

LOCAL AUTHORITY NOTICE 716 OF 2025

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

MORETELE LOCAL MUNICIPALITY



**SPATIAL PLANNING
AND
LAND USE MANAGEMENT
BY-LAW, 2024**

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

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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);

“Adjoining Owner(s)” means the owner of any property abutting or sharing a common boundary with the application property, owners whose respective properties, touches at any corners with the application property and includes properties that are contiguous to the application property but separated by a road, or roadway or right of way servitude in relation to an application property;

“Amendment Scheme” means an amendment to the Land Use Scheme which amendment has been approved, adopted and came into operation in terms of this By-law or any other relevant legislation and adopted Amendment Scheme shall have a corresponding meaning and include:

- a) an Amendment Scheme contemplated in Section 24(1), 27(2)(b) and 28(1) of the Act being;
- (b) a land use and land development application for the amendment of any provision of the Land Use Scheme applicable to a property or properties, and includes a rezoning and township establishment application in terms of Section 56 and Section 62 of this By-law;

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

“Applicant” means a person who or body which makes a land use and land development application as contemplated in Section 45 of the Act;

“Approval” Means permission granted by the Municipal Planning Tribunal or Authorised Official and includes permission for a specific type of land use or activity in addition to the primary use rights applicable to the property concerned, or any other approval as required in the Scheme, with or without conditions.

“Approved Scheme” means a Land Use Scheme provided for in Section 24(1) of the Act and any Amendment Scheme as defined above;

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

“Authorised Official” means a municipal employee who is authorised by the Council to exercise any power, function or duty in terms of this By-law and the Act and Regulations or such further duties that may be delegated in terms of Section 56 of the Act read with Section 59 of the Municipal Systems Act, be assigned to him/her;

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“Building” includes any structure of any nature whatsoever read with the National Building Regulations and Building Standards Act;

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

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

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

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

“Consent Use” means a land use right that may be obtained by way of consent from the Municipality and can be specified as such in the adopted Land Use Scheme of the Municipality including consent as contemplated in Section 45(6) of the Act;

“Contact Details” means the information required to contact someone, such as a postal & residential address or telephone & cellphone number, etc.

“Contravention Notice” means a notice served by the local authority on a property owner or an individual who has committed a contravention in terms of the land use scheme of the Municipality.

“Conveyancer” means a conveyancer as defined in Section 102 of the Deeds Registries Act;

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

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

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

“Council” means the municipal council of the Municipality;

“Day” means a calendar day, and when any number of days are prescribed for the execution of any act, it must be calculated by excluding the first day and including the last day, however, should the last day fall 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;

“Date of Notice” means the date on which a notice is served as contemplated in the provisions of this By-law or published in the media or Provincial Gazette or National Gazette as the case may be;

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“Decision Making Body” means any person who or body which is required to take a decision in terms of this By-law or the Act, duly authorised by the Municipality;

“Demarcation of sites” means a process of delineating stands boundaries in traditional areas

“Departure” in relation to a Spatial Development Framework, means

(a) an approval which departs from the provisions of the Municipal Spatial Development Framework contemplated in Section 22(2) of the Act;

(b) a deviation from the provisions of the Municipal Spatial Development Framework or in terms of Section 8(1) of this By-law; and **‘deviate’** has a corresponding meaning;

“Development Charges” means a development charge or charges that may be levied by the Municipality as contemplated in this By-law read with Section 40(7)(b) and Section 49 of the Act;

“Development Rights” Use the definition from the Act

“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” means respectively internal and external engineering services whether provided by the Municipality, any other organ of state or a service provider, or any other person or body in general and includes services in respect of the provision of water, sewerage, electricity, refuse removal, roads, storm water and any related infrastructure and systems and processes related to the services;

“Environment” means an environment as defined in Section 1 of National Environmental Management Act, or any other existing or new Provincial or National environmental legislation;

“Environmental Impact Assessment” means a systematic process of identifying, assessing and reporting environmental impacts associated with an activity and includes basic assessment and scoping and environmental impact reporting as defined in the Environmental Impact Assessment Regulations, 2014 of the National Environment Management Act, 1998 (Act No. 107 of 1998)

“Environmental Legislation” means the National Environmental Management Act, or any other National or Provincial legislation which is enacted or may be enacted from time to time for purposes of regulating environmental activities in so far as it relates to land use rights as contemplated in Spatial Planning and Land Use Provincial Legislation, the Act and this By-law;

“Environmental Evaluation” means an evaluation of the environmental impact of a proposed land development, conducted in accordance with environmental legislation and environmental guidelines which are from time to time issued and amended by the Department of Environment Affairs and Tourism or its successor in title or as may be required by the Municipality;

“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-laws or any repealed law;

“External Engineering Services” means with reference to the Act, an engineering service situated outside the boundaries of a land development area and which is necessary to serve the use and development of the land area and may include engineering services in the opinion of the Municipality which accumulatively serve the wider area within which the development falls; or which has been classified by agreement as such in terms of Section 31(2) of this By-law;

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

means -

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

“Gazette” – means the Provincial Gazette or National Gazette where any publications are done or required to be done by an applicant or the Municipality in terms of this By-law as the context may indicate;

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

“Incremental Upgrading of Informal Areas” means the progressive introduction of administration, management, engineering services and land tenure rights to an area that was established outside existing planning legislation and may include any settlement or area under traditional tenure;

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

“Integrated Development Plan” means a plan adopted in terms of Chapter 5 of the Municipal Systems Act;

“Interested and Affected Parties” unless specifically delineated, means any person or group of persons that can demonstrate that a specific action or decision, or intended action or decision by the Municipal Planning Tribunal, Authorised Official or Appeal Authority, negatively affects their rights with specific reference to town planning principles and/or development principles;

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

“Land Use and Land Development Application” means a decision to approve an application in terms of the Act and this By-law or relevant legislation by a decision-making person or body and includes any conditions under which the approval was granted;

- rezoning;
- consent uses, written consent, temporary uses and application in
- traditional council areas.
- the subdivision and / or consolidation of land;
- the alteration, suspension or removal of restrictions in relation to land; or
- consent of the Municipality in terms of the Title Deed conditions
- the establishment of a township;
- the extension of the boundaries of a township;
- the amendment or cancellation of a general plan; and/or
- any other application in terms of the Land Use Scheme or Planning and
- Development Legislation within the jurisdiction of the Municipality as may
- be determined by the Municipality from time to time;

“Authorised Official” means the authorised official defined in regulation 1 of the Regulations;

“Land Use Management System” - means the system regulating and managing land use and conferring land use rights through the use of schemes and land development procedures;

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“Land Use Plan” means a plan that indicates existing land uses;

“Layout Plan” means a plan indicating such information relevant to a land development application and includes the relative locations of erven, public places, or roads, on land intended for development, subdivision or consolidation, and the purposes for which the erven are intended to be used read with any notation or conditions contained thereon;

“Land Use Rights” Means the right to utilize or improve land in accordance with the zoning thereof or any approved departure, consent use or condition of approval.

“Land Use Rights Register” - means a collection of documents kept and maintained by a Municipality, either electronically or in hard copies, in connection with all land development rights and applications.

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

“Legal Notice”- Means a written method, including electronic means and media by which a person communicates a matter that is dealt with in the Act or the regulations thereto or in terms of this Scheme to interested and affected parties.

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

“Memorandum of understanding” is a service level agreement as entered into in terms of Regulation 19 of the Act;

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

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

“Municipal Planning Tribunal” means the Moretele Municipal Planning Tribunal established in terms of section 32;

“Municipal Planning Tribunal/Appeal Registrar” means a registrar appointed to serve as registrar to the Municipal Planning Tribunal/Appeals Authority or any person so designated in the administration of the Municipality to perform the administration duties of a Municipal Planning Tribunal or Appeals Authority in terms of any delegations or sub-delegations in terms of Section 59 of the Municipal Systems Act, read with Section 56 of the Act, by a Municipality for purposes of the Act; Registrar shall have a corresponding meaning; and as provided for in Chapter 5 and Chapter 6 of this By-law;

“Municipality” means the Municipality of Moretele or its successor in title as envisaged in section 155(1) of the Constitution, in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes a municipal department, the Council, the Municipal Manager

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or an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

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

“Official language most commonly spoken” means any of the official languages provided for in the Constitutions and as determined from time to time by the Municipal Council as those most commonly spoken

“Open Space” means an area of land set aside and required to be legally protected in the opinion and to the satisfaction of the Municipality from development over and above the assignment of land use rights, which shall be for the use and benefit of a community, irrespective of ownership of such land and may include, in the opinion of the Municipality, parks, public and private open space for purposes of compliance with this By-law;

“Organ of State” means an organ of state as defined in Section 239 of the Constitution;

“Owner” means the person or body registered in a Deeds Registry as the owner of land or beneficial owner in law;

“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;

“Prescribe” means requirements or provisions in terms of this By-law, or requirements in terms of any of the Schedules to this By-law and the Act;

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

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

“Proclamation Notice” means a publication that is placed in the North-West Provincial Gazette giving effect to a notice in terms of this By-law;

“Property/Properties” means any land in relation to specific land use rights and conditions thereto in terms of the approved and promulgated Land Use Scheme of the municipality;

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

“Provincial Gazette” means the North-West Provincial Gazette where any publications are done or required to be done by an applicant or the Municipality in terms of this By-law as the context may indicate;

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

“Public Place” means any open and/or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use and benefit of the general public and is owned by or vests in ownership of the Municipality, and includes a public open space and a servitude for any similar purposes in favour of the general public as contemplated in the Act and in Section 63 of the Local Government Ordinance;

“Registrar of Deeds” means a registrar as defined in of the Deeds Registries Act;

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“Regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 developed in terms of the Act.

“Restrictive Conditions” means any condition registered against the title deed of land restricting the use, development or subdivision of land concerned and which is capable of being removed, suspended or altered by the Municipality;

“Rezoning” used interchangeable with “Amendment Scheme” means the change of the zoning in relation to land;

“Scheme Register” means a record of all applications submitted and considered in terms of the provisions of the bylaw and/or land use scheme or any amendments thereof.

“Site Development Plan” means a plan which reflects full details of the intended development, including the relative location of existing buildings and structures, the location of engineering services, access to the land, parking, existing developments and features that will/must be retained, areas for landscaping, and any other required information or details as may be determined by a Municipality

and as may be defined in a Land Use Scheme;

“Sectional Title Deed” means a certificate of registered sectional title or any such sectional title deed which is endorsed in terms of section 15 (1) (a); (vi) of the Sectional Titles Act, 95 of 1986.

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

“Service Level Agreement” means a written agreement which is concluded between an applicant(s) and the Municipality, and in terms of which the respective responsibilities of the two parties for the planning, design, provision, installation, financing and maintenance of engineering services, and the standard of such services, are determined and in which engineering services are classified as internal or external services;

Servitude” means a servitude registered against land and recorded in a title deed;

“Site Specific” means circumstances, including a departure, deviation or amendment unique to the specific land unit and its direct environs that have very little influence on the neighbouring land and that does not change the desired purpose and intent of a municipal and local spatial development framework

“Spatial development framework” means the Moretele Local Municipal Spatial Development Framework;

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

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

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

“Title Deed” means any deed registered in a Deeds Registry recording ownership of land and includes deeds of grant and 99 year leaseholds;

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“Town Planning Inspector” means a person designated or appointed as an inspector under Section 32(3) of the Act to perform duties as indicated therein and any other relevant legislation pertaining to the inspection of land and or buildings in order to enforce compliance with this By-law, land use conditions or Land Use Scheme or any other legislation under the jurisdiction of the Municipality;

“Township” means any land laid out or divided into or developed as sites for residential, business or industrial purposes or similar purposes where such sites are arranged in such a manner as to be intersected or connected by or to abut on any street, and a site or street shall for the purposes of this definition include a right of way or any site or street which has not been surveyed or which is only notional in character;

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

“Traditional communities” means communities recognised in terms of section 3 of the North West Traditional Leadership and Governance Act, 2005.

“Traditional Council” means a Traditional Council that has been established and recognized for a traditional community in accordance with the provision of Section 6 of the North West Traditional Leadership and Governance Act, and Traditional Leadership and Governance Framework Act, or any corresponding provision in provincial legislation;

“Urban Edge” means the development edge line to demarcate the appropriate geographic limit to urban growth to protect natural resources;

“Use” the use of land, including any improvements on the land, for any purpose, irrespective of whether it is legal or illegal;

“Zoning” means where the context indicates the zoning categories and conditions relating thereto contained in a Land Use Scheme as the case may be;

The definitions in Section (1) apply to the Regulations, Schedules and Land Use Scheme in operation within the municipal area of the Moretele Local Municipality.

ACT	DEFINITION
“Act”	means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) including its Regulations and
Agricultural Holdings Act	means the Agricultural Holdings Act, 1919 (Act 22 of 1919);
Constitution	means the Constitution of the Republic of South Africa Act, 1996; (Act 108 of 1996);
Deeds Registries Act	means the Deeds Registries Act, 1937 (Act 47 of 1937);
Land Survey Act	means the Land Survey Act, 1997 (Act 8 of 1997);

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Municipal Demarcation Act	means the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);
Municipal Structures Act	means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
Mineral Petroleum and Resource Development Act	means the Mineral Petroleum and Resource Development Act, 2002 (Act 28 of 2002);
Municipal Systems Act	means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
National Building Regulations and Standards Act	means the National Building Regulations and Standards Act, 1977 (Act 103 of 1977);
National Environmental Management Act	means the National Environmental Management Act, 1998 (Act 107 of 1998);
Sectional Titles Act	Sectional Titles Act, 1986 (Act 95 of 1986);
Traditional Leadership and Governance Framework Act	means the Traditional Leadership and Governance Framework Act, 2003 (Act 41 of 2003);

PROVINCIAL LEGISLATION	DEFINITION
Local Government Ordinance	means the Local Government Ordinance, 1939 (Ord. 17 of 1939);
North West Traditional Leadership and Governance Act	means the North West Traditional Leadership and Governance Act, 2005 (Act No. 2 of 2005).

2 Application of By-law

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

3 Conflict of laws

- (1) This By-law is subject to the relevant provisions of the Act and the provincial legislation.

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

CHAPTER 2**4 MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK**

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

5 Contents of municipal spatial development framework

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

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

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

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- (a) must convene an intergovernmental steering committee and a project committee in accordance with section 7 of this By-law;
- (b) must inform the Member of the Executive Council in writing of -
 - (i) its intention to prepare, amend or review the municipal spatial development framework;
 - (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation; and
- (e) must inform relevant stakeholders who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

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

- (1) The purpose of the intergovernmental steering committee contemplated in section 6(a) is to coordinate the applicable contributions into the municipal spatial development framework and to-
 - (a) provide technical knowledge and expertise;
 - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
 - (c) communicate any current or planned projects that have an impact on the municipal area;
 - (d) provide information on the locality of projects and budgetary allocations; and
 - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—
 - (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
 - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.
- (3) The purpose of the project committee contemplated in section 6(a) is to –
 - (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
 - (b) provide technical knowledge and expertise;

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- (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;
 - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;
 - (i) (if) when the Municipality decides to establish an intergovernmental steering committee—
 - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee must consist of –
- (a) the Municipal Manager;
 - (b) municipal employees from at least the following municipal departments:
 - (i) the integrated development planning office;
 - (ii) the planning department;
 - (iii) the engineering department;
 - (iv) the local economic development department;
 - (v) the environmental services department; and
 - (vi) the human settlement department.
 - (vii) the legal services

8 Preparation, amendment or review of municipal spatial development framework

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.

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- (2) 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 comments.
- (3) 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 9(4) that the draft municipal spatial development framework or an amendment or review thereof is available for public comment.
- (4) The project committee must submit a written report as contemplated in subsection (4) which must at least —
 - (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
 - (b) summarise the process of drafting the municipal spatial development framework;
 - (c) summarise the consultation process to be followed with reference to section 9 of this Bylaw;
 - (d) indicate the involvement of the intergovernmental steering committee;
 - (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.
- (5) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.

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- (6) 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.
- (7) 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.
- (8) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision –
 - (a) give notice of its adoption in the media and the *Provincial Gazette* and
 - (b) submit a copy of the municipal spatial development framework to the Member of the Executive Council.
- (9) The municipal spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in subsection 9.
- (10) The project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.

9 Public participation

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

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10 Local spatial development framework

Local spatial development framework will follow the same process as the SDF.

11 Compilation, amendment or review of local spatial development framework

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

12 Effect of local spatial development framework

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

13 Record of and access to municipal & local spatial development framework

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

14 Variance from municipal spatial development framework

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
 - (a) a variance that does not materially change the municipal spatial development framework; and
 - (b) a unique circumstance pertaining to a discovery of national importance.
- (2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, prior to the Municipal Planning Tribunal taking a decision which would constitute a variance from the municipal spatial development framework.

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**CHAPTER 3
LAND USE SCHEME****15 General matters pertaining to land use scheme**

- (1) In order to comply with section 24(1) of the Act, the Municipality must -
- (a) develop a draft land use scheme as contemplated in section 16;
 - (b) obtain Council approval for publication of the draft land use scheme as contemplated in section 17;
 - (c) embark on the necessary public participation process as contemplated in section 18;
 - (d) incorporate relevant comments received during the public participation process as contemplated in section 19;
 - (e) prepare the land use scheme as contemplated in section 20;
 - (f) submit the land use scheme to the Council for approval and adoption as contemplated in section 21;
 - (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in section 22; and
 - (h) submit the land use scheme to the Member of the Executive Council as contemplated in section 23.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (3) Zoning may be made applicable to a land unit or part thereof and must follow cadastral boundaries except for a land unit or part thereof 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;
 - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law, and
 - (c) provincial legislation.

16 Development of draft land use scheme

- (1) Before the Municipality commences with the development of a draft land use scheme, the Council must resolve to develop and prepare a land use scheme, provided that in its resolution the Council must:
- (a) adopt a process for drafting the land use scheme which complies with the Act, provincial legislation, this Chapter and any other applicable legislation;

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

17 Council approval for publication of draft land use scheme

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

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- (3) If the Council is satisfied with the report and the draft land use scheme, it must approve the draft land use scheme and authorise the public participation thereof in terms of this By-law and the relevant legislation referred to in section 15.

18 Public participation

- (1) The public participation process must contain and comply with all the essential elements of any notices to be placed in terms of this By-law and in the event of an amendment of the land use scheme, the matters contemplated in section 28 of the Act.
- (2) Without detracting from the provisions of subsection (1) above the Municipality must -
- (a) publish a notice in the *Provincial Gazette*; and
 - (b) publish a notice in two local newspapers that is circulated in the municipal area of the municipality in two languages commonly spoken in the area, once a week for two consecutive weeks; and
 - (c) use any other method of communication it may deem appropriate and the notice contemplated in subparagraph (b) must specifically state that any person or body wishing to provide comments and or objections must:
 - (i) do so within a period of 60 days from the first day of publication of the notice;
 - (ii) provide written comments
 - (iii) provide their contact details as specified in the definition of contact details.
- (3) The Municipality may for purposes of public engagement arrange -
- (a) specific consultations with professional bodies, ward communities or other groups; and (b) public meetings.
- (4) The Municipality must inform Member of the Executive Council responsible for Local Government in writing of the intention to draft a land use scheme and provide them with a copy of the draft land use scheme after it has been approved by the Council as contemplated in section 17.

19 Incorporation of relevant comments

- (1) Within 60 days after completion of the public participation process outlined in section 20 the department responsible for spatial development and land use management or development planning in the Municipality must –
- (a) review and consider all submissions made in writing or during any engagements; and
 - (b) prepare a report including all information they deem relevant, on the submissions made; provided that:

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- (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
 - (ii) all persons and or bodies that made submissions must be notified of the time, date and place of the hearing as may be determined by the Municipality not less than 30 days prior to the date determined for the hearing, by electronic means or registered post;
 - (iii) for purposes of the consideration of the submissions made on the draft land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.
- (2) The department responsible for spatial development and land use management or development planning in the Municipality must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in subsection (1).

20 Preparation of land use scheme

The department responsible for spatial development and land use management or development planning in the Municipality must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section 18(2), the Municipality must follow a further consultation and public participation process in terms of section 18(2) of this By-law, before the land use scheme is adopted by the Council.

21 Submission of land use scheme to Council for approval and adoption

- (1) The department responsible for spatial development and land use management or development planning in the Municipality must -
- (a) within 60 days from the closing date for objections contemplated in section 18(2)(c)(i), or
 - (b) if a further consultation and public participation process is followed as contemplated in section 18, within 30 days from the closing date of such further objections permitted in terms of section 18 read with section 18(2)(c)(i), submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.
- (2) The Council must consider and adopt the land use scheme with or without amendments.

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22 Publication of notice of adoption and approval of land use scheme

- (1) The Council must, within 60 days of its decision referred to in section 21, give notice of its decision to all persons or bodies who gave submissions on the land use scheme, and publish such notice in the media and the *Provincial Gazette*.
- (2) The date of publication of the notice referred to in subsection (1), in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

23 Submission to Member of Executive Council

After the land use scheme is published in terms of section 22 the Municipality must submit the approved land use scheme to the Member of the Executive Council for cognisance.

24 Records

- (1) The Municipality must in hard copy and electronic media and or data base keep record in the land use scheme register referred to in section 26 of the land use rights in relation to each erf or portion of land and which information is regarded as part of its land use scheme.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal jurisdiction
- (3) Should anybody or person request a hard copy of the approved land use scheme, the Municipality must provide on payment by such body or person of the fee approved by the Council, a copy to them of the approved land use scheme or any component thereof: Provided that if the Municipality is of the opinion that in order to provide the said copy it will take officials unreasonably away from their substantive duties such request for a copy can be dealt with in terms of the Promotion of Access to Information Act, 2000.

25 Contents of land use scheme

- (1) The contents of a land use scheme by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –
 - (a) a zoning for all properties within the geographic area of the Municipality in accordance with a category of zoning as approved by Council;
 - (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
 - (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;

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- (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
 - (e) servitudes for municipal services and access arrangements for all properties;
 - (f) provisions applicable to all properties relating to storm water;
 - (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
 - (h) zoning maps as approved by Council that depicts the zoning of every property in Municipality's geographical area as updated from time to time in line with the land use rights approved or granted; and
 - (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (2) The land use scheme may –
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
 - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

26 Land use scheme register

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

- (a) Date of application;
- (b) name and contact details of applicant;
- (c) type of application;
- (d) township/farm name;
- (e) erf or farm number;
- (f) portion/remainder;
- (g) property description;
- (h) existing zoning;
- (i) square metres granted;

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- (j) density;
- (k) floor area ratio;
- (l) height (storeys/meters);
- (m) coverage;
- (n) building line;
- (o) parking requirements;
- (p) amendment scheme number;
- (q) annexure number;
- (r) item number;
- (s) item date;
- (t) decision (approved/not approved);
- (u) decision date.

27 Replacement and consolidation of amendment scheme

- (1) The Municipality may of its own accord in order to replace or consolidate an amendment scheme or several amendment schemes, map(s), annexure(s) or schedule(s) of the approved land use scheme, of more than one property, prepare a certified copy of documentation as the Municipality may require, for purposes of replacing or consolidating the said amendment scheme(s), which consolidated or replaced amendment scheme must from the date of the signing thereof, be in operation; provided that:
 - (a) such replacement and consolidation must not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights and may include a provision for consolidation of property for purposes of consolidating land use schemes; provided that if a consolidation is required, the Municipality only do so after consultation with the owner(s).
 - (b) after the Municipality has signed and certified a consolidation or replacement amendment scheme, it must publish it in the *Provincial Gazette*.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
- (3) The provisions of sections 17 to 26 apply, with the necessary changes, to the review or amendment of an existing land use scheme other than a rezoning or similar application relating to a property or

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properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

CHAPTER 4**INSTITUTIONAL STRUCTURE FOR LAND USE MANAGEMENT DECISIONS****Part A: Division of Functions****28 Division of functions between Municipal Planning Tribunal and Authorised Official**

- (1) For purposes of section 35(3) of the Act, the following categories of applications defined in section 43 of this By-law must be considered and determined - (a) by the Municipal Planning Tribunal:
- (i) All category 1 applications; and (ii) all opposed category 2 applications; (b) by the Authorised Official:
 - (i) All category 2 applications that are not opposed.
- (2) For the purposes of subsection (1), an opposed application means an application on which negative comments or objections were received after the public participation process.

Part B: Assessment to establish Municipal Planning Tribunal**29 Municipal assessment prior to establishment of Municipal Planning Tribunal**

- (1) The decision of a municipality to –
- (a) establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act; or
 - (b) agree to the establishment of a Municipal Planning Tribunal by a district municipality as contemplated in section 34(2) of the Act; or
 - (c) establish a Municipal Planning Tribunal for its municipal area,
- must be preceded by an assessment of the factors referred to in sub regulation (2).
- (2) The assessment referred to in sub regulation (1) includes, amongst others, the following factors -
- (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
 - (b) the ability of the municipality to effectively implement the provisions of the Act;
 - (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
 - (d) the development pressures in the municipal area.

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Part C: Establishment of Municipal Planning Tribunal for Local Municipal Area**30 Establishment of Municipal Planning Tribunal for local municipal area**

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

31 Composition of Municipal Planning Tribunal for local municipal area

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

32 Nomination procedure

- (1) The Municipality must -

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- (a) be in compliance with section 38 of the Act;
 - (b) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and
 - (c) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations.
- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule 1 together with any other information deemed necessary by the Municipality.
- (3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2) (b) of the Regulations must be in the form contemplated in Schedule 2 and –
- (a) must be published in one local newspaper that is circulated in the municipal area of the Municipality in two languages commonly spoken in the area;
 - (b) may be submitted to the various professional bodies which registers persons referred to in section 31(1) with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
 - (c) may advertise the call for nominations on the municipal website; and
 - (d) utilise any other method and media it deems necessary to advertise the call for nominations.

33 Submission of nomination

- (1) The nomination must be in writing and be addressed to the Municipal Manager.
- (2) The nomination must consist of –
- (a) the completed declaration contained in the form contemplated in Schedule 2 and all pertinent information must be provided within the space provided on the form;
 - (b) the completed declaration of interest form contemplated in Schedule 3;
 - (c) the motivation by the nominator contemplated in subsection (3)(a); and
 - (d) A letter of consent from the nominee.
 - (e) the summarised curriculum vitae of the nominee contemplated in subsection (3)(b).

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- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –
- (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
 - (b) a summarised curriculum vitae of the nominee

34 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 31.
- (2) The nominations that are incomplete or do not comply with the provisions of section 31 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 31 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 2(3); or
 - (d) is not registered with the professional councils or voluntary bodies contemplated in section 27(1), if applicable,
 - (e) does not have relevant qualifications from accredited University, the nomination must be rejected and must not be considered by the evaluation panel contemplated in section 27 of this Bylaw.
- (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 27 of this Bylaw

- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

35 Evaluation panel

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

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36 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 from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 35, publish the names of the members of the Municipal Planning Tribunal and their term of office in the same notice.

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

- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term not exceeding 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 without justifiable ground from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
 - (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
 - (c) is removed from the Municipal Planning Tribunal under subsection (3); or (d) permanent incapacity and death.
- (3) The Council may remove a member of the Municipal Planning Tribunal if -
 - (a) sufficient reasons exist for his or her removal;
 - (b) a member contravenes the code of conduct contemplated in Schedule 4;
 - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act.after giving the member an opportunity to be heard.
- (4) An official of a municipality contemplated in section 27(1) (a) who serves on the Municipal Planning Tribunal –
 - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;

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- (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality must immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a Municipal Council in terms of section 27(1) (b) to (g) to the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
 - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
 - (d) attend such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Municipal Planning Tribunal must sign the Code of Conduct contained in Schedule 4 before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Municipal Planning Tribunal must adhere to ethics adopted and applied by the Municipality and must conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (8) The members of the Municipal Planning Tribunal, in the execution of their duties, must comply with the provisions of the Act, provincial legislation, this By-law and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

38 Vacancy

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 27(2).

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

39 Proceedings of Municipal Planning Tribunal for municipal area

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

40 Tribunal of record

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.
- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon payment of the fee approved by the Council.
- (3) The records should be in a hard copy and electronic file.

41 Commencement date of operations of Municipal Planning Tribunal for local municipal area

- (1) The Municipal Manager must within 30 days of the first appointment of members to the Municipal Planning Tribunal -
- (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
- (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in section 30(4).

