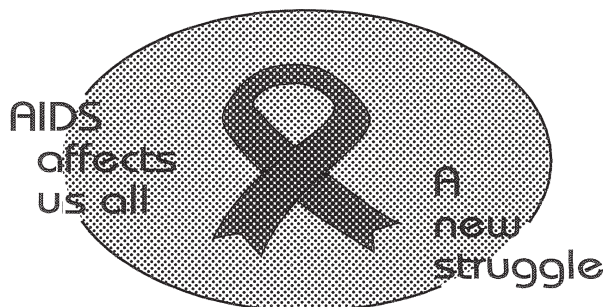
Vol. 25

POLOKWANE,
 18 MAY 2018
 18 MEI 2018
 18 MUDYAXIHI 2018
 18 MEI 2018
 18 SHUNDUNTHULE 2018

No. 2905

PART 3 OF 4

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
 HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

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ISSN 1682-4563



PLM: F-19

APPLICATION FORM TO BE SUBMITTED FOR PRE- APPLICATION CONSULTATION IN TERMS OF SECTION 53 AND AS REQUIRED IN TERMS OF SCHEDULE 28 TO THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017

APPLICANT DETAILS			
Please indicate the type of applicant :			
Individual	<input type="checkbox"/>	Legal Entity / Other	<input type="checkbox"/>
Applicant Details: Individual			
Title			
Initials			
First Name(s)			
Surname			
Preferred Name			
ID Number			
Marital status if the owner is the applicant	Single/not married Out of community of property	<input type="checkbox"/>	In community of property <input type="checkbox"/>
Applicant Details: Legal Entity / Other			
Name			
Registration number			
Representative name			
Physical Address of the Applicant			
Physical Address(Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township/Village/Area		Postal Code	
Communication Details of the Applicant			
E-Mail Address			
Cell Phone			
Home Phone			
Work Phone			
Home fax			
Work fax			
Preferred method of communication – please indicate			

General Property Description	
Township/ Farm	
Erf No/ Farm No	Portion
Street Name and Number	
Existing Use of Property	<input type="checkbox"/> Agricultural <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Residential <input type="checkbox"/> Vacant <input type="checkbox"/> Other(s) If Other; Specify:
Existing or Proposed Access to subject lands:	<input type="checkbox"/> National Road <input type="checkbox"/> Provincial Road <input type="checkbox"/> Municipal Road <input type="checkbox"/> Other (describe below) If Other; Specify:

Details of the Proposal	
Proposed Application	<input type="checkbox"/> Township Establishment <input type="checkbox"/> Division of a Township <input type="checkbox"/> Rezoning <input type="checkbox"/> Removal of Restrictive Conditions of a Title <input type="checkbox"/> Amendment/ Cancellation of a General Plan <input type="checkbox"/> Subdivision/Consolidation of a Farm Portion <input type="checkbox"/> Closure of Public Place <input type="checkbox"/> Communal Land Application (High Impact) <input type="checkbox"/> Other If Other; Specify:

Provide a complete written description of the application with details of the proposed development including, but not limited to: proposed use(s), development controls (i.e. height/storeys, floor area(s), number of parking/loading spaces, coverage etc). If additional space is needed, attach a separate page.

Does your proposal involve?			
	YES	NO	N/A
Demolition of existing building(s)			
Renovation of existing buildings(s)			
Addition to existing building(s)			
Construction of a new building			
Formalisation of existing land use rights			

General Information Required	
Bond (Yes/No)	
If yes specify Bond Account No	
Bondholder's Name	
Existing Development	
Title Deed/ Notarial Deed No	
Restrictive Title Deed Condition Paragraph No	

I, being the applicant described herein, declare that the above information is correct.

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 89 and 93(2) of this By-law. Should the application found to be incomplete; the application will be returned to the applicant without further consideration or refunding of the application fees.

I hereby acknowledge that the Municipality has the right to request additional information or documentation should it be deemed necessary to place the Municipality in a position to take an informed decision on the matter.

I acknowledge that the provision of false or misleading information is an offence in terms of section 172 of this By-law.

I acknowledge that the Municipality may contact the applicant at any time regarding the application.

SIGNATURE DATE: