



**EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE  
MANAGEMENT BY-LAW**

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MANAGEMENT BY-LAW**

The Municipal Manager of Ephraim Mogale Local Municipality hereby, in terms of section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), publishes the Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law as approved by its Council, as set out hereunder

**EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE  
MANAGEMENT BY-LAW**

To give effect to “Municipal Planning” as contemplated in the Constitution of the Republic of South Africa, 1996 (Act 106 of 1996) and in so doing to lay down and consolidate processes and procedures, to facilitate and make arrangements for the implementation of land development and land development applications, spatial planning and a Land Use Scheme within the jurisdiction of Ephraim Mogale Local Municipality, in line with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013); to provide for the establishment and/or procedures of a Municipal Planning and Appeals Tribunal and to provide for matters incidental thereto.

**PREAMBLE**

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

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



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

**WHEREAS** it is necessary in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) to establish a uniform, recognisable and comprehensive system of spatial planning and land use management in its municipal area to maintain economic unity, equal opportunity, equal access to government services, to promote social and economic inclusion; and

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

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

**N NOW THEREFORE** The Municipal Council of the Ephraim Mogale Local Municipality, acting in terms of section 156 read with Part B of Schedule 4 of the Constitution of the Republic of South Africa, and read with section 11 and section 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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## **CHAPTER 1 DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS**

### **1 Definitions**

In these By-Laws, unless the context indicates otherwise, a word or expression defined in the Act or provincial legislation has the same meaning as in these By-laws and -

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

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



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

**“adopt or adopted”** in relation to a municipal spatial development framework, Land use scheme, Amendment scheme, policy or plans, means:

- (a) the publication as may be required in terms of this By-law, of the said documents by the Municipality, but shall where the date of coming into operation differs from the date in terms of which any document is published in the provisions of this By-law only be adopted upon the date of coming into operation thereof; or
- (b) where any land development application is approved but does not require any further notification in the provincial gazette for it to come into operation the date of approval shall be the date it has been adopted and shall be deemed to have been adopted.

**“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.

**“appeal authority”** means an Appeal Authority contemplated in **section 125** of this By-law, as established in terms of section 51 of the Act and Regulation 20 of the Regulations to the Act, and Municipal Appeals Tribunal shall have a corresponding meaning;

**“applicant”** means:

- (a) an owner(s); or
- (b) duly authorized person on behalf of the owner;

of property(ies) or land within the jurisdiction of the Municipality read with section 45 of the Act who submits a land development application or combination of land development applications contemplated in **Chapter 5 of this By-law**. It also includes the municipality and an organ of state under who’s control and management the property(ies) or land falls in terms of the relevant legislation;

**“application”** means an application submitted to the Municipality in terms of **Chapter 5** of this By-law and a land development application shall have a corresponding meaning;



**“approved amendment scheme”** means a draft amendment scheme that was approved in terms of this By-law, but of which notice has not been given in the Provincial Gazette and read with the definition of “adopted; and approved scheme” shall have a corresponding meaning;

**“approved township”** means a township declared an approved township in terms of **section 62** of this by-law;

**Authorised official”** means an official who is authorised by the Municipality to consider and determine applications as contemplated in section 35(2) of the Act;

**“beneficial owner”** means where specific property rights and equity in the property lawfully belongs to a person even though dominium or formal title of the property has not been registered or transferred;

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

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

**“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-Law”** mean these By-Law and includes the schedules and forms attached hereto or referred to herein;

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

- (a) the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), 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);

**“conditional approval”** means an approval of a land development application in terms of this By-law, granted by the Municipal Planning Tribunal, Authorized Official or Municipal Appeals Tribunal, in which conditions are imposed, that in the opinion of the Municipality, have to be complied with prior to the land use rights, coming into operation in terms of this By-law, or registrability of any property(ies) as a result of the land development application approval, read with sections 43 and 53 of the Act;



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

**“Code of Conduct”** means the Code of Conduct approved and adopted by Council to which the members of the Municipal Planning Tribunal or Municipal Planning Appeals Tribunal established in terms of sections 35 and 51 of the Act and or Authorised Official(s) appointed for purposes of considering land development applications shall be bound, as contemplated in section 17(2) of the Regulations to the Act, read with **Schedule 5** of this By-law;

**“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, and consent shall have a corresponding meaning;

**“consolidation”** means the joining of two or more pieces of land into a single entity that is capable of being registered in the deeds registry as one property;

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

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

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

**“date of notice or notification”** 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 as the case may be; and which date of notice and appearance shall not be between the 10 of December to 10 January of any year as may be determined by the Municipality;

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

**“decision-making person or body”** means any person or body duly authorised by the Municipality who are required to take a decision in terms of this By-law or 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);

**“Deeds Registries Act”** means the Deeds Registries Act, 1937 (Act 47 of 1937);

**“draft Land Use Scheme”** means a scheme prepared in terms of section 24(1), 27 and 28 of the Act and **section 18** of this By-law, for submission to a decision-making person or body, for approval to commence public participation in terms of section 26(5) of the Act and this By-law, and shall be referred to as a draft land use scheme until adopted by a Municipal Council;

**“draft spatial development framework”** means a draft spatial development framework as contemplated in **section 8** in this By-law, which has been prepared for purpose of submission to a decision-making person or body, for approval to commence public participation in terms of section 20 and 21 of the Act and **section 9** this By-law and shall be referred to as a draft spatial development framework until adopted by a Municipal Council.

**“development principles”** means the principles as set out in Chapter 2 of the Act read with development principles as may be determined in addition to those by the Municipality from time to time;

**“development charge”** 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 49 of the Act;

**“emergency housing”** means temporary housing required for households whose homes are uninhabitable as a result of a disaster situation caused by rain, flood, wind, fire, earthquake, accident or other circumstance sufficient in nature and scale to result in widespread homelessness and where the damage or threat to the homes cannot be rectified without temporary relocation and the households cannot be rehoused on site during the rectification.

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

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



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

(b) the associated development charges;

(c) the standard of such engineering services as determined by the Municipality;

(d) the classification of engineering services as internal or external services; and

(e) any matter related to the provision of engineering services in terms of this By-law;

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

**“environment and environmental considerations”** has the same meaning and includes consideration of environmental issues and biodiversity;

**“environmental legislation”** means the National Environmental Management Act, 1998 (Act 107 of 1998) or any other legislation which may be enacted from time to time for purposes of regulating environmental activities in so far as it relates to land use rights, the Act and this By-law;

**“environmental evaluation”** means an evaluation of the environmental impact of a proposed land development application, 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”** "external engineering services" has the same meaning as defined in section 1 of the Act and consist of both "bulk services" and "link services";

**“gazette”** means the 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;





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

**“illegal township”** means land held under farm title or other forms of ownership, used in the opinion of the Municipality for purposes contemplated in the definition of a township where such use is not being exercised as a result of the establishment of a township contemplated in **section 62** of this By-law or a township established in terms of any other law, but excludes informal areas as may be determined by the Municipality;

**“Incomplete land development application”** means a land development application submitted without the prescribed accompanying documents and or information as may be required by the Municipality or required in terms of the provisions of this By-law read with the Regulation 16(3) of the Regulations to the Act and the Schedules to this By-law;

**“Informal areas”** means the informal occupation of land by persons none of whom are the registered owner of such land, which persons are using the land for primarily residential purposes, with or without the consent of the registered owner and established outside existing planning legislation, and may include any settlement or area under traditional tenure;

**“inspector”** means a person designated or appointed as an inspector under section 32 of the Act or 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;

**“interested and affected party”** unless specifically delineated, means any person or group of persons that can demonstrate that a specific action or decision, or intended action or decision, negatively affects their rights with specific reference to town planning principles or development principles;

**“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;

**“land”** means -

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



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

**“Land development”** means the erection of buildings or structure on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any relaxation from the land use or uses permitted in terms of an applicable Land Use Scheme;

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

**“Land development application”** means an application or a combination of the applications submitted to the Municipality under **Chapter 5** of this By-law;

**“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 approved and or promulgated land use applicable to land in terms of this By-law or relevant legislation which has come into operation for purposes of issuing a zoning certificate;

**“Land use scheme”** means the land use scheme prepared in terms of **Chapter 3** and for the purpose of these By-laws include an existing scheme until such time as the existing scheme is replaced by the adopted and approved land use scheme;

**“Land Use Scheme register”** means the register as contemplated in Section 25(2) (c) of the Act read with **section 27 (1) (j)** of this By-law;

**“Local authority and municipality”** have corresponding meanings;

**“Mineral Petroleum Resource Development Act”** means the Mineral Petroleum and Resource Development Act, (Act 28 of 2002);

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

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



**“Municipal area”** means the area of jurisdiction of the Ephraim Mogale 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 Municipal Manager of the Ephraim Mogale Local Municipality in terms Section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person acting in that position or to whom authority has been delegated;

**“Municipal Planning Tribunal”** means the Municipal Planning Tribunal established in terms of section 35 or section 34 of the Act;

**“Municipality”** means the Municipality of Ephraim Mogale Local Municipality or its successor in title as envisaged in section 155(1) of the Constitution, established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act;

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

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

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

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

**“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.

**“owner”** “owner” means the person registered in the Deeds Registry as the owner of land, and includes the beneficial owner of the land, and the owner of land by virtue of vesting in terms of any applicable law;

**“owners’ association, property owners association and or homeowners association”** means an owners’ association established in terms of the relevant legislation, rules and regulations related to the establishment thereof, for purposes of coordinated management of an area or community as contemplated in **Schedule 6** Of this By-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;

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

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

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

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

**“professional land surveyor”** means a person –

- (a) who is registered as a geomatics professional in terms of section 13 (4)(d) of the Geomatics Profession Act 19 of 2013;
- (b) who is authorised to perform the work reserved for a professional land surveyor in terms of the Land Survey Act 8 of 1997; and
- (c) whose name is entered in the register for professional land surveyors contemplated in section 8(1)(b)(iii)(bb) of the Geomatics Professional Act 19 of 2013;

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

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

**“pre- application consultation”** means a consultation between an owner or an agent and the Municipality as contemplated in [section 56](#) of this by-law;

**“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 with the Municipal Council, 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 the section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939);

**“registered planner”** means a person registered as a professional planner or a technical planner contemplated in section 13 of the Planning Profession Act, 2002 (Act 36 of 2002), unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of section 16 of the said Act, in which case a registered planner shall mean that category of registered persons for which such work has been reserved;



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

**“Registrar of Deeds”** means a registrar as defined in of the Deeds Registries Act, 1937 (Act 47 of 1937);

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

**“services 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 engineering services are classified as internal or external services;

**“servitude”** means a servitude registered against a title deed of land or which has been created through legislation;

**“Site Development Plan”** means a plan which reflects full details of the intendant development, including the relative location of existing building and structures, the location of engineering services, access to the land, parking, existing developments and features that will/must be retained, areas of land-scaping, and any other required information or details as may be determined by a Municipality and as may be defined in a Land Use Scheme;

**“Social infrastructure”** means community facilities, services and networks that meet social needs and enhance community well-being;

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

**“Spatial Development Framework”** means the Ephraim Mogale Local Municipality Spatial Development Framework, as referred to in Chapter 4 of the Act and read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000) and **chapter 2** of this by-law;

**“subdivision”** means the division of a piece of land into two or more portions, or farm land or a portion of farm land read with the Division of Land Ordinance, 20 of 1986;

**“this By-law”** means any section, Schedules and forms to this By-law;

**“title deed”** means any deed registered in a deeds registry recording the ownership of land or a real right in land;

**“traditional communities”** means communities recognised in terms of section 3 of the Limpopo Traditional Leadership And Institutions,2005 (*Act 6 Of 2005*).

**“township”** means any land laid out or divided into or developed or to be developed, as:

a single property or sites for;



- a) residential, business or industrial purposes or similar purposes as may be contained in a Land Use Scheme;
- b) where such property or sites are arranged in such a manner as to have the character of what constitutes a township, in the opinion of the Municipality, including intended or actual multiple ownership of erven, land or units;
- c) that may be intersected or connected by or to abut on any public or private street; and
- d) a property, site or street shall for the purposes of this definition include a right of way or any site or as a road, roadway or street which has not been surveyed or which is only notional in the character; and

shall be read with the definition of what constitutes an “illegal township”;

**“township owner”** means the person who is the owner of an approved township or any remaining portion of an approved township or his successor in township title;

**“township register”** means an approved subdivision register of a township in terms of the Deeds Registries Act 1939 (Act 47 of 1939);

**“zoning”** includes base zoning and overlay zoning and means a land use category prescribed by the land use scheme regulating the use of and development of land and setting out –

- (a) the purposes for which land may be used; and
- (b) the development rules applicable to that land use category;

## **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) The provisions of the By-law is subject to the relevant provisions of the Act and the provincial legislation.
- (2) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (3) Where a provision of this By-law is in conflict with a provision of the Act or provincial legislation, the Municipality must institute the conflict resolution measures provided for in the Act or in provincial legislation, or in the absence of such measures, the measures provided for in the Intergovernmental Relations Framework Act, 2005 (Act



No.13 of 2005); to resolve the conflict and until such time as the conflict is resolved, the provisions of this By-law shall prevail.

- (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 shall prevail.
- (5) Where there is a conflict between this By-law and another By-law of the Municipality, this By-Law prevails over the affected provision of the other By-law in respect of any municipal planning matter.

## **CHAPTER 2 MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK**

### **4 Municipal spatial development framework**

- (1) The Municipality must prepare, amend or review a municipal spatial development framework in accordance with the provisions of sections 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (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) In the preparation and drafting of a Municipal Spatial Development Framework the Spatial Development Framework shall contain the essential elements of the content of both the Act and Municipal Systems Act, 2000 (Act 32 of 2000) or provincial legislation and the Municipality may for purposes of reaching its Constitutional objectives include any matter which it may deem necessary for municipal planning;
- (4) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.
- (5) Over and above that which in terms of **subsection (1)-(3)** must be contained in a Municipal Spatial Development Framework, the Municipality may determine the components of the Spatial Development Framework and any further plans, policies and or instruments by virtue of which the Municipal Spatial Development Framework shall be applied, interpreted and implemented.

### **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, 2000 (Act 32 of 2000), as may be amended from time to time, 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. The purpose and content of the Municipal Spatial Development Framework must, over and above what is contained in section 21 of the Act, specifically:



- (a) include land use management guidelines regarding the appropriate nature, form, scale and location of development, contributing to spatial co-ordination;
  - (b) guide investment and planning for municipal departments and where appropriate other spheres of government;
  - (c) guide investment for the private sector; and
  - (d) reflect relevant provisions of strategies, policies, plans and other planning mechanisms adopted by the Municipal Council; and guiding decision making on land development applications.
- (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 make provision for 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**

- (1) A Municipality which intends to prepare, amend or review its municipal spatial development framework -
- (a) may convene an intergovernmental steering committee and a project committee in accordance with **section 7**;
  - (b) must publish a notice in two of the official languages of the Province most spoken within the municipal jurisdiction as contemplated in Section 21 of the Municipal Systems Act (Act.32 of 2000), of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act (Act.32 of 2000) in two newspapers circulating in the area concerned;
  - (c) must inform the Member of the Executive Council in writing of\_
    - (i) its intention to prepare, amend or review the municipal spatial development framework;
    - (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation; and
  - (d) must register interested and affected parties 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 co-ordinate the applicable contributions into the municipal spatial development framework and to-
  - (a) provide technical knowledge and expertise;
  - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
  - (c) communicate any current or planned projects that have an impact on the municipal area;
  - (d) provide information on the locality of projects and budgetary allocations; and
  - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality must, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the intergovernmental steering committee from—
  - (a) departments in the national, provincial and local sphere of government, other organs of state, community representatives, engineering services providers, traditional councils; and
  - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.
- (3) The purpose of the project committee contemplated in **section 6(a)** is to –
  - (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise;
  - (c) monitor progress and ensure that the drafting municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
  - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
  - (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in section 24(1) of the Municipal Systems Act;
  - (f) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;



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

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

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



- (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
  - (b) summarise the process of drafting the municipal spatial development framework;
  - (c) summarise the consultation process to be followed with reference to **section 9** of this By-law;
  - (d) indicate the involvement of the intergovernmental steering committee, if convened by the Municipality;
  - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
  - (f) the alignment with the national and provincial spatial development frameworks;
  - (g) any sector plans that may have an impact on the municipal spatial development framework;
  - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
  - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in **subsection (4)**, the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework for adoption by the Council.
- (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) If no intergovernmental steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.
- (9) 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 60 days of its decision give notice of its adoption in the media and the Provincial Gazette.
- (10) After the approval of the Municipal Spatial Development Framework the Municipality shall within 60 days, submit the approved and adopted Municipal Spatial Development Framework to the MEC.



## 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 newspapers as required in terms of this Chapter, the Municipality may 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 shall-
  - (a) do so within a period of 60 days from the first day of publication of the notice;
  - (b) provide written comments; and
  - (c) provide their contact details as specified in the definition of contact details.

## 10 Local Spatial Development Framework

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



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

- (1) If the Municipality prepares, amends or reviews a local spatial development framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.
- (2) The municipality must, **within 60 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.
- (3) After the **adoption** of the **Local Spatial Development Framework** the Municipality shall within 60 days, submit the approved and **adopted Local Spatial Development Framework** to the MEC.

## **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 11(2)**.
- (2) A local spatial development framework guides and informs decisions made by the Municipality relating to land development, but it does not confer or take away rights.

## **13 Record of and access to Municipal Spatial Development Framework**

- (1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved municipal or Local Spatial Development Framework and or any component thereof applicable within the jurisdiction of the Municipality.
- (2) Should anybody or person request a copy of the municipal or Local Spatial Development Framework the Municipality must provide on payment by such body or person of the prescribed fee, a copy to them of the approved municipal spatial development framework or any component thereof.
  - a) 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 may be dealt with in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000);

## **14 Deviation from Municipal Spatial Development Framework**

- (1) For purposes of section 22(2) of the Act, site specific circumstances include –
  - (a) a departure, deviation or amendment that does not materially change the desired outcomes and objectives of a municipal and local spatial development framework, if applicable;
  - (b) a unique circumstance pertaining to a discovery of national or provincial 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 taking a decision which constitutes a deviation from the municipal



spatial development framework.

- (3) the timeframe for taking a decision on any application that can not be decided by the Municipal Planning Tribunal before an amendment of the municipal spatial development framework is approved by the municipality, is suspended until such time as the municipal spatial development framework is approved by the municipality.
- (4) For purposes of this section, “site” means a spatially defined area that is impacted by the decision, including neighbouring land.

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

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

Sections 24 to 31 of the Act apply to any land use scheme developed, prepared, adopted and amended by the Municipality.

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

- (1) In addition to the purposes of a land use scheme stipulated in section 25(1) of the Act, the Municipality must determine the use and development of land within the municipal area to which it relates in order to promote -
  - (a) harmonious and compatible land use patterns;
  - (b) aesthetic considerations;
  - (c) sustainable development and densification; and
  - (d) the accommodation of cultural customs and practices of traditional communities in land use management.

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

- (1) In order to comply with section 24(1) of the Act, the Municipality must -
  - (a) develop a draft land use scheme as contemplated in **section 18**;
  - (b) obtain Council approval for publication of the draft land use scheme as contemplated in **section 19**;
  - (c) embark on the necessary public participation process as contemplated in **section 20**;
  - (d) incorporate relevant comments received during the public participation process as contemplated in **section 21**;
  - (e) prepare the land use scheme as contemplated in **section 22**;
  - (f) submit the land use scheme to the Council for approval and adoption as contemplated in **section 23**;
  - (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in **section 24**; and



- (h) submit the land use scheme to the Member of the Executive Council as contemplated in **section 25**.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land within the municipal area.
- (3) Zoning may be made applicable to a land unit or part thereof and zoning 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 (Act.32 of 2000);
  - (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and **Chapter 2** of this By-law;
  - (c) provincial legislation; and
  - (d) an existing town planning scheme.

## **18 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;
  - (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 shall 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 may 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 municipality must\_
  - (a) establish a land use scheme committee and appoint members to the land use scheme committee from the relevant municipal and sector departments responsible for spatial planning and land use management;



- (b) publish a notice in newspapers(s) that is circulated in the municipal area in two official languages determined by the Council, having regard to the language preferences and usage within its municipal area, as contemplated in section 21 of the Municipal Systems Act of its intention to prepare, review or amend the land use scheme,
- (c) inform the Member of the Executive Council in writing of its intention to prepare, review or amend the land use scheme;
- (d) register the interested and affected parties who must be invited to comment on the draft land use scheme, or draft review or the amendment land use scheme as part of the processes to be followed.
- (e) Develop the draft land use scheme in accordance with the provisions of the Act, provincial legislation and this Chapter.

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

- (1) Upon completion of the draft land use scheme, the land use scheme committee must submit it to the Council for approval as the draft land use scheme.
- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the land use scheme committee and the report must at least –
  - (a) indicate the rationale in the approach to the drafting of the land use scheme;
  - (b) summarise the process of drafting the draft land use scheme;
  - (c) summarise the consultation process to be followed with reference to **section 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 Municipal Council;
  - (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.
- (3) A registered planner/authorised official must sign the report required by **subsection (2)**.
- (4) The Council 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 17 (4)** of this by-law.

## **20 Public participation for a draft Land Use Scheme:-**

- (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 once a week for two consecutive weeks;
  - (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;
  - (c) enable traditional communities to participate through the appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Municipal System Act, 2000 (Act no. 32 of 2000); and
  - (d) use any other method of communication it may deem appropriate and the notice contemplated in **subparagraph (b)** must specifically state that any person or body wishing to provide comments and or objection shall:
    - (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;
    - (iv) detailed grounds of objection;
    - (v) a demonstration of the interest and or locus standi of the interested person or objector to the satisfaction of the Municipality; and
    - (vi) in the event of objection(s) and or comment(s) being submitted on behalf of an interested person or objector the provisions of **Schedule 7** to this By-law shall apply mutatis mutandis.
- (3) The Municipality may for purposes of public engagement arrange -
  - (a) a consultation session with traditional councils and traditional communities;
  - (b) specific consultations with professional bodies, community structures or other groups; and
  - (c) public meetings.
- (4) The Municipality must deliver to the MEC, a copy of the draft Land Use Scheme after it has been approved by the Council as contemplated in **section 19** for comments within 60 days of delivery.

## **21 Incorporation of relevant comments**

- (1) After the public participation process outlined in **section 20**, the project committee shall:-
  - (a) review and consider all submissions made in writing or during any engagements; and



- (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
  - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager or a person duly delegated, may elect to hear the submission through a written or oral hearing process;
  - (ii) all persons and or bodies that made submissions shall 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 means of registered mail or communication able to reach the submitter;
  - (iii) if an oral hearing is to be conducted as contemplated in (ii) the hearing shall be conducted by the Municipal Planning Tribunal for purposes of making a recommendation.
  - (iv) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.
- (2) The project committee and sector departments 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 [section 23](#).

## **22 Preparation of land use scheme**

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

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

- (1) The project committee must submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.
- (2) The Council must consider and adopt the land use scheme with or without amendments.

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

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



## **25 Submission to Member of Executive Council**

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

## **26 Records**

- (1) The Municipality must in hard copy and an electronic media and or data base keep record in the register of amendments to the land use scheme contemplated in **section 28**, the land use rights in relation to each erf or portion of land and which information shall be regarded as part of its land use scheme.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the municipal area of the Municipality.
- (3) Should anybody or person request a copy of the approved land use scheme, the Municipality must provide on payment by such body or person of the prescribed fee, 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 (Act No. 2 of 2000).

## **27 Contents of land use scheme**

- (1) The contents of a land use scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –
  - (a) a zoning for all properties within the municipal 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;
  - (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;
  - (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented; and
  - (j) A Land Use Scheme Register shall be kept and maintained by the Municipality in a hard copy and/or electronic format in accordance with **section 28** of this by law.
- (2) The land use scheme may\_
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
  - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality.

## **28 Land Use Scheme Register**

- (1) 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
  - (j) Density
  - (k) FAR
  - (l) Height (storeys/meters)
  - (m) Coverage
  - (n) Building Line
  - (o) Parking Requirements
  - (p) Amendment scheme no
  - (q) Annexure Number
  - (r) Item No
  - (s) Item Date
  - (t) Decision (Approved/Not Approved)



- (u) Decision Date

## 29 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 replacement amendment scheme shall from the date of the signing thereof, be in operation; provided that:
  - (a) such replacement and consolidation shall 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* and be recorded in the land use register.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
- (3) The provisions of **sections 15 to 28** apply, with the necessary changes, to the review or amendment of an existing land use scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

## CHAPTER 4

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

#### Part A: Division of Functions

#### 30 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 54** 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 authorized 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.
- (3) Authorised official may refer any category 2 application to Municipal Planning Tribunal which in the opinion of the Municipality based, on its complexity and scope should be considered by the Municipal Planning Tribunal.

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

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

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

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

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

- (1) [The Municipality shall subject to Regulation 3 of the Regulations to the Act, through a Council Resolution, establish a Municipal Planning Tribunal in accordance with section 35 of the Act for its local municipal area.](#)
- (2) The provisions of subsection (1) do not apply if, after the assessment contemplated in **section 31**, the municipality decides to establish a joint Municipal Planning Tribunal or a district Municipal Planning Tribunal.

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

- (1) The Municipal Planning Tribunal consists of at least 5 members as contemplated in section 36 of the Act, made up as follows:



- (a) three officials in the full-time service of the Municipality;
  - (b) a person registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
  - (c) a person 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) a person registered as a professional Land Surveyor with the council for land surveyors in terms of the Geomatics Profession Act, 2013 (Act No.19 of 2013);
  - (e) a person either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
  - (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)** must have at least five years' experience in the field in which they are performing their services.
- (3) The persons referred to in **subsection (1)** 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) in the discipline in which he or she is practising;
  - (c) demonstrate leadership in his or her profession or vocation or in community organisations.

### **34 Nomination procedure**

- (1) The Municipality must -
  - (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and
  - (b) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations.
- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form



contemplated in **Schedule 2 of this by law** 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 3 of this by law** 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 33(1)** with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
  - (c) may advertise the call for nominations on the municipal website; and
  - (d) utilise any other method and media it deems necessary to advertise the call for nominations.

### **35 Requirements for submission of nomination**

- (1) The nomination must be in writing and be addressed to the Municipal Manager.
- (2) The nomination must consist of –
  - (a) the completed declaration contained in the forms contemplated in **Schedule 2 and 3 of this by law** and all pertinent information must be provided within the space provided on the form;
  - (b) the completed **disclosure** of interest form contemplated in **Schedule 4**;
  - (c) the motivation by the nominator contemplated in **subsection (3)(a)**; and
  - (d) the summarised curriculum vitae of the nominee contemplated in **subsection (3)(b)**.
- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –
  - (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
  - (b) a summarised curriculum vitae of the nominee not exceeding two A4 pages.

### **36 Initial screening of nomination by Municipality**

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of **section 35**.
- (2) The nominations that are incomplete or do not comply with the provisions of **section 35** must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of **section 35** must be subjected to verification by the Municipality.





- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
  - (a) was not duly nominated;
  - (b) is disqualified from appointment as contemplated in section 38 of the Act;
  - (c) does not possess the knowledge or experience as required in terms of **section 33(3)**; or
  - (d) is not registered with the professional councils or voluntary bodies contemplated in **section 33(1)**, if applicable, the nomination must be rejected and may not be considered by the evaluation panel contemplated in **section 37**.
- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in **section 37**.
- (6) The screening and verification process contained in this section must be completed within 60 days from the expiry date for nominations.

### **37 Evaluation panel**

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

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

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

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



- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of five years, which is renewable once for a further period of five years.
- (2) The office of a member becomes vacant if that member -
  - (a) is absent from two consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
  - (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
  - (c) is removed from the Municipal Planning Tribunal under **subsection (3)** or dies;
- (3) The Council may remove a member of the Municipal Planning Tribunal if -
  - (a) sufficient reasons exist for his or her removal;
  - (b) a member contravenes the code of conduct contemplated in **Schedule 5**;
  - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act after giving the member an opportunity to be heard.
- (4) An official of a municipality contemplated in **section 33(1)(a)** who serves on the Municipal Planning Tribunal –
  - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
  - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
  - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality shall immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of **section 33(1)(b) to (g)** to the Municipal Planning Tribunal -
  - (a) is not an employee on the staff establishment of that municipality;
  - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
  - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
  - (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;



- (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
  - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (6) All members of the Municipal Planning Tribunal shall sign the Code of Conduct contain in **Schedule 5 of this by law** before taking up a seat on the Municipal Planning Tribunal.
- (7) All members serving on the Municipal Planning Tribunal shall adhere to ethics adopted and applied by the Municipality and shall 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 shall comply with the provisions of the Act, provincial legislation, these By-laws and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

#### **40 Vacancy and Increase of number of Members of Municipal Planning Tribunal**

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of **section 38**. For purposes of this subsection the provisions of **section 33 to Section 38 of this By-law** shall apply mutatis mutandis;
- (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;
- (3) The Municipality may, during an existing term of office of the Municipal Planning Tribunal and after a review of the operations of the Municipal Planning Tribunal, increase the number of members appointed in terms of this Part and in appointing such additional members, it must adhere to the provisions of **sections 33 to 38 of this by-law**;
- (4) In appointing such additional members, the Municipality council may increase the number of members of the Municipal Planning Tribunal as it deems necessary as contemplated in section 36 (3) of the Act; and
- (5) A member who is appointed by virtue of subsection (3) holds office for the unexpired portion of the period that the current members of the Municipal Planning Tribunal hold office.

#### **41 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.



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

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

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.
- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon payment of any fees prescribed in terms of the Municipal Systems Act, 2000 ([Act No.32 of 2000](#)).

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

- (1) The Municipal Manager must within 30 days of the first appointment of members to the Municipal Planning Tribunal -
  - (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
  - (b) after receipt of the confirmation referred to in paragraph (a) publish a notice in the *Provincial Gazette* of the date that the Municipal Planning Tribunal will commence with its operation together with the information contemplated in [section 38\(4\)](#).
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

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

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

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



(3) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

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

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

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

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

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

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

(1) If requested by a district municipality and after the assessment contemplated in [section 31](#), the Municipality decides to establish a district Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the other Municipalities in the district and conclude the necessary agreement that complies with the requirements of the Act.

(2) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

#### **48 Composition of district Municipal Planning Tribunal**

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

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

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

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

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



## **Part F: Decisions of Municipal Planning Tribunal**

### **51 General criteria for consideration and determination of application by Municipal Planning Tribunal**

- (1) When the Municipal Planning Tribunal 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) the desirability of the proposed utilisation of land, assessed in terms of -;
    - (i) economic impact
    - (ii) social impact
    - (iii) scale of capital investment;
    - (iv) compatibility with surrounding uses;
    - (v) impact on external engineering services;
    - (vi) impact of safety, health and wellbeing of the surrounding community
    - (vii) impact on the biophysical environment;
    - (viii) traffic impacts, parking, access and other transport related considerations; and
    - (ix) whether the imposition of conditions can mitigate an adverse impact of the proposed use.
  - (h) a written assessment by a registered planner in terms of the Planning Profession Act, 2002, in respect of the following applications:
    - (i) a rezoning;
    - (ii) a subdivision of more than 20 cadastral units;
    - (iii) a removal, suspension or amendment of a restrictive condition, if it relates to a change of land use.
    - (iv) an amendment, deletion or additional conditions in respect of an existing approval, listed in this paragraph;
    - (v) an approval of an overlay zone as provided in the land use scheme;



- (vi) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;
  - (vii) a determination of a zoning as contemplated in **section 179**;
  - (viii) a closure of a public place or part thereof;
  - (i) the integrated development plan and municipal spatial development framework;
  - (j) the applicable local spatial development frameworks adopted by the Municipality;
  - (k) the applicable structure plans;
  - (l) the applicable policies of the Municipality that guide decision-making;
  - (m) the provincial spatial development framework;
  - (n) where applicable, the regional spatial development framework;
  - (o) the policies, principles, planning and development norms and criteria set by national and provincial government;
  - (p) the matters referred to in section 42 of the Act;
  - (q) the relevant provisions of the land use scheme.
- (2) A municipality must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) is consistent with the development rules of the zoning;
  - (b) is consistent with the development rules of the overlay zone;
  - (c) complies with the conditions of approval; and
  - (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
- (a) the municipality may not approve a building plan if the site development plan has not been approved; and
  - (b) the municipality may not approve a building plan that is inconsistent with the approved site development plan.

## **52 Conditions of approval**

- (1) When the Municipal Planning Tribunal approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to\_
  - (a) the provision of engineering services and infrastructure;



- (b) the cession of land or the payment of money;
- (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
- (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
- (e) settlement restructuring;
- (f) agricultural or heritage resource conservation;
- (g) biodiversity conservation and management;
- (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
- (i) energy efficiency;
- (j) requirements aimed at addressing climate change;
- (k) the establishment of an owners' association in respect of the approval of a subdivision;
- (l) the provision of land needed by other organs of state;
- (m) the endorsement in terms of section 31 of the Deeds Registries Act, 1937 (Act 47 of 1937) 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) requirements relating to engineering services as contemplated in **Chapter 7**;
- (w) 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 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;
  - (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 may 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 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 may, on its 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**

### **53 Administrator for Municipal Planning Tribunal for municipal area**



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

## **CHAPTER 5 DEVELOPMENT MANAGEMENT**

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

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



- (1) The categories of land development and land use management for the Municipality, as contemplated in section 35 (3) of the Act, are as follows -
  - (a) Category 1 Applications; and
  - (b) Category 2 Applications.
- (2) Category 1 applications are applications for -
  - (a) the establishment of a township or the extension of the boundaries of a township;
  - (b) the amendment of a land use scheme by the rezoning of land where there is a departure from the provisions of the Municipal Spatial Development Framework and other Municipal policies;
  - (c) the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
  - (d) instances where the Municipality acting on its own accord wishes to remove, amend a restrictive or obsolete condition, servitude or reservation registered against the title deed of a property or properties which may also arise out of a condition of establishment of a township or any other legislation;
  - (e) the amendment or cancellation in whole or in part of a general plan of a township;
  - (f) permanent closure of any public place;
  - (g) all applications for the restriction of access to a public road in terms of the Rationalization of Local Government Affairs Act, 1998 (Act No. 10 of 1998); and
  - (h) land development on communal land that will have a high impact on the traditional community concerned.
- (3) Category 2 applications are applications for:
  - (a) the subdivision and consolidation of land;
  - (b) the amendment of a land use scheme by the rezoning of land where the rezoning is in line with the provisions of the Municipal Spatial Development Framework and other Municipal policies;
  - (c) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
  - (d) the consent of the municipality for any land use purpose or departure or deviation in terms of a land use scheme or existing scheme which does not constitute a land development application;
  - (e) any consent or approval provided for in a provincial law;
  - (f) a temporary use application; and



- (g) land development on communal land that will have a low impact on the traditional community concerned.

- (3) The division of functions per category of application as contemplated in section 35(3) of the Act between a Authorised Official and a Municipal Planning Tribunal is set out in **section 30**.

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

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality in terms of **subsection (3)**.
- (2) No person may commence with, carry on or cause the commencement with or carrying on of a land use activity which is permitted in the land use scheme but not exercised by the owner of the land.
- (3) 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.
- (4) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.

## **56 Pre- application consultation**

- (1) An applicant who wishes to lodge an application lodge in terms of this by-law is subjected to a compulsory **pre-application consultation** with the Municipality.
- (2) An applicant must liaise **with the municipal department responsible for development planning** to set up an appointment for pre-application discussion.
- (3) The purpose of pre- application discussions is to ensure that the required application procedure is followed and to ensure that the proposed application is in line with the Municipal planning policies and that all the required information is submitted when application is eventually lodged.
- (4) An applicant who intends to lodge any application in terms of this By-law is subjected to comply with the **subsection (1) and (2)**.
- (5) An applicant, whose application is permitted to be lodged, he/she will be issued with an authorisation letter which set out a procedure on how an application will be lodged.
- (6) A **pre-application consultation** appointment with **the municipal department responsible for development planning** may be lodged in the following manner:



- (a) Physical visit/engagement with the relevant municipal officials responsible for setting up appointment regarding pre-application discussion
- (b) Via electronic format such as letter attached to an email, fax or CD/USB hand delivered (Such information must be submitted at least 7 days prior the scheduled meeting).

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

### **57 Application for establishment of township or Extension of Boundaries of Township**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
  - (a) the conditions of approval contemplated in **section 52** of this by law in a statement of conditions;
  - (b) the statement of 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 **and erven in the township and which may or may not be incorporated into the title deeds of 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; and



- (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.
- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (3) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality may 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 94.**
- (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 may 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 94.**
- (6) Without detracting from the provisions of **subsection (4) and (5)** 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.

## **58 Division or phasing of township**

- (1) An applicant who has been notified in terms of **section 109** that his or her application has been approved may, within a period of eight months from the date of the notice, or such further period as the Municipality may allow, 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 shall, within a period of 3 months from the date of the notice contemplated in subsection (3), submit to the Municipality such plans, diagrams or other documents and furnish such information as may be required in respect of each separate township.



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

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

- (1) An applicant who has been notified in terms of **section 109** that his or her application has been approved, shall, 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 shall lapse.
- (2) An applicant may apply in writing, within the prescribed time contemplated in subsection (1) for an extension of time, provided that such application shall be accompanied by such documents as prescribed in **Schedule 8** to this By-law
- (3) the Municipality may grant or refuse an application for extension of time and may impose any conditions it deems expedient for the implementation of the township; provided that any extension of time applications granted may not exceed 5 (five) years from the date of the first approval of the township read with section 43(2) of the Act.
- (4) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in **section 57(2) and (3)** of the conditions of establishment together with a stamped and approved layout plan.
- (5) The Municipality may for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.
- (6) 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 shall 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 shall lapse.
- (7) After an applicant has been notified that his or her application has been approved, the municipality may, or at the applicant's request:
  - (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General; or
  - (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;



amend the layout of the township approved, or conditions imposed, as part of the township establishment application, unless the amendment is, in its opinion, so material as to constitute a new application for the establishment of a township.

## **60 Compliance with pre-proclamation conditions of Approval**

- (1) The applicant shall 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 shall certify that all the conditions that have to be complied with by the applicant or owner as contemplated in **section 57(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 shall be accompanied by such documents as prescribed in **Schedule 8** to this By-law.

## **61 Opening of Township Register**

- (1) The applicant shall lodge with the Registrar of Deeds the plans and diagrams contemplated in **section 60** as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.
- (2) The plans, diagrams and title deeds contemplated in subsection (1) shall 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.
- (3) For purposes of subsection (1) the Registrar shall 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 57 (3)**.
- (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 shall notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar shall not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of **section 62**.

## **62 Proclamation of approved township.**





After the provisions of [sections 57, 58, 59, 60 and 61](#) have been complied with and the Municipality is satisfied that the township is in its area of jurisdiction, the Municipality or the applicant, if authorized in writing by the Municipality, shall, by notice in the *Provincial Gazette*, declare the township an approved township and it shall, in an Annexure to such notice, set out the conditions on which the township is declared an approved township.

### **Part C: Amendment or Cancellation in whole or in Part of a General Plan of an Approved Township**

#### **63 Approval of alteration, amendment, or cancellation of general plan of an approved township**

- (1) 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 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 as prescribed in Chapter 6.
- (2) An application as contemplated in subsection (1) 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.
- (3) The Municipality may approve the amendment or cancellation of a General plan, including conditions of approval contemplated in [section 57\(2\) and \(3\)](#), the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
- (4) When the Municipality approves an application in terms of subsection (3), any public place that is no longer required by virtue of the approval must be closed.
- (5) After the Municipality 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.
- (6) 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.
- (7) After the Surveyor-General has altered or amended the general plan or has totally or partially cancelled it, he/she must notify the municipality.



## **64 Effects of amendments or cancellation of a General Plan**

- (1) 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:
  - (a) The township or part thereof shall cease to exist as a township; and
  - (b) The ownership of any public place or street shall revert to the property owner

### **Part D: Rezoning of land**

## **65 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 two 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 two years period or shorter period —
  - (a) the zoning is not utilised in accordance with the approval thereof; or
  - (b) the conditions of approval are not complied with; and
  - (c) the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments.
- (3) The applicant may, prior to the lapsing of an approval, apply to the municipality for an extension of the validity periods contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 5 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 179**.

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

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

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



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

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

- (1) The applicant shall, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in **section 66(1)**, submit the following to the Registrar of Deeds:
- (a) the original title deed;
  - (b) the original letter of approval; and
  - (c) a copy of the 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 66(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.

- (3) Should a change of ownership be made prior to the notice as contemplated in **Section 66(1)** above the former owner shall :
  - (a) notify the Municipality in an affidavit of the change of ownership by delivering to the Municipality a copy of the registered title deed(s) /deeds search of the property or properties confirming registration of transfer to the new owner; and
  - (b) upon the delivery thereof to the Municipality the new owner shall become responsible for all rights and obligations in terms of the land use and land development application.

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

### **68 Application for subdivision**

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under **section 74**.
- (2) An owner of:
  - (i) an erf in a proclaimed township who wishes to subdivide that erf;
  - (ii) Subject to the provision of the Subdivision of Agricultural Land Act 70 of 1970 as may be amended from time to time, registered farm portion, land or agricultural holding who wishes to subdivide that farm portion, land or agricultural holding not less than 1 Hectare; provided that such subdivision shall not constitute a township in the opinion of the Municipality;

must apply in writing to the Municipality as prescribed in Chapter 6 and at the same time lodge a plan setting out the proposed subdivision and such an application shall be accompanied by such fees as may be prescribed by the Municipality.

- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, unless the land concerned is zoned for such subdivision.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the Municipality's decision to approve the subdivision;
  - (b) the conditions of approval contemplated in **subsection (4)** and **section 52**; and
  - (c) the approved subdivision plan.



- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of two 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 \(5\)](#);
  - (b) completion of the installation of engineering services in accordance with the conditions contemplated in [subsection \(4\)](#) or other applicable legislation;
  - (c) [proof to the satisfaction of the Municipality that all relevant conditions 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.

## 69 Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under [section 74](#).
- (2) [A person who wishes to consolidate two or more land units must apply to the Municipality in a manner prescribed in Chapter 6.](#)
- (3) A copy of the approval must accompany the diagram which is submitted to the Surveyor-General's office.
- (4) [The Municipality must impose appropriate conditions relating to engineering services for an approval of a consolidation.](#)
- (5) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the decision to approve the Consolidation;
  - (b) the conditions of approval contemplated in [section 52](#); and
  - (c) the approved consolidation plan.
- (6) If the Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.



(7) The provisions of subsections 68(6) (a)-(c) shall apply *mutatis mutandis* to an application for consolidation contemplated in this section.

## **70 Confirmation of subdivision or Consolidation**

### **(1) Subdivision —**

- (a) upon compliance with section 68(6), the subdivision or part thereof is confirmed and cannot lapse;
- (b) upon confirmation of a subdivision or part thereof, the zonings indicated on the approved subdivision plan as confirmed cannot lapse;
- (c) the Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 68(6) for the subdivision or part thereof;
- (d) no building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed or the Municipality approved the construction prior to the subdivision being confirmed.

### **(2) Consolidation —**

- (a) upon compliance with section 69(7), the consolidation is confirmed and cannot lapse;
- (b) upon confirmation of a consolidation, the zonings indicated on the approved consolidation plan as confirmed cannot lapse;
- (c) the Municipality must in writing confirm to the applicant or to any other person at his or her written request that a consolidation is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 69(7) for the subdivision or part thereof;
- (d) no building or structure may be constructed on a land unit forming part of an approved consolidation unless the consolidation is confirmed or the Municipality approved the construction prior to the consolidation being confirmed.

## **71 Lapsing of subdivision or Consolidation and extension of validity periods**

- (1) An approved subdivision or consolidation is approved but no consequent registration by the Registrar of Deeds takes place within two years of the approval, the subdivision or consolidation approval lapses, unless an application for extension of time is applied for in terms of subsection 2 in a manner prescribed in schedule 8 to this By-law.
- (2) An applicant may, prior to the lapsing of an approval, apply for an extension of the period to comply with section 68(6) in a manner prescribed in schedule 8.
- (3) The Municipality may grant extensions to the period contemplated in subsection (1), which period together with any extensions that the Municipality grants, may not exceed 5 years.



- (4) If an approval of a subdivision or consolidation 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.

## **72 Amendment or cancellation of subdivision or consolidation plan**

- (1) The Municipality may approve the amendment or cancellation of a subdivision or consolidation plan, including conditions of approval, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
- (2) The applicant must comply with such requirements and pay such fees as may be prescribed by the municipality.
- (3) An application as contemplated in subsection (1) 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.
- (4) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed.
- (5) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision or consolidation.
- (6) An approval of a subdivision or consolidation in respect of which an amendment or cancellation is approved in terms of subsection (1), remains valid for the remainder of the period contemplated in **section 68 (6) and section 69(6)** applicable to the initial approval of the subdivision or consolidation, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

## **73 Services arising from subdivision and consolidation of land units**

- (1) Subsequent to the granting of an application for subdivision in terms of this By-law the owner of any land unit originating from the subdivision must—
  - (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:
    - (i) gas mains;



- (ii) electricity cables;
  - (iii) telephone cables;
  - (iv) television cables;
  - (v) other electronic infrastructure;
  - (vi) main and other water pipes;
  - (vii) 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.

#### **74 Exemption of subdivisions or 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 percent;
  - (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.
  - (g) the granting of a right of habitation or usufruct.
  - (h) the subdivision or consolidation of land for the purpose of the construction or alteration of public roads or any other matter related thereto.
  - (i) the subdivision or consolidation of land in order to transfer ownership to the Municipality or other organ of state.
  - (j) the subdivision or consolidation of land in order to transfer ownership from the Municipality or other organ of state, excluding a subdivision or consolidation for the purposes of alienation for development.
- (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 subdivision or consolidation plan that the subdivision or consolidation has been exempted from the provisions of sections 68 to 73 of this bylaw.

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

#### **75 Closure of public places**

- (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.
- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (4) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—
  - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;



- (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
  - (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
  - (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
  - (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.
- (5) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

### **Part H: Consent Use**

#### **76 Application for consent use**

- (1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in [section 52](#).
- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in [section 52](#).
- (4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subsection (1) lapses after a period of two years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that two year period or shorter period—
  - (a) [the consent use is not utilised in accordance with the approval thereof; or](#)
  - (b) [the conditions of approval are not complied with; or](#)
  - (c) [the development charges referred to in Chapter 7 have not been paid or paid in the agreed instalments.](#)
- (6) The Municipality may grant extensions to the period contemplated in subsection (5), which period together with any extensions that the Municipality grants, may not exceed 5 years.

### **Part I: Application on communal land**

#### **77 Application on communal land**



- (1) No land development application on communal land or in rural areas may be accepted by the Municipality without a recommendation letter from the Traditional Council or power of attorney signed by the property owner.
- (2) The applicant who wishes to make a land development application on land held by the Traditional Council shall approach the relevant Traditional Council to apply for land to be developed by completing an appropriate form.
- (3) The applicant stated in subsection (2) must indicate the description of the property, location, desired size, purpose of the intended use.
- (4) Upon receipt of the recommendation letter from the Traditional Council contemplated in subsection (2), the applicant shall submit the application to the Municipality.
- (5) Any person who causes any development of land on land held by a Traditional Council i.e. subdivision, consent use etc., without obtaining prior permission for such development from the Traditional Authority, in terms of subsection (2) shall be guilty of an offense and liable upon conviction of R10 000.00 or imprisonment for a period as determined by a Court of Law or to both a fine and such imprisonment.
- (6) Over and above the provisions of subsections (1) to (5), the use of communal land where such development will have a high impact on the community must also follow the provisions contained in Chapter 6.
- (7) Developments with a potential to have high impact on the community as contemplated in subsection (6) are listed in **schedule 9** to this By-law.

### **Part J: Temporary Use**

#### **78 Application for temporary use**

- (1) Notwithstanding any other provision of this By-Law, the Local Authority may on receipt of a written application from the owner of land or his authorised agent, give its consent to the temporary use of a property within any use zone for:
  - (a) the erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, or such other uses as may be necessary during the erection of any permanent structure;
  - (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) emergency housing (as defined in this by-law);
  - (d) the occasional use of land or buildings for public religious or cultural activities, place of instruction, institution, place of amusement or social hall;
  - (e) the use of land or buildings thereon for State or municipal purposes;
  - (f) the use of land or the erection of buildings necessary for the purpose of informal retail trade;



(g) Prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No.28 of 2002), as may be amended from time to time.

(2) Such temporary consent granted shall be for a period determined by the Municipality which shall not exceed 12 calendar months.

(3) The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 5 years.

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

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

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

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

- (1) Notwithstanding the provisions contained in this By-law or any conditions imposed in the approval of any land development application, the owner shall, 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 shall 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; and
  - (c) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes; and
  - (d) all conditions of the approval of the land development application have been complied with or that arrangements have been made to the satisfaction of the Municipality for the compliance there of within 3 months of having certified to the Registrar in terms of this section that registration may take place; and



- (e) that the Municipality is in a position to consider a final building plan; and
- (f) that all the properties have either been transferred or shall be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

### **81 First transfer**

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

- (a) transfer land to the Municipality;
- (b) a non-profit company

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

### **82 Certification by Municipality**

(1) A person may not apply to the Registrar of Deeds to register the transfer of a land unit, unless the Municipality has issued a certificate in terms of this section.

(2) The Municipality may 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; and
- (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

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

(1) In terms of section 52 of the Act an applicant shall 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 subsection 52(5) of the Act.

(2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national or provincial interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister or the



Member of the Executive Council respectively and the provisions of subsections 52(5) to 52(7) of the Act, apply with the necessary changes.

- (3) The Municipal Planning Tribunal or Authorised Official 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 subsections 52(5) to 52(7) of the Act apply with the necessary changes.
- (4) Subsections (1) to (3) shall be read with subsection 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance.

## **CHAPTER 6 GENERAL APPLICATION PROCEDURES**

### **84 Applicability of Chapter**

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

### **85 Procedures for making application**

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

### **86 Information required**

- (1) An application must be accompanied by the following documents:
  - (a) an approved application form, completed and signed by the applicant;
  - (b) if the applicant is not the owner of the land, a power of attorney authorising the applicant to make the application on behalf of the owner in terms of [Schedule 7 of this by law](#);
  - (c) if the owner of the land is a company, closed corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or a home owners' association;
  - (d) the relevant bondholder's consent, if required by the Municipality;
  - (e) a written motivation for the application based on the criteria for consideration of the application;
  - (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;



- (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
  - (h) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following:
    - (i) the location of the proposed land units;
    - (ii) the proposed zonings in respect of the proposed land units;
    - (iii) all existing structures on the property and abutting properties;
    - (iv) the public places and the land needed for public purposes;
    - (v) the existing access points;
    - (vi) all servitudes;
    - (vii) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
    - (viii) the street furniture;
    - (ix) the light, electrical and telephone poles;
    - (x) the electrical transformers and mini substations;
    - (xi) the storm water channels and catch pits;
    - (xii) the sewerage lines and connection points;
    - (xiii) any significant natural features; and
    - (xiv) the scale and all distances and areas.
  - (i) any other plans, diagrams, documents or information that the Municipality may require;
  - (j) the proof of payment of application fees;
  - (k) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds;
  - (l) 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
  - (m) in the case of a traditional use application referred to in [section 54](#) and [section 77](#), 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.



## 87 Application fees

- (1) Where in terms of this By-law the applicant is required to pay an application fee, such fee shall be determined by the Municipality and shall be payable by the applicant prior to or simultaneously with the submission of an application.
- (2) Nothing contained in this By-law shall prevent the Municipality from determining application fees for any information, requests, consents or permissions either in terms of this By-law, Land Use Scheme or other law dealing with land development.
- (3) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application.
- (4) Fees applicable to application processes and/or requests and certification shall be dealt with as part of the charges and tariffs published by the Municipality in terms of the Municipal System Act, 2000 (Act 32 of 2000).
- (5) Where any charges and tariffs have been published in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), prior to the coming into operation of this By-law, with reference to any law dealing with land development applications, processes and/or requests including certifications, such charges and tariffs shall be applicable to application fees in accordance with the type of land development application, processes and/or requests and certifications as defined or provided for in terms of this By-law.
- (6) The Municipality may, in its discretion, exempt any person from the payment of the fees prescribed in terms of subsection (1), provided that the Municipality shall with the determination of fees indicated in subsection (1); also determine criteria for exemptions as set out in **Schedule 10** to this By-law.
- (7) Land development applications which, prior to the enactment of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), were dealt with by spheres of government other than a Municipality, shall be subject to the payment of fees for such in terms of the categories of land development applications provided for in Chapter 5 of this By-law as may be determined by the Municipality;

provided that:





the Municipality shall after the publication of this By-law, ensure that when its charges and tariffs are amended in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), the fees for land development applications in terms of this By-law are incorporated therein.

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

- (1) 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 86**;
  - (d) if there is no consent from relevant traditional council in the case of traditional use application (applications on communal land); **and**
  - (e) the application subjected to a pre-application consultation is not accompanied by the relevant authorisation letter from the municipality.

## **89 Receipt of application and request for further documents**

- (1) 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**
  - (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.

## **90 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 there of or within the further period agreed between the applicant and the Municipality.
- (2) The Municipality must 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 refusal to consider the application and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (3) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must make a fresh application and pay the applicable application fees.



## 91 Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete within 30 days of receipt of the application or receipt of 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 90](#) applies to the further submission of information that may be required.

## 92 Withdrawal of application

- (1) An applicant may, at any time prior to a decision being taken, withdraw an application on written notice to the Municipality with no refund.
- (2) The owner of land must in writing inform the Municipality prior to the decision of the application, if he or she has withdrawn the power of attorney that authorised another person to make an application on his or her behalf.

## 93 Notice of applications in terms of integrated procedures

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
  - (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms other legislation within 14 days excluding holidays and weekends
- (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 in the local newspaper based in the area for two weeks, in two different local languages being spoken in the area
- (3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
  - (a) inform the applicant to submit a public notice of the application to be given in terms of [subsection \(1\)](#); and
  - (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application, unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subsection (1), is considered to be public notice in terms of this By-law.
- (4) The 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.

#### **94 Notification of application in media**

- (1) The Municipality must inform the applicant to give notice 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) township establishment and extension of boundaries;
- (i) the amendment of the use of communal land in instances where such amendment will have a high impact on the community and may require special studies; and
- (j) other applications that will materially affect the public interest or the interests of the community if approved.

- (2) Notice of the application in the media must be given by—

- (a) publishing a notice of the application, in the [provincial gazette and newspapers](#) with a general circulation in the area concerned in at least two of the official languages of the Province most spoken in the area concerned; or English and one of the local language.

#### **(3) [Site Notices](#)**

- (a) [the applicant must also post a copy of the notice of application, for at least the duration of the notice period of 30 days excluding holidays and weekends, on the land concerned and on any other notice board as may be determined by the Municipality;](#)



- (b) the notice of less not than 60 cm x 42 cm must be maintained by the applicant within the valid time frames of 30 days excluding holidays and weekends; and
- (c) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
  - (i) sworn affidavit confirming the maintenance of the notice for the prescribed period; and
  - (ii) at least two photos of the notice, one from nearby and one from across the street.

## 95 Serving of notices

- (1) Notice of an application contemplated in **section 94** 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; and
  - (c) 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 request a notice to be served as contemplated in **section 94** of its intention:
  - (a) a determination of a zoning;
  - (b) rezoning of land;
  - (c) special consent applications;
  - (d) an application for subdivision or the amendment or cancellation of a subdivision contemplated in **sections 68 and 72**, respectively;
  - (e) an application for consolidation contemplated in **section 69**; or
  - (f) 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 97**.
- (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 in the form of visuals and affidavits 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;



- (b) when it has been delivered to the property and or that person personally is the date of delivery to that person Acknowledgements/Receipt proof thereof ;
- (c) when it has been left at that person's place of residence or business in the [Republic of South Africa](#) 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.

## 96 Content of notice

(1) When notice of an application must be given in terms of [section 94](#) or served in terms of [section 95](#), the notice must contain the following information:

- (a) the details of the applicant;
- (b) identify the land or land unit to which the application relates by giving the property description and the physical address;
- (c) state the intent and purpose of the application;
- (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
- (e) state the contact details of the relevant municipal employee;
- (f) invite members of the public to submit written comments, objections or representations together with the reasons therefor in respect of the application;
- (g) state in which manner comments, objections or representations may be submitted;
- (h) state the date by when the comments, objections or representations must be submitted within [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, comments or representations.

## 97 Additional notices

(1) If the Municipality considers notice in accordance with [sections 94 or 95](#) 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 convene a meeting for the purpose of informing the affected members of the public of the application;



- (b) to broadcast information regarding the application on a local radio station in a specified language;
  - (c) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
  - (d) to publish the application on the Municipality's website for the duration of 28 days that the public may comment on the application; or
  - (e) to obtain letters of consent or objection to the application.
- (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) Notice to organ of state\_
- (a) An organ of state which is given a notice of an application in terms of this by law and invited to comment must do so within 60 days of the notification.
  - (b) The notice referred to in (a) may be given before a notice is placed in the media as contemplated in **section 94**.
  - (c) An organ of state which fails to comment within the period contemplated in subsection (a) will be regarded as having no comment.
  - (d) An organ of state may be given a notice by means of an email addressed to the head of the department of that organ of state.
- (4) Internal circulation \_
- (a) The municipality may forward an application simultaneously to every department of the municipality which may have direct interest in the application and such department must submit comments within 30 days of the receipt of the request/notice.
  - (b) A department which fails to comment within the period contemplated in subsection (a) will be regarded as having no comment.

## 98 Requirements for petitions

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

## 99 Requirements for objections, comments or representations

- (1) A person may, in response to a notice received in terms of **sections 93, 94, 95, or 97** object, comment or make representations in accordance with this section.



- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person 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.
- (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 an objection, comment or representation received after the closing date.

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

- (1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this by-laws and prior to the approval thereof—
  - (a) at the applicant's own initiative;
  - (b) as a result of objections and comments made during the public notification process; or
  - (c) at the request of the Municipality.
- (2) in case of an application that received comments or objection from interested and affected parties, these parties should be notified of the amendments in accordance to **section 95 and 96**.
- (3) If an amendment to an application is material, the Municipality may require that further notice of the application be given in terms of this By-law and may require that the notice and the application be resent to municipal departments, organs of state and service providers.

### **101 Further public notice**



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

### **102 Cost of notice**

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

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

- (1) Copies of all objections, comments or representations lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
  - (a) The municipality will use available reliable communication to reply to the applicant on the objection, comments or representations received.
- (2) The applicant may, within a period of 30 days from the date of the provision of the objections, comments or representations, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections, comments or representations.
- (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, comments or representations lodged with a Municipality, additional information regarding the application are 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 90(2) to (5) with the necessary changes, applies.

### **104 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 105](#).

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

#### **105 Written assessment of application**

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

#### **106 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, objections or representations.
- (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, objections or representations.

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

If no decision is made by the Municipal Planning Tribunal or Authorised Official (Authorized Official) within the period required in terms of the Spatial Planning and Land Use Management Act, Act 16 of 2013 it is considered undue delay for purposes of these By-Laws and the applicant or interested person may report the



non-performance of the Municipal Planning Tribunal or Authorised Official to the municipal manager, who must report it to the municipal council and mayor.

### **108 Determination of application**

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

### **109 Notification of decision and promulgation**

(1) Notification of decision\_

- (a) 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 taken decision and their right to appeal if applicable.
- (b) 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.

(2) Pre-promulgation conditions\_

- (a) An applicant shall within a period of 12 months or such further period as the Municipality may allow, which period shall not exceed 5 years as contemplated in **section 65(2) and (3)** of this by law:
  - (i) provide proof that he has complied with the provisions of chapter 7 of this By-law read with section 40(7) of the Act, with regard to conditions related to payment of development charges and/or contributions, the provision of engineering services and the provision of parks and open spaces; and
  - (ii) comply with the conditions as contemplated in **section 53** which conditions must be complied with prior to the land use rights being adopted, coming into operation or exercised;

failing which the application shall lapse.



### (3) Publication of Promulgation Notice\_

(a) After the Municipality is satisfied that the applicant has within the period prescribed in subsection 2 complied with the conditions of approval of the land development application it shall publish a notice in the Provincial Gazette of the application as approved, whereupon the land use rights shall have been adopted and come into operation;

(i) on the date of the notice; or

(ii) on a date as may be determined by the Municipality and indicated in the notice;

provided that such notice, shall not within a period of 42 days from the date of delivery of notification of the decision of the municipality contemplated in subsection (1); for purposes of an appeal read with section 51 of the Act be published.

### **110 Duties of agent of applicant**

- (1) An applicant who is not the owner of the land concerned must ensure that he or she has the contact details of the owner of the property.
- (2) The agent must ensure that all information furnished to the Municipality is accurate.
- (3) The agent must ensure that no misrepresentations are made.
- (4) The provision of inaccurate, false or misleading information is an offence.

### **111 Errors and omissions**

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

### **112 Withdrawal of approval**

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of approval.
- (2) Prior to doing so, the Municipality must serve a notice on the owner—
  - (a) informing the owner of the alleged breach of the condition;
  - (b) instructing the owner to rectify the breach within a time period of 14 days;



- (c) allowing the owner to make representations on the notice within a time period 14 days.

(3) An applicant\_

- (a) Who does not wish to proceed with the implementation or the development of land based on an approved land development application; or
- (b) Who wishes to avoid the payment of development charges and monies for provision of open spaces or parks, as may be levied by the Municipality in Chapter 7 of this By-law;

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

- (i) but prior to it coming into operation of any land use rights granted in terms of a land development application, in terms of this By-law or other relevant legislation; or
- (ii) prior to the registration of any transaction arising out of the approval of a land development application;

request, that the application be cancelled by the Municipality by;

- (aa) submitting a written request for cancellation to the Municipality and to any interested person who submitted an objection or made a representation on the application, in a manner prescribed in **Schedule 11**; and
- (bb) providing proof to the satisfaction of the Municipality, that all interested person who submitted an objection or made a representation on the application have been notified.

### **113 Procedure to withdraw an approval**

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

### **114 Exemptions to facilitate expedited procedures**



The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
  - (i) integrated application processes as contemplated in **section 93**;
  - (ii) the provision of housing with the assistance of a state subsidy; or
  - (iii) incremental upgrading of existing settlements;
- (b) in an emergency situation authorise that a development may deviate from any of the provisions of this By-law

## **CHAPTER 7 ENGINEERING SERVICES AND DEVELOPMENT CHARGES**

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

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

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.  
for purposes of:
  - (a) the consideration of the capacity, state and impact of engineering services, social infrastructure and open space requirements in terms of section 42(1)(c) of the Act; and
  - (b) for purposes of imposing conditions with regard to the provision of engineering services.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.
- (3) The Municipality is responsible for the installation and provision of external engineering services, unless the engineering services agreement referred to in **section 117** provides otherwise
- (4) When the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Spatial Planning and Land Use Management Act.
- (5) The Municipality may enter into a written agreement with an applicant to provide that—



- (a) the applicant will install the external engineering service instead of paying the applicable development charges; or
  - (b) the fair and reasonable cost of the external engineering service may be set off against the development charges payable by the applicant.
- (5) A land development application in terms of this By-law or any other relevant law shall not be approved by the Municipal Planning Tribunal or Authorized Official, unless and until the Municipality is satisfied that engineering services, social infrastructure and open spaces can be provided and installed for the proper development of the land development area as contemplated in [subsection \(1\)](#) or that arrangements have been made for the provision and installation of engineering services, social infrastructure and open spaces, to the satisfaction of the Municipality.

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

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

### **117 Engineering services agreement**

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



services;

- (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services 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;
- (d) determine the date on which all risk and ownership in respect of such services shall pass to the Municipality;
- (e) require the applicant and the Municipality 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:
  - (i) when normal maintenance by the relevant authority 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 if the applicant fails to rectify any defects within a reasonable period after having been requested to do so;
- (g) if any one of the parties is to provide and install an engineering service at the request and at the cost of the other, such service must be clearly identified and the cost or the manner of determining the cost of the service must be clearly set;
- (h) determine whether additional bulk services are to be provided by the Municipality and, if so, such services must be identified;
- (i) determine which party is responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, and the extent or manner, if any, to which the costs of such service connections are to be recovered;
- (j) define the service connections to be made which may include all service connections between internal engineering services and the applicable erf or portion of the land and these include –
  - (i) a water-borne sewerage pipe terminating at a sewer connection;
  - (ii) a water-pipe terminating at a water meter; and
  - (iii) an electricity house connection cable terminating on the relevant erf.
- (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.

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

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

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

For the purpose of this Chapter:

- (a) "**external engineering services**" has the same meaning as defined in section 1 of the Act and this by law 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;
- (c) "**link services**" means all new services necessary to connect the internal services to the bulk services; and





- (d) **"internal engineering services"** has the same meaning as defined in section 1 of the Act and includes any link services linking such internal services to the external engineering services.

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

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

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -
- (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improves 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 122**, pay the development charge to the Municipality.
- (3) An applicant or owner who is required to pay a development charges in terms of this By-law shall pay such development charges to the Municipality before:
- (a) any land use rights is exercised;
  - (b) a written statement contemplated in section 118 of the Municipal System Act is furnished in respect of the land;
  - (c) any connection is made to the municipal bulk infrastructure.
  - (d) a building plan is approved in respect of:
    - (i) the proposed alteration of or addition to an existing building on the land;
    - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;
  - (e) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

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

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.
- (2) If the owner is responsible for the provision of external engineering services as may be agreed upon in terms of **section 117(1)** of this By-law, the Municipality



may agree to the offsetting of development charges against the cost of the provision of external engineering services.

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

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

- (1) The Municipality may -
  - (a) in the circumstances contemplated in subparagraph (b) or (c), allow payment of the development charge contemplated in [section 120](#) in instalments over a period not exceeding three months;
  - (b) 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;
  - (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest.

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

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

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

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



- (2) The Municipality must annually prepare a report on the development charges paid to the Municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and must submit such report and statement to the Premier.

## **CHAPTER 8 APPEAL PROCEDURES**

### **Part A: Establishment of Municipal Planning Appeal Authority**

#### **125 Establishment of Appeal Authority**

- (1) The Executive Authority of the Municipality in terms of section 51(2) of the Act is the Appeal Authority of a Municipality; provided that –
  - (a) the Municipality may in terms of section 51(6) of the Act, in the place of its Executive Authority authorize a body, or institution outside of the Municipality, by Municipal Council Resolution, to assume the obligations of an Appeal Authority in terms of the Act; and
  - (b) a body or institution established by the Municipality as an Appeal Authority in the place of the Executive Authority, for purposes of this By-law shall be known as the Municipal Appeals Authority.

#### **126 Institutional requirements for establishment of Municipal Appeal Authority**

- (1) The Municipality, in establishing a Municipal Appeals Authority in terms of **section 125**, must, amongst others\_
  - (a) Determine the terms and conditions of service of the members of the Municipal Appeal Authority;
  - (b) Inform members in writing of their appointment;
  - (c) Develop operational procedures for the Municipal Appeal Authority.
- (2) If the municipality decides to establish the Municipal Appeal Authority in terms of 51(6) of the Act, must also:
  - (a) identify any additional criteria that a person who is appointed as a member of the Municipal Appeal Authority must comply with;
  - (b) consider the qualifications and experience of the persons it is considering for appointment to the Municipal Appeal Authority, make the appropriate appointments and designate the chief presiding officer;



- (c) Publish the names of the members of the Municipal Appeals Authority and their terms of office in the Provincial Gazette;
- (3) The provisions of section 35 to 39 and 41 to 43 of this By-law shall apply *mutatis mutandis* to the establishment of the Municipal Appeal Authority.

## **127 Composition and code of conduct of Municipal Appeal Authority**

- (1) The Municipal Appeal Authority in terms of section 51 (2) of the Act, will consist of: the mayoral committee.
- (2) If the municipality decides to establish the Municipal Appeal Authority in terms of 51 (6) of the Act, must consist of a minimum of three members, which must include the following:
- (a) a person registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
  - (b) a person registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
  - (c) a person registered as a professional Land Surveyor with the council for land surveyors in terms of the Geomatics Profession Act, 2013 (Act No.19 of 2013);
  - (d) a person either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
  - (e) an environmental assessment practitioner registered with a voluntary association; and
  - (f) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (3) No Member of Parliament, the Provincial Legislator or a House of Traditional Leaders may be appointed as a member of the Municipal Appeal Authority.
- (4) No member of the Municipal Planning Tribunal or joint Municipal Planning Tribunal may serve on the Municipal Appeal Authority.
- (5) The Municipal Manager may appoint external Technical Advisors to support the Municipal Appeal Authority.
- (6) A technical and other adviser must be a person with knowledge and expertise specific to the land development and land use application and who is registered with the relevant professional body and voluntary association.



- (7) Members of the Municipal Appeal Authority must sign and uphold the code of conduct contemplated in **Schedule 5**.

## **128 Disqualification from membership of Municipal Appeal Authority**

- (1) A person may not be appointed or continue to serve as a member of the Municipal Appeal Authority, if that person\_
- (a) is not a citizen of the Republic, and resident in the province;
  - (b) is a member of Parliament, a provincial legislature, House of Traditional Leaders;
  - (c) is an un-rehabilitated insolvent;
  - (d) is of unsound mind, as declared by a court;
  - (e) has previously been removed from the Municipal Planning Tribunal or Municipal Appeal Authority for a breach of any provision of the Act and this by law.
- (2) Should any Councillor as a member of the Municipal Appeals Authority, be found guilty of misconduct under the Act and this By-law, he/she shall be disqualified immediately from serving as a member on the Municipal Appeals Authority.

## **Part B: Management of an Appeal Authority**

### **129 Presiding officer of appeal authority**

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

### **130 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 official contemplated in section 35(2) of the Act and he or she made the decision that is the subject of the appeal.
- (2) No presiding officer or member of an appeal authority who has at any time convicted of an offence involving dishonesty may sit at the hearing of an appeal.
- (3) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in **subsections (7) and (8)** must recuse himself or herself from the appeal hearing.
- (4) Presiding officer or member of an appeal authority may not sit at the hearing of an appeal if has previously removed from tribunal for a breach of provision of the Act or provincial legislation enacted in terms of the Act.
- (5) 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.

- (6) 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.
- (7) For the purpose of this Chapter “conflict of interest” means any factor that may impair or reasonable give the appearance of impairing the ability of a member of an appeal authority to independently and impartially adjudicate an appeal assigned to the appeal authority.
- (8) 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.

### **131 Registrar of appeal authority**

- (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of [subsection \(1\)](#), 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.

### **132 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 cash flow management and the finalisation of any matter before the appeal authority;



- (d) transmit all documents and make all notifications required by the procedures laid down in the provincial spatial planning and land use management legislation;
- (e) the establishment of a master registry file for each case which must record –
  - (i) the reference number of each appeal;
  - (ii) the names of the parties;
  - (iii) all actions taken in connection with the preparation of the appeal for hearing;
  - (iv) the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office;
  - (v) the date of the hearing of the appeal;
  - (vi) the decision of the appeal authority;
  - (vii) whether the decision was unanimous or by majority vote; and
  - (viii) any other relevant information.
- (3) The presiding officer of the appeal authority may give the registrar directions regarding the exercise of his or her powers under this Chapter.
- (4) The registrar must give written notice to the presiding officer of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

## **PART C: Appeal Process**

### **133 Commencing of appeal**

- (1) An appellant must commence an appeal by delivering a Notice of Appeal in the form approved by Council to the registrar of the relevant appeal authority within 21 days as contemplated in section 51 of the Act.
- (2) The Municipal Appeals Authority shall consider the appeal with due regard to\_
  - (a) The content of the report
  - (b) The record of proceedings;
  - (c) All approved policies of the Municipality, its Integrated Development Plan and Municipal Spatial Development Framework and its components as contemplated in the Municipal Systems act, 2000 (Act No.32 of 2000).
  - (d) Subject to the provisions of the Act and specifically section 40 and 42 thereof which shall apply *mutatis mutandis* to the consideration of an appeal and may for that purpose\_
    - (i) Carry out an inspection or institute any investigation; but
    - (ii) May not consider any new evidence on the Land Development Application that may negatively affect the respective rights and obligations of interested and affected parties.



### 134 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.

### 135 Screening of appeal

- (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:
  - (a) It complies with the [relevant appeal form approved by 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 relevant [appeal form approved by council](#), the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and requires that information to be provided and returned to the appeal authority by the appellant within 14 days
- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period of 14 days, 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 required information in subsection \(1\) must comply with the provision of regulation 30\(2\) of the Regulation to the Act.](#)

## PART D: Parties to an Appeal

### 136 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;





- (b) the Municipal Planning Tribunal that or the official authorised by the municipality as contemplated in section 35(2) of the Act who made the decision;
- (c) the applicant, if the applicant is not the appellant as contemplated in paragraph (a);
- (d) all parties who objected to the application and appeared before the Municipal Planning Tribunal, or Authorised Official; and
- (e) any other 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.

### **137 Intervention by interested person**

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or official referred to in section 34(2) of the Act and might therefore be affected by the judgement of the appeal authority.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –
  - (a) does not collude with any of the appellants; and
  - (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.
- (3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.
- (5) An “interested person” for the purpose of this Part means a person who -
  - (a) does not have a direct or indirect pecuniary or proprietary interest in the land affected by the decision of the Municipal Planning Tribunal or Authorised Official referred to in section 34(2) of the Act and might therefore be affected by the judgement of the appeal authority; and
  - (b) submitted written comments or made oral representations during the decision-making process of the Municipal Planning Tribunal or Authorised Official referred to in paragraph (a).

## **PART E: Jurisdiction of Appeal Authority**

### **138 Jurisdiction of appeal authority**

- (1) 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.

### **139 Appeal hearing by appeal authority**

- (1) An appeal may be heard by an appeal authority by means of -
- (a) an oral hearing; or
  - (b) a written hearing.

### **140 Written hearing by appeal authority**

A written hearing may be held if it appears to the appeal authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.

### **141 Oral hearing by appeal authority**

- (1) An oral hearing may be held –
- (a) if it appears to the appeal authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
  - (b) if such hearing would assist in the expeditious and fair disposal of the appeal.
- (2) If appropriate in the circumstances, the oral hearing may be held by electronic means.

### **142 Representation before appeal authority**

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

### **143 Opportunity to make submissions concerning evidence**

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

## **PART F: Hearings of Appeal Authority**

### **144 Notification of date, time and place of hearing**

- (1) The appeal authority must notify the parties of the date, time and place of a hearing at least **14 (fourteen)** 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.

### **145 Hearing date**

A hearing will commence within **30 (thirty) 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.

### **146 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, [but the application for an adjournment will be heard by the appeal authority and a ruling thereon will be made.](#)
- (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.

#### **147 Urgency and condonation**

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

#### **148 Withdrawal of appeal**

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

### **PART G: Oral Hearing Procedure**

#### **149 Location of oral hearing**

An oral hearing must be held in a location within the area of jurisdiction of the Municipality where the land affected by the decision is located, but may not be held in the office of the Municipal Planning Tribunal or the Authorised Official authorised whose decision is under appeal.



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

- (1) Each party has the right to present evidence and make arguments in support of that party's case.
- (2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Authorised Official.
- (3) After any respondent or interested person, as the case may be and the Municipal Planning Tribunal or the Authorised Official have stated their case, the appellant shall have the right to reply.

## **151 Witnesses**

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

## **152 Proceeding in absence of party**

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

## **153 Recording**

- (1) Hearings of the appeal authority must be recorded in hardcopy and electronic format.
- (2) The record must be stored as per the provision of records management that are in place or use.

## **154 Oaths**

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

## **155 Additional documentation**

- (1) Any party wishing to provide the appeal authority with additional documentation not included in the appeal record should provide it to the appeal authority at least 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 (three) 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 H: Written Hearing Procedure**

### **156 Commencement of written hearing**

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

### **157 Presentation of each party's case in written hearing**

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given 7 (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 (twenty-one) days in which to provide a submission in response.
- (5) The appellant shall within 7(seven) days from receipt of the submissions referred to in subsection (4), reply thereto.
- (6) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

### **158 Extension of time to Provide a Written Submission**

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

### **159 Adjudication of written submissions**

- (1) Following receipt of any written submissions from the parties, the 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 7 (seven) days to provide a written submission in response.

## **PART I: Decision of Appeal Authority**

### **160 Further information or advice**

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

### **161 Decision of appeal authority**

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

### **162 Notification of decision**

The registrar must notify the parties of the decision of the appeal authority in terms of section 51 (3) of the Act, together with the reasons therefor within 7 (seven) days after the appeal authority handed down its decision.

### **163 Directives to Municipality**

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

## **PART J: General**

### **164 Expenditure**

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

## **CHAPTER 9 COMPLIANCE AND ENFORCEMENT**

### **165 Enforcement of this By-law and other relevant provisions**



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

## 166 Offences and penalties

- (1) Any person who—
  - (a) contravenes or fails to comply with any provision of this By-law or condition of a decision notice;
  - (b) fails to comply with a compliance notice issued in terms of **section 167**;
  - (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
  - (d) upon registration of the first land unit arising from a subdivision, fails to transfer all common property, including private roads and private places originating from the subdivision, to the owners' association;
  - (e) supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
  - (f) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee;
  - (g) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee; or



(h) alters or destroys land or buildings to the extent that the property cannot be used for the purposes set out in the Land Use Scheme.

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

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

#### **167 Serving of compliance notice**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of **section 166**.
- (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.

#### **168 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 166](#) which that person allegedly has committed or is committing through the carrying on of that activity;
  - (d) the steps that the person must take and the period within which those steps must be taken;
  - (e) anything which the person may not do, and the period during which the person may not do it;
  - (f) provide for an opportunity for a person to lodge representations contemplated in terms of [section 169](#) with the contact person stated in the notice;
  - (g) issue a warning to the effect that—
    - (i) the person could be prosecuted for and convicted of an offence contemplated in [section 166](#);
    - (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 169](#).

### **169 Objections to compliance notice**

- (1) Any person or owner who receives a compliance notice in terms of [section 167](#) 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.



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

- (1) If a person fails to comply with a compliance notice the Municipality may—
  - (a) lay a criminal charge against the person;
  - (b) apply to the High Court for an order 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 167**.

### **171 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 the High Court for an urgent interdict or any other relief necessary.

### **172 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 167** to demolish the building work.
- (2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

### **173 Power of entry for enforcement purposes**

- (1) The Municipality may authorise an official or any other person to act in terms of this By-law for the purposes of investigating any matter in connection with this By-law.
- (2) A peace-officer appointed in terms of the Criminal Procedures Act, 1977 (Act 51 of 1977), or any officer duly authorised and entrusted with law enforcement in terms any law related to land development, appointed by the Municipality as such, are considered to be authorised employee or a Development Compliance Officer contemplated in subsection (1).
- (3) An authorised employee may, subject to subsection (4), at any reasonable time, and without prior notice, enter any land, building or premises for purposes of ensuring compliance with this By-law.
- (4) An inspection of a private dwelling may only be carried out by authorised employee at a reasonable time and after reasonable notice has been given to the



owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of section 32 of the Act.

- (5) Where a authorised employee enters any land in terms of subsection (3), a person who controls or manages the land must at all times provide such facilities as are reasonably required by the authorised employee to enable him/her to perform his/her functions effectively and safely under this By-law.
- (6) The authorised employee is not required to give reasonable or any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
  - (a) He/she believes on reasonable grounds that a warrant would be issued to him/her on application under **section 175** of this By-law; and
  - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (7) The Municipality must issue each official contemplated in subsection (2) with a written appointment, stating that the person has been appointed for executing functions in terms of this By-law.
- (8) 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.
- (9) 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.

#### **174 Power and functions of authorised employee**

- (1) In ascertaining compliance with this By-law as contemplated in **section 165**, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.
- (2) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

#### **175 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 a High 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 166](#) 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 173](#) 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 173](#) as specified in the warrant on one occasion only, and that entry must occur—
- (a) within one month of the date on which the warrant was issued; and
  - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

### **176 Regard to decency and order**

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

### **177 Court order**

- (1) Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in [section 166](#), the Municipality may apply to the High Court for an order compelling that person to—
- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
  - (b) rehabilitate the land concerned;
  - (c) compelling that person to cease with the unlawful activity; or
  - (d) any other appropriate order.



## CHAPTER 10 TRANSITIONAL PROVISIONS

### 178 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, shall 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 27 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) shall;
  - (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 months calculated from the date contemplated in subsection (2);
  - (c) where on the date of the coming into operation of an approved land use scheme -
    - (i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;
    - (ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the approved land use scheme, the building shall for a period of 15 months from that date be deemed to comply with that provision.
  - (d) where a period of 15 months 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 shall, 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;
- (f) 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 shall be deemed to be correct until the contrary is proved.
- (g) 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 shall apply as contemplated in subsection (2).
- (h) If the geographic area of the Municipality is demarcated to incorporate land from another municipality then the Land Use Scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it subject to **section 29** of this By-law.

### **179 Determination of zoning**

- (1) Notwithstanding the provisions of **section 178(2) and (3)**, the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act.
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
  - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
  - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
  - (c) any departure or consent use that may be required in conjunction with that zoning;
  - (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
  - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and give notice of its intention to do so in terms of **section 94**.



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

## **CHAPTER 11 GENERAL PROVISIONS**

### **180 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.

### **181 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.

### **182 Approval of Building Plans and Registration**

- (1) An approval in terms of Section 7(6) of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977) shall not be granted unless the land use rights have come into operation in terms of the provisions of this By-law;
- (2) The Municipality shall not approve the erection of any building in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) on the land which is the subject of any land development application, save in accordance with such approval;
- (3) The Registrar of Deeds shall not register any transaction submitted by or on behalf of the owner of the land which is the subject of an approval under this By-law and arising as a consequence of such approval unless the documents evidencing such transaction include any conditions of title imposed by the Municipality.

### **183 Schedules and Forms to this By-Law**

- (1) The Schedules and Forms to this By-law are aimed at assisting the public and the Municipality in dealing with any matter in terms of this By-law.
- (2) Where any notice is required in terms of this By-law which has the purpose of soliciting public participation, such notices shall be substantially in accordance with the Schedules and Forms to this By-law: provided that the intention of soliciting comments and objections through public participation is to ensure that the public is properly informed of the land development application brought in terms of this By-



law; and for that purpose the Municipality may require the applicant to amplify or supplement the notices in terms of the Schedules and Forms to this By-law.

- (3) In the event of a discrepancy between the by-law and any Schedule or Forms, the By-law will prevail.

#### **184 Provision of Information**

(1) Subject to the Promotion of Access to Information Act, 2000 (Act 2. of 2000) and the law relating to documentary privilege, any person shall be entitled to obtain a copy of any document or information relating to a land development application or any other document referred to in this By-law from the Municipality, provided that:

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

(2) Any form of communication by any employee of the Municipality in relation to any intended or pending land development application and which may be construed as advice shall not be binding or have any effect in the determination of such a land development application by either the Municipal Planning Tribunal, Authorised Official or Appeal Authority.

#### **185 Excision of land from Agricultural Holding Register**

- (1) If required to do so the Applicant shall be responsible for the excision of land from an Agricultural Holding.
- (2) If the excision of an Agricultural Holding is required as a result of a township establishment application it may be included as a pre-proclamation condition in terms of section 61 of this By-law.
- (3) The endorsement of the Agricultural Holding Title by the Registrar of Deeds, to the effect that it is excised and known as a farm portion for purposes of a township establishment application, can be done simultaneously with the endorsement of the title deed of the farm portion and the opening of a township register in terms of **section 61** of this By-law.





- (4) The Municipality shall issue a certificate certifying that the pre-proclamation conditions have been complied with in terms of **section 60** of this By-law and in so certifying it may require that certain conditions be complied with together with the opening of a township register, which may include the registration of the excision of an Agricultural Holding.
- (5) If an applicant wishes to excise an Agricultural Holding from the Agricultural Holding Register at the Registrar of Deeds for whatever purpose, including the removal of restrictive conditions of title applicable to Agricultural Holding, the Municipality shall only regard proof of such excision as being the endorsed title deed of the Agricultural Holding by the Registrar of Deeds and a copy of the farm title deed created at the Registrar of Deeds as a result of the excision.
- (6) Where the Municipality is authorized to grant permission for the excision of an Agricultural Holding in terms of any other law, the applicant shall submit an application for excision as may be prescribed in **Schedule 12** to this By-law; provided that an application for excision shall not be regarded as a land development application for purposes of this By-law.
- (7) The Municipality shall consider the permission application submitted in terms of subsection (6) and may make a recommendation on whether it is in a position to grant the application for excision of an Agricultural Holding and may do so subject to such condition as the Municipality may deem expedient or postpone or refuse the application.
- (8) The applicant shall upon receipt from the Municipality of a recommendation for granting the application contemplated in subsection (7) for excision without delay submit the recommendation to the Surveyor-General, with a request for a new property description of the farm into which the Agricultural Holding will be incorporated.
- (9) The applicant shall upon receipt of a new farm description as contemplated in subsection (8) from the Surveyor-General submit, proof to the satisfaction of the Municipality of—
  - (a) the new farm description; and
  - (b) a draft surveyed diagram and confirm that he/she wishes to proceed with the excision,  
quoting the new farm portion number contemplated in subsection (8).
- (10) The Municipality shall consider the information provided and may grant the permission for the



excision application contemplated in subsections (6) and (9) and may impose any condition it

deems expedient and for purposes of granting the excision application shall issue a certificate that excision of the Agricultural Holding has been approved.

(11) The Municipality shall deliver a notice to the applicant of its decision in terms of subsection (10) and the applicant shall deliver to the Surveyor-General and the Registrar of Deeds a copy of the excision certificate contemplated in subsection (10).

(12) An excision application granted in term of subsection (10) shall only be valid upon the date on which the title deed of the Agricultural Holding has been endorsed by the Registrar of Deeds to the effect that the Agricultural Holding has been excised.

### **186 Limitation of liability**

(1) Neither the Municipality nor any other person in the employ of the Municipality or acting on behalf of the Municipality, is liable for any damage or loss caused by\_

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

### **187 Liability for errors or omissions in the Municipality's Land Use Scheme**

(1) The Municipality's land use scheme shall be regarded as the record of land use rights together with the approved and or adopted land development application, its conditions and or any document approved as part of the land development application.

(2) A zoning or land use right(s) recorded in the land use scheme, read with the general provisions of the land use scheme or the approved or adopted land development application, is presumed to be correct, unless proven otherwise by an applicant or owner.

(3) A zoning or land use right ceases to exist on the day when it lapses in terms of this By-law or section 43 of the Act, or a condition of approval of a land development application, even if the land use scheme or zoning map still records the land use right as existing.

### **188 Short title and commencement**

- (1) This By-law is called the **Ephraim Mogale Spatial Planning and Land Use Management Amendment By-law, 2022.**
- (2) The amendments effected come into operation on the date of publication in the provincial gazette.



**SCHEDULE 1**  
**CLAUSES, MAPS AND ANNEXURES OF THE**  
**LAND USE SCHEME IN TERMS OF CHAPTER 3 OF THIS BY-LAW**

1. Subject to the provisions of **section 27** of this By-law the following shall be included in a Land Use Scheme:

- (1) categories of land use zoning and/or use zones;
- (2) scheme clauses;
- (3) schedules to the clauses of the scheme;
- (4) a scheme map;
- (5) a Land Use Scheme register;
- (6) where applicable a description of the land to which the Land Use Scheme relates; and contain the provisions relating to the Land Use Scheme, and may include annexures and regulations to the scheme clauses and Land Use Scheme.

2. A scheme map may indicate all matters relevant to, a category of land use and/or use zone or the Land Use Scheme and it shall include in particular but not limited to:

- (1) the scale and the true north of the area on each sheet;
- (2) the boundaries, descriptions of surrounding properties and the property(ies) descriptions of all townships, agricultural holdings and farms, lots, plots, stands or portions into which they have been divided, if any and any erf or erven;
- (3) the position and names of all streets, roads, thoroughfares, squares, other open spaces and public places;
- (4) cadastral information;
- (5) any other information that may be required by the Municipality and such information shall be illustrated by notations where applicable;
- (6) an annexure and/or whether an annexure is applicable to the property(ies).

3. The Municipality may for purposes of providing information to any person provide them with a Zoning Certificate prepared by the Municipality, subject to the information being available and may include the following:

- (1) zoning category;



- (2) primary uses;
  - (3) uses that can be obtained with consent use and/or permission application;
  - (4) density;
  - (5) coverage;
  - (6) height;
  - (7) floor area ratio;
  - (8) building lines;
  - (9) approved consent use and/or permission; and
4. the Zoning Certificate shall be available to the public upon request during normal office hours after payment of the prescribed fees, which shall be for information purposes only and must be verified with the adopted Land Use Scheme and amendment schemes thereto by the owner



**SCHEDULE 2**

**INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE -  
\_\_\_\_\_ MUNICIPAL PLANNING TRIBUNAL**

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the \_\_\_\_\_ 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 \_\_\_\_\_ 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 \_\_\_\_\_ Municipality.

Nominees must be persons registered with the professional bodies contemplated in **section 33(1)(b) – (f)** of the 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  
\_\_\_\_\_ Municipality  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_

For Attention: \_\_\_\_\_

For Enquiries: \_\_\_\_\_

Tel \_\_\_\_\_

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

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

hereby declare that –

- (a) I am available to serve on \_\_\_\_\_ Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me OR I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) there is no conflict of interest OR I have the following interests which may conflict with the \_\_\_\_\_ 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 \_\_\_\_\_ Municipal Planning Tribunal and I authorise the \_\_\_\_\_ 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 \_\_\_\_\_ Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

**CLOSING DATE: (INSERT DATE)**

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

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

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

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



### SCHEDULE 3

## CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE - \_\_\_\_\_ MUNICIPAL PLANNING TRIBUNAL

### CLOSING DATE: (INSERT DATE)

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the \_\_\_\_\_ Municipality hereby call for nominations for members of the public to be appointed to the \_\_\_\_\_ 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 \_\_\_\_\_ Municipality.

Nominees must be persons registered with the professional bodies contemplated in **section 33(1)(b) – (f)** of the 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 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 \_\_\_\_\_ 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 may result in the disqualification of the nomination.

Nominations must be sent to:

The Municipal Manager  
\_\_\_\_\_ Municipality

P.O. Box \_\_\_\_\_

\_\_\_\_\_

For Attention: \_\_\_\_\_

For Enquiries: \_\_\_\_\_

Tel \_\_\_\_\_

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

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

hereby declare that –

- (a) I am available to serve on \_\_\_\_\_ 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 \_\_\_\_\_ 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 \_\_\_\_\_ Municipal Planning Tribunal and I authorise the \_\_\_\_\_ 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 \_\_\_\_\_ Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

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

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





**SCHEDULE 4  
DISCLOSURE OF INTERESTS**

I, the undersigned,

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

do hereby declare that -

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

<b>CONFLICTING INTERESTS</b>

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

<b>1. NON-EXECUTIVE DIRECTORSHIP</b>	
<b>Name of Company</b>	<b>Period</b>
1.	
2.	
3.	
4.	
5.	

**2. REMUNERATIVE WORK, CONSULTANCY & RETAINERSHIPS**

Name of Company & Occupation	Type of Business	Rand amount per month	Period
1.			
2.			
3.			
4.			
5.			

**3. CRIMINAL RECORD**

Type of Offence	Dates/Term of Sentence
1.	

- (e) I am South African citizen or a permanent resident in the Republic
- (f) I am not a member of Parliament, a provincial legislature, a Municipal Council or a House of Traditional Leaders;
- (g) I am not an un-rehabilitated insolvent;
- (h) I have not been declared by a court of law to be mentally incompetent and have not been detained under the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) I have not at any time been convicted of an offence involving dishonesty;
- (j) I have not at any time been removed from an office of trust on account of misconduct;
- (k) I have not previously been removed from a tribunal for a breach of any provision of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the [Spatial Planning and Land Use Management By-Law, 2017 enacted by the Ephraim Mogale 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 [Spatial Planning and Land Use Management By-Law, 2017 enacted by the Ephraim Mogale 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.

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



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

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

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



## SCHEDULE 5

### CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL/ MUNICIPAL APPEAL AUTHORITY

I, the undersigned,

Full names: \_\_\_\_\_

Identity Number: \_\_\_\_\_

Residing at: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

do hereby declare that I will uphold the Code of Conduct of the \_\_\_\_\_  
Municipal Planning Tribunal/ [Municipal Appeal Authority](#) contained hereunder:

#### General conduct

1. A member of the Municipal Planning Tribunal / [Municipal Appeal Authority](#) 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/ [Municipal Appeal Authority](#) may not—
  - (a) use the position or privileges of a member of the Municipal Planning Tribunal/ [Municipal Appeal Authority](#) or confidential information obtained as a member of the Municipal Planning Tribunal/ [Municipal Appeal Authority](#) 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/ [Municipal Appeal Authority](#) may not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers 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/ [Municipal Appeal Authority](#) may not—
- (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
  - (b) use confidential information acquired in the course of his 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/ [Municipal Appeal Authority](#), 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/ [Municipal Appeal Authority](#) by improper means.

**Signature of Nominee:**

\_\_\_\_\_

**Full Names:**

\_\_\_\_\_

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



## SCHEDULE 6

### 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 subitem 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;
  - (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 subitem 3 is approved by the Municipality.
6. An owners' association which comes into being by virtue of subitem 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 subitem 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
8. If an owners' association fails to meet any of its obligations contemplated in subitem 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subitem 6(a), the amount of any expenditure incurred by it in respect of those actions.



9. The amount of any expenditure so recovered is, for the purposes of subitem 8, considered to be expenditure incurred by the owners' association.

### **Owners' association ceases to function**

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



## SCHEDULE 7

### REQUIREMENTS FOR THE SUBMISSION OF A POWER OF ATTORNEY IN TERMS OF SECTION 86 (1)(b) OF THIS BY-LAW

(1) A power of attorney for purposes of section 86(1)(b) of this By-law for any land development application, other application or request either in terms of this By-law, Land Use Scheme in operation or any other applicable law relating to municipal planning, made on behalf of the owner of property shall comply with the following:

- (a) it shall contain detail with regard to the actions to be taken on behalf of the owner including but not limited to:
  - (i) the type of applications, actions and/or representation to be done by the person being authorized in terms of the power of attorney;
  - (ii) the person and/or legal entity on whose behalf any application, actions and/or representation is to be done or made;
  - (iii) details of the person and/or legal entity who will be making the application, action and/or representation on behalf of the owner as contemplated in paragraph (ii);
  - (iv) may include any other action that may arise out of the power of attorney to which the action in paragraph (i) relate;

may include the requirement that the owner shall ratify, allow and/or confirm any promise, agreement or action done on behalf of the owner that may be done or permitted to be done legally in terms of the power of attorney;

(vi) must include, where the owner wishes to withdraw and/or cancel an application, action and/or representation contemplated in paragraph (i), specifically state that the person or legal entity contemplated in paragraph (iii) has such power to withdraw and cancel the application, actions or representations on behalf of the owner.

(b) A power of attorney contemplated in paragraph (1)(a) by the owner of the property shall be substantially, in the opinion of the Municipality, in accordance with EPMLM: F/01, to this By-law if he/she is not the owner of property as contemplated in section 86(1)(b) of this By-law read with paragraph (1)(a) and shall further comply with the following:

- (i) the power of attorney must correspond with the registered Title Deed; provided that: if a property changes ownership while an application is being considered, the new owner must submit a power of attorney indicating that he/she accepts the rights and obligations arising out of the application, actions and/or representations made by or on behalf of the previous owner and wishes to continue with the application.





## SCHEDULE 8

### REQUIREMENTS FOR EXTENSION OF TIME AS MAY BE ALLOWED IN TERMS OF ANY PROVISION OF THIS BY-LAW

1. An applicant who wishes to request the Municipality, in terms of any provision of this By-law to allow and extension of time on any land development application, as the case may be, must do so where practically possible at least one month before the expiry date of the time as provided for in this By-law or approval of a land development application to comply with any provision and/or condition(s) of approval.
2. The applicant shall at least for purposes of a complete submission of a request in terms of this By-law submit the following documentation:
  - (1) an original official receipt or proof of EFT payment of the request 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 in **EPMLM: F/13** to this By-law;
  - (4) if the applicant is not the owner of the property(ies) a power of attorney that complies with the provisions of **section 86(1)(b) and Schedule 7** of this By-law;
  - (5) compelling reasons for the request for extension of time;
  - (6) proof of submission of documents to the Surveyor-General if relevant; and
  - (7) summary of the progress of the application.



## SCHEDULE 9

### LAND DEVELOPMENT APPLICATIONS ON COMMUNAL LAND THAT MAY HAVE HIGH IMPACT ON THE COMMUNITY AS CONTEMPLATED IN SECTION 77 (6) AND (7) OF THIS BY-LAW

- (1) High impact Development on communal land as contemplated in sections 77(6) and (7), include the following:
  - (a) Abattoir;
  - (b) Cemetery;
  - (c) Telecommunication Mast Infrastructure;
  - (d) Community facilities, including educational institutions and health care facilities;
  - (e) Place of public worship with more than 100 seats;
  - (f) Crematorium and funeral parlour;
  - (g) Filling station and public garage;
  - (h) Lodge;
  - (i) High density residential;
  - (j) Industry;
  - (k) Mining;
  - (l) Office park;
  - (m) Shopping complex and centres; and
  - (n) Any other development which may require a specialist report or study, including but not limited to, a geotechnical report, engineering service report, traffic impact assessment, environmental study/authorisation, feasibility report and market (socio-economic) study.



## SCHEDULE 10

### EXEMPTION OF FEES IN TERMS OF SECTION 87(6) OF THIS BY-LAW

1. An applicant may request the Municipality for exemption of payment of application fees and/or fees for a copy of the Land Use Scheme or any component thereof in the following instances:
  - (1) The proposed land development application will be for National, Provincial or Municipal uses; and/or
  - (2) Municipal projects and/or Consultants that have been appointed by the Municipality to lodge a specific land development application or project; and/or
  - (3) academic research projects.
2. The applicant must submit at least the following documentation before submission of a land development application as contemplated in Chapter 6 of this By-law for completeness of his/her request:
  - (1) written motivation with the reasons for exemption of fees;
  - (2) proof that the proposed development will be of National, Provincial or Municipal purposes or interest;
  - (3) proof of ownership of the proposed application property(ies);
  - (4) proof to the satisfaction of the Municipality that the project is for academic research.
3. Exemption for payment of application fees must be granted before the submission of a land development application, failing which section 87(3) of this By-law shall apply.



## SCHEDULE 11

### WITHDRAWAL OF APPLICATION IN TERMS OF SECTION 92(1) OF THIS BY-LAW

1. An owner or applicant may request the Municipality to cancel a land development application as contemplated in terms of section 92(1) of this By-law and for purposes of completion at least submit the following documentation:

- (1) submit proof that the applicant requesting cancellation, have the authority to do so;
- (2) a written notification for the cancellation;
- (3) submit proof that all the interested persons who submitted an objection or made a representation on the application have been notified of the request for cancellation of the land development application; and
- (4) submit an acknowledgement that the owner shall not have any claim for any reinstatement of such land development application.



## SCHEDULE 12

### EXCISION OF AN AGRICULTURAL HOLDING IN TERMS OF SECTION 185 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 185(6) of this By-law, shall apply to the Municipality in the forms as set out in EPMLM: F/03 and the applicable form in terms of the Transvaal Agricultural Holding Act, 1919 (Act No. 22 of 1919). Unless the provincial legislations are repealed, the applicable form may be prescribed by the Municipality and such application shall, in addition to the fees prescribed be accompanied by the maps and documents indicated in paragraph 2 below.
2. The applicant shall for purposes of a complete submission of an application in terms of section 185(6) of this By-law at least submit the following documentation —
  - (a) an original official receipt or proof of payment of the application fee; the application will not be processed before confirmation of payment has been received;
  - (b) a covering letter addressed to the department responsible for Development Planning;
  - (c) the completed and signed application form as set out on EPMLM: F/03;
  - (d) a power of attorney that complies with the provisions of schedule 7 and EPMLM: F/01 of this Bylaw;
  - (e) if the property is encumbered by a bond, the bondholder's consent;
  - (f) a motivational memorandum with at least the following information —
    - (i) indicate the reasons for the proposed excision of the agricultural holding; and
    - (ii) indicate any other land development application submitted that necessitates the excision of the agricultural holding from the Agricultural Holding Register;
    - (iii) purpose of the excision application (whether it is intended to remove the restrictive conditions relevant to Agricultural Holdings or are as a result of an application contemplated in paragraph (b);
    - (iv) if the Agricultural Holding is excised the farm register into which it will be reincorporated with an indication whether that farm is exempted in terms of the Subdivision of Agricultural Land, 1970 (Act No. 70 of 1970);
  - (g) a locality plan indicating where the agricultural holding is situated be as well as the exact boundaries of the proposed division(s) of the agricultural holding;
  - (h) a copy of the approved Agricultural Holding diagram or General Plans as approved by the Surveyor-General;
  - (i) the agricultural holding layout plan on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 as the case may be, or as determined by the Municipality; and
  - (j) a copy of the title deed which is registered in the deeds office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property, provided that a draft title deed shall not be acceptable.



**EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE  
MANAGEMENT BY-LAW, 2017 FORMS:**

**EPMLM: F/01  
EXAMPLE OF A POWER OF ATTORNEY**

I/We, *[John]* *[Citizen]*

.....  
ID No: ..... the undersigned, hereby nominate, constitute  
and ..... appoint ..... –

.....  
*(Include the company name and registration number of the company) and*  
..... ID No:

..... *(name and ID no of person from the company who in*  
*turn is granted authority by the said company )* with the power of substitution to be my/our  
legal attorney(s) and agent(s) in my/our name, place and stead to apply for -

..... *(type of application and*  
*property description)*

at ..... The  
Ephraim Mogale 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  
.....20.....

in the presence of the undersigned witnesses.

AS WITNESSES:

1.....  
.....

2.....  
.....

*[John]* *[Citizen]*

.....  
...

Registered Owner



EPMLM: F/02

REQUEST FOR EXTENSION OF TIME IN TERMS OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017 AND AS REQUIRED IN TERMS OF **SCHEDULE 8** TO THIS BY-LAW

**PART A: APPLICATION SUBMISSION**

Four (6) copies of the application must be submitted together with all the required information to:

**The Municipal Manager  
13 Ficus Street  
Marble Hall  
0540**

**For Office Use Only**

**Date Received:**

**Received by:**

**File Ref. No:**

**PART B: APPLICANT DETAILS**

<b>Name of the applicant(individual/Company name)</b>	
<b>Contact details</b>	<b>Tel/Cell:</b>
	<b>Email:</b>

**PART C: APPLICATION DETAILS**

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

<b>APPROVED LAND DEVELOPMENT APPLICATION INFORMATION</b>	
Type of land development application (section in terms of the by-law)	
Reference number	
Township/ Agricultural Holding/ Farm	
Erf/Farm No.	
Portion No.	
Date of approval of the land development application	
Date approval will lapse	
Date(s) of previously approved extension of time (if relevant)	
Provide details and reasons for the proposed extension of time. Please note that a <b>Detailed Motivation Report must be attached to the application.</b>	
.....	



.....

.....

.....

.....

**CHECKLIST: REQUIRED DOCUMENTS**

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....





## EPMLM: F/03

APPLICATION FORM TO BE SUBMITTED FOR ANY APPLICATION AND/OR REQUEST WITH THE APPLICANT AND OWNER DETAILS AS REQUIRED IN TERMS OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

### PART A: APPLICANT DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>			
Individual	<input type="checkbox"/>	Legal Entity	<input type="checkbox"/>
<b>Applicant Details: Individual</b>			
Title			
Name			
Surname			
Identity Number			
Marital Status if the owner is the applicant			
Physical Address			
<b>Applicant Details: Legal Entity/ Other</b>			
Name			
Registration Number			
Representative Name			
Physical Address			
<b>Communication Details</b>			
Postal Address <i>(if different from Physical)</i>			
Email Address			
Work Telephone Number			
Cell Number			



Fax Number	
Preferred Method of Communication	

## PART B: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/>
Legal Entity	<input type="checkbox"/>
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	
<b>Owner Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of the Owner</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	



**PART C: PROPERTY INFORMATION**

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

Agricultural Holding/ Farm/ Township Name			
Plot/ Farm no/ Erf no.		Portion	
Size of Property			
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO	

**DECLARATION:**

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/04

APPLICATION FORM FOR A TOWNSHIP ESTABLISHMENT OR EXTENSION OF BOUNDARIES OF A TOWNSHIP IN TERMS OF SECTION 57 OF EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:
The Municipal Manager
13 Ficus Street
Marble Hall
0540

For Office Use Only

Date Received: Received by:

File Ref. No:

Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?
If "YES" attach proof/record of such consultation. YES NO

If "NO" please state the reason(s) below.
.....
.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)
Individual Legal Entity
Applicant Details: Individual
Title
Name
Surname
Identity Number
Marital Status if the owner is the



applicant	
Physical Address	
<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/>
Legal Entity	<input checked="" type="checkbox"/>
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Owner Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of the Owner</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: PROPERTY INFORMATION

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

Agricultural Holding/ Farm/ Township Name			
Plot/ Farm no/ Erf no.		Portion	
Title Deed No./ Certificate of Registered title No.			
Size of Property			
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO	

#### PART E: EXISTING LAND USE INFORMATION

Land Use Scheme <i>(name)</i>	
Present Zoning	
Existing Development/ use	



## PART F: PROPOSED TOWNSHIP

Name and Extension of the proposed township							
Proposed use zone	Erf numbers.	No. of Erven per use zone	Average size m <sup>2</sup>	Height	FAR	Coverage	Other development control measures (density)

## PART G: GENERAL INFORMATION

Is the property situated within 3km of a sewage disposal works?	Yes	No
Name the local authorities or authorised bodies that provide the following services:		
Water		
Electricity		
Sewage		
Roads and storm water		
Is the existing development (structures and land use) on the property described in the memorandum?	Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage Resource Act, 1999 (Act 25 of 1999)?	Yes	No
<b>PAYMENT OF OPEN SPACES AND PARKS/DWELLING UNITS</b>		
Does the layout plan provide for open spaces or parks in accordance with the requirements of the <b>Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017</b> ?	Yes	No
Motivate if answer is "no" above		
Provide the total number of dwelling units on all Erven in the proposed township		
<b>ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES</b>		



Is there any part of the proposed development, forming the subject of this application, deemed to be a "listed activity" in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), as may be amended from time to time, with specific reference to the regulations promulgated under Section 24(5) read with section 44(1)(b) of the National Environmental Management Act, 1998 (Act 107 of 1998)?		Yes	No	
If "Yes" please provide the reference number of the application submitted to the environmental authorities with regard to the requirement to procure environmental authorization to conduct the listed activity as aforesaid: Reference Number				
Provide the contact details of the appointed Environmental Assessment Practitioner: Name: Contact Details:				
Indicate which process has been initiated		Basic	Yes	No
		Scoping	Yes	No
		None		
Appointed environmental consultant	Name:			
	Contact details:			
If the development is not a "listed Activity" or if the above EIA process has not been inflated, have the on-site ecological issues been discussed in the memorandum?		Yes	No	
The applicant acknowledge that he/she is responsible to forward a copy of the application to external bodies and to submit proof to the Municipality.		Yes	No	

#### Checklist For Layout Plans For A Township Establishment Or Extension Of Boundaries:

No.	Requirements of information to be provided		Yes	No
1	Prints of the layout plan of the proposed township			
2	Plan number; CPD (Township name, extension/number of plan e.g/ CPD MVO x 55/1			
3	*Contour lines and values			
4	A bar scale			
5	The true north			
6	The name of the Municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated			
7	Boundaries of the proposed township			
8	The Property description as indicated in the 'Township name reservation letter'			





9	Grid co-ordinates and a reference to the geodetic system used			
10	Existing buildings in the proposed township			
11	Adjoining existing and adjoining proposed streets and roads with their names			
12	Adjoining proposed public street/roads with their names and widths			
13	Adjoining erven, farm portions/agricultural holdings in existing townships or proposed townships in respect of which applications have been submitted or notice has been given in terms of section 57.			
14	Streets, squares and Recreational / Natural Open spaces (Private and Public) in the proposed township			
15	Adjoining erven in existing townships or proposed townships in respect of which applications have been submitted			
16	Water courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township			
17	Public roads in or abutting the proposed township			
18	All servitude in or abutting the proposed township			
19	Private 'access' erven (name and widths) in or abutting the proposed township			
20	A table indicting the total number of erven in the proposed township, the number of erven for specific purposes (proposed zoning) and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets, the total length of the streets within the township, the area of streets as a percentage of the total area of the township and the area of parks and open spaces, if any, as a percentage of the total area of the township			
21	A locality plan, as an inset on the plan of the township, accurately drawn to a scale of not less than 1:50 000 or such other scale which the Municipality, as the case may be, may approve indicating:			
22	The situation of the proposed township on the farm or agricultural holding			
23	The routes giving access to the nearest main road and the road network in the vicinity of the township			
24	The boundaries of the farm portion or agricultural holding on which the township is to be established			
25	the situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 km of the boundaries of the township			



26.	The boundaries of a demarcated noise zone			
27.	A bar scale, in respect of the locality plan			
28.	The true north			
29	The erven in the proposed township accurately drawn to a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000; 1:2 500 or 1: 5000 and numbered consecutively in each block			
30.	In an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plan on which the contour values are based			
31.	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			
32.	Each registered servitude over the land in the proposed township with a reference to the purpose of the servitude, the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed route			
33.	The boundaries and descriptions of the geological zones shall be depicted on the layout plan as well as the original certification thereof of the geologist and the Council for Geoscience (where applicable);			
34.	The 1:50 year and 1:100 year flood line shall be certified on the layout plan (not more than 3 years old)			

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

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

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

SIGNATURE ..... DATE: .....



## CHECKLIST: REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering letter		Township Reservation Letter	
Power of Attorney (if relevant)		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
Bondholders Consent		Motivating Memorandum		Draft annexure	
Conveyancer's Certificate (if relevant)		Land Surveyor Certificate		Township Layout Plan	
Geo-technical Report		Proposed Conditions of Establishment		Locality Map	
Mineral Rights Holder's Consent		EIA executive Summary / Confirmation letter from the relevant authority		Registered Title Deed and/or notarial deeds	
Community Resolution (if relevant)		Lease agreement from the landowner (if relevant)		Notices	
Engineering/Service Report		Zoning Certificate		Traffic Impact Assessment /study.	
Proof of advertisement		Draft amendment scheme map		Confirmation letter from Land Claim Commission.	
Consent letter from Land Claim Commission (if relevant)					

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should



the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/05

APPLICATION FORM FOR A DIVISION OF A TOWNSHIP IN TERMS OF SECTION 58 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

(Complete EPMLM: F/5 Form for Each Division of the Approved Township)

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:

The Municipal Manager

13 Ficus Street

Marble Hall

0540

For Office Use Only

Date Received:

Received by:

File Ref. No:

Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?

If "YES" attach proof/record of such consultation.

YES	NO
-----	----

If "NO" please state the reason(s) below.

.....

.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)

Individual

Legal Entity

Applicant Details: Individual

Title

Name

Surname

Identity Number

Marital Status if the owner is the



applicant	
Physical Address	
<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant (mark with an X)	
Individual	<input type="checkbox"/>
Legal Entity	<input type="checkbox"/>
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Owner Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of the Owner</b>	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: DETAILS OF THE APPROVED TOWNSHIP

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



## 6. Approved Zoning

Details of approved zoning of the township to be divided as per plan no. ....

Approved use zone	Erf numbers	No. of Erven per use zone	Size m <sup>2</sup>	Height	FAR	Coverage	Other development control measures (density)

## 7. PROPOSED ZONING FOR SEPARATE TOWNSHIPS

Details of proposed zoning for township .....

Proposed use zone	Erf numbers	No. of Erven per use zone	Size m <sup>2</sup>	Height	FAR	Coverage	Other development control measures (density)

(Complete a separate table for each new township.)

## 8. GENERAL INFORMATION

Is the property situated within 3km of a sewage disposal works?	Yes	No
Name the local authorities or authorised bodies that provide the following services:		
Water		
Electricity		
Sewage		
Roads and storm water		
Is the existing development (structures and land use) on the property described in the memorandum?	Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage Resource Act, 1999 (Act 25 of 1999)?	Yes	No
<b>DETAILS OF THE PROVISION OF OPEN SPACES AND PARKS</b>		





Does the layout plan provide for open spaces or parks in accordance with the requirements of the <b>Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017</b> ?	Yes	No
Motivate if answer is “no” above		

Payment of Open Spaces and Parks and total number of dwelling units for separate townships:

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

**ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES**

Is there any part of the proposed development, forming the subject of this application, deemed to be a “listed activity” in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), as may be amended from time to time, with specific reference to the regulations promulgated under Section 24(5) read with section 44(1)(b) of the National Environmental Management Act, 1998 (Act 107 of 1998)?	Yes	No	
If “Yes” please provide the reference number of the application submitted to the environmental authorities with regard to the requirement to procure environmental authorization to conduct the listed activity as aforesaid: Reference Number			
Provide the contact details of the appointed Environmental Assessment Practitioner: Name: Contact Details:			
Indicate which process has been initiated	Basic	Yes	No
	Scoping	Yes	No
	None		



Appointed environmental consultant	Name:			
	Contact details:			
If the development is not a "listed Activity" or if the above EIA process has not been inflated, have the on-site ecological issues been discussed in the memorandum?			Yes	No
The applicant acknowledge that he/she is responsible to forward a copy of the application to external bodies and to submit proof to the Municipality.			Yes	No

### CHECKLIST: REQUIRED DOCUMENTATION

Receipt of application fees		Covering letter		Township Name Reservation Letter	
Power of Attorney (if relevant)		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
Bondholders Consent		Motivating Memorandum		Approved conditions of establishment	
Traffic Impact Assessment		Draft annexure per proposed township		Draft amendment scheme map per proposed township	
Proof of compliance with section....		Land surveyor certificate		Geo-technical Report	
Conveyancer's Certificate (if relevant)		Locality Plan		Proposed Statement of conditions	
Township layout plan		EIA executive summary Confirmation letter from the relevant authority (if relevant)		Registered Title Deed or notarial deeds	
Traffic Impact Assessment /study		Engineering/Service Report		Divisional Plan	
Proof of advertisement.		Community Resolution (if relevant)		Lease agreement from the landowner (if relevant)	
Confirmation letter from Land Claim		Consent letter from Land Claim			



Commission.		Commission (if relevant)			
-------------	--	--------------------------	--	--	--

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/6

AMENDMENT OR CANCELLATION FORM IN TERMS OF VARIOUS SECTIONS OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

Mark the application (s) being applied for below

Section 59 (7)	<input type="checkbox"/>	Amendment of an approved township
Section 63(1)	<input type="checkbox"/>	Alteration, amendment or cancellation of a general plan of an approved township
Section 72	<input type="checkbox"/>	Amendment or cancellation of a subdivision or consolidation plan
Section 100	<input type="checkbox"/>	Amendment prior to approval

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:

The Municipal Manager
13 Ficus Street
Marble Hall
0540

For Office Use Only

Date Received: Received by:

File Ref. No:

Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?

If "YES" attach proof/record of such consultation.

YES NO

If "NO" please state the reason(s) below.

.....
.....

PART B: APPLICANT DETAILS



Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	Legal Entity
<b>Applicant Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	
<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

**PART C: OWNER DETAILS**

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	Legal Entity



<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	
<b>Owner Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of the Owner</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

**PART D: DETAILS OF THE APPROVED TOWNSHIP** *(where applicable)*

1. Name and extension of the approved Township: .....
2. Date of approval of township to be divided: .....





Details of proposed zoning / use zones

Proposed use zone	Erf numbers	No. of Erven per use zone	Size m <sup>2</sup>	Height	FAR	Coverage	Other development control measures (density)

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of application fees		Covering letter		Motivating Memorandum	
Approved conditions of Establishment <i>(where applicable)</i>		Amended annexure <i>(where applicable)</i>	draft <i>(where applicable)</i>	Amended amended scheme map <i>(where applicable)</i>	
Amended Township Layout Plan <i>(where applicable)</i>		Amended Statement of Conditions <i>(where applicable)</i>	Draft of <i>(where applicable)</i>	Amended Subdivision or Consolidation Plan <i>(where applicable)</i>	
Amended general plan <i>(where applicable)</i>		EIA executive summary Confirmation letter from the relevant authority <i>(if relevant)</i>			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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





I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/07

APPLICATION FORM FOR THE REZONING OF LAND IN TERMS OF SECTION 65 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

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

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:

The Municipal Manager

13 Ficus Street

Marble Hall

0540

For Office Use Only

Date Received:

Received by:

File Ref. No:

Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?

If "YES" attach proof/record of such consultation.

YES	NO
-----	----

If "NO" please state the reason(s) below.

.....

.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)

Individual

Legal Entity

Applicant Details: Individual

Title

Name

Surname

Identity Number

Marital Status if the owner is the applicant

Physical Address



<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/> Legal Entity
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Owner Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of the Owner</b>	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: PROPERTY INFORMATION

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

Agricultural Holding/ Farm/ Township Name			
Plot/ Farm no/ Erf no.		Portion	
Title Deed No./ Certificate of Registered title No.			
Size of Property			
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO	

#### PART E: EXISTING LAND USE AND ZONING INFORMATION

Land Use Scheme (name)	
Present Zoning	
Existing Development/ Land Use	
Present Amendment Scheme	



no.	
<b>Existing development parameters (if applicable)</b>	
Height	
Density	
Coverage	
FAR	

**PART F: REZONING DETAILS**

Proposed Use Zone			
Proposed primary right			
Proposed number of units			
Proposed density (m <sup>2</sup> /units per ha)			
Proposed height (m/storey)			
Proposed coverage (%)			
Proposed Floor Area Ratio (FAR)			
Proposed parking			
Applicant responsible to request comments from external department/institutions?	Yes	No	N/A
Is the proposed rezoning and/ or development in line with the Municipal Spatial Development Framework (MSDF)?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Specify if the proposal is in line with the MSDF or not and, or reasons for deviation:			
.....			
.....			
.....			
.....			
Which uses and/or buildings are adjoining the property and what is the condition of such buildings?			
.....			
.....			
.....			
.....			
Are there any restrictive conditions i.e. Title Deed Conditions etc?			
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
If "YES", give details:			
.....			
.....			



.....  
.....

Is there any structure(s) or building(s) on the property older than 60 years? 

YES	NO
-----	----

If "YES", furnish details thereof and indicate their position on a site plan and also indicate if it is to be altered, destroyed, excavated or removed from its original position.

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

Is any portion of the land unit situated in a flood-plain of a river under the 1 in 50 and, or 1 in 100 year flood-line or subject to any floods? 

YES	NO
-----	----

If "YES", furnish details:  
.....  
.....  
.....  
.....

Does the proposed development invoke any provisions of the National Environmental Management Act, 1998 (Act 107 of 1998)? 

YES	NO
-----	----

If "YES" furnish details and, or attach any necessary approvals obtained in terms of that Act.  
.....  
.....  
.....  
.....

Does the land unit abut on the area of jurisdiction of another local authority or does any other local authority have an interest in this application? 

YES	NO
-----	----

If so, state the name of the local authority and its interest in the application:  
.....  
.....  
.....  
.....



### CHECKLIST: REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering letter		Application Form	
Power of Attorney (If applicant is not the registered owner)		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
EIA executive summary Confirmation letter from the relevant authority (if relevant)		Bondholders Consent (if relevant)		Motivating Memorandum	
Draft annexure		Draft amendment scheme map		Locality Plan	
Land use Plan		Zoning Plan		Site Plan	
Registered Title Deed and/or Notarial Deed		Zoning Certificate		List of adjoining owners	
Proof of advertisement		Community Resolution (if relevant)		Lease agreement from the landowner (if relevant)	
Confirmation letter from Land Claim Commission.		Consent letter from Land Claim Commission (if relevant)			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.



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

SIGNATURE: .....

DATE: .....





EPMLM: F/08

APPLICATION FORM FOR A REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS APPLICATION IN TERMS OF SECTION 66 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:
The Municipal Manager
13 Ficus Street
Marble Hall
0540

For Office Use Only

Date Received: Received by:

File Ref. No:

Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?
If YES attach proof/record of such consultation.

YES NO

If NO please state the reason(s) below.
.....
.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)
Individual Legal Entity
Applicant Details: Individual
Title
Name
Surname
Identity Number
Marital Status if the owner is the applicant
Physical Address



<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/> Legal Entity
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Owner Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of the Owner</b>	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: PROPERTY INFORMATION

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

Agricultural Holding/ Farm/ Township Name			
Plot/ Farm no/ Erf no.		Portion	
Size of Property			
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO	

#### PART E: REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIONS IN TITLE DEED

Title Deed Number			
Indicate the conditions to be removed or suspended in the Title Deed			
Indicate the conditions to be amended in the Title Deed			
Indicate whether the property(ies) is/are situated in a conservation area or has/have been included in a register of	Yes	No	



properties worthy				
<p>Briefly give reasons for the proposed removal, amendment or suspension of restrictive conditions:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>				
<p>Is the proposed removal, amendment or suspension of restrictive conditions and/ or development in line with the Municipal Spatial Development Framework (MSDF)?</p>		<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table>	YES	NO
YES	NO			
<p>Specify if the proposal is in line with the MSDF or not and, or reasons for deviation:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>				
<p>Which uses and/or buildings are adjoining the property and what is the condition of such buildings?</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>				
<p>Is there any structure(s) or building(s) on the property older than 60 years?</p>		<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table>	YES	NO
YES	NO			
<p>If "YES", furnish details thereof and indicate their position on a site plan and also indicate if it is to be altered, destroyed, excavated or removed from its original position.</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>				

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	



Bondholders consent		Locality Plan		Registered Title Deed and/or Notarial Deed	
Zoning Certificate		List of adjoining owners			
Proof of advertisement					

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/09

APPLICATION FORM FOR SUBDIVISION AND CONSOLIDATION APPLICATION IN TERMS OF SECTION 68 AND SECTION 69 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:

The Municipal Manager

13 Ficus Street

Marble Hall

0540

For Office Use Only

Date Received:

Received by:

File Ref. No:

Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?

If "YES" attach proof/record of such consultation.

YES	NO
-----	----

If "NO" please state the reason(s) below.

.....

.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)

Individual	<input type="checkbox"/>	Legal Entity	<input type="checkbox"/>
------------	--------------------------	--------------	--------------------------

Applicant Details: Individual

Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/>
Legal Entity	<input checked="" type="checkbox"/>
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



Owner Details: Legal Entity/ Other	
Name	
Registration Number	
Representative Name	
Physical Address	
Communication Details of the Owner	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: SUBDIVISION DETAILS

SUBDIVISION DETAILS			
Description of properties to be subdivided	Size (m <sup>2</sup> )	Current Zoning	Title Deed No.

<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO
---	-----	----





Brief description of the proposed subdivision and/ or development: A detailed motivation **MUST** be attached to the application.

.....

.....

.....

.....

Are there any Title Deed Restrictions affecting the proposed subdivision? 

YES	NO
-----	----

If "YES", give details:

.....

.....

Is the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970), applicable to the application? 

YES	NO
-----	----

*If "YES" furnish details and, or attach any necessary approvals/consents obtained in terms of that Act.*

.....

.....

Does the proposed development invoke any provisions of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended? 

YES	NO
-----	----

*If "YES" furnish details and, or attach any necessary approvals obtained in terms of that Act.*

**PART E: CONSOLIDATION DETAILS**

CONSOLIDATION DETAILS			
Description of properties to be consolidated	Size (m <sup>2</sup> )	Current Zoning	Title Deed No. (if relevant)



Overall size after consolidation:			

<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO
---	-----	----

Brief description of the proposed consolidation and/ or development: A detailed motivation **MUST** be attached to the application.

.....

.....

.....

.....

Are there any Title Deed Restrictions affecting the proposed consolidation?	YES	NO
If "YES", give details:		
.....		
.....		

Do all the erven to be consolidated belong to the same owner?	YES	NO
---	-----	----

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
Bondholders consent (if relevant)		Registered Title Deed and/or Notarial Deed		Locality Plan	
Zoning Certificate		Subdivision/ consolidation plans		Land Surveyor Certificate (if relevant)	



Conveyancer's Certificate (if relevant)		Act 70 of 70 Approval/Consent (if relevant)		EIA executive Summary/ Confirmation letter from the relevant authority (if relevant)	
Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)		Community Resolution (if relevant)		Lease agreement from the landowner (if relevant)	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/10

APPLICATION FORM FOR CONSENT USE IN TERMS OF THE LAND USE SCHEME READ WITH SECTION 76 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:

**The Municipal Manager**  
**13 Ficus Street**  
**Marble Hall**  
**0540**

**For Office Use Only**

Date Received:	Received by:
File Ref. No:	

**Pre-Consultation**

Has the Application undergone Pre-consultation with the relevant department?  
 If "YES" attach proof/record of such consultation.

YES	NO
-----	----

If "NO" please state the reason(s) below.

.....

.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)

Individual	<input type="checkbox"/>	Legal Entity	<input type="checkbox"/>
------------	--------------------------	--------------	--------------------------

**Applicant Details: Individual**

Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/>
Legal Entity	<input type="checkbox"/>
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



Owner Details: Legal Entity/ Other	
Name	
Registration Number	
Representative Name	
Physical Address	
Communication Details of the Owner	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: PROPERTY INFORMATION

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

Agricultural Holding/ Farm/ Township Name			
Plot/ Farm no/ Erf no.		Portion	
Size of Property			
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO	

#### PART E: APPLICATION DETAILS

Current Zoning of the subject property	
Current Land Use	
Current Development on site (structures)	
Existing Height (Scheme)	
Existing Coverage (Scheme)	
Existing FAR (Scheme)	
Existing Density (Scheme)	



Brief description of the proposed Consent Use: A detailed motivation **MUST** be attached to the application.

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

Are there any Title Deed Restrictions affecting the proposed written consent? 

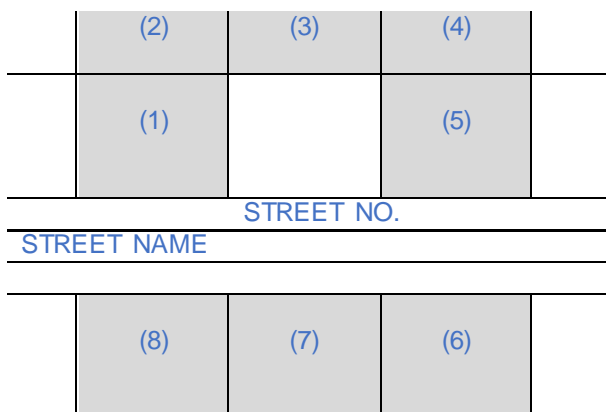
YES	NO
-----	----

If "YES", give details:

.....  
 .....

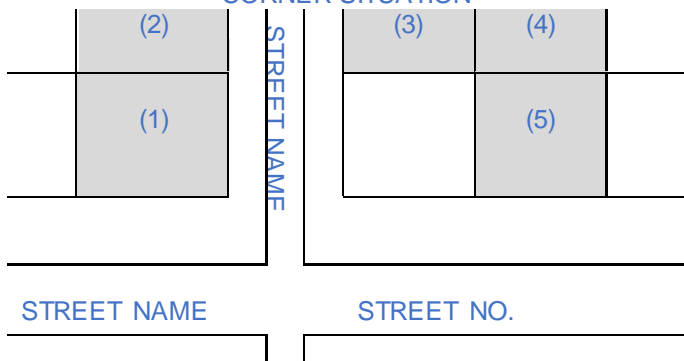
**PART F: NEIGHBOUR'S COMMENTS**

MID-BLOCK SITUATION

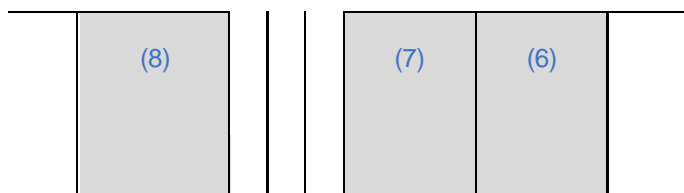


- 1) .....
- Signature.....
- 2) .....
- Signature:.....
- 3) .....
- Signature:.....
- 4) .....
- Signature:.....

CORNER SITUATION



- 5) .....
- Signature:.....
- 6) .....
- Signature:.....
- 7) .....

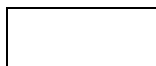


8)

.....  
Signature:.....

.....  
.....

Signature:.....



SUBJECT PROPERTY



NEIGHBOURING PROPERTIES

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney (if relevant)		Company/Close Corporation/Trust Resolution (if relevant)		Proof of members of Company/Close Corporation/Trust (if relevant)	
Bondholders consent (if relevant)		Locality Plan		Registered Title Deed and/or Notarial Deed	
Zoning Certificate		Proposed Site Development Plan		Traffic Impact Assessment/ Study (if relevant)	
Conveyancer's Certificate (if relevant)		Signed <u>PART F</u> / Neighbour's Comments		Noise Impact assessment (if relevant)	
Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)		EIA executive Summary/ Confirmation letter from the relevant authority (if relevant)			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to





consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



## EPMLM: F/11

### APPLICATION FORM FOR LAND DEVELOPMENT APPLICATION ON COMMUNAL LAND OR IN RURAL AREAS IN TERMS OF **SECTION 77** OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

#### PART A: APPLICATION SUBMISSION

Four (6) copies of the application must be submitted together with all the required information to:

**The Municipal Manager**

**13 Ficus Street**

**Marble Hall**

**0540**

#### For Office Use Only

Date Received:

Received by:

File Ref. No:

#### Pre-Consultation

Has the Application undergone Pre-consultation with the relevant department?

If **“YES”** attach proof/record of such consultation.

**YES**

**NO**

If **“NO”** please state the reason(s) below.

.....  
.....

#### PART B: PROPERTY INFORMATION

Area/ Village			
Agriculture Holding/ Farm name			
Farm no.		Portion:	
Size (m <sup>2</sup> / ha)			
Traditional Authority			
Headman (if applicable)			
Applicable Land Use Scheme			
Current Use of Property			

#### PART C: PROPOSED USE/ APPLICATION FOR:



LAND USES			
Place of Public worship (e.g. Church)		Telecommunication Mast	
Spaza/ Tuck shop		Filling Station	
Tavern		Residential	
Restaurant		High Density Residential	
General Dealer		Offices	
Supermarket		Scrap-Yard	
Hardware		Shopping Complex	
Brickyard		Agricultural Use (e.g. Farming)	
Butchery		Liquor Restaurant/ Bottle Store	
Abattoir		Drop-in-Centre	
Funeral Parlour		Pre-School/ Creche	
Guest House/ Lodge		Day Care Centre	
Cemetery		Health care facilities	
Other		Specify:	
Surrounding land uses (only for Erven/stand direct adjacent to the site of application)			



	8	7	6	
	1		5	
	2	3	4	

Site of application

Stand Number	Land Use
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____

**PART D: TRADITIONAL AUTHORITY'S CONSENT**

Name of Traditional Authority: .....	Traditional Local Authority Stamp:
Name of Headman (if applicable): .....	
Signature:	

***NB: Attach letter from the Traditional Authority as well.***

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees	Motivational Memorandum	Traffic Impact Study (if required by relevant department)	
Power of attorney	Locality Map	Geotechnical Report/ letter signed by a qualified	



				engineer (if relevant)	
Consent from Ward Councillor		Layout Plan/ Draft SDP or Site Plan (if relevant)		Flood line Certificate (if property is subject to flooding)	
Tribal Authority Letter		Proof of consent from adjoining neighbours or institutions within 250m radius		Feasibility Study (if relevant)	
ID Copy (individual/applicant)		Environmental Impact Assessment (if relevant)		Engineering/Service Report (if relevant)	
Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)		Community Resolution (if relevant)		Lease agreement from the landowner (if relevant)	
Confirmation letter from Land Claim Commission.		Consent letter from Land Claim Commission (if relevant)		SG Diagram (if relevant)	
Subdivisional plan (if relevant)					

Additional documents required:

- (1) A locality map, must show the location of the site (where in the area/village and the site or stand is situated and also show significant adjacent or nearby land uses such as a school, clinic, church, shop).
- (2) Applications that require specialist reports, studies and/ or consent from any sector department are reflected in **schedule 9** to this by-law.

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application



as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



EPMLM: F/12

APPLICATION FORM FOR TEMPORARY USE IN TERMS OF SECTION 78 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

PART A: SUBMISSION OF THE APPLICATION

Four (6) copies of the application must be submitted together with all the required information to:

**The Municipal Manager**  
**13 Ficus Street**  
**Marble Hall**  
**0540**

**For Office Use Only**

Date Received:	Received by:
File Ref. No:	

**Pre-Consultation**

Has the Application undergone Pre-consultation with the relevant department?  
 If "YES" attach proof/record of such consultation.

YES	NO
-----	----

If "NO" please state the reason(s) below.

.....

.....

PART B: APPLICANT DETAILS

Please indicate the type of applicant (mark with an X)

Individual	<input type="checkbox"/>	Legal Entity	<input type="checkbox"/>
------------	--------------------------	--------------	--------------------------

**Applicant Details: Individual**

Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	



<b>Applicant Details: Legal Entity/ Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details</b>	
Postal Address <i>(if different from Physical)</i>	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

### PART C: OWNER DETAILS

Please indicate the type of applicant <i>(mark with an X)</i>	
Individual	<input type="checkbox"/>
Legal Entity	<input checked="" type="checkbox"/>
<b>Owner Details: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Marital Status if the owner is the applicant	
Physical Address	





Owner Details: Legal Entity/ Other	
Name	
Registration Number	
Representative Name	
Physical Address	
Communication Details of the Owner	
Postal Address (if different from Physical)	
Email Address	
Work Telephone Number	
Cell Number	
Fax Number	
Preferred Method of Communication	

#### PART D: PROPERTY INFORMATION

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

Agricultural Holding/ Farm/ Township Name			
Plot/ Farm no/ Erf no.		Portion	
Size of Property			
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO	

#### PART E: APPLICATION DETAILS

Mark the appropriate application with an X.

the erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, or such other uses as may be necessary during the erection of any permanent structure.	
building or structure on the land; provided that such consent shall <i>ipso facto</i> lapse upon completion of the permanent structure or on the expiry date thereof as determined by the Local Authority.	
the occasional use of land or buildings for public religious exercises, place of instruction,	



institution, place of amusement or social hall.	
the use of land or buildings thereon for State or municipal purposes.	
the use of land or the erection of buildings necessary for the purpose of informal retail trade.	
Prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No.28 of 2002), as may be amended from time to time.	
Other temporary uses in terms of various sections of this by law.  <b>Specify:</b> ..... ..... .....	

Brief description of the proposed development: A detailed motivation **MUST** be attached to the application.

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

Are there any Title Deed Restrictions affecting the proposed Temporary Use?	YES	NO
---	-----	----

If "YES", give details:

.....  
.....

**PART F: NEIGHBOUR'S COMMENTS**

MID-BLOCK SITUATION				1) .....
	(2)	(3)	(4)	.....
	(1)		(5)	Signature.....
				2) .....
				.....
				Signature:.....
				3) .....
				.....
STREET NO.				
STREET NAME				

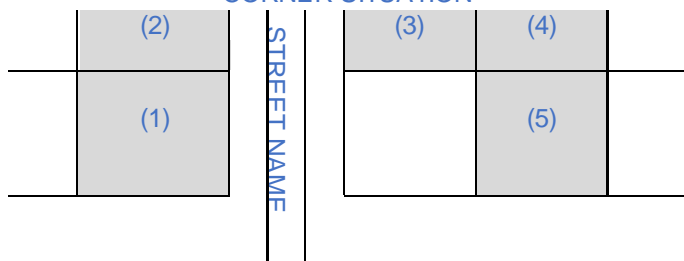


4)

.....  
Signature:.....

.....  
Signature:.....

**CORNER SITUATION**

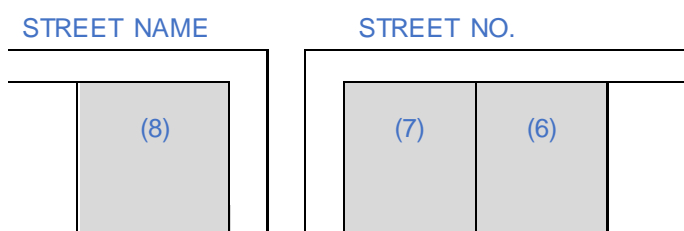


5)

.....  
Signature:.....

6)

.....  
Signature:.....

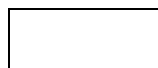


7)

.....  
Signature:.....

8)

.....  
Signature:.....



SUBJECT PROPERTY



NEIGHBOURING PROPERTIES

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney (if relevant)		Company/Close Corporation/Trust Resolution (if relevant)		Proof of members of Corporation/Trust	
Bondholders consent (if relevant)		Locality Plan		Registered Title Deed and/or Notarial Deed	
Zoning Certificate		Proposed Site Development Plan		Traffic Impact Assessment/Study (if relevant)	



Conveyancer's Certificate (if relevant)		Noise Impact Assessment (if relevant)		Geo-technical Report (if applicable)	
Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)		Environmental Impact Assessment (if relevant)		Signed <u>PART F</u> / Neighbour's Comments	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



**EPMLM: F/13**

**REQUEST FOR EXTENSION OF TIME IN TERMS OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017 AND AS REQUIRED IN TERMS OF SCHEDULE 8 TO THIS BY-LAW**

**PART A: APPLICATION SUBMISSION**

Six (6) copies of the application must be submitted together with all the required information to: <b>The Municipal Manager</b> <b>13 Ficus Street</b> <b>Marble Hall</b> <b>0540</b>	
<b>For Office Use Only</b>	
<b>Date Received:</b>	<b>Received by:</b>
<b>File Ref. No:</b>	

**PART B: APPLICANT DETAILS**

<b>Name of the applicant</b> (individual/Company name)	
<b>Contact details</b>	<b>Tel/Cell:</b>
	<b>Email:</b>

**PART C: APPLICATION DETAILS**

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

<b>APPROVED LAND DEVELOPMENT APPLICATION INFORMATION</b>	
Type of land development application (section in terms of the by-law)	
Reference number	
Township/ Agricultural Holding/ Farm	
Erf/Farm No.	
Portion No.	
Date of approval of the land development application	
Lapsing Date of approval	
Date(s) of previously approved extension of time	



(if relevant)	
Provide details and reasons for the proposed extension of time. Please note that a <b>Detailed Motivation Report must be attached to the application.</b>	
..... ..... ..... ..... .....	

**CHECKLIST: REQUIRED DOCUMENTS**

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 88 and section 90 of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

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

SIGNATURE: ..... DATE: .....



EPMLM: F/14

**LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS TO BE SUBMITTED TO THE MUNICIPALITY FOR VARIOUS DEVELOPMENT APPLICATIONS**

DOCUMENTS	Township Establishment or Extension of boundaries, Section 57	Division of Township, Section 58	Amendment of Approved Township, Section 59(7)	Rezoning, Section 65	Removal, Amendment, or Suspension of Title Conditions, Section 66	Subdivision or Consolidation, Section 68 or 69	Amendment or cancellation of Subdivision/Consolidation/General plan, section 72 and 63(1)	Consent Use, Section 76	Application on Communal Land/Rural areas, Section 77	Temporary Use Application, Section 78	Amendment prior to Approval, Section 100	Request for extension of Time, Schedule 8
APPLICATION COVERING LETTER. APPLICATION FEE *	X	X	X	X	X	X	X	X	X	X	X	X
APPLICATION FORM	X	X	X	X	X	X	X	X	X	X	X	X
TITLE DEED / LEASEHOLD TITLE	X	X	X	X	X	X	X	X		X		
CONVEYANCER CERTIFICATE (Where Title Deed Refers To Conditions Contained In another Title Deed Not Supplied)	X	X	X	X	X	X	X	X		X		
BONDHOLDER'S CONSENT	X	X	X	X	X	X	X	X		X		
POWER OF ATTORNEY (If property is not registered in applicant's name)	X	X	X	X	X	X	X	X		X	X	X
COMPANY/CLOSE CORPORATION/TRUST RESOLUTION (if applicable)*	X	X	X	X	X	X	X	X		X	X	X
PROOF OF MEMBERS OF COMPANY/CLOSE CORPORATION/TRUST (if applicable)*	X	X	X	X	X	X	X				X	X
LAND SURVEYOR CERTIFICATE (if applicable) *	X	X					X					
MOTIVATION MEMORANDUM	X	X	X	X	X	X	X	X	X	X	X	X
LOCALITY PLAN	X	X	X	X	X	X	X	X	X	X		
ZONING PLAN	X	X	X	X	X	X	X	X		X		
ZONING CERTIFICATE (if applicable)*	X	X	X	X	X	X	X	X	X	X		
SUBDIVISION / CONSOLIDATION PLAN (if applicable)*						X			X			
SITE DEVELOPMENT PLAN (if applicable)*	X	X	X				X	X	X	X		
DIVISIONAL PLAN		X										
DRAFT AMENDMENT SCHEME MAP *	X	X	X				X					
PROPOSED CONDITIONS OF ESTABLISHMENT(if applicable) *	X	X	X				X					
TOWNSHIP RESERVATION LETTER	X	X	X				X					
DRAFT ANNEXURE (if Applicable) *	X	X	X				X					
MINERAL RIGHTS HOLDER'S CONSENT(if applicable)*	X	X	X				X		X			
GEO-TECHNICAL REPORT (if applicable) *	X	X	X				X		X			
TRAFFIC IMPACT ASSESSMENT/ STUDY (if applicable)*	X	X	X	X			X	X	X			
NOISE IMPACT ASSESSMENT(if applicable)*								X				
ENVIRONMENTAL IMPACT ASSESSMENT EXECUTIVE SUMMARY (if applicable)*	X	X	X	X	X	X	X	X	X			
ENGINEERING/SERVICE REPORT (if applicable) *	X	X	X	X			X		X			
NOTICES*	X	X	X	X	X	X	X	X	X			

\*The Municipality may provide advice to the applicant during the pre-consultation phase on whether some of the documents are required or not. The Municipality may also recommend further documents other than those listed above.

DATE RECEIVED : \_\_\_\_\_ APPLICATION TYPE: \_\_\_\_\_

OFFICIALS NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_



EPMLM: F/15

EXAMPLE OF THE PROVINCIAL GAZETTE, NEWSPAPER AND SITE NOTICE IN TERMS OF SECTION 94 FOR THE ESTABLISHMENT OF A TOWNSHIP/ EXTENSION OF BOUNDARIES OF A TOWNSHIP APPLICATION IN TERMS OF SECTION 57 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

NOTICE OF APPLICATION FOR THE ESTABLISHMENT OF TOWNSHIP/EXTENSION OF BOUNDARIES IN TERMS OF SECTION 57 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

..... EXTENSION .....

I/We..... (full name) being the applicant hereby give notice in terms of the Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017, that I/we have applied to Ephraim Mogale Local Municipality for the establishment of the township/extension of boundaries in terms of section 57 of the Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017 referred to in the Annexure hereto, Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: The Municipal Manager, 13 Ficus Street, Marble Hall , 0540 from ..... (the first date of the publication of the notice set out in section 94(2) of the By-law referred to above), until ..... (not less than 30 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 30 days from the date of first publication of the advertisement in the Provincial Gazette / ..... newspaper.

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

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





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

Telephone No: .....

Dates on which notice will be published: .....

**ANNEXURE**

Name of township: ..... Extension .....

Full name of applicant: .....

Number of erven, proposed zoning and development control measures:

.....

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

.....

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

.....

The proposed township is situated .....

Reference: .....

Item No .....



EPMLM: F/16

EXAMPLE OF THE PROVINCIAL GAZETTE, NEWSPAPER AND SITE NOTICE IN TERMS OF SECTION 94 FOR A REZONING APPLICATION IN TERMS OF SECTION 65 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

NOTICE OF A REZONING APPLICATION IN TERMS OF SECTION 65 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

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

(complete description of property as set out in title deed) hereby give notice in terms of section 95 of the Ephraim Mogale Local Municipality Spatial Planning And Land Use Management By-Law, 2017, that I/we have applied to Ephraim Mogale Local Municipality for the amendment of the Ephraim Mogale Land Use Scheme,..... (insert promulgation year of the scheme), by the rezoning in terms of section 65 of the of the Ephraim Mogale Local Municipality Spatial Planning And Land Use Management By-Law, 2017 of the property(ies) as described above. The property(ies) is/are situated at:

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

The rezoning is from

.....

to

.....

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



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

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: The Municipal Manager, 13 Ficus Street, Marble Hall , 0540 from .....

..... (the first date of the publication of the notice set out in section 95(2) of the By-law referred to above), until

..... (not less than 30 days after the date of first publication of the notice).  
 Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 30 days from the date of first publication of the notice in the Provincial Gazette / ..... (*insert newspaper name*) newspaper.

Address of Municipal offices:

Address of Municipal Offices: .....

Closing date for any objections and/or comments: .....

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

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

Telephone No: .....

Dates on which notice will be published: .....

Reference: .....

Item No .....



EPMLM: F/17

EXAMPLE OF THE PROVINCIAL GAZETTE, NEWSPAPER AND SITE NOTICE IN TERMS OF SECTION 94 FOR THE REMOVAL / AMENDMENT / SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED APPLICATION IN TERMS OF SECTION 66 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

NOTICE OF AN APPLICATION FOR THE REMOVAL / AMENDMENT / SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 66 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

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

(complete description of property as set out in title deed) hereby give notice in terms of section 94 (2) of the Ephraim Mogale Local Municipality Spatial Planning And Land Use Management By-Law, 2017 that I/we have applied to Ephraim Mogale Municipality for the removal/amendment/suspension of certain conditions contained in the Title Deed in terms of section 66 of the Ephraim Mogale Local Municipality Spatial Planning And Land Use Management By-Law, 2017 of the above mentioned property. The property(ies) is situated at .....

The application is for the removal / amendment / suspension of the following conditions ..... Contained in Title Deed number: ..... / .....

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

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: The



Municipal Manager, 13 Ficus Street, Marble Hall , 0540 from.....  
 (the first date of the publication of the notice set out in section 94(2) of the By-law referred to above),  
 until ..... (not less than 30 days after the date of first publication  
 of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal  
 offices as set out below, for a period of 30 days from the date of first publication of the  
 advertisement in the Provincial Gazette / ..... (insert newspaper name)  
 newspaper.

Address of Municipal Offices: .....

.....

.....

Closing date for any objections and/or comments: .....

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

.....

.....

.....

.....

Telephone No: .....

Dates on which notice will be published: .....

Reference: .....

Item No .....



EPMLM: F/18

EXAMPLE OF A PROMULGATION NOTICE IN TERMS OF SECTION 109 (3) OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

NOTICE FOR THE ADOPTION OF THE AMENDMENT SCHEME IN TERMS OF SECTION 109 (3) OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

LOCAL AUTHORITY NOTICE .....

EPHRAIM MOGALE LOCAL MUNICIPALITY

..... AMENDMENT SCHEME ..... (NO) .....

It is hereby notified in terms of the provisions of section 109 (3) of the Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017, that Ephraim Mogale has approved and hereby adopted the land development application for the amendment of the ..... Scheme, ..... being the rezoning of ..... (property description) from ..... (current zoning) to ..... (approved zoning), subject to certain further conditions.

The ..... Land Use Scheme, ..... and the adopted scheme clauses and adopted annexure of this amendment scheme are filed with the Municipality, and are open to inspection during normal office hours.

This amendment is known as ..... Amendment Scheme ..... and shall come into operation on the date of publication of this notice.

Reference number .....

EPHRAIM MOGALE LOCAL MUNICIPALITY

Date of publication .....

Notice .....



EPMLM: F/19

EXAMPLE OF A PROMULGATION NOTICE IN TERMS OF SECTION 109 (3) OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017 FOR AN ADOPTED REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN TITLE IN TERMS OF SECTION 66 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

**EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017**

**NOTICE OF AN ADOPTED REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN TITLE IN TERMS OF SECTION 66 OF EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017**

NOTICE ..... OF 20.....

**EPHRAIM MOGALE LOCAL MUNICIPALITY**

**NOTICE IN TERMS OF SECTION 66 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017 FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIVE CONDITIONS IN TITLE**

It is hereby notified in terms of the provisions of section 66 of the Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017, that Ephraim Mogale Municipality has approved and adopted the land development application for the removal/ amendment / suspension of certain conditions contained in Title Deed ....., with reference to the following property:

.....

The following condition and/or phrases are hereby removed/ amended/suspended:

.....

This removal/amendment/suspension will come into effect on the date of publication of this notice.



**EPMLM: F/20**

**EXAMPLE OF A PROCLAMATION NOTICE OF AN APPROVED TOWNSHIP AND NOTICE OF AN ADOPTION OF THE AMENDMENT SCHEME IN TERMS OF SECTION 62 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017**

**LOCAL AUTHORITY NOTICE .....**  
**EPHRAIM MOGALE LOCAL MUNICIPALITY**

**PROCLAMATION OF AN APPROVED TOWNSHIP AND NOTICE OF ADOPTION OF AN AMENDMENT SCHEME IN TERMS OF SECTION 62 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017 FOR AN APPROVED TOWNSHIP**

.....  
It is hereby declared that in terms of the provisions of Section 62 Of The Ephraim Mogale Local Municipality Spatial Planning And Land Use Management By-Law, 2017 that .....

..... is an approved township, subject to the conditions as set out in the schedules hereto.

It is hereby notified in terms of the provisions of The Ephraim Mogale Local Municipality Spatial Planning and Land Use Management By-Law, 2017 that Ephraim Mogale Local Municipality has approved and hereby adopted the land development application for the amendment scheme with regard to the property(ies) in the township of ....., being an amendment of the .....

Scheme .....

The ..... Land Use Scheme .....and the adopted scheme map and the adopted annexures of this amendment scheme are filed with the Municipality, and are open to inspection during normal office hours.

This amendment is known as .....Amendment Scheme .....and shall come into operation on the date of publication of the notice.

Reference number: .....

**EPHRAIM MOGALE LOCAL MUNICIPALITY**

*Date of promulgation:* .....

Reference number .....





**EPHRAIM MOGALE LOCAL MUNICIPALITY**

Date of publication .....

Notice .....



EPMLM: F/21

NOTICE OF APPEAL

NOTICE OF APPEAL/PETITION IN TERMS SECTION 133(1) / SECTION 137 OF THE EPHRAIM MOGALE LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017

APPLICATION SUBMISSION

Six (6) copies of the application must be submitted together with all the supporting documents to:

**The Registrar of an Appeal/ The Municipal Manager**  
**13 Ficus Street**  
**Marble Hall**  
**0540**

**For Office Use Only**

<b>Date Received:</b>	<b>Received by:</b>
<b>File Ref. No:</b>	

<b>DETAILS OF THE APPELLANT/ INTERESTED PERSON:</b>	
Please indicate the type of appellant / interested person ( <i>mark with an X</i> ):	
Individual	Legal Entity/Other
<b>Appellant /interested person Detail: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Physical Address	
<b>Appellant /interested person Detail: Legal Entity/Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	



<b>Communication Details of Appellant /interested person</b>			
Postal Address (if different from physical)			
Email address			
Work Telephone number			
Cell Number			
Fax Number			
Preferred Method of Communication			
<b>APPEAL/PETITION DETAILS</b>			
Type of application			
Relevant legislation applicable			
Reference number of the application			
Indicate the Decision Maker (mark with an X)	<table border="1" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">MPT (Municipal Planning Tribunal)</td> <td style="width: 50%; text-align: center;">AO (Authorised Official)</td> </tr> </table>	MPT (Municipal Planning Tribunal)	AO (Authorised Official)
MPT (Municipal Planning Tribunal)	AO (Authorised Official)		
Date of Decision			
<b>Property Description</b>			
Township/Agricultural Holdings/Farms			
Erf/Lot/Plot/Farm No.	Portion: <table border="1" style="width: 100%;"><tr><td> </td></tr></table>		
Village name (if applicable)			
Traditional Authority (if applicable)			
Headman (If applicable)			
Concise Grounds of Appeal/Petition			



List of attached Documents	
Relief sought by the Appellant /interested person from the appeal authority	

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

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

**CHECKLIST: REQUIRED DOCUMENTS**

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

**DECLARATION:**

I/We ..... (full names) hereby submit an appeal to the Appeals Authority in terms of: section 133 (1) section 137 of the Ephraim Mogale Local Municipality Spatial Planning And Land Use Management By-Law, 2017. I declare that I shall be bound by all the provisions of this By-law. I solemnly declare that, to the best of my knowledge and belief, all the information contained herein is true and correct. I acknowledge that the appeal as contemplated in section 133 (1) OR section 137 of this By-law can be a written or oral hearing



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

I acknowledge that the provision of false or misleading information is an offence in terms of section 166 (1) of this By-law.

SIGNATURE: .....

DATE: .....