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- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

Part F: Decisions of Municipal Planning Tribunal**42 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 it must have regard to the following:
- (a) the application submitted in terms of this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by the Member of the Executive Council regarding proposed land uses;
 - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (e) the response by the applicant to the comments referred to in paragraph (d);
 - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (g) a written assessment by a professional planner as defined in section 1 of the Planning Profession Act, 2002, in respect of land development applications to be considered and determined by the Municipal Planning Tribunal.
 - (h) the integrated development plan and municipal spatial development framework;
 - (i) the applicable local spatial development frameworks adopted by the Municipality;
 - (j) the applicable structure plans;
 - (k) the applicable policies of the Municipality that guide decision-making;
 - (l) the provincial spatial development framework;
 - (m) where applicable, the regional spatial development framework;
 - (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (o) the matters referred to in section 42 of the Act;
 - (p) the relevant provisions of the land use scheme.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan -
- (a) is consistent with the development rules of the zoning;

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- (b) is consistent with the development rules of the overlay zone;
 - (c) complies with the conditions of approval; and (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
- (a) the Municipality must not approve a building plan if the site development plan has not been approved; and
 - (b) the Municipality must not approve a building plan that is inconsistent with the approved site development plan.
- (4) The written assessment of a professional planner contemplated in subsection (1)(g) must include such registered planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

43 Conditions of approval

- (1) When the Municipal Planning Tribunal or Authorised Official approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;
 - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;

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- (j) requirements aimed at addressing climate change;
 - (k) the establishment of an owners' association in respect of the approval of a subdivision;
 - (l) the provision of land needed by other organs of state;
 - (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality or the registration of public places in the name of the municipality, and the transfer of ownership to the municipality of land needed for other public purposes;
 - (n) the implementation of a subdivision in phases;
 - (o) requirements of other organs of state.
 - (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
 - (q) agreements to be entered into in respect of certain conditions;
 - (r) the phasing of a development, including lapsing clauses relating to such phasing;
 - (s) the delimitation of development parameters or land uses that are set for a particular zoning;
 - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
 - (u) the setting of dates by which particular conditions must be met;
 - (v) the circumstances under which certain land uses will lapse;
 - (w) requirements relating to engineering services as contemplated in Chapter 7;
 - (x) requirements for an occasional use that must specifically include –
 - (i) parking and the number of ablution facilities required;
 - (ii) maximum duration or occurrence of the occasional use; and
 - (iii) parameters relating to a consent use in terms of the land use scheme;
- (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 therefor arising from the approval, as determined by the Municipality in accordance with norms and standards, as may be prescribed.
- (5) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;

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- (b) conservation purposes;
 - (c) energy conservation;
 - (d) climate change; or
 - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal or Authorised Official must not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.
- (8) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (10) If the Municipal Planning Tribunal or Authorised Official approves a land development or use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) The 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.

Part G: Administrative Arrangements**44 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;

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- (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 A: Categories of Applications

45 Categories of land use and land development applications

- (1) The categories of land development and land use management for the Municipality, as contemplated in section 35(2& 3) of the Act, are as follows -
- (2) **Category 1:** Land use and land development applications which shall be referred to the Municipal Planning Tribunal:
 - (a) All land use and land development applications on which conclusive negative comments or objections have been received;
 - (b) All land use and land development applications which in the opinion of the Municipality, must be referred to the Municipal Planning Tribunal;
 - (c) All land use and land development applications deviating from the Spatial Development Framework;
 - (d) All land use and land development applications that are recommended for refusal by the Directorate responsible for Spatial Planning and Land Use Management;

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- (e) All land use and land development applications which are affected by any other Bylaw which is published for purposes of dealing with specific circumstances and/or in a geographical area directing a land development application to be considered by the Municipal Planning Tribunal;
 - (f) All the applications for the establishment of a township and extension of the boundaries in terms of this By-law;
 - (g) The amendment or cancellation in whole or in part of a general plan of a township;
 - (h) Approval of a Service Agreement, a memorandum of understanding, an Agreement as contemplated in Section 27 of the Act and an Integrated Authorisation, as contemplated in Section 28 of the Act;
 - (i) All application for the permanent closure of a public place as contemplated in this By-law and other relevant legislation and subject to compliance with any other legislation specifically Sections 63,66,67 & 68 of the Local Government Ordinance;
 - (j) Any consent or approval as contemplated in Section 45(6) of the Act; and
 - (k) The removal or amendment or suspension of any restrictive title condition or servitude registered in the title deed of the relevant application property or properties which amendment, removal, or suspension is necessitated by any of the above application and to be considered simultaneously with any of the above application and which is capable of being removed, suspended or altered by the Municipality.
- (3) **Category 2:** Land use and land development applications that are dealt with by the Land Development Officer in terms Section 35(2) of the Act.
- (a) The subdivision of any land in a proclaimed township where such subdivision is expressly provided for in a Land Use Scheme;
 - (b) The consolidation of proclaimed erven;
 - (c) All applications with regard to the amendment of an existing scheme by way of the rezoning of land;
 - (d) Special Consent and Written Consent applications as in terms of the scheme applicable;
 - (e) A temporary use application;
 - (f) Change of ownership in terms of this By-law;
 - (g) The Division of a township in terms of this By-law;
 - (h) Amendment of the layout of a Township; and
 - (i) The removal or amendment or suspension of any restrictive title condition or servitude registered in the title deed of the relevant application property or properties, which amendment, removal, or suspension is necessitated by any of the above application and to be considered simultaneously with any of the above application and
- (3) The division of functions as contemplated in section 35(3) of the Act between a Authorised Official and a Municipal Planning Tribunal is set out in section 28.

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46 Application for land development required

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality in terms of subsection (3).
- (2) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.

Part B: Establishment of Township or Extension of Boundaries of Township**47 Application for establishment of township**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
 - (a) the conditions of approval in a statement of conditions in the form approved by the Council;
 - (b) the statement of conditions which conditions shall be known as conditions of establishment for the township; and
 - (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-law.
- (3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, contain the following:
 - (a) Specify those conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;
 - (b) the conditions of establishment relating to the township that must remain applicable to the township;
 - (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
 - (d) third party conditions as required by the Registrar of Deeds;
 - (e) the conditions to be incorporated into the land use scheme by means of an amendment scheme.
 - (f) if a non-profit company is to be established for purposes of maintaining or transfer of erven within the township to them the conditions that must apply;
 - (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.

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- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (4) 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 80.
- (5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality must not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality in accordance with section 80.
- (6) Without detracting from the provisions of subsection (5) and (6) the municipality may require the applicant or the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.
- (7) Any person who wishes to apply for a demarcation of sites must do so in the manner prescribed in this Section, however processes will exclude Sections 48,50,51,52 and 47(2)(3)(4). For the purposes of a demarcation of sites application done according to this section, the term "township establishment" must be replaced with "demarcation of sites".

48 Division or phasing of township

- (1) An applicant who has been notified in terms of section 119 that his or her application has been approved may, within a period of 12 months from the date of the notice, or such further period as the Municipality may allow, apply to the Municipality for the division of the township into two or more separate townships.
- (2) On receipt of an application in terms of subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor General.
- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the application in writing thereof and of any conditions imposed.
- (4) The applicant must, within a period of 3 months from the date of the notice contemplated in subsection (3), submit to the Municipality such plans, diagrams or other documents and furnish such information

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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065
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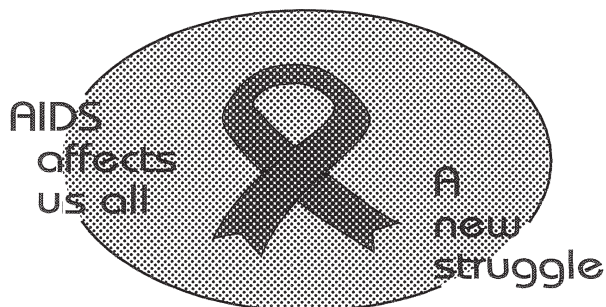
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as may be required in respect of each separate township failing to which the application for subdivision shall lapse

- (5) On receipt of the documents or information contemplated in subsection (4) the Municipality 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.

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

- (1) An applicant who has been notified in terms of section 119 that his or her application has been approved, must, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application lapses.
- (2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 45(2) and (3) of the conditions of establishment together with a stamped and approved layout plan.
- (3) The Municipality may for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.
- (4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General must notify the Municipality that he or she is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the application lapses.
- (5) After an applicant has been notified that his or her application has been approved, the municipality may:
- (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General;
 - (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;

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

- (6) An applicant shall apply in writing for an extension of time
- (a) provided that such application shall be accompanied by such documents as prescribed in Schedule 14. 41
 - (b) The Municipality in granting an allowance for extension of time may impose any conditions they deem expedient.

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50 Compliance with pre-proclamation conditions

- (1) The applicant must provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the schedule to the approval of a township establishment application have been complied with.
- (2) The Municipality must certify that all the conditions that have to be complied with by the applicant or owner as contemplated in section 45(2) and (3) have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).
- (4) The municipality may agree to an extension of time as contemplated in subsection (1), after receiving a written application from the applicant for an extension of time: Provided that such application provides motivation for the extension of time.

51 Opening of Township Register

- (1) The applicant must lodge with the Registrar of Deeds the plans and diagrams contemplated in section 46 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) For purposes of subsection (1) the Registrar must not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 45(3).
- (3) The plans, diagrams and title deeds contemplated in subsection (1) must be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.
- (4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar must notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar must not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 49.

52 Proclamation of approved township.

After the provisions of sections 45, 46, 47 and 48 have been complied with and the Municipality is satisfied that the township is in its area of jurisdiction, the Municipality or the applicant, if authorised in writing by the Municipality, must, by notice in the *Provincial Gazette*, declare the township an approved

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township and it must, in an annexure to such notice, set out the conditions on which the township is declared an approved township.

Part C: Rezoning of land**53 Application for amendment of a land use scheme by rezoning of land**

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) A rezoning approval lapses after a period of five years, or a shorter period as the Municipality may determine, from the date of approval or the date that the approval comes into operation if, within that five-year period or shorter period—
 - (a) the conditions of approval have not been met;
 - (b) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments;
 - (c) the zoning is not utilised in accordance with the approval thereof; or (d) the following requirements are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (3) The Municipality may grant one extension to the period contemplated in subsection (2) and the granting of an extension may not be unreasonable withheld, which period together with any extension that the Municipality grants, may not exceed 10 years.
- (4) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies, or where no zoning existed prior to the approval of the rezoning, the Municipality must determine a zoning as contemplated in section 165

Part D: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land**54 Requirements for amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land**

- (1) The Municipality may, of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) In addition to the procedures set out in Chapter 6, the owner must—

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- (a) submit the original title deed to the Municipality or a certified copy thereof; and
 - (b) submit the bondholder's consent to the application, where applicable.
- (4) The Municipality must cause a notice of its intention to consider an application under subsection (1) to be served on—
 - (a) all organs of state that may have an interest in the title deed restriction;
 - (b) every holder of a bond encumbering the land;
 - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
 - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
 - (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
 - (d) the social benefit of the restrictive condition remaining in place in its existing form;
 - (e) the social benefit of the removal or amendment of the restrictive condition; and
 - (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

55 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 51(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

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51(1), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

Part E: Amendment or Cancellation in Whole or in Part of a General Plan of a Township**56 Notification of Surveyor General**

- (1) After the Municipal Planning Tribunal has approved or refused an application for the alteration, amendment or cancellation of a general plan, the municipality must forthwith notify the Surveyor General in writing of the decision and, where the application has been approved, state any conditions imposed.
- (2) An applicant who has been notified that his or her application has been approved must, within a period of 12 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he or she fails to do so the application lapses.
- (3) Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subsection (2), to comply with any requirement the Surveyor General may lawfully lay down, the Surveyor-General must notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, the municipality must notify the applicant, and thereupon the application lapses.
- (4) After the Surveyor-General has, in terms of section 30(2) of the Land Survey Act, 1927, altered or amended the general plan or has totally or partially cancelled it, he or she must notify the municipality.
- (5) On receipt of the notice contemplated in subsection (4) the municipality must publish a notice in the *Provincial Gazette* declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality must, in a schedule to the latter notice, set out the conditions imposed or the amendment or deletion of any condition, where applicable.
- (6) The municipality must provide the Registrar of Deeds with a copy of the notice in the *Provincial Gazette* and schedule thereto contemplated in subsection (5).

57 Effect of amendment or cancellation of general plan

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

the township or part thereof ceases to exist as a township; and

- (b) the ownership of any public place or street re-vests in the township owner.

Part F: Subdivision and Consolidation**58 Application for subdivision**

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 60

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- (2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.
- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, if the erf concerned is smaller than the minimum permitted erf size or exceeds permissible density.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the Municipality's decision to approve the subdivision;
 - (b) the conditions of approval contemplated in subsection (3) and section 41; and
 - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of five years or the shorter period as the Municipality may determine, from the date of approval of the subdivision or the date that the approval comes into operation, comply with the following requirements:
 - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (4);
 - (b) completion of the installation of engineering services in accordance with the conditions contemplated in subsection (3) or other applicable legislation;
 - (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 52 for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
 - (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (7) A confirmation from the Municipality in terms of subsection (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.
- (8) An owner of:
 - (a) an erf in a proclaimed township who wishes to subdivide that erf;

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- (b) two or more erven in a proclaimed township who wishes to consolidate those erven and where such belong to the same owner and the application properties are located within the same township;
- (c) Subject to the provision of the Subdivision of Agricultural Land Act, registered farm portion, land or agricultural holding within the urban edge which are excluded from the Subdivision of Agricultural Land Act, who wishes to subdivide that farm portion, land or agricultural holding not less than four hectare; provided that such subdivision shall not constitute a township in the opinion of the Municipality;
- (d) Subject to the provision of the Division of Agricultural Land Ordinance, registered farm portion, land or agricultural holding, who wishes to subdivide that farm portion, land or agricultural holding not less than one hectare; provided that such subdivision shall not constitute a township in the opinion of the Municipality; may apply in writing to the Municipality as prescribed in Schedule 11 and at the same time lodge a plan setting out the proposed subdivision or co

59 Confirmation of subdivision

- (1) Upon compliance with section 55(6), the subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof under section 55(6), the zonings indicated on the approved subdivision plan as confirmed cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 55(6) for the subdivision or part thereof.
- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in section 55(6) or the Municipality approved the construction prior to the subdivision being confirmed.

60 Lapsing of subdivision and extension of validity periods

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with subsection 55(6).
- (2) An applicant may apply for an extension of the period to comply with subsection 55(6) or must comply with subsection (4).
- (3) An extension contemplated in subsection (2) may not be unreasonably withheld by the Municipality and may be granted for a period not exceeding five years and if after the expiry of the extended period the requirements of subsection 55(6) has not been complied with, the subdivision may lapse and subsection (6) applies.

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- (4) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 10 years.
- (5) If only a portion of the general plan, contemplated in subsection 55(6) (a) complies with subsection 67(6)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses under subsection (1) — (a) the Municipality must—
 - (i) amend the zoning map and, where applicable, the register accordingly; and
 - (ii) notify the Surveyor-General accordingly; and
- (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

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61 Amendment or cancellation of subdivision plan

(a) Any person who wishes to have the general plan of an approved township altered, amended or totally or partially cancelled by the Surveyor-General in terms of Section 37 of the Land Survey Act, may, subject to the provisions of the Act and in such form as the Municipality may determine, apply in writing to the Municipality for its approval, and the applicant shall comply with such requirements and pay such fees as may be prescribed;

(b) An application as contemplated in Section 58(a) shall be accompanied by such plans, diagrams or other documents as the Municipality may determine and the applicant shall furnish such further information as the Municipality may require.

(c) After the provisions of Sections 58(a) and (b) have been complied with, the applicant shall give notice of the application by publishing once a week for two consecutive weeks a notice in the Provincial Gazette and two local newspapers in two official languages most commonly spoken in the area of jurisdiction.

(d) Any person may, within a period of 28 days from the date of the first publication of the notice as contemplated in Section 58(c), lodge an objection with or make representations in writing to the Municipality in respect of the application.

(e) The Municipality shall forward a copy of every representation or objection lodged, all representations made and the comments and recommendation of the Municipality to the applicant, and the applicant shall, within a period of 28 days from the date of receipt of the copy, forward his reply thereto to the Municipality. After:

(i) the period as contemplated in Section 58(d), has expired

(ii) the provisions of Section 58(e) have been complied with,

the Municipality shall submit the application, together with every objection lodged, all representations made, the comments and recommendation of the Municipality, the applicant's comments and recommendation and the reply contemplated in Section 58(e) to the Municipal Planning Tribunal, for consideration and decision.

(f) After the Municipal Planning Tribunal has approved or refused an application for the Alteration, amendment or cancellation of a general plan, the municipality must forthwith notify the Surveyor-General in writing of the decision and, where the application has been approved, state any conditions imposed.

(g) An applicant who has been notified that his/her application has been approved must, within a period of 12 months from the date of the notice, lodge with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if he/she fails to do so the approval lapses.

(h) After the applicant has lodged the plans, diagrams or other documents as contemplated in Section 58 (g), and fails to comply with any requirement of the Surveyor-General may lawfully prescribe within a reasonable time as may be determined by the Municipality, the Surveyor-General shall notify the Municipality that he/she is satisfied, after having heard submissions by the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the approval will lapse.

(i) After the Surveyor-General has altered or amended the general plan or has totally or partially cancelled it, he/she must notify the municipality.

(j) The provisions of this Section shall not apply to an alteration or amendment of a general plan of an approved township which is necessary or to indicate the closing of any public place or street or any portion thereof.

(k) Effect of alteration, amendment or cancellation of general plan in the event of the total or partial cancellation of the general plan of a township: (i) The township or part thereof shall cease to exist as a township; and (ii) The ownership of any public place or street shall revert to the property owner.

62 Lodging of Layout Plan (subdivision and consolidation) for approval with the SurveyorGeneral

(a) An applicant who has been notified that his/her application is approved shall, within a period of 12

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months from the date of such notice, lodge for approval with the Surveyor General such plans, diagrams or other documents as the Surveyor General may require. The applicant may apply for the extension of time twice within the three year period. If the applicant fails to do so, such approval will lapse.

(b) The Municipality may for purposes of lodging the documents as contemplated in Section 59(a) determine street names and numbers on the layout plan.

(c) After the applicant has lodged the plans, diagrams or other documents contemplated in Section 59 (a), and fails to comply with any requirement of the Surveyor-General may lawfully prescribe within a reasonable time as may be determined by the Municipality, the Surveyor-General shall notify the Municipality that he/she is satisfied, after having heard submissions by the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the approval will lapse.

63 Exemption of subdivisions and consolidations

(1) The subdivision or consolidation of land in the following circumstances does not require the approval of the Municipality:

- (a) if the subdivision or consolidation arises from the implementation of a court ruling;
- (b) if the subdivision or consolidation arises from an expropriation;
- (c) 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;
- (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.

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- (2) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter.
- (3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 55 to 59.

64 Services arising from subdivision

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

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

65 Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 60

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- (2) A copy of the approval must accompany the diagram which is submitted to the Surveyor-General's office.
- (3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the decision to approve the subdivision;
 - (b) the conditions of approval contemplated in section 41; and
 - (c) the approved consolidation plan.
- (4) If the Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.

66 Lapsing of consolidation and extension of validity periods

- (1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within five years of the approval, the consolidation approval lapses, unless the consolidation of land units form part of a land use application which has been approved for a longer period.
- (2) An applicant may apply for an extension of the period to comply with subsection (1) and the granting of an extension may not be unreasonably withheld.
- (3) An extension contemplated in subsection (2) may be granted for a further period not exceeding five years and if after the expiry of the extended period the requirements of subsection (1) have not been complied with, the consolidation lapses and subsection (5) applies.
- (4) If the Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 10 years.
- (5) If an approval of a consolidation lapses under subsection (1) the Municipality must—
 - (a) amend the zoning map and, where applicable, the register accordingly; and
 - (b) notify the Surveyor-General accordingly; and
 - (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

Part G: Permanent Closure of Public Place**67 Closure of public place**

- (1) The Municipality may on own initiative or on application close a public place or any portion thereof in accordance with the procedures in Chapter 6.

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- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered as a result of the wrong doing on the part of the Municipality as a result of the closure of a public place, an employee duly authorised by the Municipality must—
- (a) require proof of negligence on the part of the Municipality which resulted in the loss or damage; and
 - (b) before any claim is paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
- (4) The Municipality may pay a claim if—
- (a) the circumstances of loss or damage reveal that the Municipality acted negligently;
 - (b) the circumstances of the loss are not inconsistent with this By-law;
 - (c) the claimant has proved his or her loss or damage;
 - (d) the claimant has provided the proof of a fair and reasonable quantum;
 - (e) no claim has been made and paid by personal insurance covering the same loss; and
 - (f) any other relevant additional information as requested by the authorised employee has been received.
- (5) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (6) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—
- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
 - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
 - (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
 - (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or

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- (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

Part H: Consent Use**68 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 41.
- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 41
- (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 five years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that five year period or shorter period -
 - (a) the consent use is not utilised in accordance with the approval thereof; or
 - (b) the following requirements are not met:
 - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
 - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (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 10 years.

Part I: Traditional Use

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69 Application for traditional use

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

Part J: Temporary Use**70 Application for temporary use**

- (1) Temporary use applications are applications that do not result in an amendment of the land use scheme and are:
 - (a) prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
 - (b) any other application for temporary use submitted in accordance with the By-laws of the Municipality.
- (2) An applicant may apply to the Municipality-
 - (a) for a departure from the development parameters of a zoning; or
 - (b) to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone for a period not exceeding 5 years or such shorter period as may be determined by the Municipality, -in the manner provided for in Chapter 6.
- (3) A departure contemplated in subsection (1)(a) lapses after a period of five years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that five year period or shorter period, the departure is not utilised in accordance with the approval thereof.
- (4) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 10 years and the granting of the extension may not be unreasonably withheld by the Municipality.
- (5) The Municipality may approve a departure contemplated in subsection (1)(b) for a period shorter than 5 years, provided that, the period may not, together with any extension approved in accordance with section 54, exceed five years;
- (6) A temporary departure contemplated in subsection (1) (b) 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 (1)(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 (1)(b).

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71 Excision of land from Agricultural Holding Register

- (a) If required to do so the Applicant shall be responsible for the excision of land from an Agricultural Holding.
- (b) 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 47 of this By-law.
- (c) 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 48 of this By-law.
- (d) The Municipality shall issue a certificate certifying that the pre-proclamation conditions have been complied with in terms of section 47(2) 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.
- (e) 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.
- (f) 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 in this By-law; provided that an application for excision shall not be regarded as a land development application for purposes of this By-law.
- (g) The Municipality shall consider the permission application submitted in terms of subsection (f) 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.
- (h) The applicant shall upon receipt from the Municipality of a recommendation for granting the application contemplated in subsection (g) 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.
- (i) The applicant shall upon receipt of a new farm description as contemplated in subsection (h) from the Surveyor-General submit, proof to the satisfaction of the Municipality of:
- (i) the new farm description;
 - (ii) a draft surveyed diagram; and
- confirm that he/she wishes to proceed with the excision, quoting the new farm portion number contemplated in subsection (h).
- (j) The Municipality shall consider the information provided and may grant the permission for the excision application contemplated in subsections (f) and (i) 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.
- (k) The Municipality shall deliver a notice to the applicant of its decision in terms of subsection (j) and the applicant shall deliver to the Surveyor-General and the Registrar of Deeds a copy of the excision certificate

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(l) An excision application granted in term of subsection (j) 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.

Part K: General Matters**72 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 41 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.

73 Restriction of transfer and registration

- (1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any land development application, the owner must, at his or her cost and to the satisfaction of the Municipality, survey and register all servitudes required to protect the engineering services provided, constructed and installed as contemplated in Chapter 7.
- (2) No Erf/Erven and/or units in a land development area, may be alienated or transferred into the name of a purchaser nor must a Certificate of Registered Title be registered in the name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:
 - (a) All engineering services have been designed and constructed to the satisfaction of the Municipality, including guarantees for services having been provided to the satisfaction of the Municipality as may be required; and
 - (b) all engineering services and development charges have been paid or an agreement has been entered into to pay the development charges in monthly instalments; and
 - (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
 - (d) all conditions of the approval of the land development application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance thereof within 3 months of having certified to the Registrar in terms of this section that registration may take place; and
 - (e) that the Municipality is in a position to consider a final building plan; and
 - (f) that all the properties have either been transferred or must be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

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74 First transfer

(1) Where an owner of land to which a land development application relates is required to transfer land to:

- (a) the Municipality; or
- (b) an owners' association, by virtue of a condition set out in the conditions to the approval of a land development application contemplated in section 41, the land must be so transferred at the expense of the applicant, within a period of 6 months from the date of the land use rights coming into operation in terms of section 41, 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.

75 Certification by Municipality

- (1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.
- (2) The Municipality must not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
 - (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
 - (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
 - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
 - (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred to the owners' association as contemplated in Schedule 5; and
 - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

76 National and provincial interest

- (1) In terms of section 41 of the Act an applicant must refer any application which affects national or provincial interest respectively to the Minister and the Member of the Executive Council for comments, which comments are to be provided within 21 days as prescribed in section 52(5) of the Act.
- (2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national or provincial interest as defined in section 52 of the Act, is submitted, such application must

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be referred to the Minister or the Member of the Executive Council respectively and the provisions of sections 52(5) to (7) of the Act, apply with the necessary changes.

- (3) The Municipal Planning Tribunal or Authorised Official as the case may be, as contemplated in this By-law and the Act, may direct that an application before it, be referred to the Minister and the Member of the Executive Council, if such an application in their opinion affects national or provincial interest and the provisions of sections 415) to (7) apply with the necessary changes.
- (4) Subsections (1) to (3) must be read with section 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance.

CHAPTER 6**GENERAL APPLICATION PROCEDURES****77 Applicability of Chapter**

This Chapter applies to all applications submitted to the Municipality in terms of Chapter 5 of this By-law

78 Procedures for lodging/submitting an application

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

79 Information required

- (1) An application must be accompanied by the following documents:
 - (a) an approved application form, completed and signed by the applicant;
 - (b) if the applicant is not the owner of the land, a power of attorney signed by the owner authorising the applicant to administrate the application on behalf of the owner and if the owner is married in community of property a power of attorney signed by both parties; if the owner of the land is a company, closed corporation, trust, body corporate or owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or owners' association;
 - (c) the relevant bondholder's consent;
 - (d) a written motivation for the application based on the criteria for consideration of the application;
 - (e) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;

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- (f) a locality plan and site development plan, or a plan showing the proposal in its cadastral context;
 - (g) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following:
 - (h) the location of the proposed land units;
 - (ii) all existing structures on the property and abutting properties;
 - (iii) the public places and the land needed for public purposes;
 - (iv) the existing access points;
 - (v) all servitudes;
 - (vi) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
 - (vii) the street furniture;
 - (viii) the light, electrical and telephone poles;
 - (ix) the electrical transformers and mini substations;
 - (x) the storm water channels and catch pits;
 - (xi) the sewerage lines and connection points;
 - (xi) any significant natural features; and
 - (xiii) the scale and all distances and areas;
 - (i) any other plans, diagrams, documents or information that the Municipality may require;
 - (j) proof of payment of application fees;
 - (k) proof that there is an existing connection to the municipal sewerage system;
 - (l) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds; and
 - (m) if required by the Municipality, a certificate of a conveyancer indicating that no restrictive condition in respect of the application is contained in such title deeds.; and
 - (n) in the case of a traditional use application referred to in section 43(2)(j), community approval granted as a result of a community participation process conducted in terms of Customary Law.
- (2) The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

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80 Application fees

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

81 Grounds for refusing to accept application

The Municipality may refuse to accept an application if—

- (a) the municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 76 of this By-law

82 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 30 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 30 days of receipt of the application.

83 Additional information

- (1) The applicant must provide the Municipality with the information or documentation required for the completion of the application within 30 days of the request therefor 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).
- (3) The Municipality must notify the applicant in writing of the reasons for 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.

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- (5) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must make a new application and pay the applicable application fees.

84 Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete within 21 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) If further information is required, section 80 of this Bylaw applies to the further submission of information that may be required.

85 Amendments of a land development application prior to approval.

(a) An applicant may during the administration phase as contemplated in Regulation 16(3) and (6) to the Act amend his/her land development application and may at the same time pay the Municipality such fees as may be levied.

(i) at the applicant's own initiative;

(ii) as a result of objections and comments made during the public notification process; or

(iii) at the request of the Municipality.

(b) If an amendment to an application is so material in the opinion of the Municipality as to constitute a new application it shall not grant consent for an amendment; or

(c) if in the opinion of the Municipality any body or person's rights may be negatively affected by such amendment then 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 recirculated to municipal departments, organs of state and service providers;

(d) the amendment of the application is in the opinion of the Municipality material, the Municipality may determine that the applicant give notices to any body or person who may have an interest in the matter

86 Withdrawal of application

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

87 Notice of applications in terms of integrated procedures

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
- (a) publish a notice of the application to be given in terms of section 84

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- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
 - (a) cause public notice of the application to be given in terms of section 84(1); and
- (4) The Municipality may require the applicant to give the required notice of an application in the media.
- (5) Where an applicant has published a notice in the media at the request of a Municipality, the applicant must provide proof that the notice has been published as required.

88 Notification of application in media

- (1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:
 - (a) an application for a rezoning or a rezoning on the initiative of the Municipality;
 - (b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (d) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (e) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (f) the closure of a public place;
 - (g) an application in respect of a restrictive condition;
 - (h) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Notice of the application in the media must be given by—
 - (a) publish a notice in two Local Newspapers that are circulated in the municipal area in two official languages most commonly spoken in the area;

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- (b) publish a notice in the Provincial Gazette in two official languages most commonly spoken within the municipal area, once a week.

89 Serving of notices

- (1) Notice of an application contemplated in section 84(1) and subsection (2) must be served—
 - (a) in accordance with section 115 of the Municipal Systems Act;
 - (b) in at least two of the official languages of the Province most spoken in the area concerned;
 - (c) on each owner of an abutting property, including a property separated from the property concerned by a road;
 - (d) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) When the Municipality intends to consider any of the following, it must at least cause a notice to be served as contemplated in section 84 of its intention:
 - (a) a determination of a zoning;
 - (b) a land development application for subdivision or the amendment or cancellation of a subdivision contemplated in sections 55 and 56, respectively;
 - (c) a land development application for consolidation contemplated in section 62; or (d) the imposition, amendment or waiver of a condition.
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law.
- (4) The Municipality may require notice of its intention to consider all other applications not listed in subsection (2) to be given in terms of section 87.
- (5) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (6) Where an applicant has served a notice at the request of a Municipality, the applicant must provide proof that the notice has been served as required.
- (7) The date of notification in respect of a notice served in terms of this section—
 - (a) when it has been served by certified or registered post is the date of registration of the notice; and
 - (b) when it has been delivered to that person personally is the date of delivery to that person;

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- (c) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years is the date on which it has been left with that person; or
- (d) when it has been posted in a conspicuous place on the property or premises to which it relates is the date that it is posted in that place.

90 Content of notice

When notice of an application must be given in terms of section 84 or served in terms of section 85, the notice must contain the following information:

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

91 Additional methods of public notice

- (1) If the Municipality considers notice in accordance with sections 84 or 85 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application:

- (a) to display a notice contemplated in section 84 of a size of at least 60 cm by 42 cm (A2 size) on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
 - (i) the notice must be displayed for a minimum of 21 days during the period that the public may comment on the application;

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- (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
 - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (bb) at least two photos of the notice, one from nearby and one from across the street.
- (2) Where an applicant has given additional public notice of an application on behalf of a Municipality, the applicant must provide proof that the additional public notice has been given as required.
- (3) Where the Municipality requires an applicant to display a public notice as contemplated in paragraph (a), the Municipality must conduct an on-site inspection to verify whether the applicant has complied with the requirement to display that public notice.

92 Requirements for petitions

- (1) All petitions must, in addition to the provisions of section 89(4), clearly state—
 - (a) the contact details of the authorised representative of the signatories of the petition;
 - (b) the full name and physical address of each signatory; and (c) the objection and reasons for the objection.
- (2) Notice to the person contemplated in subsection (1) (a), constitutes notice to all the signatories to the petition.

93 Requirements for objections or comments

- (1) A person may, in response to a notice received in terms of sections 84, 85 or 87, object or comment in accordance with this section. Of the By-law
- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the municipal employee mentioned in the notice within the time period stated in the notice and in the manner set out in this section.
- (3) The objection must state the following:
 - (a) the name of the person or body concerned;
 - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
 - (c) the interest of the body or person in the application;
 - (d) the reason for the objection, comment or representation.

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- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—
- (a) indicate the facts and circumstances which explains the objection, comment or representation;
 - (b) demonstrate the undesirable effect which the application will have on the area;
 - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must not accept any objection, comment or representation received after the closing date.
- (6) Copies of all objections or comments lodged with a Municipality must be provided to the applicant within 21 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (7) The applicant may, within a period of 30 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.
- (8) The applicant may before the expiry of the 30 day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (9) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (10) If as a result of the objections or comments lodged with a Municipality, additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (11) If the applicant does not provide the information within the timeframes contemplated in subsection (5), section 80(2) to (5) with the necessary changes, applies.
- (12) where in terms of any provisions of this By-law, a Municipal Planning Tribunal, read with Section 40 of the Act, shall hear objections lodged by an interested person, it shall determine a day, time and place for the hearing
- (13) 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
- (14) at a hearing:
- (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.

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- (d) If the Municipal Planning Tribunal is satisfied that all points in limine procedural matters have been complied with, it shall hear the objections
- (e) The Municipal Planning Tribunal, having dealt with all preliminary issues and points in limine which may have been raised in terms of subsection (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 an interested person, may set out the grounds of his/her objection and in accordance with section 45(3) of the Act shall have the burden of establishing his/her status as an interested person.
- (g) Every objector, interested person or body contemplated in subsection (f) and the applicant, including the Municipality or any of its Departments, may state his/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 subsection (f) may reply to any matter raised by any other objector, interested person or body in terms of subsection (g).
- (i) any person referred to in subsection (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,
- (j) Notwithstanding the provisions of subsection (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 subsection (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 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.
- (15) 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
- (16) Where the objectors or interested persons are to be notified) and such objections were submitted:
- (a) under cover of one letter or document by more than one person: and/or
 - (b) by more than one person through a petition, signed by multiple signatories; and/or
 - (c) multiple letters that are substantially the same;

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

(17) 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

94 Further public notice

- (1) The Municipality may require that new notice of an application be given if more than 18 months has elapsed since the first public notice of the application and if the application has not been considered by the Municipality.
- (2) The Municipality may, at any stage during the processing of the application—
 - (a) require notice of an application to be republished or to be served again; and
 - (b) 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.

95 Cost of notice

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

96 Applicant's right to reply to objections

- (1) Copies of all objections or comments lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 30 days from the date of the provision of the objections or 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 30 day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections or comments lodged with a Municipality, additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the information within the timeframes contemplated in subsection (5), section 80(2) to (5) with the necessary changes, applies.

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97 Written assessment of application

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with this section 114 and recommend to the decision-maker whether the application must be approved or refused.
- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

98 Decision-making period

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

99 Failure to act within time period

If no decision is made by the Municipal Planning Tribunal within the period required in terms of the Act, it is considered undue delay for purposes of these By-Law(s) 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 municipal council and mayor.

100 Powers to conduct routine inspections

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in section 114.
- (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).

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- (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.
- (6) the municipality must appoint a Land Use Inspector as well to ensure compliance with this by-law

101 Determination of application

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

- (a) approve, in whole or in part, or refuse any application 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 and provincial and national legislation;
- (d) conduct any necessary investigation;
- (e) give directions relevant to its functions to any person in the service of a Municipality or municipal entity;
- (f) decide any question concerning its own jurisdiction;
- (g) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law;

102 Notification of decision

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

103 Duties of agent of applicant

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

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104 Errors and omissions

- (1) The Municipality may at any time, with the written consent of the applicant or, if applicable, any party to the application, correct an error in the wording of its decision provided that the correction does not change its decision or results in an alteration, suspension or deletion of a condition of its approval.
- (2) The Municipality may, of its own accord or on application by an applicant or interested party, upon good cause being shown, condone an error in the procedure provided that such condonation does not have material adverse impact on or unreasonably prejudice any party.

105 Withdrawal of approval

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

106 Procedure to withdraw an approval

- (1) The Municipality may withdraw an approval granted—
 - (a) after consideration of the representations made in terms of section 102(2)(c); and
 - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 102(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the reasons for withdrawal of the approval and instruct the owner to cease the activity immediately.
- (3) The approval is withdrawn from date of notification of the owner.

107 Exemptions to facilitate expedited procedures

The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
 - (i) integrated application processes as contemplated in section 73 of this by-law
 - (ii) the provision of housing with the assistance of a state subsidy; or
 - (iii) incremental upgrading of existing settlements;

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- (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law

CHAPTER 7**ENGINEERING SERVICES AND DEVELOPMENT CHARGES****Part A: Provision and Installation of Engineering Services****108 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) The owner and/or developer is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved. The Municipality is responsible for the installation and provision of external engineering services, subject to the payment of development charges first being received, unless the engineering services agreement referred to in section 107 provides otherwise.

109 Installation of engineering services

- (1) The owner and/or 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. 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.
- (2) 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.
- (3) The Municipality must, where any private roads, private open spaces or any other private facilities or engineering services are created or to be constructed with the approval of any land development application set the standards for the width and or any other matter required to provide sufficient access and engineering services; including but not limited to:
- (a) roadways for purposes of sectional title schemes to be created;
 - (b) the purpose and time limit in which private roads, private engineering services and private facilities are to be completed;

110 Engineering services agreement

- (1) An applicant of a land development application and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.
- (2) The engineering services agreement must –

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- (a) classify the services as internal engineering services, external engineering services or private engineering services;
- (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services, whether private engineering services or not, and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
- (c) provide for the inspection and handing over of internal engineering services to the Municipality or the inspection of private internal engineering services;
- (d) determine that the risk and ownership in respect of such services must pass to the Municipality or the owners' association as the case may be, when the Municipality is satisfied that the services are installed to its standards;
- (e) require the applicant to take out adequate insurance cover in respect of such risks as are insurable for the duration of the land development; and
- (f) provide for the following responsibilities after the internal services have been handed over to the Municipality or the owners' association:
 - (i) when normal maintenance by the relevant authority or owners' association must commence;
 - (ii) the responsibility of the applicant for the rectification of defects in material and workmanship; and
 - (iii) the rights of the relevant authority or owners' association if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
- (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
- (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
- (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;

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- (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
 - (i) a water-borne sewerage pipe terminating at a sewer connection;
 - (ii) a water-pipe terminating at a water meter; and
 - (iii) an electricity house connection cable terminating on the relevant erf; and
 - (k) clearly identify the level and standard of the internal engineering services to be provided and installed and these include, amongst others –
 - (i) water reticulation;
 - (ii) sewerage reticulation, sewage treatment facilities and the means of disposal of effluent and other products of treatment;
 - (iii) roads and storm-water drainage;
 - (iv) electricity reticulation (high and low tension); (v) street lighting.
- (3) The engineering services agreement may –
- (a) require that performance guarantees be provided, or otherwise, with the provision that –
 - (i) the obligations of the parties with regard to such guarantees are clearly stated;
 - (ii) such guarantee is irrevocable during its period of validity; and
 - (iii) such guarantee is transferable by the person to whom such guarantee is expressed to be payable; and
 - (b) provide for the manner in which the parties are to finance their relative responsibilities in terms of the engineering services agreement and where appropriate, either party may undertake to provide bridging finance to the other party.
- (4) Where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading (if any) of services must be recorded in the engineering services agreement.

111 Abandonment or lapsing of land development application

Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 107 lapses and if the applicant 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.

112 Internal and external engineering services

For the purpose of this Chapter:

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- (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. (the section is just definitions that can be well placed on chapter 1 the deletion of this section will affect the numbering going forward)

Part B: Development Charges**113 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 where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If a land development application is approved by the Municipal Planning Tribunal 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, subject to section 111, pay the development charge to the Municipality.
- (3) An applicant or 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 108 of the Municipal System Act is furnished in respect of the land;
 - (d) a building plan is approved in respect of:

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- (i) the proposed alteration of or addition to an existing building on the land;
 - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
- (e) the land is used in a manner or for a purpose which, were it is not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

114 Offset of development charge

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services and, if applicable, the cost of internal infrastructure where additional capacity is required by the Municipality, against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.
- (2) The applicant or 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 developer shall bear the full cost of the excess"
- (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.

115 Payment of development charge in instalments

The Municipality may -

- (1) in the circumstances contemplated in subparagraph (2) or (3), allow payment of the development charge contemplated in section 120 in instalments over a period not exceeding three years;
- (2) in any case, allow payment of the development charge contemplated in section 120 to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (3) in exercising the power conferred by subsection (1) or (2), impose any condition, including a condition for the payment of interest.

116 Refund of development charge

No development charge paid to the Municipality in terms of section 120 or any portion thereof must be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 118 the

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Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

117 General matters relating to contribution charges

- (1) Notwithstanding 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 development charges paid to the Municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and must submit such report and statement to the MEC.

CHAPTER 8**APPEAL PROCEDURES****PART A: MANAGEMENT OF AN APPEAL AUTHORITY****118 Presiding officer of appeal authority**

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

119 Bias and disclosure of interest

- (1) No presiding officer or member of an appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the Authorised Official and he or she made the decision that is the subject of the appeal.
- (2) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in sub regulations (5) and (6) must recuse himself or herself from the appeal hearing.
- (3) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.
- (4) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.

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- (5) 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.

120 Registrar of appeal authority

- (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of sub regulation (1), a municipal council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority and if it so appoints or designates a person or an official, that person or official has delegated authority as contemplated in section 56 of the Act.
- (3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the municipal council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.
- (4) Any person appointed under subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

121 Powers and duties of registrar

- (1) The registrar is responsible for managing the administrative affairs of the appeal authority and, in addition to the powers and duties referred to in this Chapter, has all the powers to do what is necessary or convenient for the effective and efficient functioning of the appeal authority and to ensure accessibility and maintenance of the dignity of the appeal authority.
- (2) The duties of the registrar include –
 - (a) the determination of the sitting schedules of the appeal authority;
 - (b) assignment of appeals to the appeal authority;
 - (c) management of procedures to be adhered to in respect of case flow management and the finalisation of any matter before the appeal authority;
 - (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
 - (e) the establishment of a master registry file for each case which must record – (i) the reference number of each appeal;

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- (ii) the names of the parties;
 - (iii) all actions taken in connection with the preparation of the appeal for hearing;
 - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
 - (v) the date of the hearing of the appeal;
 - (vi) the decision of the appeal authority;
 - (vii) whether the decision was unanimous or by majority vote; and (viii) any other relevant information.
- (3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.
- (4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

PART B: APPEAL PROCESS**122 Commencing of appeal**

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

123 Notice of appeal

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

124 Notice to oppose an appeal

A notice to oppose an appeal must clearly indicate:

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

125 Screening of appeal must screen

- (1) When the appeal authority receives a Notice of Appeal, it such Notice to determine whether:
 - (a) It complies with the form approved by the Council;
 - (b) it is submitted within the required time limit; and,
 - (c) the appeal authority has jurisdiction over the appeal.
- (2) If a Notice of Appeal does not comply with the form approved by the Council, the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.
- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.
- (5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.
- (6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.
- (7) The provisions of this section apply, with the necessary changes, to a notice to oppose an appeal contemplated in section 132.

