THE CITY OF TSHWANE
LAND USE MANAGENMENT BY-LAW, 2016

COMPILED BY:

CITY PLANNING AND DEVELOPMENT DEPARTMENT
PROMULGATED: 2 MARCH 2016

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

LAND USE MANAGEMENT BY-LAW

The Municipal Manager of the City of Tshwane Metropolitan Municipality hereby, in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), publishes the City of Tshwane Land Use Management By-law, 2016, as approved by its Council, as set out hereunder.

CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

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

PREAMBLE

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

AND WHEREAS Part B of Schedule 4 of the Constitution lists all the local government matters including Municipal Planning;

AND WHEREAS section 156(2) of the Constitution empowers municipalities to make and administer by-laws for the effective administration of the matters which it has the right to administer;

AND WHEREAS it is necessary in terms of sections 20, 21, 22, 23, and 24 and related provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), to establish a uniform, recognisable and comprehensive system of spatial planning and land use management in its municipal area, to maintain economic unity, equal opportunity, equal access to government services and to promote social and economic inclusion;

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

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

AND WHEREAS it is necessary to ensure the validity, surety and legitimacy of the Municipal Spatial Development Framework of the City of Tshwane through the determination of wide public participation and integration with all spheres of government sector plans as well as municipal infrastructure and transport planning;

AND WHEREAS it is necessary that in terms of Chapter 3 of the Spatial Planning and Land Use Management Regulations, the municipality determine the manner and format for land development and land use applications, categories and timeframes and processes and procedures related thereto;

NOW THEREFORE the City of Tshwane Metropolitan Municipality has adopted this By-law in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000).

BE IT THEREFORE PROMULGATED in terms of section 13 of the Municipal Systems Act, 2000 (Act 32 of 2000), by the City of Tshwane Metropolitan Municipality of the following By-law:

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CHAPTER 1

1 Definitions:

(1) In this By-law, unless the context otherwise indicates:

"Act" means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), as published on 5 August 2013 and as may be amended from time to time;

"additional- necessary information" means any information that may be requested by the Municipality which in its opinion is necessary to consider and decide on a land development application read with Regulation 16(9) of the Act;

"adopt or adopted" in relation to a Municipal Spatial Development Framework, Land Use Scheme, amendment scheme, policy or plans, means the publication as may be required in terms of this By-law, of the said documents by the Municipality, but must where the date of coming into operation differs from the date in terms of which any document is published in accordance with the provisions of this By-law, only be adopted upon the date of coming into operation thereof;

In the event of any land development application being approved, which does not require any further notification in the Provincial Gazette for it to come into operation, the date on which the Municipality has certified in terms of this By-law that the applicant has complied with the conditions of approval of the land development application, shall be the date it has been adopted and shall be deemed to have been adopted;

"adjoining owner(s)" means the owner of any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or open space, or similar properties read with Schedule 13 of this By-law;

"administrator" means in the context of any Land Use Scheme in the City of Tshwane the Premier of Gauteng or the Municipality duly delegated in the place and stead of the Premier in terms of relevant legislation;

"agricultural holding" means an agricultural holding as defined in the Agricultural Holdings (Transvaal) Registration Act, 1919 (Act 22 of 1919);

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

(a) an amendment scheme contemplated in section 28(1) of the Act;

(b) an application deemed to be an amendment scheme in terms of section 41(1)(a) of the Act;

(c) an amendment of an existing Land Use Scheme as contemplated in section 9(6) of this By-law;

(d) a land development application for the amendment of any provision of the Land Use Scheme applicable to a property(ies), and includes a rezoning and township establishment application in terms of sections 16(1) and 16(9)(b)(ii) of this By-law; and

(e) conditions of approval that were imposed as part of the approval of the application for the amendment of the Land Use Scheme;

"appeal authority or body" means an Appeal Authority contemplated in section 19 of this By-law, as established by Council Resolution, in terms of section 51 of the Act and Regulation 20 of the Regulations to the Act, and Municipal Appeals Tribunal shall have a corresponding meaning;

"appeals tribunal" means the Appeal Authority as contemplated in the Act;

"applicant" means:

(a) an owner(s); or

(b) duly authorized person on behalf of the owner;

of property(ies) or land within the jurisdiction of the Municipality read with section 45 of the Act who submits a land development application or combination of land development applications contemplated in section 16 of this By-law. It also includes the municipality and an organ of state under who's control and management the property(ies) or land falls in terms of the Local Government Ordinance, 1939 (Ord. 17 of 1939), or relevant legislation;

"application" means an application submitted to the Municipality in terms of section 16 of this By-law and a land development application shall have a corresponding meaning;

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

"approved scheme" means a Land Use Scheme in terms of section 11(9) of this By-law or an amendment to the Land Use Scheme which has been approved in terms of this By-law, but of which notice has not been given in the Provincial Gazette and read with the definition of "adopted; and approved amendment scheme" shall have a corresponding meaning;

"authorised official" means a municipal employee who is authorised by the Municipal Council to exercise any power, function or duty in terms of this By-law or the Act and Regulations or such further duties that may by delegation in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), be assigned to him/her;

"body corporate" means a body corporate as contemplated in the Companies Act, 2008 (Act 71 of 2008) and the Sectional Title's Act, 1986 (Act 95 of 1986);

"bulk service" means the municipal capital infrastructure associated with that portion of an external engineering service which is intended to ensure provision of municipal infrastructure services for the benefits of multiple users or the community as a whole;

"beneficial owner" means where the Municipality determines for purposes of this By-law that specific property rights and equity in the property(ies) in terms of any repealed or other law grants such beneficial ownership and lawfully belongs to a person(s) even though dominium or formal title of the property has not been registered or transferred;

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

"capacity" means the extent of availability of a municipal infrastructure service;

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

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

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

"conditional approval" means an approval of a land development application in terms of this By-law, granted by the Municipal Planning Tribunal, Authorized Official or Municipal Appeals Tribunal,

in which conditions are imposed, that in the opinion of the Municipality, have to be complied with prior to the land use rights, coming into operation in terms of this By-law, or registrability of any property(ies) as a result of the land development application approval, read with sections 43 and 53 of the Act;

"conditions of establishment and conditions of approval" has a corresponding meaning in the context of an application for township establishment as contemplated in section 16(4) of this By-law;

"consent use" means a consent for land use rights as contemplated in the Tshwane Town- planning Scheme, 2008 (Revised 2014), or Land Use Scheme in terms of the Act as may be amended from time to time;

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

(a) exclude the consolidation of farm portions for purposes of this By-law as contemplated in the Land Survey Act, 1997 (Act 8 of 1997);

(b) not mean or result in an amendment of the existing land use rights attached to one or both of the component erven so consolidated; and

(c) not mean that the existing land use rights of such component erven shall be added together or spread, so as to apply generically to the consolidated erf area, except in the event that the component erven have uniform land use rights in which case the land use rights may not be so concentrated or located on the consolidated erf that it shall bring about a result which, in the opinion of the Municipality, shall require a change in land use rights through a land development application;

"Constitution" means the Constitution of the Republic of South Africa, Act, 1996 (Act 108 of 1996), as may be amended from time to time;

"contact details" means sufficient details including but not limited to a name, surname, telephone number (business or private), e-mail address, postal and residential addresses that will enable a Municipality or organ of state to contact a person for purposes of executing their functions in terms of the Act or this By-law and in so far as it relates to an organ of state, the details of a contact person within the employ of the organ of state;

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

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

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

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

"deeds registry" means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

"Deeds Registries Act" means the Deeds Registries Act, 1937 (Act 47 of 1937);

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

"department" means a department of the administration of the Municipality in the context of this By-law;

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

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

"development-, land use- or land development- application" shall have a corresponding meaning as contemplated in section 35(2) of the Act and Regulation 15 of the Regulations to the Act;

"diagram" means a diagram as defined in the Land Survey Act, 1997 (Act 8 of 1997), but for purposes of this By-law shall be an approved diagram in terms of the Land Survey Act, 1997 (Act 8 of 1997);

"draft amendment scheme" means documents, maps and annexures submitted for purposes of the consideration of a land development application in terms of this By-law read with Schedule 1 to this By-law;

"draft Land Use Scheme" means a scheme prepared in terms of sections 24(1), 27 and 28 of the Act and sections 10, 11 and 12 of this By-law, for submission to a decision-making person or body, for approval to commence public participation in terms of section 26(5) of the Act and this By-law, and shall be referred to as a draft Land Use Scheme as contemplated in section 10(4) of this By-law until adopted by a Municipal Council in terms of section 11(9) and section 11(10) of this By-law;

"draft spatial development framework" means a draft spatial development framework as contemplated in section 5 of this By-law, which has been prepared for purpose of submission to a decision-making person or body, for approval to commence public participation in terms of sections 20 and 21 of the Act and section 5 of this By-law and shall be referred to as a draft spatial development framework until adopted in terms of section 5(5)(i) of this By-law by a Municipal Council;

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

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

(b) the associated development charges;

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

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

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

"engineering services agreement and services agreement" shall have a corresponding meaning;

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

"environment and environmental considerations" has the same meaning and includes consideration of environmental issues and biodiversity;

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

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

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

"external engineering services" means with reference to the Act, an engineering service(s) situated outside the boundaries of a land development area and which is necessary to serve the use and development of the land development area and may include engineering services, which in the opinion of the Municipality, accumulatively impacts and serve the wider area within which the development falls, including, municipal infrastructure services, bulk services, link services; or engineering services which has been classified by agreement as such in terms of section 21(3) of this By-law;

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

"illegal township" means land held under farm title or as an agricultural holding in terms of the Agricultural Holdings (Transvaal Registration) Act, 1919 (Act 22 of 1919), or other forms of ownership, used in the opinion of the Municipality for purposes contemplated in the definition of a township where such use is not being exercised as a result of the establishment of a township contemplated in Section 16(9) of this By-law or a township established in terms of any other law, but excludes informal areas as may be determined by the Municipality;

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

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

"inspector and Development Compliance Officer" have a corresponding meaning and means a person designated or appointed as an inspector in terms of section 32 of the Act and/or a Development Compliance Officer appointed in terms of section 38 of this By-law or any other relevant law pertaining to the inspection of land and or buildings in order to enforce compliance with this By-law, land use conditions or Land Use Scheme or any other law under the jurisdiction of the Municipality;

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

"internal engineering services" means an engineering service with reference to the Act, within the boundaries of a land development area, which is necessary for the use and development of the land development area and which is to be owned and operated by the Municipality, service provider or other body or which has been classified as such in terms of section 21(5) of this By-law;

"land" includes any improvement on property(ies) or interest in a property(ies);

"land area and land development area" shall have a corresponding meaning;

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

"land development application approval" means a decision to approve a land development application in terms of this By-law or relevant law by a decision making person or body and includes any conditions under which the approval was granted, in terms of sections 16 and 18 of this By-law, but which has not been adopted or proclaimed and has not come into operation in terms of this By-law or the said legislation;

"land development application" means one of or a combination of the following applications submitted to the Municipality under Chapter 5 of this By-law with the intention to obtain approval for land development:

- rezoning;
- consent uses, permissions, temporary uses and relaxations in terms of the Land Use Scheme;
- the subdivision and/or consolidation of land;
- the alteration, suspension or deletion of restrictive conditions as defined in the Act and as contemplated in section 47 of the Act or restrictive conditions as contemplated in the Gauteng Removal of Restrictions Act, 1996 (Act 3 of 1996);
- consent of the Municipality in terms of Title Deed conditions or consent in terms of Section 2 of the Gauteng Removal of Restrictions Act, 1996 (Act 3 of 1996), and/or section 45(6) of the Act and/or contemplated in section 16(2)(d)(i) of this By-law;
- the establishment of a township;
- the extension of the boundaries of a township;
- the amendment or cancellation of a general plan; and/or
- any other land development application in terms of the Land Use Scheme or National or Provincial Planning and Development Legislation within the jurisdiction of the Municipality as may be determined by the Municipality from time to time;

but specifically excluding any request, allowance or administrative decision in terms of this By-law, National or Provincial planning and development legislation;

"land development area" means land consisting of a property(ies) which land forms the subject of a land development application in terms of this By-law or any other law governing the change in land use;

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

"land use plan" means a plan that indicates existing land uses;

"layout plan" means a plan indicating information relevant to a land development application and the land intended for development and includes the relative locations of erven, public places, or roads, subdivision or consolidation, and the purposes for which the erven are intended to be used read with any notation or conditions contained thereon as contemplated in Form COT: F/5 of this By-law, as may be amended from time to time;

"Land Survey Act" means the Land Survey Act, 1997 (Act 8 of 1997);

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

"Land Use Scheme" means the documents referred to in Chapter 5 of the Act including any amendment scheme to the Land Use Scheme and Town-planning Scheme and Land Use Scheme Regulations shall have the same meaning;

"Land Use Scheme Register" means the register as contemplated in section 25(2)(c) of the Act read with section 12(2) of this By-law;

"link service" means the municipal infrastructure service associated with that portion of an external engineering service which links an internal engineering service to the applicable bulk service;

"local authority and municipality" have corresponding meanings;

"Mineral and Petroleum Resources Development Act" means the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002);

"Mining and Mining Rights" means mining as contemplated in the definitions of the Tshwane Town-planning Scheme, 2008 (Revised 2014) or a Land Use Scheme in terms of the Act, as may be amended from time to time read with the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) as may be amended from time to time;

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

"Municipal Council" means the Council of the Municipality as contemplated in Section 157 of the Constitution;

"municipal infrastructure service" means municipal services that include:

(i) potable water and the provision of fire flow;
(ii) sewerage and wastewater treatment;
(iii) electricity distribution;
(iv) municipal roads;
(v) street lighting;
(vi) storm water management;
(vii) solid waste disposal;
(viii) public transport infrastructure;
(ix) non-motorised transport infrastructure;
(x) systems, capital assets and other engineering services assets and processes related to engineering services;

"Municipal Manager" means the person appointed as the Municipal Manager for the City of Tshwane in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person acting in that position or to whom authority has been delegated;

"Municipal Planning Tribunal" means a Municipal Planning Tribunal established in terms of section 35 of the Act and, unless the context otherwise provides, includes the Authorised Official as contemplated in section 35(4) of 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, 2000 (Act 32 of 2000), sections 20 and 21 of the Act, read with Chapter 3 of this By-law and includes any component thereof or Regionalised Spatial Development Frameworks forming part of the Municipal Spatial Development Framework;

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

"Municipal Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"Natural Areas" means land ecologically sensitive, naturally rich in biodiversity and non-renewable resources for conservation purposes;

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

"Non-Profit Company or "NPC"" means a Non-Profit Company as contemplated in Section 8 read with Section 10 and Schedule 1 of the Company's Act, 2008 (Act 71 of 2008) and includes companies which were previously established in terms of Section 21 of the Companies Act, 2008 (Act 71 of 2008), as a result of any land development application in terms of any law or conditions relating to land development on a property(ies);

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

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

(b) interested and affected persons who conditionally supported a land development application; or

(c) persons who the Municipal Planning Tribunal or Appeal Authority has determined as qualifying as an interested person in terms of section 45(4) of the Act; or

(d) a person who successfully petitioned the Municipal Planning Tribunal or Appeal Authority to obtain intervener status in terms of section 45(2) of the Act;

but excludes:

(a) Ward Councillors who negatively commented on a land development application; provided that in terms of section 18 read with section 15(1) of this By-law, he/she shall be invited to a hearing, without objector status;

(b) interested and affected persons who submitted negative comments on the land development application prior to or after the closing date of the period allowed as indicated above;

(c) interested and affected persons who submitted comments on the land development application indicating conditional support of the land development application prior to or after the closing date of the period allowed as indicated above;

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

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

"owner" means anybody or person registered in a deeds registry as contemplated in section 1, 2 and 102 of the Deeds Registries Act, 1937 (Act 47 of 1937), as the owner of land or beneficial owner in law and includes a Municipality or any other organ of state as an owner or where properties have been vested and is under the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939), for purposes of Chapter 5 of this By-law read with the definition of a Land Use Scheme in terms of the Act and as may be amended from time to time;

"owners' association, property owners association and/or homeowners association and/or a voluntary association" means an owners' association established in terms of the relevant legislation, rules and regulations related to the establishment thereof, for purposes of co-ordinated management of an area or community as contemplated in section 34(3) read with Schedule 19 to this By-law;

"permission" means a permission as contemplated in the Tshwane Town-planning Scheme, 2008

(Revised 2014), or Land Use Scheme in terms of the Act as may be amended from time to time;

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

"precinct plan" means a plan which forms a smaller geographical component of spatial planning as contemplated in section 6(2)(a) of this By-Law;

"private engineering services" means internal engineering services to be owned and operated by a private person or body, as a condition of a land development application and/or as may be agreed upon in a services agreement in terms of this By-law and that is not taken over by the Municipality;

"proclaimed township" means in the context of any land development application in terms of this By-law, a township of which notice has been given in the Provincial Gazette in terms of section 16(9) of this By-law read with its amendment scheme as contemplated in section 16(1) of this By-law or an approved township in terms of any other legislation, a township approved in terms of any repealed law relating to townships and a proclaimed township shall have a corresponding meaning;

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

"province" means the Province of Gauteng in terms of the Constitution;

"prescribe" means requirements or provisions in terms of this By-law, and/or requirements in terms of any of the schedules to this By-law or other relevant legislation;

"public place" means any open and/or enclosed place, park, street, road, bridges, public transport areas or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use and benefit of the general public and is owned by or vests with the Municipal Council to which the public has a common right of access, and includes a public open space and a servitude for any similar purposes in favour of the general public as contemplated in the Act and section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939);

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

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

"Regulations" means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters 2015 as published on 13 November 2015 and as may be amended from time to time;

"restrictive condition" means a restrictive condition as contained in the Act read with the Gauteng Removal of Restrictions Act, 1996 (Act 3 of 1996) and section 2(2) of the Act;

"rezoning" means the amendment of the zoning of property(ies) or land as contemplated in a Land Use Scheme;

"road reserve or street" means a street as defined in section 2 and includes the definitions in section 63(6) of the Local Government Ordinance,1939 (Ord. 17 of 1939);

"service provider" means a person or entity that provides a service on behalf of an organ of state or may include a non-profit company in terms of the Company's Act, 2008 (Act 71 of 2008), responsible for the provision and maintenance of engineering services within a land development area;

"servitude" means a servitude registered against a title deed of a property(ies) or which has been created through legislation;

"site development plan" means a plan which reflects full details of the intended development, including the relative location of existing buildings and structures, the location of engineering

services, access to the property(ies), parking, existing developments and features that will/must be retained, areas for landscaping, and any other required information or details as may be determined by the Municipality but excludes a site development plan as defined or required in terms of a Land Use Scheme for purposes of a site development plan application;

"social infrastructure" means infrastructure as may be determined by the Minister in terms of the Act, with specific reference to section 42(1)(c)(v) of the Act and may include for purposes of this By-law, infrastructure normally or otherwise reasonably associated with land for cultural, social, educational, recreational, welfare and other activities for the use and benefit of the community;

"spatial development framework" means a spatial development framework referred to in Chapter 4 of the Act and read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000), and this By-law;

"subdivision" means a subdivision of a property as contemplated in section 16(12) of this By-law, the provisions whereof shall apply *mutatis mutandis* to a subdivision of a property registered as a farm portion, or a portion of a farm portion, or an agricultural holding, or a portion of an agricultural holding;

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

"the Department responsible for Development Planning" means the department or any institutional administrative body responsible for development planning as part of municipal planning function of the Municipality appointed to administer development planning powers, functions and duties, at any time, within the Municipality as may be approved by the Municipal Council;

"this By-law" means any Section, Schedule, and/or Form to this By-law;

"title deed" means any deed registered in a Deeds Registry recording ownership of land and includes deeds of grant and ninety nine (99) year leasehold titles;

"township" shall be read in conjunction with the definition of **"illegal township"** and means any property(ies), sites and/or land that:

(a) is laid out or divided or subdivided into or developed or to be developed, as a single property or multiple properties for residential, business, industrial, institutional, educational, community services and/or similar or other purposes or land uses, as may be contained in a Land Use Scheme;

(b) are arranged in such a manner as to have the character of what constitutes a township, in the opinion of the Municipality, including:

(i) intended or actual single or multiple ownership of erven, land or units, and or multiple land use rights; and/or

(ii) which may or may not be intersected or connected by or abut on any public or private street or roadway, in the case of a proposed sectional title scheme; and

(iii) public or private streets or roadways shall for the purposes of this definition include a right of way or any land used for purposes of a street, road, or roadway whether surveyed and/or registered, which is only notional in character;

"township owner" means the person who is the owner of an approved township or any remaining portion of an approved township or his/her successor in township title;

"township register" means an approved subdivision register of a township in terms of the Deeds Registries Act, 1937 (Act 47 of 1937);

"zoning" means where the context indicates the zoning categories and conditions relating thereto contained in a Land Use Scheme;

(2) The definitions in subsection (1) apply to the Schedules, Forms and Land Use Scheme in operation within the jurisdiction of the City of Tshwane and any reference to legislation or regulatory document in this By-law shall include reference to any lawful amendment thereof.

(3) Should there be any conflict in the interpretation of any provision or definition of this By-law and any other national or provincial legislation, this By-law shall prevail, having regard to Section 146, 147, 156(2), and 155(7) read with Schedule 4, Part B of the Constitution.

CHAPTER 2

TRANSITIONAL ARRANGEMENTS

2 Application of this By-law and Conflict of Laws

(1) The provisions of this By-law apply to all properties within the jurisdictional geographical area of the Municipality, including properties owned by the state.

(2) This By-law binds every owner and their successor-in-title and every occupier of a property(ies), including the state.

(3) When considering an apparent conflict between this By-law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.

(4) Where:

(a) a provision of a Land Use Scheme is in conflict with the provisions of this By-law, the provisions of this By-law shall prevail; and

(b) any provision of this By-law is in conflict with the provision of the Act or any provincial legislation this By-law shall only prevail in so far as it relates to Municipal Planning.

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

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

(1) Any land use or development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, shall be dealt with in terms of that legislation; provided that:

(a) if that legislation is repealed and in terms of that legislation's transitional provisions; or

(b) in the absence of any transitional provisions in the that legislation or other law; or

(c) where legislation becomes inconsistent with the Act as a result of the enactment of this By-law;

it may in consultation with the applicant be dealt with in terms of this By-law, read with section 2(2) and section 60 of the Act;

provided that:

(i) the timeframes in terms of this By-law for the processing and deciding on land development applications shall not be applicable to any applications dealt with in terms of subsection (1)(a) to (c);

(ii) but the timeframes after approval of a land development application in terms of subsection (1)(a) to (c) read with section 43(2) of the Act shall apply;

(d) a land development application contemplated in subsection 1(a) to (c), to be dealt with in terms of this By-law, shall be dealt with in accordance with the type and format of land development applications capable of being submitted in terms of this By-law as may be determined by the Municipality.

(2) (a) Reference to the Municipality in terms of legislation contemplated in subsection (1), shall be reference to the Municipal Planning Tribunal or Authorised Official for purposes of the consideration and decision making on land development applications, in that legislation;

(b) Land development applications contemplated in subsection (1) shall be dealt with as categorised in terms of section 15(1) and 15(3) of this By-law; and

(c) subsection (b) shall apply *mutatis mutandis* for purposes of dealing with land development application in terms of subsection (1)(a) and (b).

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

(3) Where on the date of the coming into operation of an approved Land Use Scheme in terms of sections 26 and 27 of the Act and section 11 of this By-Law:

(a) any land or building is being used; or

(b) within one month immediately prior to that date, was used;

for a purpose, which is not a purpose for which the land concerned has been zoned in terms the Land Use Scheme contemplated subsection (2), but-

(i) which is otherwise lawful; and

(ii) not subject to any prohibition in terms of this By-law,

the use may, subject to the provisions of subsection (4), be continued after that date.

(4) The right to continue using any land or building by virtue of the provisions of subsection (3) shall:

(a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;

(b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (3) or such further period as the Municipality may allow;

(c) where on the date of the coming into operation of a Land Use Scheme in terms of subsection (3):

(i) a building, erected in accordance with an approved building plan, exists on land to which the Land Use Scheme relates;

(ii) the erection of a building in accordance with an approved building plan has commenced on land and the building does not comply with a provision of the Land Use Scheme, the building shall for a period of 15 years from that date be deemed to comply with that provision.

(5) Where a period of 15 years, in terms of subsection (4), has commenced in the opinion of the Municipality, from a particular date, in respect of any land or building, no regard shall, be had to those provisions of the adopted Land Use Scheme affecting the land use rights on the property(ies), which comes into operation after that date.

(6) Within one year from the date of the coming into operation of an approved Land Use Scheme:

(a) the holder of a right contemplated in subsection (3) may deliver a notice to the Municipality in writing that he/she is prepared to forfeit that right; and

(b) the owner of a building contemplated in subsection (4)(c) may deliver a notice to the Municipality in writing that he/she is prepared to forfeit any right acquired by virtue of the provisions of that subsection.

(7) Where at any proceedings in terms of this By-law it is alleged that a right has lapsed in terms of subsection (3)(a), such allegation shall be deemed to be correct until the contrary is proved.

(8) Where any land use provisions are contained in any title deed, deed of grant or 99 (ninety nine) year leasehold, which did not form part of a Land Use Scheme, such land use provisions shall apply as contemplated in subsection (3).

(9) If the geographic area of the Municipality is demarcated to incorporate land from another Municipality then the Land Use Scheme applicable to that land shall prevail until the Municipality amends, repeals or replaces it subject to sections 9 and 13 of this By-law.

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

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

(11) Upon the coming into operation of this By-law all land development applications and processes and procedures related thereto shall be submitted and dealt with in terms of this By-law.

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

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

CHAPTER 3

4 Municipal Spatial Development Framework

(1) The Municipality shall draft a Municipal Spatial Development Framework in terms of sections 6, 20, 21 and relevant provisions of the Act, read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000).

(2) In the preparation and drafting of a Municipal Spatial Development Framework the Spatial Development Framework shall contain the essential elements of the content of both the Act and Municipal Systems Act, 2000 (Act 32 of 2000), or provincial legislation and the Municipality may for purposes of reaching its constitutional mandate include any matter which it may deem necessary for municipal planning.

(3) In the drafting and the adoption of a Municipal Spatial Development Framework, the Municipality shall make transitional provisions and arrangements with regard to the manner in which the Municipal Spatial Development Framework shall be implemented.

(4) Over and above that which in terms of subsection (1) to (3) must be contained in a Municipal Spatial Development Framework, the Municipality may determine the components of the Spatial Development Framework and any further plans, policies and/or instruments by virtue of which the Municipal Spatial Development Framework shall be applied, interpreted and implemented.

(5) A Municipal Spatial Development Framework does not confer cancel, limit, compromise or infringe on land use rights but guides and informs decisions to be made by the Municipality relating to land development.

(6) The provisions of subsections (1) to (5) and sections 5 and 6 of this By-law shall apply *mutatis mutandis* to the drafting, review or amending of a Municipal Spatial Development Framework.

5 Drafting, Reviewing or Amending of Municipal Spatial Development Frameworks and integration

(1) For purposes of drafting, reviewing or amending its Municipal Spatial Development Framework the Municipality may:

(a) convene a Technical Steering Committee to co-ordinate the input into the Municipal Spatial Development Framework;

(b) determine the members of such a Technical Steering Committee referred to in subsection (a) hereof which may include but not limited to -

(i) National Departments, Provincial Departments, Engineering Services providers, tribal or traditional leadership and/or Departments; or

(ii) any other body or person that may assist in providing information and technical advice or may represent specific community or interest groups on the content of the Municipal Spatial Development Framework;

provided that:

nothing contained in this section shall oblige the Municipality to include as members of the Technical Steering Committee any person or body or interest group outside the Municipal Administration or Municipal Council or Municipal Institutional Structures.

(2) In addition to section 4(2) read with section 4(4) of this By-law the Municipality may include in its Municipal Spatial Development Framework:

(a) a Metropolitan Spatial Development Framework;

(b) Regionalised Spatial Development Frameworks;

(c) Local Spatial Development Frameworks;

(d) Precinct plans and Capital Investment Frameworks; and/or

(e) other plans or frameworks relevant to specific geographical areas.

(3) The purpose and content of the Municipal Spatial Development Framework must, over and above what is contained in the Act, specifically:

(a) include a longer-term spatial depiction of the desired form and structure of the geographic area to which it applies, read with section 21 of the Act;

(b) include land use management guidelines regarding the appropriate nature, form, scale and location of development, contributing to spatial co-ordination;

(c) guide investment and planning for municipal departments and where appropriate other spheres of government;

(d) guide investment for the private sector;

(e) reflect relevant provisions of strategies, policies, plans and other planning mechanisms adopted by the Municipal Council; and guiding decision making on land development applications; and

(f) include any other provision which in the opinion of the Municipality is required to comply with its constitutional objectives.

(4) Process of drafting:

(a) The Municipality shall take a decision on the requirements for drafting, reviewing or amending its Municipal Spatial Development Framework, provided it also:

(i) adopts a process for drafting the Municipal Spatial Development Framework which complies with the Municipal Systems Act, 2000 (Act 32 of 2000) and any other applicable law;

(ii) determines the nature and extent of the public participation processes to be followed over and above the requirements in terms of the applicable legislation;

(iii) determines the form and content of the Municipal Spatial Development Framework;

(iv) determines the drafting scale to be used on the plans and documents and whether the plans and documents should be available in an electronic medium if required;

(v) determines other relevant issues impacting on the Municipal Spatial Development Framework which may promote the interpretation and/or implementation thereof.

(b) After the decision as contemplated in subsection (a) the Department responsible for Development Planning shall draft a Municipal Spatial Development Framework.

(c) After drafting of the Municipal Spatial Development Framework it shall be submitted to the Municipal Council for adoption as the draft Municipal Spatial Development Framework with a written report from the relevant Department responsible for Development Planning which report must at least:

(i) indicate the rationale in the approach to the drafting of the Municipal Spatial Development Framework;

(ii) summarise the process of drafting the Municipal Spatial Development Framework;

(iii) summarise the public participation process to be followed with reference to subsection (a)(ii);

(iv) indicate the departments that were engaged in the drafting of the Municipal Spatial Development Framework;

(v) indicate the alignment with the National and Provincial Development Frameworks;

(vi) indicate any sector plans that may have an impact on the Municipal Spatial Development Framework of the Municipality;

(vii) indicate how the Municipal Spatial Development Framework complies with the requirements of relevant national and provincial legislation and relevant provisions of strategies adopted by the Municipal Council;

(viii) recommend whether a Technical Steering Committee be appointed in terms of subsection (1); and

(ix) recommend the adoption thereof as the draft Municipal Spatial Development Framework for the Municipality, to be used for the public participation processes, in terms of the relevant law and this By-law.

(d) A registered planner must sign the report required in terms of subsection (c);

(e) The Municipal Council shall adopt, with or without amendments, the draft Municipal Spatial Development Framework and authorise the public participation thereof in terms of this By-law and the relevant legislation.

(5) Public participation:

(a) for purposes of public participation in the preparation of a Municipal Spatial Development Framework, the public participation shall contain and comply with all the essential elements of any notices to be placed in terms of the Act or the Municipal Systems Act, 2000 (Act 32 of 2000);

(b) without detracting from the provisions of subsection (a) the Municipality shall:

(i) publish a notice in the Provincial Gazette in English and one other official language commonly spoken in the area, once a week for two consecutive weeks;

(ii) publish a notice in two local newspapers circulating in the area of jurisdiction of the Municipality in English and one other official language commonly spoken in the area, once a week for two consecutive weeks; and

(iii) use any other method of communication it may deem appropriate;

of its intention to draft, review or amend the Municipal Spatial Development Framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act, 2000 (Act 32 of 2000).

(c) The Municipality may for purposes of public engagement arrange:

(i) specific consultations with professional bodies, ward communities or other groups; and/or

(ii) open day(s) in order for the public to peruse the draft Municipal Spatial Development Framework; and/or

(iii) public meetings,

to engage in the content of the draft Municipal Spatial Development Framework.

(d) The notice contemplated in subsection (b) shall specifically state that any person or body wishing to provide comments shall:

(i) do so within a period of 60 days from the first day of publication of the notice;

(ii) provide written comments; and

(iii) provide their contact details as specified in the definition of contact details.

(e) The Municipality must inform the MEC of the Province in writing of:

(i) its intention to draft, review or amend the Municipal Spatial Development Framework;

(ii) its decision in terms of subsection (4)(e); and

(iii) the process that will be followed in the drafting, review or amendment of the Municipal Spatial Development Framework including the process for public participation.

Consideration of the Municipal Spatial Development Framework

(f) After the public participation process contemplated in subsection (5)(a) to (e) the Department responsible for Development Planning shall review and consider all submissions made in writing or during any engagements.

(g) The Department responsible for Development Planning shall for purposes of proper consideration provide its written comments on the submissions made, which comments shall form part of the documentation to be submitted to the Municipal Council for final consideration, approval and adoption of its Municipal Spatial Development Framework.

(h) The Department responsible for Development Planning shall where required, and based on submission received, make final amendments to the Municipal Spatial Development Framework, provided that if such amendments are in its opinion materially different to what was published in terms of subsection (5)(a) to (e), the Municipality must follow a further consultation and public participation process before adoption by the Municipal Council as provided for in subsection (5)(a) to (e).

(i) The Municipal Council must adopt the Municipal Spatial Development Framework with or without amendments, and must within 60 days of its decision give notice of the adoption thereof in the media circulating in its area of jurisdiction, in English and one other official language, and in the Provincial Gazette*;* which notice may include a summary in accordance with subsection 25(4) of the Municipal Systems Act, 2000 (Act 32 of 2000).

(j) After the approval of the Municipal Spatial Development Framework the Municipality shall submit the approved and adopted Municipal Spatial Development Framework to the MEC.

6 Metropolitan, Regionalised and Local Spatial Development Frameworks

(1) The Municipality may, with reference to section 5 to this By-law, adopt a Metropolitan Spatial Development Framework and/or Regionalised Spatial Development Frameworks and/or Local Spatial Development Frameworks, for a specific geographical area or a portion of the municipal area.

(2) The purpose of a Regionalised or Local Spatial Development Framework is to:

(a) provide detailed spatial planning guidelines or further plans for a specific geographic area or parts of specific geographical areas and may include precinct plans;

(b) provide more detail in respect of a proposal provided for in the Municipal Spatial Development Framework or necessary to give effect to the Municipal Spatial Development Framework and/or its Integrated Development Plan and other relevant sector plans;

(c) address specific land use planning needs of a specified geographic area in relation to the greater municipal area of the Municipality;

(d) provide detailed policy and development parameters for land use planning;

(e) provide detailed priorities in relation to land use planning in so far as they are linked to land use management, land use and transport integration, biodiversity and environmental issues;

(f) guide decision making on land development applications; and

(g) ensure the inclusion of any other relevant provision that will give effect to its duty to manage municipal planning in the context of its constitutional obligations.

