

BY-LAW

To provide for the control and management of the use of premises and violation of land use allocations in the Ubuntu Municipality and for matters connected therewith.

**Preamble**

**WHEREAS** the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

**WHEREAS** there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

**WHEREAS** there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

**WHEREAS** there is a need to provide for the bioregional spatial planning framework, land use management and development of land in the Northern Cape Province in a sustainable manner by means of the co-ordination and alignment of land use, land development policies, plans and systems of all spheres of government within the province through the development of a single bioregional spatial framework, which ensures that sustainable development is developmental, consistent, uniform, transparent and inclusive in nature; and

**WHEREAS** there is a need to provide for the regulation and control of activities on and in respect of spatial planning and land use management, and to provide for matters in connection therewith

**BE IT THEREFORE ENACTED** by the Municipal Council of the Ubuntu Municipality as follows:-

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## CHAPTER I – INTERPRETATION AND APPLICATION

### 1. DEFINITIONS AND INTERPRETATIONS

In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Spatial Planning and Land Use Management Act 2013, (Act 16 of 2013) and in the Northern Cape Spatial Planning and Land Use Management Act has the meaning assigned to it in that Act

All references to sections in this by-law refers to this specific document unless otherwise stated -

**“adopt”** in relation to a spatial development framework, zoning scheme, policy or strategy, means the approval thereof by the executive authority;

**“applicant”** means an owner, including the State, of the land concerned and / or planner who is duly authorised by the owner to submit a land development application who makes a land use and development application contemplated in terms of this Act and application has a similar meaning;

**“application”** means an application to the Municipality referred to in section 13 (2);

**“authorised agent”** means a person appointed in terms of a power of attorney by the owner and may include the appointment of a qualified professional planner in terms of the Planning Professions Act 36 of 2002;

**“authorised employee”** means a municipal employee who is authorised by the Municipality to exercise a power or perform a duty in terms of this By-law or to inspect land and buildings in order to enforce compliance with this By-Law or the zoning scheme, shall be a qualified professional planner in terms of the Planning Professions Act 36 of 2002;

**“bio-regional planning”** means planning that promote sustainable development by enhancing environmental integrity and human well-being through economic efficiency within a defined geographical area, the boundaries of which are determined in accordance with environmental, social and economic criteria;

**“consolidation”**, in relation to land, means the merging of two or more adjacent land units into a single land unit, and includes the physical preparation of land for consolidation;

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

**“date of notification”** means the date on which a notice is served as contemplated in section 46 or published in the media or Provincial Gazette;

**“day”** means a calendar day, and when any number of days are prescribed for the execution of any act, it must be calculated by excluding the first day and including the last day, however, should the last day fall on a Saturday, Sunday or Public Holiday, the number of days must be calculated by excluding the first day and also the Saturday, Sunday or public holiday;

**“development charge”** means a development charge levied by the Municipality as contemplated in section 71;

**“diagram”** means a diagram as defined in the Land Survey Act 8 of 1997;

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

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

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

**“Northern Cape Spatial Planning and Land Use Bill”** means the Northern Cape Spatial Planning and Land Use Bill, and upon enactment, the Act;

**“municipal spatial development framework”** means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act 32 of 2000 and Chapter 4 of the Spatial Planning and Land Use Management Act 16 of 2013;

**“Municipal Manager”** means the municipal manager of the Municipality;

**“Municipality”** means the Municipality of Ubuntu, and includes any political structure, political office bearer, Councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, Municipality, agent or employee;

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

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

**“owners’ association”** means an owners’ association established in terms of section 27;

**“planner”** means a person who exercises skills and competencies in initiating and managing change in the built and natural environment in order to further human development and environmental sustainability as contemplated in section 2 (a) of the Planning and Profession Act 36 of 2002, and who is registered in one or more of the categories contemplated in section 13 (4) of the Planning and Profession Act 36 of 2002;

**“Pre-application consultation”** means a consultation between an owner or an agent and the Municipality contemplated in section 35;

**“precinct plans”** means an area or precinct in a zoning scheme that is demarcated for the purpose of conserving natural resources or promoting certain types of development and that is subject to conditions, requirements or restrictions in addition to those of the zoning;

**“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;

**“public facilities”** means amenities that are—

- (a) intended for the use of the general public;
- (b) used to offer a service or for recreation; and
- (c) ordinarily owned by the state or a municipality;

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

**“site development plan”** means a scaled and dimensioned plan that shows details of the proposed land development, including the site layout, positioning of buildings and structures, property access, building designs and landscaping;

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

**“Spatial Planning and Land Use Management Act”** means the Spatial Planning and Land Use Management Act 16 of 2013;

**“subdivision area”** means an overlay zone that permits subdivision for the purposes of a subdivision application involving a change of zoning;

**“Tribunal”** means the Municipal Planning Tribunal established in accordance with Chapter 6 of the Spatial Planning and Land Use Management Act 16 of 2013 and the Regulations;

Any reference to the male gender includes the female gender and any reference to the plural will include the singular and *vice versa*, as the context may require.

## **2. APPLICATION OF BY-LAW**

This By-law applies to all land situated within the municipal area, including land owned by the state and by organs of state.

## CHAPTER II – SPATIAL PLANNING

### 3. SPATIAL PLANNING CATEGORIES

(1) All Development Frameworks developed for areas in, or associated with, the Northern Cape Province must be represented spatially. In order to create a uniform system across the Province, the attribute data must be represented according to the following primary spatial planning categories as indicated in the Northern Cape Provincial SDF:

- (a) Core Conservation Areas (A)
  - (i) Statutory Protected Areas (A.a);
- (b) Natural Buffer Areas (B)
  - (i) Non-Statutory Conservation Areas (B.a);
  - (ii) Ecological Corridors (B.b);
  - (iii) Urban Green Areas (B.c)
- (c) Agricultural Areas (C)
  - (i) Extensive agricultural areas (C.a);
  - (ii) Intensive agricultural areas (C.b);
- (d) Urban Related Areas (D)
  - (i) Main Towns (D.a);
  - (ii) Local Towns (D.b);
  - (iii) Rural Settlements (D.c);
  - (iv) Tribal Authority Settlements (D.d);
  - (v) Communal Settlements (D.e);
  - (vi) Institutional Areas (D.f);
  - (vii) Authority Areas (D.g);
  - (viii) Residential Areas (D.h);
  - (ix) Business Areas (D.i);
  - (x) Service Related (D.j);
  - (xi) Special Business (D.k);
  - (xii) SMME Incubators (D.l);
  - (xiii) Mixed Use Development Areas (D.m);
  - (xiv) Cemeteries (D.n);
  - (xv) Sports fields and Infrastructure (D.o);



- (xvi) Airports and Infrastructure (D.p);
  - (xvii) Resorts and Tourism Related Areas (D.q);
  - (xviii) Farmsteads and Outbuilding (D.r);
- (e) Industrial Areas (E);
- (i) Agricultural industry (E.a);
  - (ii) Industrial Development Zone (E.b);
  - (iii) Light industry (E.c);
  - (iv) Heavy industry (E.d);
  - (v) Extractive industry (E.e) or;
- (f) Surface Infrastructure (F);
- (i) National roads (F.a);
  - (ii) Main roads (F.b);
  - (iii) Minor roads (F.c);
  - (iv) Public Streets (F.d);
  - (v) Heavy Vehicle Overnight (F.e);
  - (vi) Railway lines (F.f);
  - (vii) Power lines (F.g);
  - (viii) Telecommunication Infrastructure (F.h);
  - (ix) Renewable Energy Structures (F.i);
  - (x) Dams and Reservoirs (F.j);
  - (xi) Canals (F.k);
  - (xii) Sewerage Plants and Refuse Areas (F.l);
- (2) All the main spatial planning categories must further be divided into sub-categories and more detailed categories as required by the municipality.

#### **4. COMPILATION OR AMENDMENT OF MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK**

- (1) When the Council compiles or amends its municipal spatial development the Council must —
- (a) establish an steering committee to assist in the compilation and amendment of its municipal spatial development framework; or
  - (b) refer its draft municipal spatial development framework or draft amendment of its municipal spatial development framework to National and Provincial Departments and

contiguous municipalities for comment, in accordance with Section 7 (e) (ii) of the Spatial Planning and Land Use Management Act, 2013.

(2) The Municipality must —

- (a) publish a notice in two of the official languages, most spoken in the area, in at least one local newspaper circulating in the area concerned and the provincial government gazette —
  - (i) the intention to compile, review or amend the municipal spatial development framework; and
  - (ii) the process it will follow, in accordance with section 30(3) of the Municipal Systems Act;
- (b) in writing inform the National and Provincial Departments and contiguous municipalities of —
  - (i) the intention to compile, review or amend the municipal spatial development framework;
  - (ii) its decision in terms of subsection (1)(a) or (b); and
  - (iii) the process it will follow to compile, review or amend the municipal spatial development framework, including the process for public participation; and
- (c) register relevant stakeholders, who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

#### **5. ESTABLISHMENT OF PROJECT COMMITTEE**

- (1) The Municipality must establish a project committee to compile review or amend its municipal spatial development framework.
- (2) The project committee must consist of —
  - (a) the Municipal Manager; and
  - (b) municipal employees from at least the following municipal departments:
    - (i) the integrated development planning office;
    - (ii) the planning department;
    - (iii) the engineering department;
    - (iv) the local economic development department; and
    - (v) the housing department.

#### **6. ESTABLISHMENT OF STEERING COMMITTEE**

- (1) If the Council establishes steering committee, the Municipality must, in writing, invite written nominations for representatives to serve on the steering committee from —

- (a) the delegated party of the national and provincial government department responsible for land use planning;
- (b) the delegated party of the provincial government department responsible for environmental affairs;
- (c) the delegated party of the provincial government department responsible for agriculture; and
- (d) relevant organs of state and all other relevant stakeholders.

## **7. PROCEDURE WITH STEERING COMMITTEE**

- (1) If the Council establishes a steering committee, the project committee must compile a draft status quo document setting out an assessment of the existing levels of development and development challenges in the municipal area, and must submit it to the steering committee for comment.
- (2) After consideration of the comments of the steering committee, the project committee must finalise the status quo document and the Municipal Manager must submit it to the Council for adoption.
- (3) The project committee must compile a first draft of the municipal spatial development framework or first draft amendment of the municipal spatial development framework and submit it to steering committee for comment.
- (4) After consideration of the comments of the steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment.
- (5) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment of the municipal spatial development framework and submit it to the steering committee for comment.
- (6) After consideration of the comments of the steering committee contemplated in subsection (5), the project committee must finalise the final draft of the municipal spatial development framework or final draft amendment of the municipal spatial development framework and submit it to the Council for adoption by the Council.
- (7) If the final municipal spatial development framework or final amendment of the municipal spatial development framework contemplated in subsection (6) is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process in accordance with this section before the final municipal spatial development framework or final amendment of the municipal spatial development framework is adopted by the Council.
- (8) The Council or the project committee may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the spatial development framework request comments from the steering committee.
- (9) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without

amendments, and must within 14 days of its decision give notice thereof in the media and the *Provincial Gazette*.

#### **8. PROCEDURE WITHOUT STEERING COMMITTEE**

- (1) If the Council does not establish a steering committee to compile or amend its municipal spatial development framework, the project committee must—
  - (a) compile a draft status quo document setting out an assessment of the existing levels of development and development challenges in the municipal area and submit it to the Council for adoption;
  - (b) after adoption of the status quo document, compile a draft municipal spatial development framework or draft amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment;
  - (c) after approval of the draft municipal spatial development framework or draft amendment of the municipal spatial development framework for publication contemplated in paragraph (b), submit the draft municipal spatial development framework or draft amendment of the municipal spatial development framework to the MEC for comments; and
  - (d) after consideration of the comments received from the public and the Provincial Minister, submit a final municipal spatial development framework or final amendment of the municipal spatial development framework, with any further amendments, to the Council for adoption.
- (2) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must within 14 days of its decision give notice thereof in the media and the *Provincial Gazette*.

#### **9. FUNCTIONS AND DUTIES**

- (1) The members of the project committee must, in accordance with the directions of the executive committee—
  - (a) compile a municipal spatial development framework or draft an amendment of the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise to the Council;
  - (c) monitor progress and ensure that the compilation of the municipal spatial development framework or drafting of the amendment of the municipal spatial development framework is progressing according to the approved process contemplated in section 3(2)(a)(ii);
  - (d) guide the public participation process and ensure that the registered stakeholders remain informed;
  - (e) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment of the municipal spatial development framework based on the consideration of the comments received during the process of drafting thereof;

- (f) oversee the drafting of a report setting out the response of the Municipality to the provincial comments issued;
  - (g) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and other organs of state as contemplated in section 24(1) of the Municipal Systems Act;
  - (h) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (i) assist the Municipality in ensuring that the steering committee is established and that timeframes are adhered to; and
  - (j) ensure the flow of information between the project committee and the steering committee.
- (2) The members of steering committee must—
- (a) provide the steering committee with the following:
    - (i) technical knowledge and expertise;
    - (ii) input on outstanding information that is required to draft the municipal spatial development framework or an amendment thereof;
    - (iii) information on the locality of projects and budgetary allocations; and
    - (iv) written comment in terms of section 7.
  - (b) communicate to the steering committee any current or planned projects that have an impact on the municipal area; and
  - (c) provide the project committee with written comment in terms of section 7.

## **10. MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORKS**

- (1) The Municipality must adopt a spatial development framework for the area of jurisdiction in accordance with the Spatial Planning and Land Use Management Act 16 of 2013 and Regulations.

## **CHAPTER III – DEVELOPMENT MANAGEMENT**

### **11. DETERMINATION OF ZONING**

- (1) The owner of land or his or her agent may apply in accordance with all planning legislation to the Municipality for the determination of a zoning for land within its municipal jurisdiction.
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
- (a) the lawful 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 serve notice of its intention in terms of section 46.
  - (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, may not be considered to be lawful.

## **12. NON-CONFORMING USES**

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

## **13. LAND DEVELOPMENT REQUIRING APPROVAL**

- (1) No person may commence, continue, or cause the commencement or continuation of, land development, except for the subdivision or consolidation of land referred to in section 22, without the approval of the Municipality.

- (2) The owner of land or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:
- (a) a rezoning of land;
  - (b) a permanent departure from the development parameters of the zoning scheme;
  - (c) a departure to use land for a purpose not provided for in the zoning scheme granted on a temporary basis;
  - (d) a subdivision of land, including the registration of a servitude or lease agreement, that is not exempted in terms of section 25;
  - (e) a consolidation of land that is not exempted in terms of section 25;
  - (f) an amendment, suspension or deletion of restrictive conditions in respect of a land unit;
  - (g) a permission required in terms of the zoning scheme;
  - (h) an amendment, deletion or imposition of conditions in respect of an existing approval;
  - (i) an extension of the validity period of an approval;
  - (j) an approval of an overlay zone as provided for in the zoning scheme;
  - (k) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;
  - (l) a permission required in terms of a condition of approval;
  - (m) a determination of a zoning;
  - (n) a closure of a public place or part thereof;
  - (o) a consent use provided for in the zoning scheme;
  - (p) an occasional use of land.
- (3) If the land development is of provincial interest the provincial department responsible for land use planning must be approached.
- (4) If the land development is of national interest the national and provincial department responsible for land use planning must be approached.
- (5) If section 52 of the Spatial Planning and Land Use Management Act is applicable to the land development, the owner or agent must also apply in terms of that Act.
- (6) 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 zoning scheme.
- (7) When the Municipality on its own initiative develops land as contemplated in subsection (2), it must apply to the Tribunal in accordance with this Chapter and Chapter IV.

#### **14. CONTINUATION OF APPLICATION AFTER CHANGE OF OWNERSHIP**

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

#### **15. REZONING OF LAND**

- (1) The Municipality may, on its own initiative, rezone land of which it is not the owner to—
  - (a) provide a public service or to provide a public recreational space; or
  - (b) substitute a zoning scheme or part thereof for a zoning scheme in terms of which the land is not necessarily zoned in accordance with the utilisation thereof or existing use rights.
- (2) An applicant, who wishes land to be rezoned, must submit an application to the Municipality in accordance with all planning legislation.
- (3) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (4) Zoning may be made applicable to a land unit or part thereof, and zoning need not follow cadastral boundaries.

#### **16. LAPSING OF REZONING AND EXTENSION OF VALIDITY PERIODS**

- (1) Subject to subsection (2), a rezoning approval lapses after a period of two years, or a 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 zoning is not utilised in accordance with the approval; or
  - (b) the following requirements have not been met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
    - (ii) commencement of the construction of the building contemplated in subparagraph (i).
- (2) Subject to subsection (3), the approval of a rezoning to a sub-divisional area lapses after two years, or the shorter period that the municipality may determine, from the date that the approval comes into operation.
- (3) If a sub-division application is submitted in respect of land that is zoned as a sub-divisional area, the zoning of sub-divisional area lapses after the period contemplated in



subsection (2) including any extended period approved in terms of subsection (5) or when the subdivision is approved, whichever period is the longest.

- (4) The approval of a rezoning to sub-divisional area must include conditions providing for at least—
  - (a) density requirements;
  - (b) main land uses and the extent thereof; and
  - (c) a detailed phasing plan or a framework including -
    - (i) main transport routes;
    - (ii) main land uses;
    - (iii) bulk infrastructure;
    - (iv) requirements of organs of state;
    - (v) public open space requirements; and
    - (vi) physical development constraints.
- (5) The Municipality may grant extensions of the period contemplated in subsection (1) or (2), but the period together with any approved extensions may not exceed 10 years.
- (6) 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 in terms of section 11.

## **17. CONSENT USES**

- (1) An applicant may apply to the Municipality in terms of section 13(2) for a consent use.
- (2) The nature of a consent use is contractual and is seen as a type of permit.
- (3) If a consent use is in conflict with a condition in the title-deed, it is of no force and effect.
- (4) A consent use contemplated in subsection (1) lapses after a period of two years, or a shorter period as the Municipality may determine, from the date that the approval thereof comes into operation if, within that two-year period or shorter period if the consent use is not utilised in accordance with the approval.
- (5) The Municipality may, in accordance with section 69, approve extensions of the period contemplated in subsection (4), which period together with any extensions that the Municipality approves may not exceed 5 years.

## **18. SUBDIVISION**

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted in terms of section 22.
- (2) An application for subdivision involving a change of zoning must be considered by the Municipality.

- (3) An applicant may submit a subdivision application simultaneously with an application for rezoning
- (4) The Municipality must impose appropriate conditions under section 68 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, that has been prepared by a professional land surveyor, 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 section 68; and
  - (c) the approved subdivision plan.
- (6) If the Municipality approves a subdivision, the applicant must within a period of two years, or a shorter period as the Municipality may determine, from the date that the approval comes into operation comply with the following requirements:
  - (a) 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 the relevant conditions of the approved subdivision, that must be complied with before compliance with paragraph (d), have been met in respect of the area shown on the general plan or diagram; 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) The Municipality must issue a certificate to confirm that it is satisfied that all conditions of approval contemplated in subsection (5) (c) have been met.
- (8) If the Municipality issues a certificate referred to in subsection (7) in error, the applicant is not absolved from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

#### **19. CONFIRMATION OF SUBDIVISION**

- (1) Upon compliance with section 18(6), a subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof in terms of section 18(6), zonings indicated on an approved subdivision plan is confirmed and it cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or any other person on his or her written request that a subdivision or 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 18(6) for the subdivision or part thereof.

- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in section 18(6) or the Municipality approved the construction prior to the confirmation of the subdivision.

## **20. LAPSING OF SUBDIVISION AND EXTENSION OF VALIDITY PERIODS**

- (1) An approved subdivision or a part thereof lapses if the applicant does not comply with section 18(5).
- (2) An applicant may apply for an extension to the period contemplated in to comply with subsection 18(6) or must comply with subsection (5).
- (3) An extension contemplated in subsection (2) may be approved for a period not exceeding five years and, if after expiry of the extended period the requirements of section 18(6) have not been complied with, the subdivision lapses and subsection (6) applies.
- (4) If the Municipality approves an extension contemplated in subsection (2), the extended period together with the period contemplated in section 18(6) may not exceed 5 years.
- (5) If an applicant complies with section 18(6) (b) and (c) only in respect of a portion of the land reflected on the general plan contemplated in section 18(6)(a), he or she must withdraw the general plan and submit a new general plan to the Surveyor-General.
- (6) If an approval of a subdivision or part thereof lapses in terms of 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.

## **21. AMENDMENT OR CANCELLATION OF SUBDIVISION PLAN**

- (1) The Municipality may in terms of section 13(2) approve the amendment or cancellation of a subdivision 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) 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.
- (3) 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.
- (4) An amended subdivision approval in respect of which an amendment or cancellation is approved in terms of subsection (1) is valid for the remainder of the period as applicable to the initial approval of the subdivision, reckoned as from the date of approval of the amendment or cancellation in terms of subsection (1).

## **22. EXEMPTION OF SUBDIVISIONS AND CONSOLIDATIONS**

- (1) A notification shall be served to the municipality for the subdivision or consolidation of land that does not require the approval of the Municipality, in the following cases;
  - (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) 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;
  - (d) 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 granting of a right of habitation, right of way or usufruct.
- (2) An applicant must obtain a certificate from the Municipality that certifies in writing that the subdivision or consolidation is exempted from the application of section 13 and sections 18 to 21 in the case of a subdivision, or section 13 and sections 29 to 30 in the case of a consolidation.
- (3) The Municipality must indicate on the subdivision plan, or on the diagram in respect of the consolidation, that the subdivision or consolidation is exempted from the application of the sections referred to in subsection (2).

**23. 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 vests in the Municipality upon confirmation of the subdivision or a part thereof.
- (2) The Municipality may in terms of conditions imposed under section 68 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.

**24. CLOSURE OF PUBLIC PLACES**

- (1) The Municipality may, on own initiative or on application, permanently close a public place or any portion thereof in accordance with Chapter IV.
- (2) An applicant who requires the closure of a public place, whether permanently or temporarily, must apply in terms of section 13(2) to the Municipality.

- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered due to wrongdoing on the part of the Municipality when it permanently closed a public place, the authorised employee must—
  - (a) require proof of negligence or any other wrongdoing on the part of the Municipality which resulted in the loss or damage; and
  - (b) before any claim is paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
- (4) The Municipality may pay a claim if—
  - (a) the circumstances of loss or damage reveal that the Municipality acted wrongfully;
  - (b) the claimant has proved his or her loss or damage;
  - (c) the claimant has provided proof of a fair and reasonable quantum;
  - (d) no claim has been made and paid by personal insurance covering the same loss; and
  - (e) any other relevant additional information as requested by the authorised employee has been received.
- (5) The ownership of the land comprised in any public place or portion thereof that is permanently closed in terms of this section continues to vest in the Municipality, unless the Municipality determines otherwise.
- (6) The Municipal Manager may, without complying with Chapter IV, 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 a state that is dangerous to the public;
  - (d) by reason of an emergency or public event that requires special measures for the control of traffic or special provision for the accommodation of crowds; or
  - (e) for any other reason that renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

## **25. SERVICES ARISING FROM SUBDIVISION**

- (1) Subsequent to the approval 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 originating from the subdivision:
  - (i) gas mains;
  - (ii) electricity conductors (overhead or underground);
  - (iii) telephone lines;
  - (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;
  - (iii) pump stations; and
  - (iv) service pillars;
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing, maintenance, upgrading or inspecting any works referred to in paragraphs (a) or (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 to provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of, and within a period to be determined by, the Municipality.

## **26. 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 conveyancer's certificate confirming that money due by the transferor of land to an owners' association established in respect of that land has been paid, or that provision has been made to the satisfaction of the owners' association for the payment thereof;

- (b) proof of payment of any contravention penalty or proof of compliance with an instruction in a compliance notice issued in terms of Section 73;
- (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the zoning scheme;
- (d) proof that all common property, arising from the subdivision has been transferred to the owners' association as contemplated in section 27(3)(e); and
- (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

## **27. OWNERS' ASSOCIATIONS**

- (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 subsection (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 all common property arising from the subdivision, including—
    - (i) private open spaces;
    - (ii) private roads;
    - (iii) private places; and
    - (iv) land required for services provided by the owners' association;
  - (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) An owners' association may amend its constitution when necessary, but if an amendment affects the Municipality or a provision referred to in subsection (3), the amendment must also be approved by the Municipality.
- (6) An owners' association that comes into being by virtue of subsection (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 subsection (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 subsection (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 subsection (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 subsection (8), considered to be expenditure incurred by the owners' association.

## **28. 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 the 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 for which the owners' association is responsible; and
  - (c) the impact of the dissolution of the owners' association on the members and the community concerned.

## **29. CONSOLIDATION OF LAND UNITS**

- (1) No person may consolidate land without the approval of the Municipality in terms of section 13 (2), unless the consolidation is exempted in terms of section 22.
- (2) A copy of the approval must accompany the diagram that is submitted to the Surveyor-General's office.



- (3) If a Municipality approves a consolidation, the applicant must submit a diagram, that has been prepared by a professional land surveyor 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 68; and
  - (c) the approved consolidation plan.
- (4) If a Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.

### **30. LAPSING OF CONSOLIDATION AND EXTENSION OF VALIDITY PERIODS**

- (1) Subject to subsection (2), an approved consolidation of land units lapses if the consolidation is not registered in terms of the Deeds Registries Act within two years of the date of the consolidation.
- (2) If the consolidation of land units forms part of land development that has been approved in terms of this By-law subject to longer validity periods, the applicant may apply for an extension of the period referred to in subsection (1).
- (3) If the Municipality approves an extension contemplated in subsection (2), the extended period together with the period contemplated in subsection (1) may not exceed five years.
- (4) If an approval of a consolidation lapses in terms of 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 consolidation has lapsed.

### **31. REQUIREMENTS FOR AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS**

- (1) The Municipality may, on its own initiative or on application in terms of section 13 (2) by notice in the *Provincial Gazette* amend, suspend or remove a restrictive condition.
- (2) The Municipality may amend, suspend or remove a restrictive condition—
  - (a) permanently;
  - (b) for a period specified in the notice; or
  - (c) subject to conditions specified in the notice.
- (3) In addition to the procedures set out in Chapter IV, the owner must—
  - (a) submit the original title deed to the Municipality or a certified copy thereof; and
  - (b) where applicable, submit the bondholder's consent to the application.

- (4) The Municipality must cause a notice of an application in terms of 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 amended, suspended or removed;
  - (d) the social benefit of the restrictive condition remaining in place in its existing form;
  - (e) the social benefit of the amendment, suspension or removal of the restrictive condition; and
  - (f) whether the amendment, suspension or removal of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

**32. ENDORSEMENTS IN CONNECTION WITH AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS**

- (1) The applicant must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in section 31(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, make the appropriate entries in, and endorsements on, any relevant register, title deed, diagram or plan in their respective offices or submitted to them, to reflect the amendment, suspension or removal of the restrictive condition.

## CHAPTER IV – APPLICATION PROCEDURES

### 33. PROCEDURES FOR APPLICATIONS

- (1) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter III of this By-law.
- (2) The application procedures are distinctive to the different types of applications referred to in section 13.
- (3) Category 1 and 2 applications as contemplated in section 13(2) should be submitted to the Municipality via the e-lodgement process, as contemplated in section 34.
- (4) Category 1 applications must be submitted with a comprehensive application.
- (5) Category 2 applications must be submitted with an abridged application.
- (6) The tables in Schedule 5 provides a check list for each type of applications referred to in section 13.

### 34. PROCEDURES FOR E-LODGEEMENT APPLICATIONS

- (1) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter III of this By-law.
- (2) The application procedures are distinctive to the different types of applications referred to in section 13.
- (3) An application will not be considered a complete application unless all documents, as contemplated in section 36, are uploaded to the e-lodgement site.
- (4) Proof of payment of the application fee as contemplated in section 38, should be uploaded to the e-lodgement site.
- (5) After a full application and proof of payment has been uploaded to the e-lodgement site, the municipality must confirm the complete application in terms of section 40 and issue a notice indicating all the documents received.
- (6) After the applicant has received the notification, as referred in subsection (4):
  - (a) the serving of notices must take place in accordance with section 44, 45, 46, 47 and 48 of this By-law.
  - (b) an original copy of all documentation, referred to in subsection (2) and (3) and the notice, referred to in subsection (4) must be sent to the municipality within 7 days after e-lodgement.
- (7) If the applicant does not comply with subsection (5) and (6), the municipality will not consider the application.
- (8) The municipality must notify the applicant of its decision in accordance with section 61.

### 35. PRE-APPLICATION CONSULTATION

- (1) The Municipality may require an owner of land who intends to submit an application or his or her agent to meet with the authorised employee for a pre-application consultation

before he or she submits an application to the Municipality in order to determine the information to be submitted with the application.

- (2) The Municipality may make guidelines for determining whether an application requires a pre-application consultation, the nature of the information that is required, the employees from the Municipality or other organs of state that must attend the meeting and the procedures to be followed.
- (3) The Municipality must keep minutes of the proceedings of a pre-application consultation.

### **36. INFORMATION REQUIRED**

- (1) An application contemplated in section 13, must be accompanied by the following documents:
  - (a) a comprehensive or abridged application form, as contemplated in Annexure A and B, completed and signed by the applicant;
  - (b) if the applicant is an agent, a power of attorney authorising the applicant to make the application on behalf of the owner;
  - (c) if the owner of the land is a company, close corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, close corporation, trust, body corporate or a home owners' association;
  - (d) the relevant bondholder's consent, if required by the Municipality;
  - (e) a comprehensive motivation for all applications, based on the criteria for consideration of the application referred to in section 67;
  - (f) proof of payment of application fees;
  - (g) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds;
  - (h) a comprehensive service report;
  - (i) if required by the Municipality, a conveyancer's certificate indicating that no restrictive condition in respect of the application is contained in the title deeds;
  - (j) where applicable, the minutes of any pre-application consultations and
  - (k) should any other legislation or authority require any other actions, proof of compliance to such prerequisites must be attached to the application.
- (2) Additional to the application form as contemplated in subsection (1)(a) the following plans and maps must form part of a comprehensive application, unless the Municipality has, in writing, indicated differently:
  - (a) Orientating locality map;
  - (b) Zoning map extract;
  - (c) Land use map;
  - (d) Detail layout map;

- (e) Site development plan;
- (3) Additional to the application form as contemplated in subsection (1)(a) the following plans and maps must form part of an abridged application, unless the Municipality has, in writing, indicated differently:
  - (a) Orientating locality map;
  - (b) Basic layout map
- (4) The Municipality may add or remove any information requirements for a particular application as recorded in the pre-application consultation contemplated in section 35
- (5) The Municipality may make guidelines regarding the submission of additional information and procedural requirements.

### **37. APPLICATION STANDARDS**

- (1) Applications that do not comply with the provisions of this section are deemed to be incomplete, and must be handled in terms of section 41
- (2) An orientation locality map should be a clearly readable A3 sized map indicating the application area in relation to the surrounding properties and must include the following basic details:
  - (a) True north, scale, key and heading “Locality Map”;
  - (b) The approximate location of the land unit involved in the application, relative to the nearest town for farming areas and the immediate residential neighbourhoods for urban areas;
  - (c) Boundary of the Local Authority, including the names of adjacent Local Authorities for applications near the border of the aforementioned;
  - (d) Roads, indicated whether they are main roads, highways, national roads or provincial roads if near or adjacent to the application area;
  - (e) Size and location of the particular portion applicable to the application and;
  - (f) Any other applicable particulars to give more clarity to the application.
- (3) A basic layout map of at least A3 size must include the following details:
  - (a) True north, scale, key and heading “Layout Map”;
  - (b) Erf boundaries, building lines, title deed building lines, restrictions, street names (if applicable), including neighbouring erf or farm numbers.
  - (c) The location of existing buildings on the application area and surrounding properties, if the application has an influence on them.
  - (d) Detail regarding the proposed development, including proposed subdivision and consolidation boundaries.

- (e)* Any physical restrictions on the land unit or neighbouring land units that might influence the application (if applicable).
  - (f)* Any other applicable particulars to give more clarity to the application.
- (4) A zoning map extract of at least A3 size must include an extract of the municipality's official zoning map with the following detail:
  - (a)* The scale, true north, key and heading "Zoning Map";
  - (b)* All land units and existing zonings thereof within a radius of 300m from the outside boundary of the application area, as well as of all undeveloped land units for applications within Urban Areas;
  - (c)* All land units and existing zonings of adjacent farms for applications within Rural Areas; and
  - (d)* Erf numbers and farm names.
- (5) A land use map must be included where the existing land uses differ from the relative zonings of the application area, or if it is requested by the municipality. A land use map must include the following:
  - (a)* The scale, true north, key and heading "Land Use Map";
  - (b)* All existing land uses found within a radius of 300m from the outside boundary of the application area, as well as all undeveloped land units for applications within Urban Areas;
  - (c)* All land units and existing land uses of adjacent farms for applications within Rural Areas.
  - (d)* Erf numbers and farm names.
- (6) A detail layout map must be included for any application that necessitates such detail for consideration. A detailed map must be a minimum size of A3 and consist of the following details:
  - (a)* The scale, true north, key and heading "Layout Map";
  - (b)* The Detail Layout plan must indicate the map number and all amendments shall have consecutive numbers.
  - (c)* Contours with 1m or 2m height differences up to outside of the Layout boundary.
  - (d)* All areas steeper than 1:5.
  - (e)* 1:50 flood-line, if applicable.
  - (f)* Other physical restrictions that might influence the layout (e.g. cliffs, marshes, dunes, etc.).

- (g) All existing services within and surrounding the application area.
  - (h) Road layout on adjacent land units.
  - (i) The proposed subdivision(s).
  - (j) Sufficient measurements to indicate the sizes of the subdivisions.
  - (k) The erven numbered consecutively.
  - (l) The name of the person or firm that prepared the layout, including Professional Registration number.
  - (m) If contours, indicated on the map, were prepared by another person or firm, the particular name should also be mentioned.
  - (n) Co-coordinates together with grid references if requested.
  - (o) The proposed new streets names for new township establishments.
  - (p) A list of the proposed zonings distinguished by means of different colours, the colour code shall be in accordance with the scheme regulations, indicating the different uses, amount of erven for each use, surfaces per use and surfaces expressed as a percentage of the total area of the subdivision. The surface area shall be expressed in m<sup>2</sup> and or hectares.
  - (q) Building lines.
- (7) A site development plan must be included for any application that can have an influence on interested and affected parties and must include the following:
- (a) The scale, true north, key and heading “Site Development Plan”;
  - (b) Existing buildings on the land unit and on directly adjacent land units.
  - (c) All existing services within and surrounding the application area.
  - (d) All proposed buildings, parking bays, landscaped areas and any other detail that can give more clarity to the application.
  - (e) Building lines.
- (8) All maps should be compiled using the Hartebeeshoek 1994 coordinate system;
- (9) All maps and plans must be printed in colour with minimum dots per inch (dpi) of 300.
- (10) All documentation for e-lodgement must be uploaded in pdf format with minimum dots per inch (dpi) of 300.
- (11) All maps and plans should be a minimum standard A3 size in accordance with International Standards Organization’ standards.

- (12) The municipality can at any time insist on adding details to application standards if the application necessitates such detail for consideration, in accordance with section 37.

**38. APPLICATION FEES**

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

**39. 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 the applicable fees;
  - (c) the application is not in the form required by the Municipality or does not contain the documents required for the submission of the application as set out in section 36.

**40. RECEIPT OF APPLICATION AND REQUEST FOR FURTHER INFORMATION, DOCUMENTATION, PLANS OR ADDITIONAL FEES**

- (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 information, documentation, plans or additional fees that it requires within 7 days of receipt of the application or the further period as may be agreed upon.
- (2) If the Municipality fails to notify the applicant as contemplated in subsection (1)(b) the applicant may appeal against failure to confirm application is complete.

**41. PROVISION OF FURTHER INFORMATION, DOCUMENTATION OR PLANS AND PAYMENT OF FEES**

- (1) The applicant must provide the Municipality with the requested information, documentation or plans or payment of the requested additional fees contemplated in section 40(1)(b) for the completion of the application within 14 days of the request therefore or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the requested information, documentation or plans or pay the additional fees within the periods contemplated in subsection (1).
- (3) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (2) and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (2) to refuse to consider the application.



- (5) If an applicant wishes to continue with an application that the Municipality refused to consider in terms of subsection (2), the applicant must apply again and pay the applicable application fees.

#### **42. CONFIRMATION OF COMPLETE APPLICATION**

- (1) The Municipality must notify the applicant in writing that the application is complete within 7 days of receipt of the requested information, documentation or plans or additional fees required by it under section 40(1) or if further information is required as a result of the additional information received.
- (2) If the Municipality fails to notify the applicant as contemplated in subsection (1) the applicant may appeal against failure to confirm application is complete.
- (3) If the Municipality notified the applicant that further information is required as contemplated in subsection (1), section 41 applies to the further submission of the information required.

#### **43. WITHDRAWAL OF APPLICATION OR AUTHORISATION**

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

#### **44. NOTICE OF APPLICATIONS IN TERMS OF INTEGRATED PROCEDURES**

- (1) The Municipality may, on written request and motivation by an applicant, before notice is given of an application, determine that —
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
  - (b) public notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of another law.
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b), an agreement must be entered into between the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within 30 days of having notified the applicant that an application is complete, simultaneously—
  - (a) cause public notice of the application to be given in terms of section 46(1); and
  - (b) forward a copy of the notice together with the application concerned to every municipal department, service provider and organ of state that has an interest in the application, unless the Municipality has determined that a procedure in terms of another law, as contemplated in subsection (1), is considered to be public notice in terms of this By-law.

- (4) The Municipality may require the applicant to give the required notice of an application in the media.
- (5) If an applicant has published a notice in the media at the request of the Municipality, the applicant must furnish the Municipality with proof that the notice has been published as required.

#### **45. NOTIFICATION OF APPLICATION IN MEDIA**

- (1) The Municipality must, in accordance with this By-law, cause notice to be given in the printed media for Category 1 applications as contemplated in section 13(2).
- (2) Applications that will materially affect the public interest or the interests of the community if approved must cause notice to be given in the media.
- (3) Notice of the application in the printed media must be given by—
  - (a) publishing a notice of the application, in 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
  - (b) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.

#### **46. SERVING OF NOTICES**

- (1) Notice of an application contemplated in section 44(1) and subsection (2) must be served—
  - (a) in accordance with Section 115 of the Municipal Systems Act;
  - (b) in at least one of the two official languages of the Province most spoken in the area concerned; and
  - (c) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) The Municipality must at least cause a notice contemplated in section 47 to be served of the following applications:
  - (a) a determination of a zoning contemplated in section 11;
  - (b) an application for subdivision or the phasing, amendment or cancellation of a subdivision contemplated in section 13(2)(d) and (k) respectively;
  - (c) an application for consolidation contemplated in section 13(2)(e); or
  - (d) the amendment, deletion or imposition of a condition contemplated in section 13(2)(b).
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law and that is not listed in subsection (2).

- (4) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (5) If an applicant has served a notice at the request of the Municipality, the applicant must furnish the Municipality with proof that the notice has been served as required.
- (6) The date of notification in respect of a notice served in terms of this section—
  - (a) when it was served by certified or registered post, is the date of registration of the notice; and
  - (b) when it was delivered to that person personally, is the date of delivery to that person;
  - (c) when it was left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years, is the date on which it was left with that person; or
  - (d) when it was displayed in a conspicuous place on the property or premises to which it relates, is the date that it is posted in that place.

#### **47. CONTENT OF NOTICE**

- (1) When notice of an application must be given in terms of section 45 or served in terms of section 46 or 48, the notice must—
  - (a) provide the full names of the applicant, if authorised representative, the full names and organisation of the representative;
  - (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 name and contact details of the person to whom comments, objections or representations must be addressed;
  - (f) invite members of the public to submit written comments, objections or representations, together with the reasons therefore, in respect of the application;
  - (g) state in which manner comments, objections or representations may be submitted;
  - (h) state the date by which the comments, objections or representations must be submitted, which date may not be less than 30 days from the date on which the notice was given;
  - (i) state that any person who cannot write may during office hours come to an address stated in the notice where a named staff member of the Municipality will assist those persons by transcribing their objections, comments or representations.

#### 48. ADDITIONAL METHODS OF PUBLIC NOTICE

- (1) The Municipality may, on its own initiative or on request, require the applicant to employ one or more of the following methods to give additional public notice of any application in terms of this By-law:
  - (a) displaying a notice contemplated in section 46 of a size of at least 60 centimetres by 42 centimetres on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
    - (i) the notice must be displayed for a minimum of 30 days during the period that the public may comment on the application; and
    - (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
      - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
      - (bb) at least two photos of the notice, one from close up and one where the notice and full extent of a boundary can be seen, where possible;
  - (b) convening a meeting for the purpose of informing the affected members of the public of the application;
  - (c) broadcasting information regarding the application on a local radio station in a specified language;
  - (d) holding an open day or public meeting to notify and inform the affected members of the public of the application;
  - (e) publishing the application on the Municipality's website for the duration of the period within which the public may comment on the application; or
  - (f) obtaining letters of consent or objection to the application.
  - (g) by serving a copy of the notice on every adjoining owner, provide that-
    - (i) the applicant must within 21 days of the last day of notice submit to the municipality a copy of the registered posting delivery
- (2) The Municipality must give additional public notice contemplated in subsection (1) if it considers notice in accordance with sections 44 or 45 to be ineffective or if it expects that the public notice would be ineffective.
- (3) Additional public notice can be given simultaneously with notice given in accordance with sections 44 or 45 or thereafter.

- (4) If an applicant has given additional public notice of an application on behalf of the Municipality, the applicant must provide proof that the additional public notice has been given as required.
- (5) Category 1 applications, as contemplated in section 13(2) must give additional notice in terms of subsection (1)(a) and 1(f).
- (6) Category 2 applications, as contemplated in section 16(2) must give notice in terms of subsection 1(a) and 1(f).

#### **49. 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 and physical address of each signatory; and
  - (c) the objection, comment or representation and reason therefore.
- (2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

#### **50. REQUIREMENTS FOR OBJECTIONS, COMMENTS OR REPRESENTATIONS**

- (1) A person may in response to a notice received in terms of sections 44, 45 or 48 object, comment or make representations in accordance with this section.
- (2) Any objection, comment or representation received as a result of a notice process must be in writing and addressed to the person mentioned in the notice and must be submitted within the time period stated in the notice and in the manner set out in this section.
- (3) The objection, comment or representation 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; and
  - (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 that explain the objection, comment or representation;
  - (b) demonstrate the undesirable effect which the application will have; or

(c) demonstrate any aspect of the application which is not considered consistent with applicable policy.

(5) The Municipality must refuse to accept an objection, comment or representation received after the closing date.

#### **51. FURNISHING OF COMMENT AND INFORMATION**

(1) If a person or government department is required by the Municipality in terms of this by-law to furnish any comment or other information in terms of this by-law, fails to furnish that comment or other information within a period of 60 days from the date on which that comment or other information was so required, that person or body may be deemed to have had no comment or other information to furnish.

(2) The period of 60 days mentioned in subsection (1) shall not apply to the notice of applications for public comment or objections, where the period mentioned in the notice concerned shall apply.

(3) The Municipality, MEC or Minister may request Provincial or National Technical Advisory directorates to investigate the refusal or failure of a person or body to furnish comment or information.

(4)

#### **52. AMENDMENTS PRIOR TO APPROVAL**

(1) An applicant may amend his or her application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof—

(a) at the applicant's own initiative;

(b) as a result of an objection comment or representation made during the notice process; or

(c) at the request of the Municipality.

(2) If an amendment to an application is material, the Municipality may require that further notice of the application be given or served in terms of this By-law or that notice of the application be given or served anew and may require that the notice and the application be re-sent to municipal departments, organs of state and service providers for further comment.

#### **53. FURTHER PUBLIC NOTICE**

(1) The Municipality may require that notice of an application be given again if more than 18 months has elapsed since the first public notice of the application and if the Municipality has not considered the application.

(2) The Municipality may, at any stage during the processing of the application—

(a) require notice of an application to be to be given or served again in terms of section 44, 45 or 48.; and

- (b) an application to be re-sent to municipal departments for comment, if new information comes to its attention which is material to the consideration of the application.

#### **54. LIABILITY FOR COST OF NOTICE**

The applicant is liable for the costs of giving and serving notice of an application in terms of sections 44, 45 and 48.

#### **55. RIGHT OF AN APPLICANT TO REPLY**

- (1) Copies of all objections, comments or representations submitted to the Municipality must be given to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of 30 days from the date of the provision of the objections, comments or representations, as contemplated in subsection (1), submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.
- (3) If the applicant does not submit comments within the period of 30, the applicant is considered to have no comment.
- (4) If as a result of the objections, comments or representations submitted to the Municipality additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (5) If the applicant does not provide the additional information within the period contemplated in subsection (2), section 41(2) to (5), read with the necessary changes, applies.

#### **56. WRITTEN ASSESSMENT OF APPLICATION**

- (1) An employee authorised by the Municipality, if such an employee is not in the employ of the Municipality or they cannot afford to solicit the services of such an authorised employee, the Municipality may make use of the Provincial or National Technical advisors employed in the directorates responsible for Spatial Planning in these two spheres, must in writing assess an application in accordance with the Spatial Planning and Land Use Management Act 16 of 2013 and Regulations and make a recommendation to the decision-maker regarding the approval or refusal of the application.
- (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

#### **57. DECISION-MAKING PERIOD**

- (1) If the power to take a decision in respect of an application 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 reckoned from—
  - (a) the last day of submission of comments, objections or representations if no comments, objections or representations as contemplated in section 47(b), were submitted;

- (b) the last day of the submission of the applicant's reply to comments, objections or representations submitted as contemplated in sections 55(2) and (3);
  - (c) the last day of the submission of additional information as contemplated in section 55(5); or
  - (d) within such further period agreed to between the applicant and the Municipality.
- (2) If the power to take a decision is not delegated to an authorised employee and no integrated process in terms of another law is being followed, the Tribunal must decide on the application within 120 days calculated from the dates contemplated in subsections (1)(a) to (d)

#### **58. FAILURE TO ACT WITHIN TIME PERIOD**

- (1) An applicant may lodge an appeal to the Appeal Authority if the authorised employee or the Tribunal fails to decide on an application within the period referred to in section 57(1) or (2).
- (2) Subject to sections 41(2) and 42(2), an applicant may not appeal to the Appeal Authority if the authorised employee or the Tribunal fails to decide on an application due to the fact that all required information to decide on the matter is not available.

#### **59. 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 written assessment contemplated in section 56.
- (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.
- (4) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (5) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (6) 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.

#### **60. DETERMINATION OF APPLICATION**



- (1) An authorised employee, or if such an employee is not in the employ of the Municipality or they cannot afford to solicit the services of such an authorised employee, the Municipality may make use of the Provincial, National or other technical advisors employed in the directorates responsible for Spatial Planning and Land Use Management in these two spheres or the Tribunal, authorised in terms of the Spatial Planning and Land Use Management Act 16 of 2013 and the Regulations, may in respect of a Category 2 application contemplated in subsection 13(2)—
  - (a) approve, in whole or in part, or refuse that application;
  - (b) upon the approval of that application, impose conditions under section 71, including conditions related to the provision of engineering services and the payment of a development charge;
  - (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
  - (d) conduct any necessary investigation;
  - (e) give directions relevant to its functions to any person in the service of the Municipality or municipal entity;
  - (f) appoint a technical adviser to advise or assist in the performance of the Tribunal's functions in terms of this By-law.
- (2) An approval comes into operation only after the expiry of the period contemplated in the Spatial Planning and Land Use Management Act 16 of 2013 within which an appeal must be lodged.
- (3) If an appeal has been lodged, the Municipality must notify the applicant in writing whether or not the operation of the approval of the application is suspended as contemplated in the Spatial Planning and Land Use Management Act 16 of 2013 and Regulations.

#### **61. NOTIFICATION OF DECISION**

- (1) The Municipality must, within 21 days of its decision, in writing notify the applicant and any person whose rights are affected by the determination of the decision and their right to appeal if applicable.
- (4) A notice contemplated in subsection (1) must inform an applicant that an approval comes into operation only after the expiry of the period contemplated as contemplated in the Spatial Planning and Land Use Management Act 16 of 2013 and Regulations within which an appeal must be lodged if no appeal has been lodged.
- (3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the Municipality.

#### **62. DUTIES OF AGENT**

- (1) An agent must ensure that he or she has the contact details of the owner who authorised him or her to act on behalf of the owner.

- (2) An agent may not provide information or make a statement in support of an application which information or statement he or she knows or believes to be misleading, false or inaccurate.

### **63. ERRORS AND OMISSIONS**

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

### **64. 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) Before the withdrawal of a consent use approval, the Municipality must serve a notice on the owner—
  - (a) informing the owner of the alleged breach of the condition;
  - (b) instructing the owner to rectify the breach within a specified time period;
  - (c) inviting the owner to make representations on the notice within a specified time period.

### **65. PROCEDURE TO WITHDRAW AN APPROVAL**

- (1) The Municipality may withdraw an approval granted—
  - (a) after consideration of the representations made by virtue of section 64(2)(c); and
  - (b) if the condition is still being breached and not being complied with at the end of the time period specified in terms of section 64(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the unlawful utilisation immediately.
- (3) The approval is withdrawn from the date of notification of the owner.

### **66. EXEMPTIONS TO FACILITATE EXPEDITED PROCEDURES**

- (1) 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 contemplated in section 44;
    - (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 depart from any of the provisions of this By-law.

## CHAPTER V – CRITERIA FOR DECISION-MAKING

### 67. GENERAL CRITERIA FOR CONSIDERATION OF APPLICATIONS

- (1) When the Municipality considers an application it must have regard to the following:
  - (a) the application submitted in terms of this By-law;
  - (b) the procedure followed in processing the application;
  - (c) the desirability of the proposed utilisation of land and any guidelines issued by the MEC regarding the desirability of proposed land uses;
  - (d) the objection, comment or representation in response to the notice of the application and the comment received from organs of state and municipal departments;
  - (e) the response by the applicant, if any, to the objection, comment or representation referred to in paragraph (d);
  - (f) investigations carried out in terms of other laws that are relevant to the consideration of the application;
  - (g) a registered planner's written assessment, if a registered planner is not in the employ of the Municipality or they cannot afford to solicit the services of a private registered planner, the Municipality may make use of the Provincial or National Technical advisors employed as registered planners in the directorates responsible for Spatial Planning in these two spheres, in respect of an application for—
    - (i) a rezoning;
    - (ii) a subdivision;
    - (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 use right;
    - (v) an approval of an overlay zone as provided in the zoning scheme;
    - (vi) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;
    - (vii) a determination of a zoning;
    - (viii) a closure of a public place or part thereof;
  - (h) the integrated development plan and municipal spatial development framework;
  - (i) the integrated development plan and spatial development framework of the district municipality, where applicable;

- (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 national spatial development framework and provincial spatial development framework;
  - (n) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act;
  - (o) the policies, principles, and the planning and development norms and criteria set by national and provincial government;
  - (p) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
  - (q) the principles referred to in Chapter 2 of the Spatial Planning and Land Use Management Act; and
  - (r) the applicable provisions of the zoning scheme.
  - (s) public interest;
  - (t) the constitutional transformation imperatives and the related duties of the State;
  - (u) the facts and circumstances relevant to the application;
  - (v) the respective rights and obligations of all those affected;
  - (w) the state and impact of engineering services, social infrastructure and open space requirements; and
  - (x) any factors that may be prescribed, including timeframes for making decisions.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) is consistent with the development rules of the 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.