PART C: PARTIES TO AN APPEAL**126 Parties to appeal**

- (1) The parties to an appeal before an appeal authority are:
 - (a) the appellant who has lodged the appeal with the appeal authority in accordance with this by-law and section 51(1) of the Act;
 - (b) the applicant, if the applicant is not the appellant as contemplated sub-section (a);

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- (c) the Municipal Planning Tribunal that or the Authorised Official who made the decision;
- (d) any person who has been made a party to the proceeding by the appeal authority after a petition to the appeal authority under section 45(2) of the Act to be granted intervener status.

127 Intervention by interested and affected person

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested and affected person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or 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 regulation by-law have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.

PART D: JURISDICTION OF APPEAL AUTHORITY**128 Jurisdiction of appeal authority**

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

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

129 Written or oral appeal hearing by appeal authority

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

130 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.

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131 Opportunity to make submissions concerning evidence

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

PART E: HEARINGS OF APPEAL AUTHORITY**132 Notification of date, time and place of hearing**

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

133 Hearing date

A hearing will commence within 15 days after the completed Notice of Appeal has been delivered to the appeal authority, unless the parties and the presiding officer of the appeal authority consent to a later date.

134 Adjournment

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

135 Urgency and condonation

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

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

136 Withdrawal of appeal

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

PART F: ORAL HEARING PROCEDURE**137 Location of oral hearing**

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

138 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.

139 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.

140 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 served 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.

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141 Recording

Hearings of the appeal authority must be recorded in electronic and hard copy.

142 Oaths

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

143 Additional documentation

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

PART G: WRITTEN HEARING PROCEDURE**144 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.

145 Presentation of each party's case in written hearing

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given seven days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the 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.

146 Extension of time

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

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- (3) Following receipt of a request for an extension of time, the appeal authority will issue a decision in writing to all interested and affected parties.

147 Adjudication of written submissions

- (1) Following receipt of any written submissions from the parties, the registrar must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.
- (2) If no written submissions are received from the parties, the registrar will forward the existing appeal record to the appeal authority for adjudication.
- (3) Any submission received after the date it was due but before the appeal authority for adjudication has rendered its decision will be forwarded to the presiding officer of the appeal authority to decide whether or not to accept the late submission.
- (4) The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be given 21 days to provide a written submission in response.

PART H: DECISION OF APPEAL AUTHORITY**148 Further information or advice**

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

- (1) may in considering its decision request any further information from any party to the appeal hearing or conduct any investigation which it considers necessary;
- (2) 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 subsection (3);
- (3) must within 21 days after the last day of the hearing, issue its decision on the appeal together with the reasons therefor.

149 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 party and party costs.
- (2) The presiding officer must sign the decision of the appeal authority and any order made by it.

150 Notification of decision

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

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151 Directives to municipality

- (1) The appeal authority must, in its decision, give directives to the municipality concerned as to how such a decision must be implemented and
- (2) 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.
- (3) Where an appeal authority upholds a decision on a development application, the Municipal Manager must, within 21 days of the decision, take the necessary steps to inform the parties to the appeal.
- (4) Inform the parties of the decision.

PART I: GENERAL

152 Expenditure

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

153 application of this by-law and conflict of laws

- (1) This By-law applies to all land within the municipal area of the Municipality, including land owned by the state.
- (2) This By-law binds every owner and their successor-in-title and every occupier of land, including the state.
- (3) This By-law is subject to the relevant provisions of the Act and the provincial legislation.
- (4) Where:
 - (a) a 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) 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 spatial planning and land use management issue;

CHAPTER 9

COMPLIANCE AND ENFORCEMENT

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

154 Enforcement

The Municipality must comply and enforce compliance with—

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

155 Offences and penalties

(1) Any person who— --

- (a) contravenes or fails to comply with section 45(2)
- (b) fails to comply with a compliance notice issued in terms of section 155 of this By-law;
- (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
- (d) supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
- (e) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
- (f) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee;
- (g) upon registration of the first land unit arising from a township establishment or a subdivision, fails to transfer all common property, including private roads and private places origination from the subdivision, to the owners' association,

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

- (2) An owner who permits land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of the land use scheme of the Municipality, is guilty of an offence and liable upon conviction to a fine or imprisonment for a period not exceeding 20 years or to both a fine and such imprisonment.

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

156 Service of compliance notice

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 151 of this By-law.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—
 - (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or
 - (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).
- (4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.
- (5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised work.
- (6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the compliance notice.

157 Content of compliance notices

- (1) A compliance notice must—
 - (a) identify the person to whom it is addressed;
 - (b) describe the activity concerned and the land on which it is being carried out;
 - (c) state that the activity is illegal and inform the person of the particular offence contemplated in section 151 of this By-law

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

- (d) 1 which that person allegedly has committed or is committing through the carrying on of that activity;
 - (e) the steps that the person must take and the period within which those steps must be taken;
 - (f) anything which the person may not do, and the period during which the person may not do it;
 - (g) provide for an opportunity for a person to lodge representations contemplated in terms of section 154 with the contact person stated in the notice;
 - (h) issue a warning to the effect that—
 - (i) the person could be prosecuted for and convicted of an offence contemplated in section 151;
 - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
 - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
 - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
 - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;
- (2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 154.

158 Objections to compliance notice

- (1) Any person or owner who receives a compliance notice in terms of section 152 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) Subject to the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
 - (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
 - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

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159 Failure to comply with compliance notice

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

- (a) lay a criminal charge against the person;
- (b) apply to an applicable court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
- (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and then act in terms of section 152.

160 Urgent matters

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

161 Subsequent application for authorisation of activity

- (1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 152 to demolish the building work.
- (2) The applicant must, on demand within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality within 30 days.

162 Power of entry for enforcement purposes

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

163 Power and functions of authorised employee

- (1) In ascertaining compliance with this By-law as contemplated in section 150 of this By-law, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.

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- (2) An authorised employee must not have a direct or indirect personal or private interest in the matter to be investigated.

164 Warrant of entry for enforcement purposes

- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
- (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
 - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in subsection (1) may be issued by a judge of any applicable court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
- (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
 - (c) there are reasonable grounds for suspecting that a contravention contemplated in section 151 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
 - (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must specify which of the acts mentioned in section 159 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in section 159 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
 - (c) at a reasonable hour, except where the warrant was issued on grounds of urgency.

165 Regard to decency and order

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include a person's right to respect for and protection of his or her dignity.

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

166 Court order

Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 151, the Municipality may apply to an applicable court for an order compelling that person to— (a) demolish, remove or alter any building, structure or work illegally erected or constructed; (b) rehabilitate the land concerned;

- (d) compelling that person to cease with the unlawful activity; or (d) any other appropriate order.

CHAPTER 10**TRANSITIONAL PROVISIONS****167 Transitional provisions**

- (1) Any land development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, must be dealt with in terms of that legislation or if repealed in terms of its transitional arrangements or in the absence of any other provision, in terms of this By-law, read with section 2(2) and section 60 of the Act;
- (2) Where on the date of the coming into operation of an approved land use scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a land use scheme in terms of this By-law read with section 26 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of this subsection (3), be continued after that date read with the provisions of a Town Planning Scheme or land use scheme.
- (3) The right to continue using any land or building by virtue of the provisions of subsection (2) must:
 - (a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;
 - (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (2);
 - (c) where on the date of the coming into operation of an approved land use scheme -

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- (i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;
 - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved land use scheme, the building must for a period of 15 years from that date be deemed to comply with that provision.
- (d) where a period of 15 years has, in terms of subsection (3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard must, for the purposes of those subsections, be had to an approved scheme which comes into operation after that date.
- (e) within one year from the date of the coming into operation of an approved land use scheme -
- (i) the holder of a right contemplated in subsection (2) may notify the Municipality in writing that he is prepared to forfeit that right;
 - (ii) the owner of a building contemplated in subsection (3)(c) may notify the Municipality in writing that he is prepared to forfeit any right acquired by virtue of the provisions of that subsection;.
- (4) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (2)(a), such allegation is deemed to be correct until the contrary is proved.
- (5) Where any land use provisions are contained in any title deed, deed of grant or 99 year leasehold, which did not form part of a town planning scheme, such land use provisions apply as contemplated in subsection (2).
- (6) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the land use scheme or town planning scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it.

168 Determination of zoning

- (1) Notwithstanding the provisions of section 164(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
- (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;

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- (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
 - (c) any departure or consent use that may be required in conjunction with that zoning;
 - (d) in the case of land that was vacant immediately before the commencement of this Bylaw, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
 - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and give notice of its intention to do so in terms of section 86.
- (4) A land use that is unlawfully, whether before or after the commencement of this By-law, shall not be deemed to be the lawful land use.

CHAPTER 11**GENERAL PROVISIONS****166 Delegations**

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

167 Repeal of by-laws

This By-law repeals the Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2016

168 Fees payable

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

169 Short title and commencement

- (1) This By-law is called the Moretele Local Municipality Spatial Planning and Land Use Management By-Law 2024
- (2) This By-law comes into operation on the date of its publication in the *North West Provincial Gazette*.

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

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Moretele 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 be appointed to the Moretele Local Municipal Planning Tribunal for its first term of office.

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

Nominees must be persons registered with the professional bodies contemplated in section 29(1)(b) – (f) of this By-law, who have leadership qualities and who have 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 (not exceeding two pages);
- (d) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Nominations must be sent to:

The Municipal Manager
Moretele Local Municipality
Private Bag X367
Makapanstad
0404

For Attention: _____

For Enquiries: _____

Tel: 012 716 1301

* I, _____(full names of nominee), ID No (of nominee) _____, hereby declare that –

- (a) I am available to serve on the Moretele Local 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*);

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

- (b) there is no conflict of interest OR I have the following interests which may conflict with the Moretele Municipal Planning Tribunal which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Moretele Local Municipal Planning Tribunal and I authorise the Moretele 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 Moretele Local Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

CLOSING 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 MORETELE
LOCAL MUNICIPAL PLANNING TRIBUNAL

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

Moretele Local Municipality Spatial Planning and Land Use Management By-law, 2024

CLOSING DATE: ()

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

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

Nominees must be persons registered with the professional bodies contemplated in section 29(1)(b) – (f) of the Municipal By-law on Spatial Planning and Land Use Management, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

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

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

Nominations must be sent to:

The Municipal Manager
Moretele Local Municipality
Private Bag X1011
Mogwase
0314

For Attention: _____

For Enquiries: _____

Tel: 012 716 1301

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* I,(full names of nominee),
ID No (of nominee), hereby declare
that –

- (a) I am available to serve on the Moretele Local 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 Moretele Local Municipal Planning Tribunal and which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Moretele Local Municipal Planning Tribunal and I authorise the Moretele 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 Moretele Local Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

Signature of Nominee

Full Names of Nominee

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SCHEDULE 3
DISCLOSURE OF INTERESTS FORM

I, the undersigned,

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

do hereby declare that -

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

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

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

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

Signature of Nominee: _____

Full Names: _____

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

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COMMISSIONER OF OATHS

FULL NAMES: _____

DESIGNATION: _____

ADDRESS: _____

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

I, the undersigned,

Full names: _____

Identity Number: _____

Residing at: _____

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

General conduct

1. A member of the Municipal Planning Tribunal must at all times—
 - (a) act in accordance with the principles of accountability and transparency;
 - (b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
 - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has given written approval and has expressly authorised his or her participation.
2. A member of the Municipal Planning Tribunal must not—

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

Gifts

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

Undue influence

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

Signature of Nominee: _____

Full Names: _____

Date: _____

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**SCHEDULE 5
OWNERS' ASSOCIATIONS****General**

1. The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
2. An owners' association that comes into being by virtue of sub item 1 is a juristic person and must have a constitution.
3. The constitution of an owners' association must be approved by the Municipality before the transfer of the first land unit and must provide for—
 - (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (c) the regulation of at least one yearly meeting with its members;
 - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
 - (f) enforcement of conditions of approval or management plans;
 - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;

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- (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
- 4. The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
- 5. The constitution of an owners' association may be amended when necessary provided that an amendment that affects the Municipality or a provision referred to in sub item 3 is approved by the Municipality.
- 6. An owners' association which comes into being by virtue of sub item 1 -
 - (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
 - (b) is upon registration of the first land unit, automatically constituted.
- 7. The design guidelines contemplated in sub item 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
- 8. If an owners' association fails to meet any of its obligations contemplated in sub item 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in sub item 6(a), the amount of any expenditure incurred by it in respect of those actions.
- 9. The amount of any expenditure so recovered is, for the purposes of sub item 8, considered to be expenditure incurred by the owners' association.

Owners' association ceases to function

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

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SCHEDULE 6**APPLICATION REQUIREMENTS FOR TOWNSHIP ESTABLISHMENT**

An application for the establishment of a township and extension of the boundaries of a township must, in addition to the information required on section 45 of this Bylaw, be accompanied by the following:

1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.
2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
3. a written motivation/memorandum must contain the following information:
 - (a) The development intentions of the Municipality on the application property; as contained in the Spatial Development Framework and other Municipal policies;
 - (b) Compliance with applicable norms and standards as set out in National and Provincial legislation;

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- (c) The existing land use rights on the property;
 - (d) The need and desirability of the proposed township/land development;
 - (e) Any environmental implications of the proposed development;
 - (f) if the development is a "listed activity" in terms of the National Environmental Management Amended Act, 2004 (Act no 8 of 2004), with specific reference to the Regulations promulgated under Section 24(5), the applicant must submit comments from the North West Department of Economic Development, Environment and Tourism or its successor;
 - (g) The density of the proposed development;
 - (h) The area and dimensions of each erf/erven in the proposed township;
 - (i) The layout of roads having regard to their function and relationship to the existing roads;
 - U) The provision and location of public open space and other community facilities;
 - (k) Reasons for provision certain numbers of communities' facilities;
 - (l) Any phased development
4. A copy of title deed or any proof of ownership of every application property;
 5. A copy of the diagram of every application property or, where such diagram is not available, an extract from relevant general plan;
 6. A locality plan, land-use and zoning plans on an appropriate scale;
 7. A layout plan on a scale of 1: 500, 1: 1000, 1: 1500 or 1: 2500, containing, as a minimum, the information prescribed in Schedule 18;
 8. Draft conditions of establishment for the proposed township;
 9. A zoning certificate of application property;
 10. A land use rights Schedule;
 11. An Geological investigation and report compiled by a suitably qualified professional;
 12. A Traffic Impact Assessment;
 13. An Engineering Services Report;
 14. Bondholder consent if applicable;
 15. Confirmation whether or not a mining or prospecting right or permit over the land is held or is being applied for in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 and 2002);
 16. Other limited real rights on the property;

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17. Confirmation and details of any land claims on the property
18. A conveyancer's certificate;
19. A land surveyor Report;
20. In case of the extension of the boundaries of a township, the consent from the Surveyor-General to the proposed extension of boundaries.
21. Any additional information that the Municipality may deem necessary.