7 Status and departure from the Municipal Spatial Development Framework

(1) Nothing contained in sections 5 or 6 of this By-law shall be construed as prohibiting a Municipality from taking a decision on a land development application, which decision in the opinion of the Municipality, departs from the adopted Municipal Spatial Development Framework, provided that:

(a) it must motivate site specific circumstances that may justify the departure;

(b) subject subsection (1)(c) such departure does not materially change the Municipal Spatial Development Framework;

(c) if such departure materially changes the Municipal Spatial Development Framework, the Municipality shall in terms of sections 4, 5 and 6 of this By-law amend the Municipal Spatial Development Framework in so far as it relates to the departure only, in such form as the Municipality may determine without necessarily amending the full Municipal Spatial Development Framework, prior to taking a decision which constitutes a departure from the Municipal Spatial Development Framework;

(2) In determining whether the site specific circumstances exist in terms of subsection (1)(a) and 1(b), the Municipality must have regard to the land development application or applications which have been submitted and any other relevant considerations.

(3) In the event of an application departing from the Municipal Spatial Development Framework, the applicant must describe the departure in the application and the impact of such departure on the overall Municipal Spatial Development Framework.

(4) If there is a conflict between the Municipal Spatial Development Framework and Regionalized, Local Spatial Development Frameworks or any other plans emanating from the Municipal Spatial Development Framework, the Municipal Spatial Development Framework prevails over other development frameworks to the extent of the conflict.

8 Record of and access to Spatial Development Frameworks

(1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved Municipal Spatial Development Framework and/or any component thereof applicable within the jurisdiction of the Municipality.

(2) Should any person request a copy of the Municipal Spatial Development Framework the Municipality must provide to that person on payment of the prescribed fee, a copy of the approved Municipal Spatial Development Framework or any component thereof; provided that if, in the opinion of the Municipality it will take officials unreasonably away from their substantive duties, such request for a copy may be dealt with in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

CHAPTER 4

9 Land Use Scheme – General Provisions

(1) The Municipality shall prepare a draft Land Use Scheme in terms of section 24 up to and including section 31 of the Act *mutatis mutandis* read with sections 9, 10, 11 and 12 of this By-law; provided that:

(a) a Land Use Scheme approved or adopted by the Municipality must comply with the purpose of a Land Use Scheme as contemplated in section 25 of the Act; and

(b) the Municipality utilizes the process to ensure municipal planning finds applicability in development that is co-ordinated and harmonious in such a way as to most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of the area in which the scheme is proposed as well as efficiency and economy in the process of such development.

(2) In the preparation and drafting of a draft Land Use Scheme the Municipality must ensure that it contains the essential elements of both the Act and this By-law.

(3) The Municipality's Land Use Scheme shall take into consideration:

(a) the Integrated Development Plan in terms of the Municipal Systems Act, 2000 (Act 32 of 2000);

(b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 3 of this By-law;

(c) provincial legislation; and

(d) any matter which the Municipality may deem necessary for municipal planning in terms of its constitutional powers, functions and duties.

(4) In the drafting, approval and adoption of a Land Use Scheme, the Municipality shall make transitional provisions and arrangements with regard to the manner in which the Land Use Scheme shall come into operation.

(5) Over and above that, which in terms of subsection 24(2) of the Act must be contained in a Land Use Scheme, the Municipality may determine the components of the Land Use Scheme for purposes of it being applied, interpreted and implemented.

(6) Where as a result of repealed legislation, the demarcation of Municipal Boundaries or defunct processes, it is necessary in the opinion of the Municipality for certain areas, including townships in

terms of other law or any other area whereby land use rights are governed through a process, other than a Land Use Scheme; then the Municipality may for purposes of including the said land use rights into a Land Use Scheme prepare a draft amendment scheme for the incorporation of it into the Land Use Scheme in terms of section 10 and 11 of this By-law.

(7) The provisions of subsections (1) to (6) and sections 10, 11 and 12 of this By-law shall apply *mutatis mutandis* to:

(a) the incorporation of an area into a Land Use Scheme in terms of subsection (6); and

(b) the review or amendment of an existing Land Use Scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

10 Process of incorporation of an area into a Land Use Scheme, drafting, reviewing or amending a Land Use Scheme

(1) The Municipal Council shall take a decision on the incorporation of an area into a Land Use Scheme and/or drafting, reviewing or amending its Land Use Scheme, provided that in its decision the Municipal Council must:

(a) set out a process which complies with the Act and any other applicable legislation;

(b) if required, determine the nature and extent of public participation processes to be followed over and above the requirements in terms of the applicable legislation;

(c) determine the form and content of the Land Use Scheme;

(d) determine the drafting scale to be used on plans and documents and whether it should be available in an electronic medium, if required;

(e) deal with any other relevant issue that will impact on the Land Use Scheme or will promote the interpretation and implementation thereof;

(f) provide for any resources that may be required for purposes of subsection (1); and

(g) confirm the manner in which the Land Use Scheme shall *inter alia* set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and/or any other provision that may be relevant to the management of land use, which may or may not require a consent or permission from the Municipality for purposes of the use of land.

(2) After the Municipal Council has taken a decision as contemplated in subsection (1) and the Land Use Scheme, has been prepared, it shall:

(a) be presented to the Municipal Council to be approved as a draft Land Use Scheme;
(b) with a written report from the Department responsible for Development Planning, which shall at least:

(i) indicate the rationale in the approach to the drafting of the Land Use Scheme;

(ii) summarise the process of drafting the draft Land Use Scheme;

(iii) summarise the public participation, engagement and consultation process to be followed with reference to section 11 of this By-law;

(iv) indicate the departments that were engaged in the drafting of the draft Land Use Scheme;

(v) indicate how the draft Land Use Scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Municipal Council; and

(vi) recommend the adoption of the draft Land Use Scheme for public participation in terms of the relevant law and this By-law.

(3) A registered planner must sign the report required by subsection (2).

(4) The Municipal Council shall adopt the draft Land Use Scheme and authorise the public participation thereof in terms of this By-law and the relevant law in terms of subsection (2).

11 Public Participation for a draft Land Use Scheme

(1) For purposes of public participation, a draft Land Use Scheme shall contain and comply with all the essential elements of any notices to be placed in terms of subsection (2), read with section 28 of the Act.

(2) Without detracting from the provisions of subsection (1) the Municipality shall substantially in accordance with this By-law:

(a) publish a notice in the Provincial Gazette once a week for two consecutive weeks;

(b) publish a notice in two local newspapers circulating in the area of jurisdiction of the Municipality in English and one other official language commonly spoken in the area, once a week for two consecutive weeks; and

(c) For purposes of notification use any other method of communication it may deem appropriate;

of a draft Land Use Scheme; and the notices contemplated in subsection (2) shall specifically state that any person wishing to provide comments and/or objections shall -

(i) do so within a period of 60 days from the first day of publication of the notice;

(ii) provide detailed written comments;

(iii) provide their contact details;

(iv) detailed grounds of objection;

(v) a demonstration of the interest and or *locus standi* of the interested person or objector to the satisfaction of the Municipality; and

(vi) in the event of objection(s) and or comment(s) being submitted on behalf of an interested person or objector the provisions of Schedule 21 to this By-law shall *mutatis mutandis* apply.

(3) The Municipality may for purposes of public engagement arrange:

(a) specific consultations with professional bodies, ward communities or other groups; and/or

(b) public meetings.

(4) The Municipality must deliver to the MEC in writing a copy of the draft Land Use Scheme for comments within 60 days of delivery.

(5) After the public participation, engagements and consultation processes contemplated in subsections (1) to (3), the Department responsible for Development Planning shall:

(a) review and consider all submissions made in writing or inputs made during any consultations or engagements; and

(b) prepare a report, including all information deemed relevant to the Municipal Council, on the submissions made; provided that:

(i) for purposes of reviewing and considering all submissions made, the Municipal Manager or any person duly delegated, may elect to hear the submission through an oral hearing process;

(ii) if the Municipal Manager or any person duly delegated elects in terms of subsection (i) to conduct an oral hearing the provisions of section 18(1) to (6) of this By-law shall apply *mutatis mutandis;*

(iii) if an oral hearing is to be conducted as contemplated in subsection (ii) the hearing shall be conducted by the Municipal Planning Tribunal for purposes of making a recommendation to the Municipal Council as contemplated in subsection (6) up to and including (9); and

(iv) for purposes of the consideration of the submissions made on the Land Use Scheme, the Municipality or the Municipal Planning Tribunal may at any time prior to the submission of the Land Use Scheme to the Municipal Council, request further information or elaboration on the submissions made by any person.

(6) The Department responsible for Development Planning shall for purposes of proper consideration provide comments on the submissions made during public participation, consultation and engagements, which comments shall:

(a) be submitted to the Municipal Planning Tribunal in the event of an oral hearing in terms of subsection (5)(b)(iii);

(b) contain a recommendation to the Municipal Planning Tribunal in the event of oral hearing in terms of subsection (5)(b)(iii); and

(c) form part of the documentation to be submitted to the Municipal Council in terms of subsection (8) including that which was submitted in terms of subsection (a) and subsection (b);

for final consideration, approval and adoption of the draft Land Use Scheme as contemplated in subsection (9).

(7) The Department responsible for Development Planning shall, where required and based on the submissions made during public participation, consultation and engagement or oral hearing as the case may be, make final amendments to the draft Land Use Scheme; provided that:

(a) the amended draft Land Use Scheme shall be submitted to the Municipal Council in terms of subsection (6) with reference to the amendments made;

(b) if such amendments are, in the opinion of the Municipality material, to the draft published in terms of subsection (2), the Municipality must follow a further consultation and public participation process in terms of subsection (2), before the draft is adopted by the Municipal Council.

(8) The Department responsible for Development Planning shall submit a report to the Municipal Council for the approval and adoption of the draft Land Use Scheme, which report shall contain:

(a) the draft Land Use Scheme as contemplated in subsections (5) to (7); and

(b) all relevant supporting documentation to the Municipal Council with a recommendation for approval and adoption;

(9) The Municipal Council must consider and approve the Land Use Scheme with or without amendments, and within 60 days of its decision give notice thereof in the Provincial Gazette, after which it shall be known as the adopted Land Use Scheme for the Municipality*;* provided that:

(a) such notice may include a summary of the approved Land Use Scheme; and

(b) the notice may indicate a specific date of coming into operation of the approved Land Use Scheme.

(10) After the Land Use Scheme has been published in terms of subsection (9) the Municipality shall submit the adopted Land Use Scheme to the MEC for cognisance.

(11) The Municipality shall in hard copy and/or an electronic medium and/or electronic data base keep record of the zoning and land use rights in relation to each property(ies) and which information shall be regarded as part of its Land Use Scheme.

(12) The Municipality shall keep, maintain and make accessible to the public, including on the Municipality's website, the approved Land Use Scheme and/or any applicable component thereof within the jurisdiction of the Municipality; provided that the electronic data base as contemplated in subsection (11) shall not be published on the Municipality's website.

(13) Should any person request a copy of the approved Land Use Scheme, the Municipality must provide to that person on payment of the prescribed fee, a copy to them of the approved Land Use Scheme or any component thereof; provided that, in the opinion of the Municipality it will take officials unreasonably away from their substantive duties such request for a copy can be dealt in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

12 Content of a Land Use Scheme

1) A Land Use Scheme shall comply with the provisions for the content of a Land Use Scheme contemplated in the Act and this By-law and may:

(a) have land use categories, containing zoning as may be determined for all properties within the geographic area of the Municipality; and

(b) *inter alia* contain: definitions, specific conditions, limitations, general provisions and provisions or prohibitions which in terms of subsection (1)(a) relates to the exercising of any land use rights or zoning approved on a property(ies) in terms of:

(i) any lawful approval in terms of a Land Use Scheme;

(ii) the said Land Use Scheme;

(iii) any amendment scheme, and/or

(iv) consent, permission, temporary uses or relaxation or conditions of approval of a land development application on a property(ies);

(c) contain provisions for public participation that may be required for purposes of any consent, permission, temporary uses or relaxation in terms of the Land Use Scheme;

(d) contain provisions relating to the provision of engineering services, which shall specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;

(e) contain servitudes for municipal services and/or access arrangements for all properties;

(f) contain provisions applicable to all properties relating to storm water;

(g) contain provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;

(h) contain scheme maps as prescribed in Schedule 1 to this By-law that depicts the zoning of every property in Municipality's geographical area as updated from time to time in line with the land use rights approved; and

(i) contain any provision for purposes of regulating municipal planning as may be determined in terms of section 9(5) of this By-law;

(2) A Land Use Scheme Register shall be kept and maintained by the Municipality in a hard copy and/or electronic format in accordance with Schedule 2 to this By-law.

(3) In the approval of any land development application in terms of section 16 of this By-law the municipality may set guidelines with regard to the content, form and manner of the inclusion of the said conditions of approval into the Land Use Scheme.

13 Replacement and consolidation of amendment scheme

(1) The Municipality may of its own accord replace or consolidate an amendment scheme or several amendment schemes of a property or more than one property.

(2) Prior to replacing or consolidating any amendments schemes as contemplated in subsection (1) the Municipality shall:

(a) consult the owner of the property(ies) that form(s) the subject of the amendment scheme(s) contemplated in subsection (1);

(b) prepare a copy of the amendment scheme as the Municipality may require, for purposes of replacing or consolidating the said amendment scheme(s);

(c) ensure that the Authorized Official in terms of the Act shall sign the documentation as contemplated in subsection (b);

(3) The consolidated or replacement amendment scheme shall from the date of the publication thereof in the Provincial Gazette as contemplated in subsection (4), be in operation; provided that:

(a) such replacement and consolidation shall not remove any current land use rights or grant any additional land use rights in terms of any Land Use Scheme; and/or

(b) for purposes of implementation of the land use rights, a requirement may be included for the consolidation or subdivision of the property(ies) for purposes of consolidating or replacing the amendment schemes; and

(c) if a consolidation or subdivision is required, the Municipality shall only do so after consultation with the owner.

(4) Once the Municipality has signed and certified a consolidation or replacement amendment scheme in terms of subsection (2)(c) and (3), it shall be published in the Provincial Gazette and be recorded in the Land Use Scheme Register;

(5) The Municipality shall not consolidate or replace an amendment scheme where the amendment schemes to be consolidated or replaced:

(a) have different land use rights, which in the opinion of the Municipality cannot be consolidated or replaced;

(b) are applicable on a property(ies) owned by different owners in the case of a consolidation of amendment schemes;

(c) relates to a property(ies), portions or parts of a property(ies) that in the opinion of the Municipality cannot be consolidated or replaced and may render the land use rights illegal; and/or

(d) without subdividing and/or consolidating and registering the subdivided portions or consolidated portions of land, to which the consolidated or replaced amendment scheme(s) relates.

CHAPTER 5

14 National and Provincial Interest

(1) In terms of section 52 of the Act an applicant shall refer any land development application which affects a National or Provincial Interest respectively to the Minister and/or the MEC for comments, which comments are to be provided within 21 days as prescribed in subsection 52(5) of the Act.

(2) Where any action and/or decision to be taken by a National or Provincial Government Department affects municipal planning as contemplated in section 33 of the Act and/or has the purpose of vesting any land use rights and/or creates any land use to be exercised by such National or Provincial Departments, a land development application in terms of Chapter 5 of this By-law shall be lodged for obtaining the land use rights with the Municipality, in which event the Municipality:

(a) shall consider the land development application with reference to Chapter 6 of the Act and specifically sections 33 and 52 thereof; and

(b) may, after consultation with the National or Provincial Government Department, determine that a land development application may not be required.

(3) Where any land development application in terms of section 16 of this By-law, which in the opinion of the Municipality, affects a National or Provincial Interest as defined in section 52 of the Act, is submitted, such application shall be referred to the Minister or the MEC respectively and the provisions of subsections 52(5) to 52(7) of the Act, shall apply *mutatis mutandis.*

(4) The Municipal Planning Tribunal or Authorised Official as the case may be, as contemplated in this By-law and the Act, may direct that an application before it, be referred to the Minister or the MEC, if such an application in their opinion affects National and/or Provincial Interest and the provisions of subsections 52(5) to 52(7) of the Act shall apply *mutatis mutandis*.

(5) Subsections (1) to (3) shall be read with subsection 33(1) of the Act in that the National and/or Provincial Departments shall become parties to the application; however the Municipality shall remain the decision maker of first instance.

15 Land Development Application Categories

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

(1) **Category 1** shall be the following land development applications read with Regulation 15 of the Regulations to this Act and shall be referred to the Municipal Planning Tribunal:

(a) All land development applications on which timeous objections or timeous negative comments from the Ward Councillor have been received after public participation.

(b) All land development applications which in the opinion of the Municipality based, on its complexity and scope, must be referred to the Municipal Planning Tribunal.

(c) All land development applications recommended for approval by the Department responsible for Development Planning which, in the opinion of the Municipality may depart from the Municipal Spatial Development Framework contemplated in Chapter 3 of this By-law and which shall:

(i) be referred to the Municipal Council for a recommendation for the amendment or partial amendment of the Municipal Spatial Development Framework, subject to the provisions of this By-law; and

(ii) be referred back to the Municipal Planning Tribunal for approval of the application after the amendment of the Municipal Spatial Development Framework.

(d) All land development applications on Municipal owned land or which falls under the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ord.17 of 1939), or other relevant legislation, provided that the land development applications are unopposed and include the following:

(i) subdivisions excluding subdivision as contemplated in section 16(12)(a)(iii) of this By-law;

(ii) removal of restrictive conditions;

(iii) consents in terms of title deed conditions;

(iv) permissions, temporary uses and relaxations in terms of a Land Use Scheme;

(v) consents in terms of a Land Use Scheme; and

(vi) consolidations;

which applications may be considered by the Authorised Official, further provided that nothing contained herein shall be interpreted as preventing the Authorized Official from referring the land development applications in this subsection to the Municipal Planning Tribunal.

(e) All land development applications recommended for refusal by the Department responsible for Development Planning; excluding Category 2 applications as contemplated in subsection (3)(b).

(f) All land development applications on which negative comments have been received from internal departments of the Municipality, Ward Councillors, and external departments of National Government or Provincial Government.

(g) All applications for the permanent closure of any public place as contemplated in this By-law and/or other relevant legislation, subject to compliance with sections 66, 67 and 68 of the Local Government Ordinance, 1939 (Ord. 17 of 1939), as may be amended.

(h) All applications for the restriction of access to a public road in terms of the Rationalization of Local Government Affairs Act, 1998 (Act 10 of 1998).

(i) Any application in terms of any other law or By-law which the Municipality may require the Municipal Planning Tribunal to decide on from time to time.

(j) All applications where the Municipality acting on its own accord wishes to remove and/or amend a restrictive or obsolete condition, servitude or reservation registered against the title deed of a property(ies) which may also arise out of a condition of establishment of a township or any other legislation.

(k) All applications which are affected by any other By-law which is published for purposes of dealing with specific circumstances and/or in a geographical area directing a land development application to be considered by the Municipal Planning Tribunal.

(l) All land development applications which in the opinion of the Municipality, National or Provincial Departments are of National or Provincial interest.

(2) **Category 1** land development applications referred to the Municipal Planning Tribunal must be in the form of a written report by the Department responsible for Development Planning, which report must contain at least the following:

(a) All relevant documentation which the Department responsible for Development Planning may determine as being necessary to place the Municipal Planning Tribunal in a position to consider the application.

(b) The applicant's motivating memorandum with reference to the objectives and principles contained in this By-law.

(c) Objections and comments received on the land development application with reference to the provisions of this By-law relating to the submission of objections if any.

(d) The applicant's reply to the objections and/or comments, if any.

(e) The comments from the departments within the Municipality and National and Provincial Departments to which the application was circulated.

(f) Site details and important physical factors that may impact on the development.

(g) Development context of the area that may impact on the site.

(h) History of development in terms of use, scale and intensity.

(i) Impact of the proposed development on the surrounding properties and area.

(j) Assessment of proposed development in terms of the adopted Municipal Spatial Development Framework and relevant Municipal policies and infrastructure; including but not limited to:

(i) land use, engineering services and transport land use integration achieved through the development applications;

(ii) sustainability, compaction, limitation on urban sprawl; and

(iii) the elements contained within the relevant law with regard to the burden of proof on the applicant, for purposes of motivating the land development application read with section 9(1)(b) of this By-law.

(k) Comments and recommendations from a planning and development point of view.

(l) Proposed development controls in terms of the Land Use Scheme.

(m) Access arrangements including any servitudes that may be registered or required to be registered.

(n) Address *inter alia* the provisions of sections 7, 40, 42 and 49 of the Act, where applicable.

provided that subsections (2)(a) to (n) shall be read with the Schedules and Forms to this By-law.

(3) **Category 2** land development applications are land development applications that shall be considered by the authorised official in terms of the Act or similar official designated by the Municipal Council read with Regulation 15 of the Regulations to the Act and include all land development applications:

(a) recommended for approval, where such applications are unopposed, no negative comments have been received or in respect of which no objections have been received; and

(b) that do not fall within Category 1 as contemplated above including the following applications and administrative decisions:

(i) Extensions of time for any action to be taken within the timeframes contemplated in this By-law;

(ii) change of ownership applications as contemplated in this By-law;

(iii) division of township; and

(iv) Regulation 16(9) of the Regulations deemed refusal notifications;

provided that land development applications in terms of Category 2 shall be accompanied by a report, the content of which shall comply *mutatis mutandis* with subsection (2);

(4) Category 2 land development applications referred to the Authorised Official for consideration must be in the form and manner as may be prescribed by the Municipality, which may include a written report by the Department responsible for Development Planning.

(5) The Municipality may prescribe the public participation process and/or circulation process relevant to each application for Category 1 and 2 applications in the Schedules to this By-law; provided that it shall in the case of a Rezoning, Township Establishment, Removal of Restrictive Conditions or a combination of the above, be done as prescribed in section 16 of this By-law.

(6) Nothing contained in section 16 of this By-law shall prevent the owner of a property(ies) from submitting different land development applications on the same property(ies) simultaneously in terms of this By-law or Land Use Scheme provided that:

(a) he/she may not do so if in the opinion of the Municipality it cannot be dealt with simultaneously;

(b) the Municipality may determine the type of land development applications that can be submitted simultaneously;

(c) the Municipality may allow the simultaneous submission of land development applications on the same property(ies), provided that the application may be required to be dealt with separately as two or more applications; and

(d) the Municipality may determine that the one land development application may be made subject to the adoption and coming into operation of the other or conditions relating to the other that the Municipality may deem expedient.

(7) The Municipality shall not be obliged to accept the simultaneous submission of land development applications or consolidated applications as contemplated in subsection (6) read with section 16(1)(a) of this By-law where the properties to which the land development applications apply are owned by different or multiple owners and shall apply *mutatis mutandis* to all land development applications in terms of this By-law or Land Use Scheme;

(8) Where a Municipal Planning Tribunal or Authorised Official is authorized in terms of section 15 of this By-law to consider and determine land development applications, the provisions of section 16 to 22 of this By-law apply to such Municipal Planning Tribunal and Authorised Official *mutatis mutandis.*

16 Land Development Application procedure

(1) Rezoning

(a) An owner of a property(ies) who wishes to have a provision of a Land Use Scheme, relating to his/her property(ies) amended;

(i) may apply in writing to the Municipality in such manner as prescribed in Schedule 3 to this By-law as may be amended from time to time;

(ii) shall at the same time pay such fees as may be prescribed by the Municipality; and

provided that:

the Municipality may require that an application be separated and/or consolidated where an application is submitted for multiple uses on multiple properties, to the satisfaction of the Municipality.

Administrative Phase - Screening of the application for completeness

(b) The Municipality shall within 28 days of the submission of an application contemplated in subsection (a) determine whether the application, in accordance with the Schedule 3 to this By-law, is complete for purposes of acceptance of such an application, read with Regulation 16(3) of the Regulations to the Act, provided that:

(i) if the application has been determined by the Municipality as being incomplete in accordance with Schedule 3 to this By-law or further notification is required by the Municipality as contemplated in subsection (g), other than the prescribed notification in subsection (f), the Municipality shall deliver a notice to the applicant of any defects and/or incompleteness and or further notification of the application, within the said 28 days contemplated in this subsection; and

(ii) such delivery of notification having been sent as contemplated in subsection (b)(i) to the contact details provided in the application, shall deem to have been received within 7 days of delivery of notification of the applicant.

(c) Nothing in subsection (1)(a) and/or (b) shall:

(i) oblige the Municipality to consider an application which in its opinion is incomplete in terms of the Schedule 3 to this By-law and the application may be rejected by the Municipality and returned to the applicant; and

(ii) prevent the Municipality from requiring any additional information to be submitted by the applicant as contemplated in subsection (q) that will place the Municipality in a position to consider the application in terms of this By-law as contemplated in Regulation 16(9) of the Regulations to the Act.

(d) If the applicant has been notified of any defects and/or incompleteness regarding his/her application he/she shall, rectify the defects or provide the documentation as prescribed in subsection (b), within 28 days of having been notified by the Municipality thereof, failing which the Municipality shall not accept the application for purposes of it being a land development application in terms of this By-law, and it shall be deemed not to have been submitted,

provided that:

(i) the applicant may request the Municipality within the 28 day period granted for correcting any defects and/or provide complete documentation for his/her application, for such further period to rectify and provide documentation in relation to the application; and

(ii) after consideration of the request the Municipality may grant or refuse such further period to rectify and/or submit the documentation required, and shall deliver a notice to the applicant of the said decision in a form or manner as may be determined by the Municipality;

(e) In the event of the applicant correcting the defect and/or providing complete documentation within the prescribed period in subsection (d), the application shall be accepted.

Administrative Phase – Public Participation and circulation

(f) If the application is complete, as may be determined by the Municipality in terms of subsection (b) or the applicant has not been notified within 28 days of submission of the application of any defects or incompleteness of the application, the applicant shall give notice of the application –

(i) by publishing once a week for 2 consecutive weeks, a notice in such form and such manner in English and one other official language commonly spoken in the area, in the Provincial Gazette and two local newspapers as prescribed in Schedule 13 of this By-law which applies *mutatis mutandis* , to this subsection;

(ii) by posting a notice as contemplated in subsection (f)(i), in such form as may be prescribed in a conspicuous place to the satisfaction of the Municipality, on his/her property(ies) as prescribed in Schedule 13 of this By-law which applies *mutatis mutandis* and the applicant shall maintain such notice for a period of at least 14 days from the date of the first publication of the notice contemplated in subsection(f)(i) above: Provided that the Municipality may, in its discretion, grant exemption from compliance with the provisions of this subsection;

(iii) by delivering a notice of the application as prescribed in Schedule 13 of this By-law which applies *mutatis mutandis* to all the adjoining property owners of the property in respect of which the application is brought, provided that:

(aa) if such owners form part of a body corporate, it shall be deemed sufficient that copies be delivered in the post boxes of the units and where the trustees, can be identified, to the satisfaction of the Municipality, to the trustees of the body corporate.

(iv) In the case of copies or notices of an application being delivered to a juristic person or organ of state, the applicant shall provide proof to the satisfaction of the Municipality, that he has obtained the contact details of the juristic person or a Director General or equivalent of an organ of state together with proof of delivery of the copies;

provided that:

all the notices contemplated in subsection (f)(i) to (iv) shall be placed and delivered on the same date and the periods for submission of objections and/or comments contemplated therein shall expire at the same time.

(g) The Municipality may, in its discretion in order to bring the application to the attention of the general public or interested parties, require the applicant to give and deliver further notice of the application in the form and manner as may be required by the Municipality; provided that such further notice shall be done simultaneously with the notices as contemplated in subsection (f) and provide for the same objection periods.

(h) The applicant shall submit proof to the satisfaction of the Municipality that he/she has complied with the provisions of subsections (a) to and including (g) read with the Schedule 13 to this By-law.

(i) On receipt of an application in terms of subsection (a) the applicant may of his own accord or the Municipality may direct the applicant to forward a copy of the application to:

(i) any other person who, in the opinion of the Municipality, may be interested in the application;

(ii) a person who claims to be an interested person in terms of section 45(3) and subject to the provisions of sections 45(2) to 45(5) of the Act; and

(iii) any internal department of the Municipality, which in the opinion of the Department responsible for Development Planning, may have an interest in the application.

(j) Where an applicant has on behalf of the Municipality delivered a notice of the application to any person or body contemplated in subsection (i) he/she shall submit proof to the satisfaction of the Municipality that he/she has done so.

(k) Every person to whom or body to which a notice of the application has been delivered in terms of subsection (1) may, within a period of 28 days from the date on which the notice was delivered, being the same first date on which the notice appeared in terms of subsection (f) above, comment or object in writing thereon read section 52(5) of the Act, provided that:

(i) the Municipal Council of the Municipality may determine by resolution that a land development application shall be circulated to Ward Councillors for comment; and

(ii) if so resolved as indicated in subsection (k)(i) by the Municipal Council, Ward Councillors shall within a period of 28 days from the date on which the Department responsible for Development Planning has forwarded a copy of a land development application to them; and

(iii) if no comments are received within the prescribed period contemplated in subsection (k)(ii) it shall be deemed that the Ward Councillors have no comments on the land development application.

(l) The applicant may of his/her own accord or the Municipality may direct the applicant to forward a copy of the application to:

(i) all National and Provincial Departments which in the opinion of the Municipality may be interested or affected by the application in terms of the legislation that they administer or based on practical considerations;

(ii) every Municipality or body providing any engineering service contemplated in Chapter 7 of this By-law to the land development area concerned;

(iii) any internal department of the Municipality which in the opinion of the Department responsible for Development Planning, may have an interest in the application; and

(iv) every person to whom or body to which a notice of the application has been delivered in terms of subsection (l)(i) to (l)(iii), may, within a period of 60 days from the date on which the copy was forwarded to him/her or it, or such further period as the Municipality may allow, comment in writing thereon;

provided that;

(aa) where no comments were received within the prescribed period in terms of subsections (i) to (l) it may be deemed by the Municipality that the persons or body have no comments to offer read with Regulation 16(10) of the Regulations to the Act;

(bb) where in the opinion of the Municipality they cannot consider the application without the said comments, the Municipality may require that the comments be obtained, by the applicant or the Municipality prior to the consideration of the application; and

(cc) where an applicant has on behalf of the Municipality delivered a notice of the application to any person or body contemplated in subsection (l) he/she shall submit proof to the satisfaction of the Municipality that he/she has done so.

(m) All notices and copies of the application as contemplated in subsection (1) shall indicate in the notices that persons intending to lodge objections or provide comments shall provide contact details in their objections and/or comments, for purposes of the notification of the hearing of these objections and comments contemplated in section 18 of this By-law;

provided that:

if the Municipality is unable to deliver a notice to objectors and/or commenting persons of the hearing as contemplated in section 18 of this By-law as a result of the failure by the objector or person providing comments, to provide contact details, the application process shall not be suspended or postponed on that basis alone.

(n) After the closing date for objections and/or comments in terms of subsections (k) to (m), the Municipality shall, within 14 days thereof, send copies of all objections and/or comments received by the Municipality, to the applicant; provided that:

(i) no objections and/or comments not received within the prescribed period contemplated in subsection (k) to (m) read with Schedule 13 to this By-law shall be entertained or sent to the applicant; and

(ii) only objections and comments with the necessary contact details as contemplated in subsection (m) shall be notified of a hearing contemplated in section 18 of this By-law; provided further that:

(aa) objections and/or comments without contact details shall be considered by the Municipal Planning Tribunal, but the person concerned will not be invited to a hearing; and

(bb) objections and comments in the form of a petition and/or standard letters by objectors or interested persons including communities shall only be dealt with by the Municipality for purposes of correspondence and/or notification of objectors and interested persons as one contact person and only the co-ordinator of the petition or, in the absence of any details of the co-ordinator, one person who is part of the petition or standard letter shall be selected by the Municipality and notified and the provisions of section 18(5) of this By-law shall apply *mutatis mutandis*.

(o) The applicant may within a period of 14 days from the date on which he/she has received copies of the objections and/or comment from the Municipality, reply to any objection and/or comments; provided that if no reply is received within the prescribed period it shall be deemed by the Municipality that the applicant has waived his/her right of reply to the objection and/or comments.

Administrative Phase - Evaluation

(p) After the provisions of subsections (a) to (o) have been complied with, the land development application shall be evaluated by the Department responsible for Development Planning.

(q) For purposes of evaluating the application, the Municipality may require the applicant to provide additional information, which shall be requested, from the applicant in writing at his last known address, proof of which must be held by the Municipality; provided that:

(i) the Municipality shall indicate the type of information required which may include professional and or technical reports;

(ii) the Municipality shall determine a date by which the applicant must provide the information as contemplated in Regulation 16(9) of the Regulations to the Act;

(iii) the applicant may request in writing that the date contemplated in subsection (q)(ii) be extended by the Municipality, which extension may be granted or refused or may be granted subject to any conditions it deems expedient; and

(iv) if the applicant fails to provide the additional information to the satisfaction of the Municipality, within the prescribed period contemplated in subsection q(ii), the provisions of Regulation 16(9) of the Regulations to the Act shall apply;

provided further that:

(aa) if notice of the land development application was given in terms of the provisions of this By-law calling for interested persons to object or provide comments; and

(bb) objections and/or comments were received on the land development application;

the Municipality shall deliver a notice to the persons contemplated in subsection q(iv)(bb) that the application is deemed to be refused in terms of Regulation 16(9) of the Regulations to the Act.

(r) The Department responsible for Development Planning shall evaluate the application with due regard to the content of the Act and this By-law and shall for purposes of the consideration of the application prepare a report as contemplated in section 15(2) of this By-law.

Consideration and decision phase

(s) After the provisions of subsections (a) to (r) have been complied with, Category 1 applications as contemplated in section 15(1) of this By-law shall be referred to the Municipal Planning Tribunal, by the Department responsible for Development Planning and the Municipal Planning Tribunal shall:

(i) hear all objections and/or comments submitted by interested and affected parties and the applicants' reply thereto, as contemplated in subsections (f) to (o), subject

to the Operating Procedure of the Municipal Planning Tribunal read with Regulation 12 of the Regulations to the Act; and

(ii) after having complied with subsection (s)(i) consider and take a decision on the application as contemplated in section 18 of this By-law.

(t) After the provisions of subsections (a) to (r) have been compiled with, Category 2 applications as contemplated in section 15(3) of this By-law shall be referred to the Authorised Official by the Department responsible for Development Planning for his/her consideration and decision.

Category 2 – Decision phase

(u) The Authorised Official shall consider the application with due regard to the content of the application and information required for consideration as contemplated in section 15(5) of this By-law, all approved policies of the Municipality, its Integrated Development Plan and Municipal Spatial Development Framework and its components as contemplated in the Municipal Systems Act, 2000 (Act 32 of 2000), read with section 42 of the Act or any other relevant law and may for that purpose as he/she may deem expedient:

(i) carry out an inspection or institute any investigation;

(ii) request any person to furnish relevant information and the provisions of subsection (q) shall apply *mutatis mutandis.*

(v) The Authorised Official:

(i) may postpone a decision on the land development application referred to him/her in terms of subsection (t), read with section 43(1) of the Act; and

(ii) may approve wholly or in part, the land development application subject to any conditions or provisions which he/she may deem expedient read with sections 40, 42, 43 and 49 of the Act; provided that:

(aa) the owner of land in respect of which an approval is granted in terms of subsection (v)(ii) shall pay to the Municipality development charges in respect of the provision of:

(aaa) engineering services contemplated in Chapter 7 of this By-law where it will be necessary to enhance or improve such services as a result of the granting of the land development application;

(bbb) an amount of money in lieu of the provision of public or private open spaces or parks where the granting of the land development application will bring about a higher residential density as contemplated in Chapter 7 of this By-law;

(bb) where the Municipality imposes a condition in terms of subsection (ii) read with (aa) requiring the payment of development charges or an amount of money, as the case may be, the amount shall be determined;

(aaa) in accordance with an approved Council policy on engineering services, development charges and parks and open space read with Chapter 7 of this By-law; or

(bbb) by agreement; provided further that, unless otherwise agreed to by the applicant or owners and Municipality, in accordance with the policy as contemplated in subsection (aaa) read with Chapter 7 of this By-law;

(iii) may determine the approval granted in terms of subsection (ii) to be an amended or partial approval of the land development application as submitted in which event the approval shall be regarded as an approval in principle and referred to the

applicant for confirmation of acceptance within 28 days of delivering the amended or in principle approval to the applicant; provided that:

(aa) if the applicant fails to accept the approval within the prescribed time period, it shall be deemed not to have been accepted and the application shall be recommended for refusal to the Municipal Planning Tribunal;

(bb) if the applicant accepts the in principle approval in writing it shall be referred to the Authorised Official to grant a final approval, subject to such conditions as the Authorised Official deems expedient;

(w) the Municipality shall by registered mail notify the applicant and any person who in the opinion of the Municipality requires notification of the decision by the Municipality of the said application, which notification shall be deemed to have been received within ten (10) days of sending.

Pre-promulgation conditions – Conditional Approval

(x) An applicant shall within a period of 12 months or such further period as the Municipality may allow, which period shall not exceed 5 years as contemplated in section 43(2) of the Act:

(i) provide proof that he has complied with the provisions of sections 21 and 22 of this By-law read with section 40(7) of the Act, with regard to conditions related to payment of development charges and/or contributions, the provision of engineering services and the provision of parks and open spaces; and

(ii) complied with the conditions as contemplated in subsection (v) which conditions must be complied with prior to the land use rights being adopted, coming into operation or exercised in terms of subsection (y);

failing which the application shall lapse.

Publication and coming into operation

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

(i) on the date of the notice; or

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

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

Conditions applicable to the exercising of land use rights

(z) The applicant and/or owner shall, after the publication contemplated in subsection (y) comply with all conditions of approval applicable to the land development application, land use rights as is contained in the amendment scheme, Land Use Scheme and zoning on the property(ies) prior to the approval of any building plans in terms of the National Building Regulations and Standards Act 1977, (Act 103 of 1977); provided that:

(i) the Municipality shall set out the conditions applicable to the exercising of the land use rights contemplated in this subsection in an Annexure which shall substantially comply with Schedule 3 to this By-law read with the Land Use Scheme as adopted by the Municipality;

(ii) the applicant and/or owners shall comply with any attachments, including maps, as may be required by the Municipality from time to time; and

(iii) the conditions of approval applicable to the land development application shall upon the publication contemplated in this subsection form part of the Land Use Scheme as an adopted amendment scheme and shall be enforceable in terms of this By-law in terms of section 36 of this By-law.

(2) Removal of Restrictive conditions read with the Gauteng Removal of Restrictions Act, 1996

(a) An owner of a property(ies) or the Municipality of its own accord, who wishes to remove, amend or suspend a restrictive or obsolete condition, obligation, servitude or reservation registered against the title of a property(ies) may, in such manner as prescribed in Schedule 4 to this By-law apply in writing to the Municipality for such action subject to the provisions of section 16(1)(a) to (y) of this By-law which apply *mutatis mutandis.*

(b) If the owner of a property(ies) wishes to have a servitude removed in terms of subsection (a) read with section 47 of the Act, the Municipality shall not:

(i) remove a personal servitude without the consent in writing of the beneficiary;

(ii) remove, a praedial servitude without the consent in writing of the dominant tenement; or

(iii) in the case of a servitude in favour of the general public or a public place under control and management of the Municipality vested or created by means of a servitude read with section 63 of the Local Government Ordinance,1939 (Ord. 17 of 1939), remove such servitude without having followed the provisions of the said Ordinance or other relevant legislation.

(c) Where any conditions relating to land use rights, buildings and or control or obligation relating thereto are:

(i) contained in the title deed;

(ii) conditions arising out of conditions of establishment; or

(iii) conditions imposed for the benefit of any body or person; and

(aa) such person is no longer living and the benefit is not transferable; or

(bb) the beneficiary is a body or legal entity that has been disestablished; or

(cc) the conditions have become obsolete;

the Municipality may remove, amend or suspend such conditions or obligations after an application has been submitted in terms of subsection (a) read with sections 40, 42, 43 and 49 of the Act.

(d) Where any restrictive condition as contemplated in subsection (c)(i) to (iii):

(i) require the consent of the Municipality; or

(ii) where the Municipality was granted substitution of authority in terms of section 45(6) of the Act and the Gauteng Removal of Restrictions Act, 1996 (Act 3 of 1996);

the Municipality may dispose of the conditions by granting the said consent in writing or as contemplated in subsection (e).

(e) Should consent from the Municipality or body or person indicated in subsection (c), be required in terms of any restrictive condition for:

(i) the approval of an application for a change in land use;

(ii) the approval of any land development application; or

(iii) approval of an application for building plans;

the granting of the applications contemplated in subsection (e)(i) to (iii) shall be regarded as simultaneous consent for purposes of the conditions or obligations in terms of the restrictive conditions contained in the title deed.

(f) The applicant shall:

(i) forthwith deliver a notice to the Registrar of Deeds of the decision of the Municipality on the removal of restrictive conditions contemplated in section 16(2); and

(ii) upon publication of the notice contemplated in section 16(1)(y) of this By-law provide a copy of the said notice to the Registrar of Deeds.

(g) The Registrar of Deeds will endorse the title deeds of the property(ies) on which the removal of restrictive conditions application has been approved, to the effect that the conditions have been removed, suspended or amended, as the case may be.

(h) Should there be a change of ownership prior to the notice contemplated in section 16 (1)(y) of this By-law the applicant shall -

(i) notify the Municipality of the change of ownership by delivering to the Municipality a copy of the registered title deed(s) of the property(ies) and a power of attorney; and

(ii) upon delivery thereof to the Municipality the new owner shall become responsible for all rights and obligations in terms of the land development application.

(i) the notice published in terms of section 16(1)(y) of this By-law shall be read together with both the title deeds of the land development application in terms of subsection (2)(a) and the title deed submitted in terms of subsection (2)(g).

(3) Consent Use, Permissions and Relaxation

(a) The Land Use Scheme approved and/or adopted in terms of Chapter 4 of this By-law, read together with Section 24 of the Act or any other legislation, may contain provisions requiring applications and conditions as the Municipality may determine, for the consent and/or permission of the Municipality for the use of land and buildings or to relax certain conditions provided for in the Land Use Scheme, including:

(i) provisions relating to the requirement of public participation;

(ii) minimum requirements for the submission of applications for consent, permission or relaxation; and

(iii) other matters related thereto.

(b) In the granting of any consent, permission or relaxation and/or any other applications in terms of a Land Use Scheme read with sections 40, 42, 43 and 49 of the Act the Municipality may impose:

(i) such conditions as it may determine, including a condition requiring the payment of prescribed fees to the Municipality, grant exemption from the provisions of the Land Use Scheme stated therein or relax and amend the requirements of those provisions;

(ii) such other provisions as may be prescribed or which relate to planning and development in general.

(c) Where consent, permission or relaxation is granted by virtue of subsection (3)(b), the conditions on which the consent, permission or relaxation is granted may include a condition that:

(i) the consent, permission or relaxation shall lapse if the use of the land or building concerned is:

(aa) not commenced within the period stated in the condition read with section 43(2) of the Act;

(bb) discontinued for a period stated in the condition;

(ii) the consent and/or permission shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;

(iii) the owner of land in respect of which the consent and/or permission and/or relaxation is granted shall pay to the Municipality an amount of money in respect of the provision of:

(aa) the engineering services contemplated in Chapter 7 of this By-law where it will be necessary to enhance or improve such services as a result of the granting of the consent and/or permission and/or relaxation; and

(bb) public or private open spaces or parks where the granting of the consent and/or permission and/or relaxation will bring about a higher residential density.

(d) Where the Municipality imposes a condition in terms of subsection (c) requiring the payment of an amount of money, it shall deliver a notice to the person at the address as indicated by the applicant for receiving notices, documentation and/or correspondence relating to the application, requiring payment; provided that such notification may be done simultaneously with the notification of the decision on the application, and such amount of money shall:

(i) in the case of a condition imposed in terms of subsection (c)(iii), be determined as follows:

(aa) in accordance with an approved Council policy on engineering services development charges and parks and open space read with Chapter 7 of this By-law;

(bb) by agreement; provided further that, unless otherwise agreed to by the applicant or owners and Municipality, in accordance with the policy as contemplated in subsection (aa);

provided that in calculating the amount of money any development charges paid, payable or becoming payable in terms of any rezoning application contemplated in section 16 of this By-law shall be taken into account.

(e) The Municipality shall by registered mail notify the applicant and any person which in the opinion of the Municipality requires notification of the decision of the Municipality of the said application, which notification shall be deemed to have been received within ten (10) days of sending.

(f) Where the Municipality has, in terms of the provisions of a Land Use Scheme, consented, granted permission or approved a relaxation for the use of any land or building for a particular purpose, the applicant shall prior to exercising any rights in terms of a consent, permission or relaxation:

(i) comply with the conditions of approval for the consent, permission or relaxation, required to be complied with prior to the exercising of any rights to the satisfaction of the Municipality;

(ii) provide proof of compliance with the conditions as contemplated in subsection (i) to the satisfaction of the Municipality;

(iii) pay the amount of money, determined in accordance with subsection (c)(iii), or make arrangements to the satisfaction of the Municipality for the payment of the said monies; and

provided that no transfer of the property(ies) which forms the subject of a consent, permission or relaxation contemplated in this subsection may be done or building plans approved, prior to the payment of the monies contemplated in subsection (c)(iii).

(4) Township Establishment Applications or Extension of Boundaries

(a) An owner of land who wishes to establish a township on his/her land or for the extension of the boundaries of an approved township on his/her land may apply in writing to the Municipality in such manner as may be prescribed in terms of this By-law.

(b) An application contemplated in subsection (a) shall be accompanied by such plans, diagrams, technical reports and other documents as prescribed by the Municipality in Schedules 5 and 6 to this By-law, which apply *mutatis mutandis.*

(c) The provisions of subsection 16(1)(b) up to and including subsection 16(1)(w) shall apply *mutatis mutandis* to an application contemplated in subsection (a).

(d) In dealing with and deciding on the application by the Authorised Official or the Municipal Planning Tribunal the application contemplated in subsection (a) and the draft amendment scheme contemplated in subsection (g)(v) shall be considered together;

provided that:

neither the township establishment application nor the draft amendment scheme can be dealt with separately and shall be regarded as one land development application and decision.

(e) Where the Municipality approves an application in terms of subsection (d), it may impose any condition it may deem expedient read with sections 40, 42, 43 and 49 of the Act, including a requirement for the payment of development charges and charges for the provision of parks and open spaces either in cash or in lieu or both and the provision of subsection 16(1)(v) and Chapter 7 of this By-law shall apply *mutatis mutandis*.

(f) Without detracting from the provisions of subsection 16(1), the Authorised Official or Municipality Planning Tribunal shall in approving an application for township establishment include the following in the approval:

(i) conditions of approval set out as a statement of conditions for the township establishment and the statement of conditions shall be known as conditions of establishment for the township;

(ii) a layout plan for the township as contemplated in Schedule 6 and the Forms to this By-law;

(g) The conditions of establishment contemplated in subsection (f)(i) may include the following:

(i) Specific conditions and/or the registration transaction that must be complied with prior to the opening of a township register for the township, as well as those transactions to be complied with simultaneously with the opening of the township, at the office of the Registrar of Deeds.

(ii) The conditions of establishment relating to the township which shall remain applicable to the township and erven in the township and which may or may not be incorporated into the title deeds of the township.

(iii) Conditions of title to be incorporated into the title deeds of the erven to be created through the establishment of the township.

(iv) Conditions in favour of or relating to third parties to be registered as may be required by the Registrar of Deeds from time to time.

(v) Conditions to be incorporated into the Land Use Scheme by means of an amendment scheme, which shall be the draft amendment scheme contemplated in subsection (b) and approved in terms of subsection (d).

(vi) Conditions that shall apply to a non-profit company for purposes of transferring erven to it and/or maintaining erven within the township as may be required by the Municipality.

(vii) Any other conditions and/or obligation on the township owner, which in the opinion of the Municipality are deemed necessary for the proper establishment, execution and implementation of the township.

(viii) Without detracting from the powers of the Municipality to take a decision on the establishment of townships as contemplated in subsection (d), (e) and (f) the Municipality shall take into account directives that may be issued by the Registrar of Deeds, from time to time.

(h) The Municipality shall by registered mail notify the applicant and any person or body which in the opinion of the Municipality requires notification of the decision of the Municipality of the said application, which notification shall be deemed to have been received within ten (10) days of sending, in terms of subsection (d) read with section 18(8) of this By-law.

(i) After the applicant has been notified in terms of subsection (h) that his/her application was approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (e) or add any further condition; provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality shall not exercise its powers in terms hereof and shall require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application in terms of subsection 16(1)(f) or submit a new application in terms of subsection (a).

(j) After the applicant has been notified in terms of subsection (h) that his/her application was approved, the Municipality or, at the applicant's request, may after consultation with the applicant and the Surveyor-General, amend the layout of the township approved as part of the township establishment application in terms of subsection (e); provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality shall not exercise its powers in terms hereof and require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application in terms of subsection 16(1)(f) or submit a new application in terms of subsection (a).

(k) Without detracting from the provisions of subsection (i) and (j) the Municipality may require the applicant, or at the request of the applicant, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

(l) The Municipality shall notify the Surveyor-General in writing of the approval of the township establishment application as contemplated in subsection (e) and such notice shall be accompanied by the conditions of establishment, a copy of the layout plan of the township as contemplated in subsection (f) and a draft general plan for approval in terms of the Land Survey Act, 1997 (Act 8 of 1997).

(m) For purposes of determining the conditional approval as contemplated in section 43 of the Act, the Municipality shall notify the Registrar of Deeds in writing of the date of approval of the township establishment application as contemplated in subsection (e) read with subsection (i), (j) and (k), which notification shall be accompanied, by the final conditions of establishment for the township, if applicable.

(5) Division of a Township

(a) An applicant who has been notified in terms of subsection 16(4)(h), that his/her application has been approved may, within a period of 8 months from the date of such notice, or such further

period as the Municipality may allow, apply to the Municipality for the division of the township into two or more separate townships, as prescribed in Schedules 5 and 7 to this By-law; provided that:

(i) a division of township shall not be a division of engineering services, but only the division of a township and the divisions shall be regarded as separate townships on approval as contemplated in subsection 16(4)(e);

(ii) each township resulting from the division of a township contemplated in subsection (a) must be capable of existing as an independent township, for which engineering services shall be provided to the satisfaction of the Municipality;

(iii) for the purpose of subsection (ii) above the Municipality may require that the applicant enter into engineering service agreements and provide guarantees as contemplated in Chapter 7 of this By-law which shall apply *mutatis mutandis* to separate townships resulting from a division of township; and

(iv) the Municipality may after consultation with the applicant determine the order in which each township created through a division of township contemplated in subsection (a) shall be proclaimed in terms of subsection 16(9).

(b) On receipt of an application in terms of subsection (a) the Municipality shall consider the application and may for purposes of the consideration of the application:

(i) require the applicant to pay an application fee as may be determined by the Municipality;

(ii) require the applicant to submit such plans, information, technical reports and documentation which in the opinion of the Municipality is necessary as prescribed in Schedule 7 to this By-law, for the consideration of a division or phasing of a township;

(iii) require the applicant to indicate whether the documents contemplated in section 16(6) have been lodged with the Surveyor-General; or

(iv) require the applicant to provide proof that: he/she has consulted with the Surveyor-General where the documents contemplated in subsection 16(6) have been lodged;

(v) consult with the Surveyor-General;

(vi) require the applicant to submit a draft amendment scheme for purposes of incorporation into the Land Use Scheme in terms of subsection 16(4)(d) and 16(4)(g)(v).

(c) After the provisions of subsections (a) and (b) have been complied with the Municipality shall consider the application and it may approve, refuse or postpone the application and impose any condition it deem expedient read with sections 40, 42, 43 and 49 of the Act.

(d) Where the Municipality approves an application in terms of subsection (c) the provisions of subsections 16(4)(d) to 16(4)(m) shall apply *mutatis mutandis* to each separate township.

(e) Where an application division or phasing was approved in terms of subsection (c), the Municipality shall deliver to the applicant a notice in writing thereof and of any conditions imposed as contemplated in subsection (d).

(f) An application in terms of subsection (c) shall in respect of each separate township deem to be the approval of an application in terms of subsection 16(4)(d) and the notice contemplated in section 16(4)(e) shall be regarded as a notice in terms of subsection 16(4)(h) respectively.

(h) The provisions of subsection 16(4)(l) and (m) shall apply *mutatis mutandis* to each separate township approved in terms of subsection (c).

(6) Lodging of Layout Plan for approval with the Surveyor-General

(a) An applicant who has been notified in terms of subsection 16(4)(h) and subsection 16(5)(f), as the case may be, that his/her application has been approved shall, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for

approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application shall lapse; provided that:

(i) an applicant may apply in writing, within the prescribed time contemplated in subsection (a) for an extension of time, provided that such application shall be accompanied by such documents as prescribed in Schedule 10 to this By-law;

(ii) the Municipality may grant or refuse an application for extension of time and may impose any conditions it deems expedient for the implementation of the township; provided that any extension of time applications granted may not exceed 5 (five) years from the date of the first approval of the township as contemplated in subsection 16(4)(e) read with section 43(2) of the Act.

(b) For purposes of the approval by the Municipality of an extension of time contemplated in subsection (a) the Municipality shall provide the applicant with conditions of establishment and a layout plan on which is indicated the date of the approved conditions of establishment as contemplated in subsections 16(4)(e), (f) and (g).

(c) Prior to the lodging of the documents contemplated in subsection (a) the Municipality may require the applicant to apply for street names and numbers as per approved Council policy, which shall be indicated on the layout plan contemplated in subsection 16(4)(e) for approval.

(d) Where the applicant has lodged the plans, diagrams or other documents contemplated in subsection (a), but fails to comply with any requirements set by the Surveyor-General, within a time period determined by the Surveyor-General, which determination of time shall take into account the provisions of this By-law and shall not accumulatively exceed 5 years read with section 43(2) of the Act, the application shall lapse.

(e) The applicant shall, after the Surveyor-General has approved the plans and diagrams for the township, forthwith deliver a notice to the Municipality and shall simultaneously provide it with a copy of the approved plans and diagrams, including a copy of the General Plan for the township and the date of the approval of the General Plan shall be regarded as the date for purposes of subsection 16(8)(a).

(7) Compliance with pre-proclamation conditions

(a) The applicant shall provide proof to the satisfaction of the Municipality that all conditions contained in the conditions of establishment for a township establishment application contemplated in subsections 16(4)(e), (f) and (g) have been complied with including the payment of all monies as contemplated in subsection 16(4)(e) prior to any registration transactions taking place or the opening of a township register in terms of the Deeds Registries Act, 1937 (Act 47 of 1937).

(b) The Municipality shall certify to the Registrar of Deeds the compliance by the township owner, prior to the opening of a township register in terms of section 16(8), as contemplated in subsection 16(4)(f) and (g), of all conditions, including the provision of engineering services and/or guarantees and payment of monies contemplated in subsection 16(4)(e); provided that such certification may include all the conditions and registration transactions to be registered simultaneously with the opening of a township register; provided that if the township application lapses in terms of any provisions of this By-law the certification granted by the Municipality shall simultaneously lapse.

(c) The Municipality shall together with the requirements in subsection (b) above notify the Registrar of Deeds and Surveyor-General of the Certification by the Municipality in terms of subsection (b).

(8) Opening of Township Register

(a) The applicant shall lodge with the Registrar of Deeds the following documents for the opening of a township register for the township approved in terms of subsection 16(4)(e):

(i) the certification contemplated in subsection 16(7)(b); and

(ii) the conditions of establishment, plans and diagrams contemplated in subsections 16(4)(e), (f), (g), and (h); and

(iii) the relevant title deeds for endorsement or registration, as the case may be;

within a period of 12 months from the date of approval by the Surveyor-General of the plans contemplated in subsection 16(6), or within such further period as the Municipality may allow; provided that the provisions for an application for an extension of time in terms of subsections 16(6)(a) and (b) shall apply *mutatis mutandis* to an extension of time contemplated in subsection (a) and for the purposes of subsection 16(6)(a) a reference to subsection 16(4)(h) shall be construed as reference to the date upon which the Surveyor-General approved the general plan for a township contemplated in subsection 16(6).

(b) For purposes of subsection (a) the Registrar of Deeds shall not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of subsection 16(7)(b).

(c) Having endorsed or registered the title deeds contemplated in subsection (a), the Registrar of Deeds shall:

(i) deliver a notice to the Municipality forthwith of such endorsement or registration; and

(ii) thereafter not register any further registration transactions in respect of any land situated within the township, until such time as the township is declared an approved township in terms of subsection 16(9);

(aa) provided that the Municipality may grant, on request by the owner, its consent for the land on which the township is to be established, to be transferred to a new owner; and

(bb) subject to the provisions of section 29 of this By-law having been complied, with by the owner of the land, to the satisfaction of the Municipality, who may in its consent impose any condition it deems expedient.

(9) Proclamation of an approved township

(a) Where in terms of subsection 16(4)(d) an application for township establishment has been approved, the conditions of establishment as required in terms of subsection 16(4)(g)(v) shall contain the conditions to be incorporated into the Land Use Scheme, by means of an amendment scheme substantially in accordance with Schedule 6 or 7 to this By-law as the case may be.

(b) After the provisions of subsections 16(6), 16(7) and 16(8) have been complied with and subject to the Municipality being satisfied that the township falls within its area of jurisdiction:

(i) the Municipality or, if authorised in writing by the Municipality, the applicant, as the case may be, shall by notice in the Provincial Gazette, declare the township an approved township in the prescribed manner; and

(ii) simultaneously with the notice in subsection (i) above publish a notice in the prescribed manner in terms of subsection (i) that in terms of subsection 16(4)(d) an amendment scheme has been approved which has by such notice been adopted, a copy of which to lie open for inspection at all reasonable times.

(10) Restriction of transfer and registration

Notwithstanding the provisions contained in this By-law, any other law or any conditions imposed in the approval of any land development application read with section 53 of the Act:

(a) the owner shall, at his/her costs and to the satisfaction of the Municipality, survey and register all servitudes required by the Municipality, including those required to protect internal and external engineering services constructed and/or installed as contemplated in Chapter 7 of this By-law or any relocation, cancellation or re-registration of servitudes to the satisfaction of the Municipality; and

(b) no property(ies) or land and/or erf/erven and/or sections and/or units, sectional title schemes/registers or other registration transaction/s, in a land development area, which registration transactions results from a land development application(s), may be submitted by the applicant and/or owner, to the Registrar of Deed for registration, including transfer and the registration of a Certificate of Consolidated Title and/or Certificate of Registered in the name of the owner;

prior to the Municipality certifying to the Registrar of Deeds that:

(i) all engineering services have been designed and constructed to the satisfaction of the Municipality, including the provision of guarantees, and maintenance guarantees, for services having been provided to the satisfaction of the Municipality as may be required;

(ii) all engineering services contributions and open spaces and parks contributions and/or development charges and/or other monies have been paid;

(iii) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes;

(iv) all conditions of the approval of the land development application have been complied with or that arrangements for compliance to the satisfaction of the Municipality have been made, which arrangements shall form part of an agreement read with Chapter 7 of this By-law, to the satisfaction of the Municipality;

(v) it is in a position to consider a final building plan; and

(vi) all the properties have either been transferred in terms of subsection 16(11) hereof or shall be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

(11) First transfer

(1) Where by virtue of a condition of approval of a land development application, in terms of this By-law or any other applicable law including legislation referred to in section 2(2) of the Act, a property or land shall be transferred to the Municipality, a non-profit company and/or anybody or person as required by the Municipality, the property or land shall be transferred:

(a) prior to any registration of any property(ies) resulting from a land development application, including prior to the registration of a certificate of registered title and/or transfer of a property(ies), or portion of property(ies), the opening of a section title scheme and/or registration of a unit in a sectional title scheme, read with subsection 16(10); and

(b) at the cost of the owner; and

(c) in the event of the owner not wanting to register any property(ies) resulting from the approval of the land development area, within a period of 6 months from the date of the land use rights coming into operation or within such further period as the Municipality may allow and the provisions of subsection 16(6)(a) shall apply *mutatis mutandis*.

(12) Subdivision or consolidation

(a) An owner of:

(i) an erf in a proclaimed township who wishes to subdivide that erf;

(ii) two or more erven in a proclaimed township who wishes to consolidate those erven and where:

(aa) such erven are owned by the same owner; and

(bb) the erven are located within the same township; or

(iii) a registered farm portion or agricultural holding who wishes to subdivide that farm portion or agricultural holding; provided that such subdivision shall not constitute a township in the opinion of the Municipality;

may apply in writing to the Municipality as prescribed in Schedule 8 and Schedule 9 to this By-law as the case may be and at the same time lodge a plan setting out the proposed subdivision or consolidation, and such an application shall be accompanied by such fees as may be prescribed.

(b) The provisions of subsection 16(1)(b) up to and including (e) and (l) shall be applicable *mutatis mutandis* to an application in terms of subsection (a)(i) to (ii).

(c) The provisions of subsection 16(1)(b) to (o) shall apply *mutatis mutandis* to subdivisions contemplated in subsection (a)(iii).

(d) After the provisions of subsection (a) to (c) have been complied with the Municipality shall consider the applications as contemplated in subsection (a) and it may approve or refuse it, provided that where the Municipality fails to approve or refuse an application to consolidate two or more erven as contemplated in subsection (a)(ii) within a period of 60 days from the date contemplated in subsection (d), it shall be deemed that the Municipality has approved the application; provided that:

(i) where an application is deemed to be approved the following standard conditions shall apply:

(aa) the relocation of any engineering services including the cancellation or registration of servitudes to protect such engineering services shall be done by the applicant and at his/her cost, to the satisfaction of the Municipality;

(bb) access to the consolidated property shall be to the satisfaction of the Municipality;

(cc) the applicant shall alter the buildings as may be required to comply with the provisions of the National Building Regulations and Standards Act, 1977, (Act 103 of 1977); and

(dd) the Municipality shall certify to the Surveyor-General and Registrar of Deeds that the consolidation diagram may be approved and that the consolidation may be registered; subject to such conditions as it may deem expedient;

(ii) an application deemed to be approved in terms of subsection (d) shall only be deemed to be approved if such consolidation application complies with the provisions of subsection (12)(h) and the provisions of subsection (e) shall apply to all consolidation applications deemed to be approved in terms of subsection (d);

(e) Where a Municipality approves an application in terms of subsection (d), it shall:

(i) approve a layout plan as contemplated in Schedule 8 and Schedule 9 to this By-law as the case may be; and

(ii) impose any condition it deems expedient, read with sections 40, 42, 43 and 49 of the Act, including a condition, in the case of an application or applications in terms of subsection (a)(i) and (iii) that the owner shall pay to it an amount of money in respect of the provision of engineering services and open spaces and parks the provisions of subsection 16(1)(v)(ii)(iii).

(f) The Municipality shall by registered mail notify the applicant of the decision of the Municipality of the said land development application, which notification shall be deemed to have been received within ten (10) days of sending.

(g) The Municipality may, of its own accord after consultation with the owner or at the request of the owner and after consultation, by the owner, with the Surveyor-General:

(i) cancel, subject to any condition it may deem expedient, an approval of an application in terms of subsection (d);

(ii) amend or delete any condition, other than a condition of title imposed in terms of subsection (e) or add any condition contemplated in that subsection to the existing conditions; and

(iii) approve an amendment of the plan setting out a proposed subdivision or consolidation contemplated in subsection (d).

(h) The Municipality shall not exercise any power conferred by subsections (d), (e) or (g) if it will bring about a result which is in conflict with:

(i) any condition set out in the Conditions of Establishment of a proclaimed township;

(ii) a condition of title imposed in terms of any law; and/or

(iii) a provision of a Land Use Scheme or Amendment Scheme applicable to the erf /erven or farm portions contemplated in subsection (a)(iii).

(i) The provisions of subsections 16(10) and 16(11) shall apply *mutatis mutandis* to an application contemplated in subsection (a) approved in terms of subsections (d), (e) and (g).

(13) Lodging of Layout Plan (subdivision and consolidation) for approval with the Surveyor-General

(a) An applicant who has been notified in terms of subsection 16(12)(f) that his/her application has been approved shall, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application shall lapse; provided that the provisions of subsection 16(6)(a)(i), (ii) and (b) shall apply *mutatis mutandis.*

(b) Prior to the lodging of the documents contemplated in subsection (a), the Municipality may require the applicant to apply for street names and numbers as per approved Council policy, which shall be indicated on the layout plan for the application contemplated in subsection (12)(a).

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

(14) Plans, diagrams including general plans for townships, diagrams of subdivisions and consolidations

(a) Where any provision in terms of section 16 to this By-law or other provisions of this By-law or other National or Provincial planning and development legislation, resulting from a land development application, requires an applicant to lodge for approval any plans, diagrams or other documents with the Surveyor-General, the Surveyor-General shall not approve such plans, diagrams or other document unless:

(i) the Municipal Planning Tribunal, Authorised Official, a Municipal Appeals Tribunal or the Municipality approved an application in terms of the provisions of this By-law or any other National or Provincial planning and development legislation relating to the property; nor

(ii) the Municipal Planning Tribunal, Authorised Official, a Municipal Appeals Tribunal or the Municipality approved any plans and/or diagram on which is indicated a servitude(s) that does not form part of the approval or a condition thereof, as contemplated in subsection (i).

(b) In the event of any approval by the Surveyor-General contrary to the approval in terms of subsection (a)(i) the Municipality shall not be obliged to accept the plans, diagrams or other documents for purposes of the provisions of this By-law or any other National or Provincial planning and development legislation relating to the property.

(15) Approval of alteration, amendment or cancellation of general plan

(a) An owner of a property(ies) to which a general plan relates, who wishes to have the general plan of a proclaimed township altered, amended or wholly or partially cancelled by the Surveyor-General in terms of Section 30 (2) of the Land Survey Act, 1997 (Act 8 of 1997), may, subject to the provisions of subsections 16(4)(b) to (m) which applies *mutatis mutandis,* in such form as the Municipality may determine, apply in writing to the Municipality for its approval, and the applicant shall comply with such requirements and pay such fees as may be prescribed in Schedule 11 to this By-law.

(b) On receipt of an application in terms of subsection (a) the Municipality shall consider the application and it may approve the application either wholly or in part or refuse it, or postpone a decision thereon either wholly or in part: provided that:

(i) it shall not approve the application unless the applicant has the unencumbered ownership of all the land within the area affected by the alternation, amendment or cancellation of the general plan;

(ii) where the land contemplated in subsection (i) is subject to a mortgage bond, the bondholder has consented in writing to the alteration, amendment or cancellation of the general plan; and

(iii) the Municipality may in approving the application impose any condition it may deem expedient read with subsection (d) and (e).

(c) The provisions of this Section shall not apply to an alteration or amendment of a general plan of an approved township which is necessary to indicate the closing of any public place or street or any portion thereof in terms of Sections 67 or 68 of the Local Government Ordinance, 1939 (Ord. 17 of 1939).

(d) The Municipality shall if an application in terms of subsection (a) is approved in terms of subsection (b) in a statement indicate:

(i) how the use of the land affected by such alteration, amendment or cancellation shall be dealt with; and

(ii) every condition imposed in terms of subsection (b) to be complied with by the applicant prior to the approval of the alternation, amendment or cancellation of the general plan by the Surveyor-General and require the applicant to provide proof to the satisfaction of the Municipality that he/she has complied with such conditions or has made arrangements to the satisfaction of the Municipality with regard to the compliance thereof.

(e) The applicant shall submit a copy of the approval by the Municipality in terms of subsection (b) together with the statement contemplated in subsection (d) and such plans or diagrams as may be required to the Surveyor-General for endorsement and or approval as may be required.

(f) Upon the endorsement by the Surveyor-General of the alteration, amendment or total or partial cancellation of the general plan as a result of the approval granted by the Municipality as contemplated in subsection (b), the applicant shall provide to the Municipality and the Registrar of Deeds a certified copy of the altered, amended or totally or partially cancelled general plan.

Effect of alteration, amendment or cancellation of general plan

(g) Upon receipt of an application in terms of subsection (a) for the alteration, amendment or cancellation of a general plan, the Municipality may of its own accord or on request of the applicant, determine in its sole discretion that:

(i) a public place that has vested under the control and management of the Municipality in terms of section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939), but which in its opinion has not been developed or is no longer necessary for the provision of basic services to the community, may be closed as public place in terms of relevant legislation, simultaneously with the alteration, amendment and cancellation of the general plan; and

(ii) the applicant shall comply with all the requirements of the relevant law for the closure of a public place as contemplated in subsection (h) and subsection (a);

(h) An approval by the Municipality in terms of subsection (b) may include consent that the public place contemplated in subsection (g) be re-vested with the township owner provided that:

(i) no objections have been received to the closure of the public place contemplated in subsection (g);

(ii) in its opinion the public place has not been developed; and

(ii) in its opinion the public place is no longer necessary for the provision of basic services to the community.

(i) Upon the approval of an application in terms of subsection (a) to (e)):

(i) the township or part thereof shall cease to exist as a township; and

(ii) the ownership of any public place or street shall remain vested in the Municipality or re-vested as the case may be.

(16) Other land development applications not provided for

(a) All land development applications for which provision was made in terms of the approved Land Use Scheme shall be dealt with in terms of that Land Use Scheme.

(b) Any land development application for which provision was not specifically made in terms of the adopted Land Use Scheme or this By-law shall be dealt with in terms of this By-law and the provisions of this By-law shall apply *mutatis mutandis* in accordance with the type of application intended.

(17) Imposition of conditions relating to all land development applications

(a) Without detracting from the provisions of this By-law, nothing contained herein shall prevent the Municipality from approving a specific land development application and imposing any condition in the approval relating to:

(i) the provision of engineering services as set out in Chapter 7 of this By-law;

(ii) the payment of development charges and or contributions for the provision of engineering services;

(iii) providing and/or transferring land to any competent authority for use as public open space and parks, private open space or the payment of an endowment in lieu of the providing thereof;

(iv) providing engineering services in terms of Chapter 7 of this By-law, section 49 of the Act and/or any policy by Council duly adopted;

(v) the making of arrangements with regard to the maintenance of any engineering services, open spaces and public and private parks;

(vi) matters contained or governed in a Land Use Scheme and related issues;

(vii) the registration of servitudes and conditions of title; and/or

(viii) the provision of land for educational or other social facilities, or the payment of an endowment in lieu thereof; and/or

(ix) the transfer of land to an entity specifically established for the provision and maintenance of engineering services in terms of this By-law or other applicable legislation; and/or

(x) any other matter considered necessary by the Municipality.

(b) In imposing conditions of approval on a land development application the Municipality may distinguish between conditions that are to be complied with:

(i) prior to the rights coming into operation;

(ii) after the land use rights have come into operation, but before the rights can be exercised;

(iii) without which the rights may not be exercised; and/or

(iv) prior to the approval of building plans.

(18) Amendments of a land development application prior to approval

(a) While a land development application is pending before the Municipality the applicant may:

(i) on his/her own accord and with the consent of the Municipality; or

(ii) at the request of the Municipality,

amend his/her application in such manner as may be prescribed in Schedule 12 to this By-law; and he/she shall at the same time pay the Municipality such fees as may be levied, provided that if in the opinion of the Municipality:

(aa) an amendment to an application contemplated in subsection (a), is so substantial or material as to constitute a new application, it shall not grant its consent for an amendment;

(bb) any person's rights may be negatively affected by such amendment whether substantial and material or not; then the Municipality may require that further notice of the application be given in terms of this By-law or any other relevant law and may require that the notice and the application be re-circulated to municipal departments, organs of state and service providers.

(b) The applicant may also be required to deliver a notice of the amendments to the land development application, as contemplated in subsection (a), to any person who may have an interest in the matter, including but not limited to;

(i) any interested parties who may have objected or made comments on the application during the public participation period, as contemplated in section 16 of this By-law; and

(ii) the Ward Councillor for the area within which the application falls, whether comments have been received from him/her on the application or not;

and provide proof of delivery of the notice to the satisfaction of the Municipality.

(c) After the provisions of subsections (a) to (b) have been complied with, the Municipality shall consider the amended application and the provisions of this By-law relevant to the type of land development application contemplated in section 16 of this By-law, to be considered by the Municipality, Municipal Planning Tribunal, Municipal Appeals Tribunal and Authorised Official, shall apply *mutatis mutandis.*

(19) General provisions for amendment of land development applications post approval

(a) After an applicant has been notified, in terms of this By-law or other relevant law, as the case may be, that his/her land development application has been approved may:

(i) within 2 months from the date of such notification of approval;

(ii) before a notice has been placed in the Provincial Gazette, as required in terms of this By-law or any other legislation, to bring the land development rights into operation;

(iii) before the registration of any property created as a result of a land development application for subdivision or consolidation, in terms of this By-law or other legislation; and

(iv) before the registration of any registration transaction required as a result of the approval of a land development application in terms of this By-law or other relevant legislation;

apply for the amendment of his/her land development application in such manner as may be prescribed by the Municipality in Schedule 12 to this By-law and he/she shall at the same time pay the Municipality such fees as may be levied.

(b) Where in the opinion of the Municipality, it is necessary for the proper implementation of land use rights or a land development application, approved in terms of this By-law or other relevant legislation, the Municipality may at any time, after consultation with the applicant, amend the approval by including any conditions relating thereto, subject to the provisions of subsection (a)(ii) to (iv) which applies *mutatis mutandis.*

(c) Where an amendment as contemplated in subsection (a) or (b) includes an amendment of any plans, layout plans and or diagrams relating thereto; the Municipality may approve the amendment:

(i) where any plans, layout plans or diagrams have not yet been lodged for approval with the Surveyor-General, as may be required in terms of this By-law or other legislation; and

(ii) where any plans, layout plans or diagrams have been lodged for approval with the Surveyor-General, as may be required in terms of this By-law or other legislation, after consultation with the Surveyor-General.

(d) The provisions of subsection 16(18)(a) shall apply *mutatis mutandis* to an application in terms of subsection (a) or an amendment by the Municipality in terms of subsection (b).

(e) Where provision is made in this By-law for the amendment of a land development application, specifically after the approval thereof, the provisions relating to the specific land development shall apply and the provisions of subsection 16(19) shall not apply.

(f) An application in terms of subsection (a) shall comply with Schedule 12 to this By-law and the Municipality in considering an application for amendment post approval of a land development application shall specifically have regard to the content of the motivating memorandum as contemplated in Schedule 12 to this By-law.

(g) The Municipality shall not approve an application for amendment in terms of subsection (a) if the amendment of the land development application is so material as to constitute a new land development application.

(h) The date of approval and notification of the decision on a land development application shall remain the date of the approval and/or notification of the decision on a land development application as contemplated in section 16 of this By-law, as the case may be, and the date of the amendment contemplated in subsection (d) shall not be regarded as a new date of approval or notification of a land development application.

CHAPTER 6

17 The Municipal Planning Tribunal

(1) The Municipality shall subject to Regulation 3 of Regulations to the Act, through a Council Resolution, establish a Municipal Planning Tribunal in accordance with section 35 of the Act.

(2) All members of the Municipal Planning Tribunal shall sign a Code of Conduct and comply with Operational Procedures as may be approved by the Municipal Council in terms of Regulation 3(1)(k) and Regulation 12 of the Regulations to the Act, before participating in any decisions by the Municipal Planning Tribunal and which shall substantially comply with specifically Schedule 17 to this By-law as may be amended from time to time.

(3) All members serving on the Municipal Planning Tribunal shall adhere to the Code of Conduct and Operational Procedure as contemplated in subsection (2) and shall conduct themselves in a manner that will not bring the name of the Municipality into disrepute.

(4) The Municipal Planning Tribunal in the execution of its duties shall comply with the provisions of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

(5) The Municipal Planning Tribunal may, subject to the provisions of the Act and substantially in accordance with the Operating Procedures as determined by Council, make its own rules regulating its procedure and proceedings as a committee of Council; provided that it shall conduct its processes and procedures in compliance with the purpose of the establishment of the Municipal Planning Tribunal and ensure public participation in accordance with this By-law.

(6) Should any member of the Municipal Planning Tribunal, who is a municipal official be found guilty of misconduct under the collective agreements applicable to employees of the Municipality, he/she shall be disqualified immediately from serving as a member on the Municipal Planning Tribunal and be dealt with in terms of disciplinary procedures applicable to municipal employees.

(7) Should any non-municipal member of the Municipal Planning Tribunal be found guilty of misconduct under the agreement between the member and the Municipality of their appointment as a Municipal Planning Tribunal member, he/she shall be disqualified immediately from serving as a member on such Tribunal.

(8) Subject to the provisions of the Act and this By-law a meeting of the Municipal Planning Tribunal shall be held at such time and place as may be determined by the Municipality; provided that, the Tribunal shall meet at least once a month or as the need may arise.

(9) Nothing contained herein shall prevent the Municipality from arranging multiple Municipal Planning Tribunal Meetings, on the same day, or on different days, provided such Municipal Planning Tribunal Meetings are constituted from the members of the Municipal Planning Tribunal as established by the Municipal Council.

(10) The Municipal Planning Tribunal may for purposes of considering any matter before it, conduct an inspection or conduct an oral hearing or institute a further investigation as they deem necessary.

(11) The Municipal Planning Tribunal shall be a Tribunal of record and shall record all proceedings, but shall not be obliged to provide the in-committee discussions, as part of the record, to any member of the public or any person or body.

(12) The record of the Municipal Planning Tribunal shall be made available after the payment of any prescribed fees in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), have been paid.

(13) Land development applications and/or matters referred to the Municipal Planning Tribunal shall be accompanied by a report as contemplated in section 15(2) of this By-law or other relevant law as the case may be.

(14) The Municipal Planning Tribunal shall consider the application with due regard to the content of the reports contemplated in subsection (13), all approved policies of the Municipality, its Integrated Development Plan and the Municipal Spatial Development Framework and its components as contemplated in the Municipal Systems Act, 2000 (Act 32 of 2000), and subject to the provisions of the Act and specifically section 42 thereof and may for that purpose:

(a) carry out an inspection or institute any investigation; and/or

(b) request any person to furnish such information, as it may deem expedient; provided that nothing contained in subsection (13) shall prevent the Municipal Planning Tribunal from requesting any additional information or documentation that may be required for the consideration of the application.

(15) Upon request from any person a copy of the report and or documentation which will form part of the item serving before the Municipal Planning Tribunal for a decision on the land development application may be made available by the Municipality, after payment of the prescribed fee as may be determined by the Municipality.

18 Oral Hearing of objections

(1) Where in terms of any provisions of this By-law, a Municipal Planning Tribunal, read with Section 40 of the Act, shall hear objections lodged by an interested person, it shall determine a day, time and place for the hearing.

(2) Not less than 21 days prior to the day determined in terms of subsection (1), the Municipality shall deliver a notice of the day, time and place so determined, to every objector, the applicant and every other person who, in the opinion of the Municipality, has any interest in the matter.

(3) At a hearing contemplated in subsection (1):

(a) The Municipal Planning Tribunal shall hear and consider any preliminary issues and *points in limine* which may be raised by any party to the hearing first.

(b) After having heard such preliminary issues and *points in limine* the Municipal Planning Tribunal shall take such decisions and give such directives thereon, as it deems appropriate.

(c) In the event of a *point in limine* being upheld or partially upheld, including any conditions or directives that may be issued by the Municipal Planning Tribunal, which results in the hearing not being able to continue, the hearing will terminate.

(d) If the Municipal Planning Tribunal is satisfied that all *points in limine* procedural matters have been complied with, it shall hear the objections as contemplated in subsection (1).

(e) The Municipal Planning Tribunal, having dealt with all preliminary issues and *points in limine* which may have been raised in terms of subsection (a) to (c), may determine that no further *points in limine* may be raised during the proceedings, and has then concluded the procedural issues relating to the hearing, as a first order of business.

(f) Every objector, interested person or body who have been notified of the hearing or persons as determined in terms of subsection (2) as an interested person, may set out the grounds of his/her objection and in accordance with section 45(3) of the Act shall have the burden of establishing his/her status as an interested person.

(g) Every objector, interested person or body contemplated in subsection (f) and the applicant, including the Municipality or any of its Departments, may state his/her or its case and adduce evidence in support thereof or authorize any other person to do so on his/her behalf.

(h) Every objector, interested person or body contemplated in subsection (f) may reply to any matter raised by any other objector, interested person or body in terms of subsection (g).

(i) any person referred to in subsection (a) to (h) who acts on behalf of an owner or anybody or person shall present a power of attorney, instructions and/or minutes or any other documentation which in the opinion of the Municipal Planning Tribunal is necessary to ensure that such representation is authorized, read with section 46 of this By-law.

(j) Notwithstanding the provisions of subsection (a) to (i) the Municipal Planning Tribunal may determine the order in which any party to the hearing shall address the Municipal Planning Tribunal.

(k) The Municipal Planning Tribunal members may ask questions for clarity and the Presiding Officer may allow any person as contemplated in subsection (a) to (i) to ask questions for clarity and no cross examination shall be allowed.

(l) Should experts be called by any party for purposes of the hearing, within any particular field to adduce evidence or provide any documents, the other parties, including the Municipal Planning Tribunal, shall at least 7 days prior to the date of the hearing, be provided with a list of experts to be called and copies of the documents to be submitted, with an indication of the expertise to be used.

(m) The Municipal Planning Tribunal shall conduct the hearing substantially in accordance with the Code of Conduct and Operational Procedures as approved by Municipal Council and as substantially as prescribed in Schedule 17 to this By-law; provided that for purposes of conducting a hearing in terms of this subsection the Chairperson contemplated in section 36(4) of the Act or the Presiding Officer as contemplated in section 40(3), may issue directives to the Municipal Planning Tribunal members in that regard.

(n) The Municipal Planning Tribunal may take any decision on a land development application and impose any condition it deems expedient as contemplated in section 40(7) of the Act read with the provisions relating to specific land development applications in terms of Chapter 5 of this By-law and shall not be bound by agreements that were reached between any applicants, objectors or interested parties, including conditions imposed for purposes of the withdrawal of objections or negative comments by interested and affected parties.

(4) A hearing contemplated in subsection (1) shall be open to the public provided that no member of the public shall be regarded as a party to the hearing, or have any right of making oral submissions or comments; except as provided for in terms of section 45(2) of the Act, after having complied with the provisions of the said section.

(5) Where the objectors or interested persons are to be notified as contemplated in subsection (2) and such objections were submitted:

(a) under cover of one letter or document by more than one person: and/or

(b) by more than one person through a petition, signed by multiple signatories; and/or

(c) multiple letters that are substantially the same;

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

(6) The Municipal Planning Tribunal must consider all objections and comments by interested persons and after hearing the objectors, comments, the applicant or any other parties to the hearing, approve, or approve with amendments, or refuse, or postpone, or refer the land development application before it back for further investigation and a report; provided that:

(a) in the approval and imposition of conditions for a land development application it sets out the conditions of approval as may be required in terms of the provisions of this By-law for specific land development applications read with section 16(17) of this By-law; and

(b) it may for purposes of compliance with the conditional approval set timeframes within which the applicant and or owner shall comply with the conditions of approval; provided further that it may not set any timeframes or alternative procedures for extensions of time, for compliance with conditions of approval, which are in conflict with timeframes and procedures for extensions of time as determined in terms of this By-law or section 43(2) of the Act; and

(c) the Municipal Planning Tribunal shall in terms of section 40(6) of the Act, provide reasons for its decisions.

(7) The Municipal Planning Tribunal may conduct an investigation into any matter related to the land development application before it, including a site inspection and a request for further information read with section 17(14)(b) of this By-law.

(8) The Municipality shall, after the minutes of the Municipal Planning Tribunal have been approved, without delay and in writing, deliver a notice to the applicant, and/or an objector or any person who in the opinion of the Municipality has an interest in the decision, of its decision taken by virtue of the provisions of subsection (6) subject to any provisions contained in this By-law related to specific type of land development applications and the provisions of subsection (6) shall apply *mutatis mutandis.*

19 Appeal Authority

(1) The Executive Authority of the Municipality in terms of section 51(2) of the Act is the Appeal Authority of a Municipality;

provided that

(a) the Municipality may in terms of section 51(6) of the Act, in the place of its Executive Authority authorize a body, or institution outside of the Municipality, by Municipal Council Resolution, to assume the obligations of an Appeal Authority in terms of the Act; and

(b) a body or institution established by the Municipality as an Appeal Authority in the place of the Executive Authority, for purposes of this By-law shall be known as the Municipal Appeals Tribunal.

(2) The provisions of sections 17(2) to (5), (11) and (12) of this By-law shall apply to the Municipal Appeals Tribunal *mutatis mutandis* and any reference to the Municipal Planning Tribunal and/or members of the Municipal Planning Tribunal, contained therein, shall be construed as a reference to the Municipal Appeals Tribunal and/or members of the Municipal Appeals Tribunal for purposes of an appeal lodged in terms of section 20 of this By-law, unless otherwise specified under this section;

(3) Should any Councillor as a member of the Municipal Appeals Tribunal, be found guilty of misconduct under any relevant legislation, he/she shall be disqualified immediately from serving as a member on the Municipal Appeals Tribunal.

(4) Subject to the provisions of the Act and this By-law a meeting of the Municipal Appeals Tribunal shall be held at such time and place as may be determined by the Municipality for purposes of considering an appeal lodged in terms of this By-law, the Act or any other relevant legislation, where the Municipal Appeals Tribunal is duly authorized to consider such an appeal.

20 Appeals

(1) A person whose rights are affected by a decision of a Municipal Planning Tribunal or Authorised Official, may appeal against that decision by:

(a) delivering a notice of the appeal and reasons for the appeal to the Municipal Manager;

(b) within 21 days of the date of delivery of written notification of the decision on the land development application as contemplated in the provisions of this By-law or any other relevant legislation; but

(c) prior to the publication of a notice which may bring the land development application into operation, as the case may be; and

(d) after the payment of the prescribed fee as may be determined by the Municipality;

as contemplated section 51 of the Act;

(2) The Municipal Manager must within a prescribed period submit the appeal to the Appeal Authority established in terms of the Act or any other law as may be determined by the Municipality read with section 19 of this By-law.

(3) The Municipal Appeals Tribunal must consider the appeal and confirm, vary or revoke the decision.

(4) A person whose rights are affected as contemplated in subsection (1) read with section 51(4) of the Act, includes:

(a) an applicant contemplated in section 45(1) of the Act or applicant in terms of this By-law who has lodged a land development application in terms of this By-law;

(b) the Municipality where the land affected by the applicant is located;

(c) an interested person who may reasonably be expected to be affected by the outcome of the land development application proceedings; and

(d) an objector in terms of provincial legislation as contemplated in section 2(2) of the Act;

provided that such an appeal by a person contemplated in this section shall only relate to land development applications as contemplated in the Act and this By-law.