## **68. CONDITIONS OF APPROVAL**

- (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
  - (a) the provision of engineering services and infrastructure;
  - (b) the cession of land or the payment of money;

- (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
- (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
- (e) settlement restructuring;
- (f) agricultural or heritage resource conservation;
- (g) biodiversity conservation and management;
- (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
- (i) energy efficiency;
- (j) requirements aimed at addressing climate change;
- (k) the establishment of an owners' association in respect of the approval of a subdivision;
- (l) the provision of land needed by other organs of state;
- (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality;
- (n) the registration of public places in the name of the municipality;
- (o) the transfer of ownership to the municipality of land needed for other public purposes;
- (p) the implementation of a subdivision in phases;
- (q) requirements of other organs of state.
- (r) the submission of a construction management plan to manage the impact of the construction of a new building on the surrounding properties or on the environment;
- (s) agreements to be entered into in respect of certain conditions;
- (t) the phasing of a development, including lapsing clauses relating to such phasing;
- (u) the delimitation of development parameters or land uses that are set for a particular zoning;
- (v) the setting of a validity period, if the Municipality determined a shorter validity period as contemplated in this By-law;
- (w) the setting of a period within which a particular condition must be met;
- (x) requirements relating to engineering services as contemplated in section 70;
- (y) requirements for an occasional use, which must include—
  - (i) parking and the number of ablution facilities required;

- (ii) the maximum duration or occurrence of the occasional use; and
  - (iii) parameters relating to a consent use in terms of the zoning scheme.
- (3) If the Municipality imposes a condition contemplated in subsection (2)(a) or (x), 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 therefore arising from the approval, as determined by the Municipality in accordance with provincial norms and standards.
- (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) An owners' association or home owners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this By-law is regarded as an owners' association that came into being by virtue of a condition imposed by the Municipality in accordance with this By-law.
- (8) The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.
- (9) Conditions requiring a standard to be met must specifically refer to an approved or published standard.
- (10) No conditions may be imposed that rely on a third party for fulfilment.
- (11) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (12) The Municipality may, on its own initiative or on application, amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.

## **69. APPLICATIONS FOR EXTENSION OF VALIDITY PERIODS**

- (1) The Municipality may approve an application for the extension of a validity period imposed in terms of this By-law, on a date before or after the expiry of the validity period of an approval, if the application for the extension of the period was submitted before the expiry of the validity period.
- (2) When the Municipality considers an application in terms of subsection (1), it must have regard to the following:
  - (a) whether the circumstances prevailing at the time of the original approval have materially changed; and
  - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed.
- (3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 13(2)(b) must be submitted for consideration before or simultaneously with the application for the extension of a validity period.
- (4) The extended validity period takes effect on and is calculated from the expiry date of the validity period applicable to the original approval or from the expiry date of the previous extended validity period approved in terms of this By-law.

## CHAPTER VI – PROVISION OF ENGINEERING SERVICES

### 70. RESPONSIBILITY FOR PROVISION OF ENGINEERING SERVICES

- (1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development, to the required standards, when an application is approved, as contemplated in section 49(1) of the Spatial Planning and Land Use Management Act.
- (2) The Municipality is responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the Spatial Planning and Land Use Management Act.
- (3) When the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Spatial Planning and Land Use Management Act.
- (4) 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.

### 71. DEVELOPMENT CHARGES

- (1) The applicant must pay development charges to the Municipality in respect of the provision of an external engineering service.

- (2) The external engineering service for which development charges are payable must be set out in a policy adopted by the Municipality.
- (3) The amount of the development charges payable by an applicant must be calculated in accordance with the policy adopted by the Municipality.
- (4) The date by which a development charges must be paid and the means of payment must be specified in the conditions of approval.
- (5) The development charges imposed are subject to escalation at the rate calculated in accordance with the policy on development charges.
- (6) The Municipality must annually submit a report to the Council on the amount of development charges paid to the Municipality, together with a statement of the expenditure of the amount and the purpose of the expenditure.
- (7) When determining the contribution contemplated in sections 68(4) and (5), the Municipality must have regard to provincial norms and standards and—
  - (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
  - (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
  - (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
  - (d) money in respect of contributions contemplated in subsection 68(4) paid in the past by the owner of the land concerned; and
  - (e) money in respect of contributions contemplated in subsection 68(4) to be paid in the future by the owner of the land concerned.

## **72. LAND FOR PARKS, OPEN SPACES AND OTHER USES**

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



### 73. ENFORCEMENT

- (1) The Municipality must comply and enforce compliance with—
  - (a) the provisions of this By-law;
  - (b) the provisions of a zoning scheme;
  - (c) conditions imposed in terms of this By-law or previous planning legislation; and
  - (d) title deed conditions.
  
- (1) The Municipality may not do anything that is in conflict with subsection (1).

### 74. OFFENCES AND PENALTIES

- (1) Any person who—
  - (a) contravenes or fails to comply with sections 13(1) and (6), 18(1), 61(2) and 71;
  - (b) fails to comply with a compliance notice served in terms of section 73;
  - (c) utilises land in a manner other than prescribed by a zoning scheme without the approval of the municipality;
  - (d) upon registration of the first land unit arising from a subdivision, fails to transfer all common property arising 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; or
  - (g) hinders or interferes with an authorised employee in the exercise of any power, or the performance of any duty, of that employee, 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 his or her land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of a zoning scheme, 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 in terms of 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.

#### **75. SERVING OF COMPLIANCE NOTICE**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence in terms of section 73.
- (2) A compliance notice must instruct the occupier and owner to cease the unlawful land use or construction activity or both without delay or within the time period determined by the Municipality, and may include an instruction to—
  - (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or another period determined by the Municipal Manager; or
  - (b) submit an application for land use or construction activity in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).
- (4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.
- (5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised building work.
- (6) A person who received a compliance notice in terms of this section may object to the notice by lodging representations to the Municipality within 30 days of receipt of the notice.

#### **76. CONTENT OF COMPLIANCE NOTICES**

- (1) A compliance notice must—
  - (a) identify the person to whom it is addressed;
  - (b) describe the alleged unlawful utilisation of land or construction activity concerned and the land on which it is occurring;
  - (c) state that the activity is unlawful and inform the person of the particular offence contemplated in section 73 which that person allegedly has committed or is committing through the continuation of that activity on the land;

- (d) the steps that the person must take and the period within which those steps must be taken;
- (e) anything which the person may not do and the period during which the person may not do it;
- (f) provide for an opportunity for a person to submit representations in terms of section 75(6) with the contact person stated in the notice; and
- (g) issue a warning to the effect that—
  - (i) the person may be prosecuted for and convicted of an offence contemplated in section 73;
  - (ii) on conviction of an offence, the person will be liable for the penalty as provided for;
  - (iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
  - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval may be withdrawn;
  - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty, including any costs incurred by the Municipality, will be imposed.
- (2) Any person on whom a compliance notice is served must comply with that notice within the time period stated in the notice, unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 75.

#### **77. OBJECTIONS TO COMPLIANCE NOTICE**

- (1) Any person or owner who receives a compliance notice in terms of section 75 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) After the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
  - (a) may suspend, confirm, vary or cancel a compliance notice or any part of the notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or varied.

#### **78. FAILURE TO COMPLY WITH COMPLIANCE NOTICE**

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

- (a) lay a criminal charge against the person;
- (b) apply to the High Court for an order—
  - (i) restraining that person from continuing the unlawful utilisation of the land,
  - (ii) directing that person to, without the payment of compensation—
    - (aa) demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation; or
    - (bb) rehabilitate the land concerned.
- (c) in the case of a temporary departure or consent use, withdraw the approval granted and act in terms of section 73 and or 88.

#### **79. URGENT MATTERS**

- (1) The Municipality does not have to comply with sections 75(6), 76(1)(f) and 77 in a case where an unlawful utilisation of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful utilisation of land immediately.
- (2) If the person or owner fails to cease the unlawful utilisation of land immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.

#### **80. SUBSEQUENT APPLICATION FOR AUTHORISATION OF ACTIVITY**

- (1) If instructed to rectify or cease an unlawful utilisation of land, a person may apply to the municipality for an appropriate land development contemplated in subsection 13(2), unless the person is instructed in terms of section 75(2)(a) 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.

#### **81. GENERAL POWERS AND FUNCTIONS OF AUTHORISED EMPLOYEES**

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

#### **82. POWERS OF ENTRY, SEARCH AND SEIZURE**

- (1) In ensuring compliance with this By-law in terms of section 73, an authorised employee may—
  - (a) question any person on land entered upon, or in a building or on premises entered, who, in the opinion of the authorised employee, may be able to

furnish information on a matter that relates to the enforcement of this By-law;

- (b) question any person on that land or premises or in that building about any act or omission in respect of which there is a reasonable suspicion that it might constitute—
  - (i) an offence in terms of this By-law;
  - (ii) a contravention of this By-law; or
  - (iii) a contravention of an approval or a term or condition of that approval;
- (c) question that person about any structure, object, document, book, record or written or electronic information or inspect any structure, object, document, book or record which may be relevant for the purpose of this subsection;
- (d) copy or make extracts from any document, book, record or written or electronic information referred to in paragraph (c), or remove that document, book, record or written or electronic information in order to make copies or extracts;
- (e) require that person to produce or deliver to a place specified by the authorised employee, any document, book, record or any written or electronic information referred to in paragraph (c) for inspection;
- (f) examine that document, book, record or any written or electronic information or make a copy thereof or an extract there from;
- (g) require from that person an explanation of any entry in that document, book, record or any written or electronic information;
- (h) inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
- (i) take photographs or make audio-visual recordings of anything or any person on that land or those premises or in that building that is relevant to the purposes of the investigation; or
- (j) seize that book, record or any written or electronic information or that article, substance, plant or machinery or a part or sample thereof that in his or her opinion may serve as evidence at the trial of the person to be charged with an offence under this By-law or the common law, provided that the user of the article, substance, plant or machinery on the land or premises or in the building concerned may make copies of such book, record or document before the seizure.