SCHEDULE: 7
APPLICATION REQUIREMENTS FOR REZONING

An application for Rezoning must, in addition to the information required on section of this Bylaw, be accompanied by the following:

1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.
2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
3. a written motivation/memorandum must contain the following information:
 - (a) The development intentions of the Municipality on the application property; as contained in the Spatial Development Framework and other Municipal policies plans or frameworks with specific reference on how this application complies with it or deviated from it;

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- (b) Compliance with applicable norms and standards as set out in National and Provincial legislation;
 - (c) The existing land use rights on the property;
 - (d) The need and desirability of the proposed township/land development;
 - (e) Any environmental implications of the proposed development;
 - (f) if the development is a “listed activity” in terms of the National Environmental Management Amended Act, 2004 (Act no 8 of 2004), with specific reference to the Regulations promulgated under Section 24(5), the applicant must submit comments from the North West Department of Economic Development, Environment and Tourism or its successor
 - (g) Indicate precisely what the proposed development controls are applied for,
- 4. A copy of title deed or any proof of ownership of every application property;
 - 5. A copy of the diagram of every application property or, where such diagram is not available, an extract from relevant general plan;
 - 6. A locality plan, land-use and zoning plans on an appropriate scale;
 - 7. A zoning certificate of application property;
 - 8. Bondholder consent if applicable;
 - 9. Any additional information that the Municipality may deem necessary.

SCHEDULE 8**REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE OR OBSOLETE CONDITION, SERVITUDE OR RESERVATION REGISTERED AGAINST THE TITLE OF THE LAND**

An application for Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land must, in addition to the information required on section 51 of this Bylaw, be accompanied by the following:

- 1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.
- 2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
- 3. a written motivation/memorandum must contain the following information:
 - (a) clearly indicate precisely which conditions are to be removed, amended or suspended; and.

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(b) Indicate the purpose of the application and where required by the Municipality; the necessity (need) and desirability of the application with regard to:

(aa) the Land Use Scheme;

(bb) the future development of the area; and

(cc) 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.

4. A copy of title deed or any proof of ownership of every application property;

5. A locality plan, land-use and zoning plans on an appropriate scale;

6. A zoning certificate of application property;

7. Bondholder consent if applicable;

8. Any additional information that the Municipality may deem necessary.

SCHEDULE 9**APPLICATION REQUIREMENTS FOR SUBDIVISION**

An application to subdivide land must, in addition to the information required on section 55 be accompanied by the following:

1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.
2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
3. The motivation must at least contain the following information:

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- (a) The application must take into consideration the Municipality Spatial Development Framework and other Municipal policies;
 - (b) The need and desirability of the proposed subdivision;
 - (c) The character of the other uses in the area;
 - (d) A justification on the suitability of land for subdivision;
 - (e) The impact of proposed subdivision locally;
 - (f) A true north;
 - (g) The delineation of the proposed subdivided portions must be accurately drawn to a scale-
 - ~ not smaller than 1 :500 for erven smaller than 2 000m²;
 - ~ not smaller than 1: 1 000 for erven from 2 000m² to 3 000m²;
 - ~ not smaller than 1: 1 500 for erven larger than 3 000m² but smaller than 10 000m²
 - (h) a legend which identifies each proposed subdivided portion by means of a figure;
 - (i) the scale to which the sketch plan is drawn;
 - (j) the number of the erf/erven to be subdivided and of each adjoining erf and **if** an adjoining erf/erven is not situated within the same township as the erf/erven to be subdivided, the name of that other township;
 - (k) the situation of each building on the erf to be subdivided and the approximate distance between the street boundary and every other boundary of the erf and the nearest wall of the building on the erf to be subdivided;
 - (l) where the erf/land to be subdivided is situated in an area which is subject to flooding, the 1 :50 years and 1: 1 00 years flood line on the proposed subdivided portions.
4. A copy of title deed or any proof of ownership of every application property;
 5. A locality plan, land-use and zoning plans on an appropriate scale;
 6. A zoning certificate of application property;
 7. Bondholder consent if applicable;
 8. Any additional information that the Municipality may deem necessary.

SCHEDULE 10**APPLICATION REQUIREMENTS FOR CONSOLIDATION**

An application to consolidate land must, in addition to the information required on section 62 be accompanied by the following:

1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.
2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
3. The motivation must at least contain the following information:

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- (a) The application must take into consideration the Municipality Spatial Development Framework and other Municipal policies;
- (b) The need and desirability of the proposed consolidation;
- (c) Future development of the area;
- (d) A justification on the suitability of land for consolidation;
- (e) The impact of proposed consolidation locally;
- (f) the scale to which the sketch plan is drawn;
- 4. A copy of title deed or any proof of ownership of every application property;
- 5. A locality plan, land-use and zoning plans on an appropriate scale;
- 6. A zoning certificate of application property;
- 7. Bondholder consent if applicable;
- 8. Any additional information that the Municipality may

SCHEDULE 11**APPLICATION REQUIREMENTS FOR CONSENT USE**

An application for Consent Use must, in addition to the information required on section 65 be accompanied by the following:

1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.

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2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
3. The motivation must at least contain the following information:
 - (a) The application must take into consideration the Municipality Spatial Development Framework and other Municipal policies;
 - (b) The need and desirability of the application;
4. A copy of title deed or any proof of ownership of every application property;
5. A locality plan, land-use and zoning plans on an appropriate scale;
6. A zoning certificate of application property;
7. Bondholder consent if applicable;
8. Any additional information that the Municipality may deem necessary.

SCHEDULE 12

APPLICATION REQUIREMENTS FOR TEMPORARY USE

An application for Temporary Use must, in addition to the information required on section 67 be accompanied by the following:

1. proof of payment for the application fee; the application will not be processed before confirmation has been received of payment.

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2. the completed and signed application form with the details of the applicant and owner as set out on Schedule 16 as well as the applicable application form relevant to the type of application;
3. Any owner of land intending to apply to the Municipality for written consent for:
 - a) 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;
 - b) Building or structure on the land; Provided that such consent shall ipso facto lapse upon completion of the permanent structure or on the expiry date thereof as determined by the Local Authority;
 - 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 / buildings thereon for State or municipal purposes;
 - e) The use of land or the erection of buildings necessary for the purpose of informal retail trade.
4. The motivation memorandum must include 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 this application complies with it or deviated from it;
 - (iii) The need and desirability of the application; and
5. A copy of title deed or any proof of ownership of every application property;
6. A locality plan, land-use and zoning plans on an appropriate scale;
7. A zoning certificate of application property;
8. Bondholder consent if applicable;
9. Any additional information that the Municipality may deem necessary.

SCHEDULE 13**AMENDMENT OF A LAND DEVELOPMENT****APPLICATION PRIOR TO APPROVAL**

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1. An owner of land or applicant may apply to the Municipality for the amendment of his or her land development application in terms of Section 82 as the case may be and shall submit at least but not limited to the following documentation upon submission of the application:

- 1) proof of payment for the application fee; the application will not be processed before confirmation has been received of payment;
- 2) covering letter addressed to the Municipality;
- 3) motivating memorandum clearly indicating the reasons for the amendment as well as the proposed amendment;
- 4) all documents relevant to the proposed amendment such as a revised set of proposed development controls, statement of conditions of establishment, layout plan, diagrams, site plans and any other relevant document.
5. Any additional information the Municipality may deem necessary.

SCHEDULE 14

CANCELLATION, ABANDONMENT, REPEAL OR WITHDRAWAL OF A

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LAND USE AND LAND DEVELOPMENT APPLICATION IN TERMS OF SECTION....

1. An owner or applicant must apply to the Municipality for the cancellation, abandonment, repeal or withdrawal of a land use and land development application as contemplated in terms of **Section** by submitting, the following documentation:

- (a) Submit proof that the applicant requesting for the cancellation, abandonment, repeal or withdrawal have the authority to do so;
- (b) A written notification for the cancellation, abandonment, repeal or withdrawal;
- (c) Submit proof that all the persons as contemplated in **Section** have been notified of the cancellation, withdrawal, abandonment, repeal or withdrawal of the land development application;
- (d) Submit an acknowledgement that the owner shall not have any claim in the future to any re-instatement of such land development application.

SCHEDULE 15

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EXCISION OF AN AGRICULTURAL HOLDING IN TERMS OF SECTION 68 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 68 of this By-law, shall apply to the Municipality in the forms as set out in Schedule 16 to this By-law, and such application shall, in addition to the fees prescribed be accompanied by the maps and required documents.
2. The applicant shall for purposes of a complete submission of an application at least submit the following documentation:
 - (1) proof of payment of the application fee; the application will not be processed before confirmation of payment has been received;
 - (2) the completed and signed application form as set out on Schedule 16;
 - (3) a power of attorney that complies with the provisions of this By-law;
 - (4) if the property is encumbered by a bond, the bondholder's consent;
 - (5) a motivating memorandum with at least the following information:
 - (a) indicate the reasons for the proposed excision of the agricultural holding; and
 - (b) indicate any other land development application submitted that necessitates the excision of the agricultural holding from the Agricultural Holding Register;
 - (c) 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));
 - (d) 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 70 of 1970);
 - (7) 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;
 - (8) a copy of the approved Agricultural Holding diagram or General Plans as approved by the Surveyor-General.
 - (9) 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
 - (10) 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

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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.

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SCHEDULE 16

**APPLICATION FORM FOR LAND USE AND LAND DEVELOPMENT APPLICATIONS
SUBMITTED IN TERMS OF CHAPTER 5 AND 6 OF THE MORETELE SPATIAL PLANNING
AND LAND USE MANAGEMENT BYLAW,**

MORETELE LOCAL MUNICIPALITY



OFFICE OF THE LED & PLANNING

**APPLICATION SUBMITTED IN TERMS OF CHAPTERS 5 AND 6 OF THE MORETELE SPATIAL
PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016**

SECTION A: APPLICANT/AGENT AND OWNER (S) DETAILS

APPLICANT DETAILS			
Please indicate the type of applicant:			
Individual	☐	Legal Entity / Other	☐
Applicant/Agent Details: Individual			
Title			
Initial			
Surname			
Name(s)			
Professional Capacity			
Professional registration no:			
Address Details of Applicant/Agent			
Physical Address(Work)			
Address Line 1 (street no)			
Address Line 2 (street name)			
Township		Postal Code	
Postal Address	PO Box ☐	Physical Address (Home)	☐
	Private Bag ☐	Physical Address (Work)	☐
Postal Number			
Township		Postal Code	
Applicant/Agent Communication Details			

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E-Mail Address				
Cell Phone				
Work Phone				
Fax				
Preferred Communication Type:	E-Mail		SM S	
OWNER DETAILS				
Please indicate the type of applicant:				
Individual	☐	Legal Entity / Other	☐	
Owner Details : Individual				
Title				
Initials				
Name(s)				
Surname				
Address Details of Owner				
Physical Address				
Address Line 1 (street no)				
Address Line 2 (street name)				
Township		Postal Code		
Specify City				
Postal Address	PO Box ☐	Physical Address (Home) ☐		
	Private Bag ☐	Physical Address (Work) ☐		
Postal Number				
Township		Postal Code		
FOR OFFICE USE				
Amount Received				
Receipt Number				
Date Received				
Application Received by				

I, being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

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I hereby acknowledge that the Moretele Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted; the application shall not be considered.

SIGNATURE

DATE:

OFFICIAL SIGNATURE.....

DATE.....

MUNICIPALITY STAMP

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SECTION B: SUBJECT PROPERTY DETAILS

Township / Agricultural Holding / Farm	
Erf / Plot / Farm No	
Portion number	
Street name	
Street number	

TITLE DEED

Title Deed number	
Registered Owner	
Property Size (m ²)	
Restrictive Title Deed Restrictions(Yes/No)	
If yes, please specify:	
Property encumbered by a bond (Yes/No)	
If yes, please specify:	

ZONING DETAILS

Zoning	
Height (Scheme)	
Density (Scheme)	
Coverage (Scheme)	
FAR	
Existing Development	
Existing Land Use	

PROPOSED ZONING DETAILS

Proposed Use Zone	
Proposed Primary Right	
Proposed density	
Proposed number of units	

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Proposed Height(storey/s)	
Proposed coverage (%)	
Proposed FAR	
Proposed Parking Ratio	

SECTION C: APPLICATION TYPE

<u>TYPE OF APPLICATION</u>		Fees payable
☐ Township Establishment	R	
☐ Extension of Boundaries	R	
☐ Rezoning	R	
☐ Special Consent	R	
☐ Written Consent (additional application information form to be completed and attached hereto)	R	
☐ Subdivision/Consolidation	R	
☐ Suspension/Amendment/Removal of a restrictive or obsolete condition, servitude or reservation registered against the title deed of land	R	
☐ Building Line Relaxation	R	
☐ Amendment/Cancellation in whole or part of a General Plan of a Township	R	
☐ Amendment/Cancellation of Subdivision Plan	R	
☐ Permanent Closure of a Public Place	R	
☐ Excision of Agricultural Holding	R	

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Full details in respect of nature / intent and purpose of application / description of proposed development:

.....

.....

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.....

.....

.....

.....

CHECKLIST: OFFICIAL USE ONLY	
DOCUMENT ATTACHED	
Official Receipt of payment of the application fees	
Motivational Memorandum	
Completed Application form	
Power of Attorney	
Recommendation by Head Man	
Community resolution/Lease Agreement	
Title Deed/ Proof of Grant/ Permission to Occupy	

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Locality Plan		
Land-Use Plan		
Zoning Plan		
Proposed Site Development Plan		
Notices	Proof of Newspaper advert	
	Proof of Provincial Gazette	
	Proof of Notices	
Zoning Certificate		
Conveyancer's Certificate		
Township Layout Plan (where applicable)		
Proposed Subdivision Plan (where applicable)		
Proposed Consolidation Plan (where applicable)		
Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract		
Environmental Impact Assessment, including Heritage Impact Assessment and Archeological Assessment (where applicable)		
Geo-technical Report (including geology) (where applicable)		
Engineering Services Report (where applicable)		
Traffic Impact Assessment Report (where applicable)		
List and conditions to be removed, amended or suspended		
Other		

INCLUDE

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**LIST OF NUMBER OF COPIES PER DOCUMENT TO BE SUBMITTED BY THE APPLICANT
AS PER RELEVANT APPLICATION****SCHEDULE 17****NOTICE OF APPEAL/PETITION IN TERMS SECTION 119 OF THE MORETELE MUNICIPAL
SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW -----**

Date of appeal/petition: _____

Municipality resolution/decision number: _____ (*reference number as on the notice of decision*)

Name/s: _____

Surname: _____

Institution _____

Address: _____

Tel/Mobile: _____**Facsimile:** _____**Email:** _____

I/We (*person or institution appealing the decision*), the undersigned, (*on behalf of or duly authorised by. .*) hereby appeal/ lodge a petition against the decision taken by the Moretele Municipal Planning Tribunal/Authorised official on behalf of the Municipality on the application for (*repeat type of application as on the notice*) on (*specify subject property as in the notice*) situated on (*name of township, farm, etc.*).