- (2) When an authorised employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this section, he or she must issue a receipt to the owner or person in control thereof.
- (3) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

### **83. WARRANT OF ENTRY FOR ENFORCEMENT PURPOSES**

- (1) A judge of a High Court or a magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
  - (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
  - (b) purpose of the inspection would be frustrated by the occupier or owner's prior knowledge thereof.
- (2) A warrant may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
  - (a) an 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 an offence contemplated in section 73 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 authorise the Municipality to enter upon the land or to enter the building or premises to take any of the measures referred to in section 81 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.

### **84. REGARD TO DECENCY AND ORDER**

The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include 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.

#### **85. ENFORCEMENT LITIGATION**

Whether or not a Municipality lays criminal charges against a person for an offence contemplated in section 73, the Municipality may apply to the High Court for an interdict or any other appropriate order including an order compelling that person to—

- (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
- (b) rehabilitate the land concerned; or
- (c) cease with the unlawful utilisation of land.

### **CHAPTER VIII - MISCELLANEOUS**

#### **86. NAMING AND NUMBERING OF STREETS**

- (1) If as a result of the approval of a development application streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number to each of the erven or land units located in such street or road.
- (2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies regarding street naming and numbering.
- (4) The Municipality must notify the Surveyor-General of the approval of new streets as a result of the approval of an amendment or cancellation of a subdivision in terms of section 24 and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment to the street names on an approved general plan.

#### **87. SHORT TITLE AND COMMENCEMENT**

- (1) This By-law is called the By-law on Spatial Planning and Land Use.
- (2) This By-law comes into operation on the date of publishing thereof in the Government Gazette.

SCHEDULE 1

**CODE OF CONDUCT FOR THE DELEGATED OFFICIAL, MEMBERS OF THE  
TRIBUNAL AND APPEAL AUTHORITY**

As provided for in the Spatial Planning and Land Use Management Act 16 of 2013 and the Regulations.



## SCHEDULE 2 – Comprehensive application form

### Ubuntu Municipality

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

#### **SECTION 1**

**Details of Applicant** (See Planning Profession Act, Act 36 of 2002)

Name: _____	Contact person: _____
Postal address: _____ _____	Physical address: _____ _____
_____ Code: _____	_____
Tel no: _____	Cell no: _____
Fax no: _____	E-mail address: _____
SACPLAN Reg No: _____	_____

#### **SECTION 2**

**Details of Land Owner** (If different from Applicant)

Name: _____	Contact person: _____
Postal address: _____ _____	Physical address: _____ _____
_____ Code: _____	_____
Tel no: _____	Cell no: _____
Fax no: _____	E-mail address: _____

If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land unit and if the land unit is owned by a company or more than one person.

#### **SECTION 3**

**Details of Property** (In accordance with Title deed)

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



**SECTION 5****Detail of application** (Mark with an X and give detail where applicable)

Is the land unit currently developed (buildings etc.)?	YES	NO	If answered YES, what is the nature & condition of the developments/improvements?	
Is the current zoning of the land utilised?	YES	NO	If answered NO, what is the application/ use of land?	
Is the property burdened by a bond?	YES	NO	If answered YES, attach the bondholder's consent to the application:	
Has an application for subdivision/ rezoning/ consent use/ departure on the property previously been considered?	YES	NO	If answered YES, when and provide particulars, including all authority reference numbers and decisions:	
Does the proposal apply to the entire land unit?	YES	NO	If answered NO, indicate the size of the portion of the land unit concerned, as well as what it will be used for, including the remaining extent:	
Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land unit in terms of the deed of transfer that should be removed, as it might have an influence on this application?	YES	NO	If answered YES, please provide detail description:	
Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development	YES	NO	If answered YES, name full particulars and state how the problem will be solved and submit detail layout plan:	
Is any portion of the land unit in a flood plain of a river beneath the 1:50 annual flood-line, or subject to any flooding?	YES	NO	If answered YES, please provide detail description:	
Is any other approval that falls outside of this Act, necessary for the implementing of the intended development?	YES	NO	If answered YES, please provide detail description:	
What arrangements will be made regarding the following services for the development? (Full Engineering Reports must be supplied, where applicable)	Water supply:			
	Electricity supply:			
	Sewerage and waste-water			
	Storm-Water:			
	Road Network:			

**SECTION 6****List of Attachments and supporting information required/ submitted with checklist for Municipal use** (Mark with an X/ number annexure)

Checklist (for the completion by the Applicant only)				Checklist (for the use of Responsible Authority only)		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCUMENT ATTACHED	YES	NO	N/A
			Completed Comprehensive Application form			
			Complete Motivation Report			
			Alignment to the Provincial, District and Municipal SDFs			
			Public participation report (minutes of meetings, copies of advertisement, etc.)			
			Power of Attorney (Board of Directors' / Trustees' resolution / consent)			
			Copy of Title Deed(s)			
			Mortgage holder's consent			
			Cadastral information – diagram/General Plan including servitudes, lease areas, etc.			
			Status report from Surveyor General – street closure or state owned land			
			Topographic map/ aerial map			
			Locality Map			
			Site Plan			
			Zoning Map			
			Zoning Certificate			
			Land Use Map			
			Conveyancer's certificate			
			Special endorsement/proxy			
			Home Owners' Association consent			
			Proposed design/layout plan			
			Proposed subdivision plan			
			Proposed consolidation plan			
			Proposed development plan			
			Mineral rights certificate (together with mineral holder's consent) and/or prospecting contract			
			Mineral impact assessment (MIA)			
			Environmental Impact Assessment (EIA – EA) including Heritage Impact Assessment (approval from Dept Sport, Arts and Culture) and Archaeological Impact Assessment (AIA) (approval from relevant Department - SAHRA)			
			Detail Engineering Services report (Bulk and internal)			
			Traffic impact study			
			Geo-technical report (including geology) report (NHRB Standards)			
			Social impact assessment			
			Flood line assessment (1:50 and 1:100 years)			
			Coastal setback report (consent from Dept of Environmental Affairs)			
			Subdivision of agricultural land (consent of the Dept of Agriculture)			
			List of sections in Title Deed conditions to be removed /amended			
			Adherence to planning legislation including the Planning Profession Act 36 of 2002			
			<b>At least three (3)</b> sets of full colour documentation copies			

**SECTION 7****Declaration**

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

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

Applicant's/ Owner's Signature:	_____	Date:							
Full name (print):	_____								
Professional capacity:	_____								
Applicant's ref:	_____								

**SECTION 8****Prescribed Notice and advertisement procedures (for the completion and use of Responsible Authority only)**

Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		Notice to be placed in the Local Newspaper			<b>Proof of Notice in Local Newspaper</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)			<b>Proof of Notice in the Provincial Gazette</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notices to neighbours</b> Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Responsible Authority. Alternatively (Option 2), the notices can be sent via registered post.			<b>Proof of Notice to neighbours</b> Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Responsible Authority, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Responsible Authority
		<b>Notice to be placed on the site</b> Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			<b>Proof of Notice in site</b> Two colour photos of the notice on site must be provided of which one is close up and the other one is taken from a distance in order to see the placing on the site itself.
		<b>Public Meeting</b> Note: The holding of a public meeting in order to inform the general public of the application.			<b>Proof of Public Meeting</b> The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Responsible Authority.
		<b>Any Additional components</b>			<b>Proof of additional components</b>

**SECTION 9****Power of Attorney/Proxy**

I/We, the undersigned

-----  
-----  
(FULL NAMES AND ID NO)

nominate, constitute and hereby appoint

-----  
-----  
(FULL NAMES AND ID NO, AS WELL AS NAME OF FIRM RESPRESENTED)

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

-----  
-----  
-----  
(FULL DETAILS OF THE APPLICATION LODGED)

with regards to

-----  
-----  
(DESCRIPTION OF PROPERTY)

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

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

In the presence of the undersigned witnesses

**Owner:**  
Name.....

**Witnesses:**  
1. Name.....

Signature.....

Signature.....

2. Name.....

Signature.....

**SCHEDULE 4 – Abridged application form**

**(Name) Municipality**

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

**SECTION 1**  
**Details of Applicant** (See Planning Profession Act, Act 36 of 2002)

Name: _____	Contact person: _____
Postal address: _____ _____	Physical address: _____ _____
_____ Code: _____	_____
Tel no: _____	Cell no: _____
Fax no: _____	E-mail address: _____
SACPLAN Reg No: _____	_____

**SECTION 2**

**Details of Land Owner** (If different from Applicant)

Name: _____	Contact person: _____
Postal address: _____ _____	Physical address: _____ _____
_____ Code: _____	_____
Tel no: _____	Cell no: _____
Fax no: _____	E-mail address: _____

If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land unit and if the land unit is owned by a company or more than one person.