The reason(s) for my/our appeal/petition are as follows: (*provide a clear description of appeal, sufficiently detailed*)

The appeal/petition is further motivated as follows: (*Motivate the appeal*):

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

1. _____
2. _____
3. _____
4. _____

Please direct all correspondence with regards hereto to the above mentioned address.

I/We will avail myself/ourselves in meeting(s) when invited or send a duly authorised representative and i/we understand that failure to avail myself/ourselves or send representative after the first invite will result to the withdrawal of appeal as may be determined by the Appeal Authority on behalf of the Municipality.

Signature: _____

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SCHEDULE 18**LAYOUT PLAN**

A layout plan for a proposed township shall at minimum contain/show the following information:

- (a) Contour lines, the values of which shall be based on the date/datum plane of National geodetic bench marks based on sea-level as datum plane;
- (b) The accuracy of the contour lines shall be such that when they are compared with the results of a selective test survey, not more than 5% of the interpolated heights of the testing points shall differ by more than half of the contour line interval, and not more than 1 % of the testing points shall show a greater difference than the relative contour interval;
- (c) The contour intervals shall be determined as follows:
 - (i) Meter intervals where the average gradient is 1 in 20 or less;
 - (ii) Meter intervals where the average gradient is greater than 1 in 20 but less than 1 in 5; and
 - (iii) 5 meter intervals where the average gradient is 1 in 5 and greater;
- (d) Existing building in the proposed township;
- (e) Streets, squares and open space in the proposed township;
- (f) The widths and proposed names of streets in the proposed township;
- (g) All adjoining existing and adjoining proposed streets and roads with their names;

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(h) All adjoin erven in existing townships or proposed townships in respect of which applications have been submitted;

(i) All adjoining informal erven;

U) Watercourses, railways lines, pipelines, power lines, existing public roads and all servitudes in or abutting the proposed township;

(k) The sites in the proposed township proposed to be reserved for specific purposes;

(l) The boundaries of the proposed township and the name of the Municipality;

(m) A land use table indicating total number of erven in the proposed township, the number of erven for specific purpose and their numbers, the total length of the streets within in the proposed township and the area of the erven and streets as a percentage of the total area of the township;

(n) The ruling size of the erven;

(o) The minimum and maximum gradient of the streets;

(p) Environmentally sensitive areas;

(q) A locality plan accurately drawn to a scale of not less than 1: 50000 or such other scale which the Municipality may approve, indicating-

(i) The situation of the proposed township on the land, farm or agricultural holding;

(ii) The routes giving access to the nearest main road and the road networks in the vicinity of the township;

(iii) The boundaries of the land, farm portion or agricultural holding on which the township is to be established;

(iv) The situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 kilometres of the boundaries of the township;

The boundaries of a demarcated noise zone, if applicable;

(vi) A bar scale, in respect of the locality plan;

(vii) The true north;

(r) The erven in the proposed township accurately drawn to a scale of 1: 1000, 1: 1250, 1: 1500, 1: 2000, 1: 2500 or 1:

5000 and numbered consecutively in each block;

(s) In an enclosure, the name of the persons responsible for the contour surveys, a reference to the datum plane on

which the contour values are based and a certification as to the accuracy of the contour lines;

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- (t) If the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings;
- (u) Each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and where an alteration in the route of such servitude is contemplated, the proposed route;
- (v) Grid co-ordinates and a reference to the geodetic system used;
- (w) If the land in the proposed township is subject to flooding, the 1 :50 years and 1: 1 00 years floodline;
- (x) The results of the engineering geological investigation, indicated as zones;
- (y) In an enclosure, the name of the person responsible for the design of the layout plan;
- (z) In an enclosure, the name of the person responsible for the floodline determination and the flood line appearing on the layout plan certified as correct by such person; and
- (aa) In an enclosure, the name of the person responsible for the engineering geological investigation and the geological zones appearing on the layout plan certified as correct by such person.

SCHEDULE 19**POWER OF ATTORNEY**

I/We,]

ID No: the undersigned, hereby nominate, constitute

and appoint –

..... 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 Moretele 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 of

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.....20.....

in the presence of the undersigned witnesses.

AS WITNESSES:

1.....

2.....

AS REGISTERED OWNER

.....

Registered Owner (ID Numbers)

SCHEDULE 20

COMPANY RESOLUTION

RESOLUTION BY OWNERS/MEMBERS OF

RESOLVED THAT:

At a meeting held at _____ on the _____ day of
_____ month for the year _____..

1. An application be submitted at Moretele Local Municipality for the

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2. _____
be and hereby authorised to sign all necessary documentation and papers to enable the above application to be processed with.

Chairperson of the meeting

SIGNED: _____

WITNESS:

1. _____
2. _____

SCHEDULE 21**EXAMPLE OF ADVERTISEMENT NOTICE****AMENDMENT OF LAND USE SCHEME OR REZONING IN TERMS OF SECTION 50 OF THE MORETELE MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW ,2022**

Notice is hereby given that I, _____ (full names and surname), being the *owner/authorised agent of the owner of _____*erf/erven/portion(s)/holding(s)/stand(s) in terms of Section 50 of the Moretele Municipal Spatial Planning and Land Use Management By-Law 2022 for the amendment of the Moretele Land Use Scheme, 2018 by the rezoning of the property(ies) described above, from _____ (specify the current use zone) to _____ (specify the proposed use zone).

Particulars relating to the application will lie for inspection during normal office hours at the office of the Director: LED and Planning Directorate, for a period of 28 (twenty-eight) days from (the date of the first publication of this notice.

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Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager, _____ within a period of 28 days from (fill in the date on which the first advertisement will be published in the newspaper).

Address of *owner/authorised agent (*physical as well as postal address*):

Telephone number: _____

Dates of the notice: _____

SCHEDULE 22

EXAMPLE OF AFFIDAVIT

I, _____ the undersigned (full names and surname), of Identity Number hereby make oath/affirm that the required notice as prescribed in the of the Moretele Municipal Spatial Planning and Land Use Management Bylaw on erf/portion/stand _____ (detailed property description) was displayed and maintained in a conspicuous and easily accessible place, for a period of 28 days the first day the advertisements were advertised in the Provincial Gazette, Local Newspaper, viz from to _____.

Signed _____ (signature of applicant)
 on ____ day of _____ 20____
 at _____ (place)

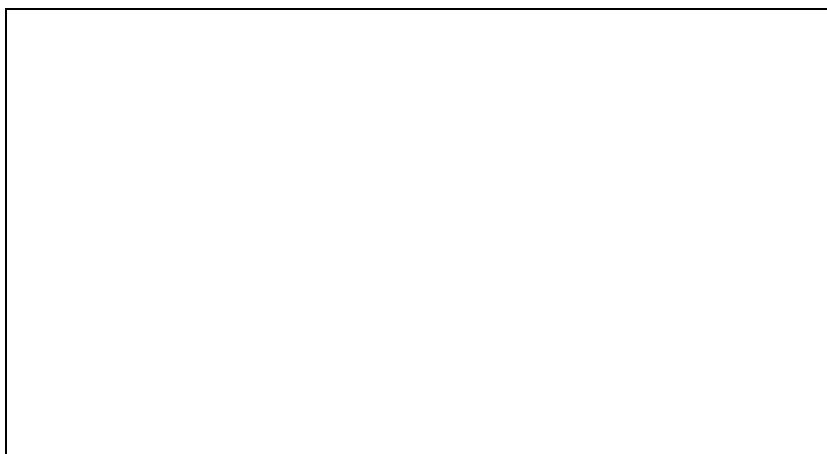
I hereby certify that the deponent was conversant with the contents of this statement and understood it, and the contents of this statement are the truth.

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COMMISSIONER OF OATHS: _____

DATE: _____

STAMP


Note:

- ✓ *this declaration must be handed in only after the required period for the display and maintenance of the required notice has expired. In the event of this declaration being incorrectly completed/ signed and/or handed in earlier prior the expiration of the required period, the Municipality will view the declaration as a false declaration.*
- ✓ *in the aforementioned case it shall be required from the applicant to comply with the prescribed advertisement/publication procedure accordingly and further that legal prosecution of the applicant shall possible be considered/ in the aforementioned case it shall be required from the applicant to comply with the prescribed.*

SCHEDULE 23

**ADVERTISEMENT REQUIREMENT: MINIMUM NOTIFICATION PROCEDURES IN TERMS
OF SECTION 94 OF THE MORETELE MUNICIPAL SPATIAL PLANNING AND LAND USE
MANAGEMENT BY LAW....**

	PROCEDURES				
Application	Local Newspaper	Provincial Gazette	Notice on the Site and Photos	Adjacent Properties owners Notification	Person to submit application

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Township Establishment in terms of Section 45 of the Moretele Municipal Spatial Planning and Land Use Management ByLaw 2022	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	Yes, for a period of 28 days. The notice shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Amendment or rezoning in terms of Section 50 of the Moretele	Yes ✓ once per week for two consecutive	Yes ✓ once per week for two consecutive	Yes, for a period of 28 days. The notice	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex

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Municipal Spatial and Land Use Management ByLaw 2022	weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.		process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the	Yes ✓ once per week for two consecutive weeks;	Yes ✓ once per week for two consecutive weeks;	Yes, for a period of 28 days. The notice	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from

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Land in terms of Section 51 of the Moretele Spatial Planning and Land Use Management ByLaw, 2022	✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.		the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Subdivision on terms of Section 55 of the Moretele Spatial Planning and Land Use Management ByLaw 2022	No	No	Yes, for a period of 28 days. The notice shall not be less adjacent and	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional

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			than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.		requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Consolidation in terms of Section 62 of the Moretele Spatial Planning and Land Use Management ByLaw, 2022	No	No	No	No	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional

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					requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Closure of Public Open Space in terms of Section 64 of the Moretele Spatial Planning and Land Use Management ByLaw 2022	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	Yes, for a period of 28 days. The notice shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.

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			from the distance across the road to show the visibility of the notice.		
Consent Use in terms of Section 65 of the Moretele Spatial Planning and Land Use ByLaw 2022	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	No	Yes, for a period of 28 days. The notice shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.

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			from the distance across the road to show the visibility of the notice.		
Temporary Use in terms of Section 67 of the Moretele Spatial Planning and Land Use Management ByLaw, 2022	No	No	Yes, for a period of 28 days. The notice shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.

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			show the visibility of the notice.		
Closure of Public Areas	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	Yes ✓ once per week for two consecutive weeks; ✓ at least two of the official languages most spoken in the area concerned (English and any other official language)	Yes, for a period of 28 days. The notice shall not be less adjacent and than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to	Yes, directly opposite and diagonal.	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.

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			show the visibility of the notice.		
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NB: SWORN AFFIDAVIT ACCOMPANIED BY PROOF OF PUBLIC PARTICIPATION TO BE SENT TO THE MUNICIPALITY (LED AND PLANNING DIRECTORATE) TO INDICATE SECTION 85 OF THIS BYLAW HAS BEEN ADHERED TO.

SCHEDULE 24:

OBJECTION AND/OR REPRESENTATIONS ON AN APPLICATION OF LAND USE OR LAND DEVELOPMENT IN TERMS SECTION 90 OF THE MORETELE MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW

DATE OF OBJECTION OR REPRESENTATION: _____
 MUNICIPALITY APPLICATION REFERENCE NUMBER: _____ (*APPLICATION REFERENCE NUMBER AS ON THE NOTICE*)
 NAME/S: _____
 SURNAME: _____
 COMPANY/INSTITUTION _____
 ADDRESS: _____

TEL/MOBILE: _____
 FACSIMILE: _____
 EMAIL: _____

I/We (*Person or objector making a representation*)

_____, the undersigned, (*on behalf of and duly authorised by*):
 _____, hereby (*object to/make the following representation on*)
 the application for (*repeat type of application as on the notice*):

_____ on (*specify subject properly as in the notice*):

_____ situated on (*name of Township, Farm, Etc.*):

The reason(s) for my/our objection(s)/representation(s) are as follows:

(*Provide a clear description of the objection or representation, sufficiently detailed*):

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

1. _____
2. _____
3. _____
4. _____

Please direct all correspondence with regards hereto to the Municipality address.

I/We will avail myself/ourselves in meeting(s) when invited or send a duly authorised representative and I/we understand that failure to avail myself/ourselves or send representative after the first invite will result to the withdrawal of objection/representation as may be determined by the Moretele Municipal Planning tribunal on behalf of the Municipality.

Signature: _____

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SCHEDULE 25

EXCISION OF AN AGRICULTURAL HOLDING IN TERMS OF SECTION 68 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 68 of this By-law, shall apply to the Municipality in the forms as set out in Schedule 16 to this By-law;

2. The applicant shall for purposes of a complete submission of an application in terms of section 68 of this By-law at least submit the following documentation:

(1) an **original official receipt** or proof of EFT payment of the application fee; the application will not be processed before confirmation of payment has been received;

(2) a **covering letter** addressed to the Department responsible for Development Planning;

(3) the completed and signed **application form** as set out on Schedule 16;

(4) a **power of attorney** that complies with the provisions of Schedule 19 of this By-law;

(5) if the property is encumbered by a bond, the **bondholder's consent**;

(6) a **motivating memorandum** with at least the following information:

(a) indicate the reasons for the proposed excision of the agricultural holding; and

(b) indicate any other land development application submitted that necessitates the excision of the agricultural holding from the Agricultural Holding Register;

(c) 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);

(d) 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 70 of 1970);

(7) a **locality plan** indicating where the agricultural holding is situated as well as the exact boundaries of the proposed division(s) of the agricultural holding;

(8) a copy of the approved Agricultural Holding diagram or General Plans as approved by the Surveyor-General.

(9) 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

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(10) 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.

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Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065
Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121.