**SECTION 3**

**Details of Property** (In accordance with Title deed)

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

**SECTION 4**

**Type of Application being Submitted** (Mark with an X and give detail)

**Application for:**  
(Please mark applicable block with a cross)

The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and subdivision by the Responsible Authority.	
Temporary departure to allow the use of a building or land for a period of at most five years, for a purpose for which no specific zone has been provided for in these regulations	

Application for Secondary Use, excluding Funeral Parlour, and Scrap Yard.	
Application for Consent Use, including Occupational Practice, excluding Temporary Housing.	
Application for Subdivision in accordance with the guidelines of the SDF.	
Application for subdivision requiring abridged processes.	
The amendment or cancellation of a general plan of a township.	
The permanent closure of a municipal road (public road) or a public open place.	
The consolidation of any land portion.	
Application for the extension of the approval period of an application before the lapsing thereof.	
<b>Please give a short description of the scope of the project:</b>	
_____	
_____	
_____	

## **SECTION 5**

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

Is the property burdened by a bond?	YES	NO	If answered YES, attach the bondholder's consent to the application:	
Has an application for subdivision / rezoning / consent use / departure on the property previously been considered?	YES	NO	If answered YES, when and provide particulars, including all authority reference numbers and decisions:	
Does the proposal apply to the entire land unit?	YES	NO	If answered NO, indicate the size of the portion of the land unit concerned, as well as what it will be used for, including the remaining extent:	
Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land unit in terms of the deed of transfer that should be lifted, as it might have an influence on this application?	YES	NO	If answered YES, please provide detail description:	
Are there any physical restrictions (e.g. steep inclines, unstable land formations marshes, etc.) that might influence the intended development?	YES	NO	If answered YES, name full particulars and state how the problem will be solved and submit detail layout plan:	
Is any portion of the land unit in a flood plain of a river beneath the 1:50 annual flood-line, or subject to any flooding?	YES	NO	If answered YES, please provide detail description:	
Is any other approval that falls outside of this Act, necessary for the implementing of the intended development?	YES	NO	If answered YES, please provide detail description:	
What arrangements will be made regarding the following services for the development? (where applicable)	Water supply:			
	Electricity supply:			



	Sewerage and waste-water:		
	Storm-Water		
	Road Network		

**SECTION 6**

**List of Attachments and supporting information required/ submitted with checklist for Municipal use** (Mark with an X/ number annexure)

Checklist (for the completion by the Applicant only)				Checklist (for the use of Responsible Authority only)		
YES	NO	ANNEXURE	DOCUMENT ATTACHED	YES	NO	N/A
			Completed Abridged Application form			
			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Copy of Title Deed(s)			
			Orientating Locality Map			
			Basic Layout Map			
			Bondholder's consent			
			Home Owners' Association consent / stamp of approval			
			Special endorsement/proxy			
			Registered servitudes (deed and map/plan)			
			Surveyor general diagrams (cadastral information)			
			Status report from Surveyor General – street closure or state owned land			
			Flood line certificate / coastal setback report - certificate from relevant Dept			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			
			Other (specify):			
			<b>Two (2)</b> sets of full colour documentation copies			

**SECTION 7**

**Declaration**

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

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

Applicant's/ Owner's Signature:	_____	Date:							
Full name (print):	_____								
Professional capacity:	_____								
Applicant's ref:	_____								

**SECTION 8****Prescribed Notice and advertisement procedures (for the completion and use of Responsible Authority only)**

Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		<b>Notice to be placed in the Local Newspaper</b>			<b>Proof of Notice in Local Newspaper</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)</b>			<b>Proof of Notice in the Provincial Gazette</b> Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		<b>Notices to neighbours</b> Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Responsible Authority. Alternatively (Option 2), the notices can be sent via registered post.			<b>Proof of Notice to neighbours</b> Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Responsible Authority, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Responsible Authority
		<b>Notice to be placed on the site</b> Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			<b>Proof of Notice in site</b> Two colour photos of the notice on site must be provided of which one is close up and the other one is taken from a distance in order to see the placing on the site itself.
		<b>Public Meeting</b> Note: The holding of a public meeting in order to inform the general public of the application.			<b>Proof of Public Meeting</b> The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Responsible Authority.
		<b>Any Additional components</b>			<b>Proof of additional components</b>

**SECTION 9****Power of Attorney/Proxy**

\_\_\_\_\_  
I/We, the undersigned

\_\_\_\_\_  
(FULL NAMES AND ID NO)

Nominate, constitute and hereby appoint

\_\_\_\_\_

\_\_\_\_\_  
(FULL NAMES AND ID NO, AS WELL AS NAME OF FIRM REPRESENTED)

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

\_\_\_\_\_  
*(FULL DETAILS OF THE APPLICATION LODGED)*

with regards to

\_\_\_\_\_  
*(DESCRIPTION OF PROPERTY)*

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

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

In the presence of the undersigned witnesses

\_\_\_\_\_  
Signature of Assigner/ Land Owner

\_\_\_\_\_  
Witness 1

\_\_\_\_\_  
Witness

**SCHEDULE 4 – Summary of Application Procedures**

Application Category	Nature of Application:	Abridged Procedures	Minimum Advertisement Procedure					Application Form		Decision Making Authority		
		(see section 7 of LUMS B for detail)	Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices interested and affected parties to	Holding of a Public Meeting	Comprehensive Application Form	Abridged Application Form	Municipal Planning Tribunal	Municipal Town Planner	Building Control Officer
Rezoning	Application for Rezoning for the establishment of a township or the extension of a township (20 or more units).	NA		✓	✓	✓	✓	✓		✓		
	Application for Rezoning to and from any land use described in the Primary and Secondary Use	NA		✓	✓	✓	✓	✓		✓		
	Application for Rezoning in accordance with the guidelines of the SDF.	NA		✓	✓	✓		✓		✓		
	Application for Rezoning that does not fit into the guidelines of the SDF	NA		✓	✓	✓	✓	✓		✓		

General Note: ✓ = compulsory procedure and • = option between 2 processes to be followed

Application Category	Nature of Application:	Abridged Procedures	Minimum Advertisement Procedure					Application Form		Decision Making Authority		
		(see section 7 of LUMS B for detail)	Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices to interested and affected parties	Holding of a Public Meeting	Comprehensive Application Form	Abridged Application Form	Municipal Planning Tribunal	Municipal Town Planner	Building Control Officer
Removal of Title Deed Restrictions	The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and subdivision by the Responsible Authority.	NA			✓	✓			✓		✓	
	The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land.	NA		✓	✓	✓		✓		✓		

Minimum Advertisement Procedure

General Note: ✓ = compulsory procedure and • = option between 2 processes to be followed

Application Form

Decision Making Authority

(see section 7 of LUMS B for detail)

Advertisement in Provincial Gazette

Advertisement in Local Paper

Advertisement on site

Notices to interested and affected parties

Holding of a Public Meeting

Comprehensive Application Form

Abridged Application Form

Municipal Planning Tribunal

Municipal Town Planner

Building Control Officer

Removal of Title Deed Restrictions

The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and subdivision by the Responsible Authority.

NA

✓

✓

✓

✓

The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land.

NA

✓

✓

✓

✓

✓

Application Category	Nature of Application:	Abridged Procedures	Minimum Advertisement Procedure					Application Form		Decision Making Authority			
		(see section 7 of LUMS B for detail)	General Note: ✓ = compulsory procedure and ● = option between 2 processes to be followed	Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices to interested and affected parties	Holding of a Public Meeting	Comprehensive Application Form	Abridged Application Form	Municipal Planning Tribunal	Municipal Town Planner	Building Control Officer
Departure	Application for Departure from any stipulations of regulations contained in the LUMS. The relaxation, variation or amendment of building lines, heights of building, floor area, coverage, density and any of the matters prescribed in these regulations as part of the planning control described in Development Control.	NA		✓	✓	✓			✓		✓	✓	✓
Temporary Departure	Application for Temporary Departure from any stipulation of regulations contained in the LUMS	NA			✓	✓			✓			✓	
Secondary Use	Application for Secondary Use, excluding Funeral Parlour, and Scrap Yard.	NA			✓	✓			✓			✓	✓

Application Category	Nature of Application:	Abridged Procedures	Minimum Advertisement Procedure					Application Form		Decision Making Authority		
		(see section 7 of LUMS B for detail)	Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices to interested and affected parties	Holding of a Public Meeting	Comprehensive Application Form	Abridged Application Form	Municipal Planning Tribunal	Municipal Town Planner	Building Control Officer
Consent Use	Application for Secondary Uses such as Funeral Parlour and Scrap Yard.	NA		✓	✓	✓		✓		✓		
	Application for Consent Use, including Occupational Practice, excluding Temporary Housing.	NA			✓	✓			✓		✓	
Subdivision	Application for Consent Use for Temporary Housing.	NA		✓	✓	✓		✓		✓		
	Application for Subdivision for the establishment of a township or the extension of a township (20 or more units).	NA		✓	✓	✓	✓	✓		✓		
	Application for Subdivision in accordance with the guidelines of the SDF.	NA			✓	✓			✓		✓	

General Note: ✓ = compulsory procedure and • = option between 2 processes to be followed

Application Category	Nature of Application:	Abridged Procedures	Minimum Advertisement Procedure					Application Form		Decision Making Authority		
		(see section 7 of LUMS B for detail)	Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices to interested and affected parties	Holding of a Public Meeting	Comprehensive Application Form	Abridged Application Form	Municipal Planning Tribunal	Municipal Town Planner	Building Control Officer
	Application for Subdivision that does not fit into the guidelines of the SDF.	NA		✓	✓	✓		✓		✓		
	Application for subdivision of bone-fide agricultural land, where the approval will be given subject to Act 70 of 1970.	YES		✓	•	•			✓		✓	
Original Approval Conditions	The relaxation, variation or amendment of original approval conditions and/or restrictive regulations and procedures.	NA		✓	•	•		✓		✓		
General Plan Cancellation	The amendment or cancellation of a general plan of a township.	YES			•	•			✓		✓	
Closure of park or public road	The permanent closure of a municipal road (public road) or a public open place.	NA	✓	✓	✓	✓			✓		✓	



Application Category	Nature of Application:	Abridged Procedures	Minimum Advertisement Procedure					Application Form		Decision Making Authority		
		(see section 7 of LUMS B for detail)	Advertisement in Provincial Gazette	Advertisement in Local Paper	Advertisement on site	Notices to interested and affected parties	Holding of a Public Meeting	Comprehensive Application Form	Abridged Application Form	Municipal Planning Tribunal	Municipal Town Planner	Building Control Officer
Consolidation	The consolidation of any land portion.	YES				✓			✓		✓	
Extension of Approval period	Application for the extension of the approval period of an application before the lapsing thereof.	YES			•	•			✓		✓	
Other	Any application in terms of these regulations that is not supported in the policy documents and SDF of the Responsible Authority.	NA		✓	✓	✓	✓	✓		✓		

Minimum Advertisement Procedure

General Note: ✓ = compulsory procedure and • = option between 2 processes to be followed

Application Form

Decision Making Authority

(see section 7 of LUMS B for detail)

Advertisement in Provincial Gazette

Advertisement in Local Paper

Advertisement on site

Notices to interested and affected parties

Holding of a Public Meeting

Comprehensive Application Form

Abridged Application Form

Municipal Planning Tribunal

Municipal Town Planner

Building Control Officer

Extension of Approval period

Other