(5) An interested person for purposes of section 51(4)(c) of the Act and subsection (4)(c), must be a person having a pecuniary or proprietary interest who is adversely affected or able to demonstrate that he/she will be adversely affected by the decision on a land development application of the Municipal Planning Tribunal or Authorized Official as contemplated in subsection (1) or an appeal in respect of such decision.

(6) Where the Municipality established an Appeal Authority in terms of provincial legislation as contemplated in section 51(6) of the Act, an appeal to the Appeal Authority as contemplated in subsection (1), shall simultaneously be lodged with the notice of appeal with the Municipality.

(7) A person who has lodged an appeal in terms of subsection (1), shall at the same time deliver to all parties to the land development application on record, a copy of the notice of appeal contemplated in subsection (1), including the Department responsible for Development Planning.

(8) A notice of appeal lodged in terms of subsection (1) shall be at least accompanied by the following documentation:

(a) a copy of—

(i) all information on the land development application to which the appeal relates;

(ii) every objection lodged and all comments made in respect of the land development application contemplated in section 16(1)(f) to (n) of this By-law;

(iii) every reply to an objection or comments contemplated in section 16(1)(o) of this By-law;

(b) The Department responsible for Development Planning shall upon receipt of the delivery of a notice of appeal contemplated in subsection (7) within 28 days provide the record of the proceedings of the Municipal Planning Tribunal or documentation considered by the Authorised Official;

provided that;

it shall not be required that an electronic record be kept or transcribed for purposes of the record, as contemplated in this subsection; and

(c) the reasons for its decision with specific reference to the reasons provided by the appellant as contemplated in subsection (1)(a) read with section 40(6) of the Act.

(9) The Municipal Appeals Tribunal may deal with the appeal in terms of a written hearing procedure and for that purpose:

(a) the Department responsible for Development Planning shall prepare a report, in answer, to the reasons for the appeal, as contemplated in subsection (1)(a) which report shall:

(i) be drafted within 28 days of receipt of the delivery of a notice of appeal in terms of subsection (7); and

(ii) be based on the record of decision;

(b) all parties notified in terms of subsection (7) of the appeal lodged in terms of subsection (1) may within a period of 28 days from the date of such delivery of notification, reply in writing to the reasons and content of the appeal documentation contemplated in subsection (8); and

(c) the reply contemplated in subsection (b) shall be accompanied by such documentation upon which the party intends relying and shall at the same time be delivered to the appellant contemplated in subsection (1);

(d) an appeal received in term of subsection (1) read with Regulation 22 of the Regulations to the Act, shall be an appeal against the decision of the Municipal Planning Tribunal or Authorised Official and shall not be regarded as a *de novo* consideration of the application or consideration of new evidence;

(e) the Municipal Appeals Tribunal may conduct an oral hearing, provide that:

(i) the provisions of section 18 of this By-law and Schedule 17 to this By-law shall apply *mutatis mutandis* to the Municipal Appeals Tribunal or the members to the Municipal Appeals Tribunal as the case may be; and

(ii) reference to an applicant in section 18 of this By-law shall be regarded as reference to the person who lodged an appeal in terms of this section and shall thereafter be regarded as the appellant and all other parties to the appeal who will be heard at the hearing shall be regarded as the respondents; and

(iii) the arrangement shall only apply in so far as the provisions under this section do not prescribe specific procedures, provisions or prohibitions.

(10) The report contemplated in subsection (9) shall be referred to the appellant contemplated in subsection (1) in order for the appellant to reply to any matter contained in the report, within 14 days from the date upon which the report was served on the appellant;

(11) The Municipal Appeals Tribunal shall consider the appeal with due regard to:

(a) the content of the reports contemplated in subsection (9) and (10);

(b) the record of proceedings contemplated in subsection (8);

(c) all approved policies of the Municipality, its Integrated Development Plan and the Municipal Spatial Development Framework and its components as contemplated in the Municipal Systems Act, 2000 (Act 32 of 2000); and

(d) subject to the provisions of the Act and specifically sections 40 and 42 thereof which shall apply *mutatis mutandis* to the consideration of an appeal and may for that purpose:

(i) carry out an inspection or institute any investigation; but

(ii) may not consider any new evidence on the land development application that may negatively affect the respective rights and obligations of interested and affected parties.

(12) The Municipal Appeals Tribunal in taking a decision in terms of subsection (3) read with section 51(3) of the Act may impose any condition they deem expedient;

(13) The Municipality upon receipt of the decision from the Municipal Appeals Tribunal shall deliver a notice to all parties to the appeal, of the decision as contemplated in subsection (12).

(14) In the event of an appeal based on procedural defects:

(a) an appellant contemplated in subsection (1) may lodge a review/appeal to the Municipal Appeals Tribunal if the Municipal Planning Tribunal or Authorised Official acts in conflict with the Promotion of Administrative Justice Act, 2000 (Act 2 van 2000), in taking a decision in terms of this By-law; and

(b) the Municipal Appeals Tribunal may grant the review, in which instance the Municipal Appeals Tribunal shall refer the matter back to the Municipal Planning Tribunal and Authorized Official to correct the said defect and reconsider the matter.

(15) Nothing contained in this By-law shall prevent the Municipal Council from determining that the Municipal Appeals Tribunal, established in terms of this By-law, shall be the Appeal Authority for purposes of dealing with appeals lodged in terms of any other law; provided that:

(a) the processes and procedures contained in such laws, regarding the submission, administration and decision making with regard to appeals shall be followed; and

(b) where the Municipal Planning Tribunal or Authorised Official took a decision on any land development application whether in terms of this By-law or any other law as contemplated in section 15(1)(i) of this By-law read with section 2(2) of the Act, the processes and procedures contemplated in section 20 of this By-law shall apply *mutatis mutandis.*

CHAPTER 7

PROVISION OF ENGINEERING SERVICES

21 Provision of engineering services

(1) Every land development application in terms of this By-law or any other law shall be accompanied by such information as may be required by the Municipality for purposes of:

(a) the consideration of the capacity, state and impact of engineering services, social infrastructure and open space requirements in terms of section 42(1)(c) of the Act; and

(b) for purposes of imposing conditions with regard to the provision of engineering services and the payment of any development charges as contemplated, in section 40(7)(b) of the Act.

(2) The Municipality shall provide information regarding the capacity of municipal infrastructure services, as may be determined by the Municipal Manager, to place the applicant in a position to provide the information on the capacity, state and impact of engineering services as required in terms of subsection (1).

(3) Every land development area and land development application in terms of this By-law or any other law shall be provided with such engineering services, social infrastructure and open spaces as the Municipality may deem necessary for the proper development of the land development area and/or land development application; provided that the Municipality may, for that purpose, enter into an engineering services agreement with the owner of the land development area, in terms of this Chapter or any provision of this By-law, other law and as may be required in accordance with section 49 of the Act ;

(4) A land development application in terms of this By-law or any other relevant law shall not be approved by the Municipal Planning Tribunal or Authorised Official, unless and until the Municipality is satisfied that engineering services, social infrastructure and open spaces can be provided and installed for the proper development of the land development area or that arrangements have been made for the provision and installation of engineering services, social infrastructure and open spaces, to the satisfaction of the Municipality.

Engineering Services Agreements

(5) **Classification of engineering services**

Every engineering service to be provided for a land development area may;

(a) be classified by agreement as contemplated in subsection (3) between the owner of the land development area and the Municipality; or

(b) as may be directed by the Municipality;

as an internal or external engineering service or private engineering service as the case may be, in accordance with such guidelines as the Municipality may determine read with section 49 of the Act.

(6) The responsibility for engineering services vests in:

(a) the owner of the land development area who shall be responsible for the provision and installation of all internal engineering services:

(i) whether such services shall be taken over by the Municipality or not; or

(ii) whether it shall be regarded as private engineering services or not; and

(b) the Municipality for the provision and installation of external engineering services;

unless otherwise provided for in an engineering services agreement as contemplated in subsection (3) and (5); and

(7) Engineering services contemplated in subsections (3) to (6):

(a) shall be provided and installed to the satisfaction of the Municipality, and for that purpose the applicant shall lodge with the Municipality such reports, diagrams and specifications as the Municipality may require;

(b) shall have regard to such standards as the Minister as contemplated in the Act may determine for engineering services;

(c) may not be proceeded with where a land development application has lapsed in terms of the Act, provincial legislation or conditions or this By-law and the engineering services agreements contemplated in subsection (3), shall lapse and the owner of the land development area, having installed any engineering services based on the above agreement shall have no claim against the Municipal Council with regard to the installation or construction of any engineering services;

(d) shall comply with the Land Use Scheme of the Municipality with regard to the provision of engineering services, social infrastructure and open spaces;

(e) shall, where the Municipality is not the provider of an engineering service, be provided by a service provider and the owner must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of such services;

(f) shall be installed by the owner in accordance with the conditions of approval, establishment and/or the requirements of the Municipality at the time of approval of a land development application in terms of this By-law, other relevant law or as may be amended from time to time;

(g) shall in the event of an engineering service within the boundaries of the land development area, being intended to also serve any other area, within the jurisdiction of the Municipality, be treated for purposes of costs, as an internal engineering service to the extent that it serves the land development area or as an external engineering service to the extent that it serves any other development where applicable;

(h) shall where an engineering services agreement has been entered into in terms of subsection (3) comply with the definition of an engineering services agreement in terms of section 1 of this By-law; and

(i) shall, where an engineering services agreement in terms of subsection (3) has been entered into, include terms and conditions with regard to the provision of performance and/or defect liability or maintenance guarantees, if and when required by the Municipality.

(8) Nothing contained in this Chapter shall oblige the Municipality to take guarantees for the installation of engineering services;

provided that;

where any installation of engineering services are required the Municipality shall ensure that maintenance guarantees are submitted by the owner for proper performance of any provision and installation of engineering services, which guarantees shall be to the satisfaction of the Municipality.

(9) Where any guarantees are accepted by the Municipality in terms of the provision of this Chapter, it shall be included in an engineering services agreement contemplated in subsection (3) which will include:

(i) clearly stated obligations of the parties with regard to such guarantees and that any such guarantee or undertaking must:

(aa) be irrevocable during its period of validity and may be open ended as may be determined by the Municipality; and

(bb) be transferable by the person or body to whom such guarantee or undertaking is expressed to be payable.

(ii) a provision that the guarantee, including a maintenance or defects liability guarantee, comply with the format that the Municipality may determine and nothing contained in this By-law shall oblige the Municipality from accepting any performance/maintenance or defects liability guarantee in lieu of any engineering services or for maintenance, which does not comply with the format as determined by the Municipality read with subsection (8);

(iii) that the Municipality may at any time withdraw from the guarantee and require the owner to install the necessary engineering services; and

(iv) the applicant may request that a guarantee for purposes of maintenance of any engineering services installed by the applicant or owner be released, provided that:

(aa) he/she may only do so after 12 months from the date upon which the Municipality certified that the services have been constructed to its satisfaction or as per the agreement contemplated in subsection (3); and

(bb) nothing contained in this section shall oblige the Municipality to release the guarantee, unless and until it is satisfied that the applicant and or owner or any other body or person has disposed of its obligations for the installation of engineering services contemplated in this Chapter.

(10) Provision may be made to the satisfaction and as may be agreed upon by the Municipality with regard to whether and the manner, in which the parties may finance their relative responsibilities in terms of the engineering services agreement.

Public Places

(11) After notice has been given by the Municipality:

(a) following the approval of a land development application; and

(b) which notice has the purpose of bringing the land use rights into operation on the land development application; or

(c) the filing of a general plan or diagram with the registration of any property with the Registrar of Deeds in the case of a township, subdivision or other land development application; or

(d) any land development application that has come into operation in terms of the provisions of this By-law;

public places as contemplated in section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939), created as a result of a land development application, shall vest from the date of such notice or coming into operation in the Municipality, or filing contemplated in subsection (c) and an owner shall not be entitled to compensation therefor read with section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939).

22 Development Charge in respect of engineering services and open spaces or parks.

(1) Where a land development application was approved by the Municipal Planning Tribunal, Authorised Official or the Municipality, in terms of this By-law or any other relevant legislation, the owner of land to which the land development application relates, shall subject to subsection (8), pay a development charge and an amount of money for the provision of open spaces or parks to the Municipality.

(2) The Municipal Planning Tribunal, Municipal Appeals Tribunal, Authorised Official and/or Municipality in determining payment in terms of subsection (1) shall require and determine the amounts as follows:

(a) for engineering services where it will be necessary to enhance or improve such services as a result of the approval of the land development application; and

(b) in calculating development charges for engineering services do so accordance with approved policies of the Municipality and the provisions of this By-law; and

(c) the amount of money for the provision of open spaces or parks where the land development application will bring about a higher residential density, which opens spaces shall be provided in terms of Schedule 16 of this By-law; or

(d) as may be agreed upon between the owner of the land development area for purposes of subsection (a) and (b); provided that:

(i) where the owner of a land development area and the Municipality entered into an agreement in terms of this subsection, such agreement shall form part of the engineering services agreement contemplated in section 21(3) of this By-law; or

(ii) where no agreement was entered into in terms of section 21(4) of this By-law, may be dealt with as a separate agreement relating only to development charges and/or payment of monies for the provision of open spaces and parks.

Prohibition of refund of Development Charges and Monies for Opens Spaces and Parks

(3) No development charge or monies for the provision of open space and parks paid or payable in terms of subsection (1) or any portion thereof shall be refunded to an owner; provided that the Municipality may on such terms and conditions as it may determine:

(a) refund the owner where the owner has made payment of the said development charges or monies for open spaces and parks, prior to the land use rights coming into operation as contemplated in this By-law and the application was cancelled in terms of section 23(3) of this By-law; and

(b) refund the owner where the owner has made payment of such development charges or monies for open spaces and parks on the land development application subject to subsection (8); and

provided that:

specifically but not limited to, no refund shall be payable by the Municipality, to an owner of a land development area, who has paid development charges or monies for the provision of open spaces and parks, resulting from an approved land development application where:

(i) the land development application has lapsed for whatever reason in terms of this By-law, Land Use Scheme or other relevant legislation; and/or

(ii) where a further land development application, request or other application, was made by the applicant on the same land development area to which a land development application relates, is refused by the Municipality.

Standards for private roads and private engineering services to be incorporated into a land development application

(4) The Municipality shall where it allows any:

(a) private roads, private open spaces or any other private facilities; and/or

(b) engineering services to be installed or to be constructed for that purpose;

of which subsection (a) and (b) shall be approved with the approval of any land development application, set norms and standards for the construction, provision and time for completion thereof or any matter related thereto, to ensure sufficient access and provision of engineering services; including but not limited to:

(i) roadways for purposes of sectional title schemes to be created; and
(ii) the purpose, sequence and time limit in which private roads, private engineering services and private facilities are to be provided.

Offsetting of cost of Engineering Services against and the payment of development charges

(5) If the owner is responsible for the provision of external engineering services as may be agreed upon in terms of section 21(3) of this By-law, the Municipality may agree to the offsetting of development charges against the cost of the provision of external engineering services.

(6) In terms of subsection (5) the amount for purposes of offsetting development charges, shall be determined by the Municipality and for that purpose the Municipality may require documentary proof, to its satisfaction, to be submitted by the owner, which documentary proof shall provide detail on the cost of the construction of the external engineering services.

(7) Nothing contained in this section shall oblige the Municipality to offset any costs incurred in the provision of external engineering services, by the owner, other than that which may have been agreed upon in the engineering services agreement as contemplated in section 21(3) of this By-law, but limited to the maximum offset of an amount which shall not exceed the development charges.

(8) Should the amount exceed the amount of development charges for engineering services as determined by the Municipality, then the Municipality may in its sole discretion refund the owner of the land development area; provided that the necessary funds are available on the Municipality's approved budget.

(9) Offsetting of development charges for the provision of engineering services, payable by the owner of a land development area, shall be offset per the type of Municipal Infrastructure Service and shall be dealt with per service as contemplated in section 1 of this By-law.

Payment of Development Charges

(10) An owner who is required to pay development charges for the provision of engineering services or an amount of money for open spaces or parks, in terms of this By-law, and specifically Chapter 7 of this By-law, provincial legislation or the Act, shall pay such development charges, or the amount of money to the Municipality before:

(a) a written statement contemplated in section 118 of the Municipal System Act, 2000 (Act 32 of 2000) is furnished in respect of the land; regardless whether:

(i) the written statement is requested for the land development area on which the application was brought or on any portion, erf or other component thereof; and/or

(ii) for purposes of recovery of any monies owing to the Municipality as a result of a land development application or land development, such monies shall be recovered on the full land development area and not on the proposed erven within the township or development area;

(b) a certificate in terms of section 16(10) of this By-law has been issued read with section 53 of the Act;

(c) a building plan is approved in respect of:

(i) the proposed alteration of or addition to an existing building on the land; or

(ii) the erection of a new building on the land where the building plan is for the erection of a building in terms of land use rights which gave rise to the monies in terms of this section;

(d) the land is used in a manner or for a purpose which, were it not for the approval of the land use rights in terms of a land development application, in terms of this By-law or other relevant legislation, would have been in conflict with the Land Use Scheme in operation;

(e) property(ies) are registered or any registration transaction is registered required as a result approval of a land development application which creates the property(ies) or requires the registration transaction, in terms of this By-law or other relevant law read with section 16(10) of this By-law;

(11) Where a development application has been approved, which gave rise to development charges for the provision of engineering services or an amount of money for open spaces or parks contemplated in section 22 and a prospective transferee of the land in respect of which the development charge and/or money is payable, furnishes guarantees and written undertaking, to the satisfaction of the Municipality, to pay the development charge and/or monies, should he/she exercise any new right conferred in respect of the land development application:

(a) the statement contemplated in subsection (10)(a) shall, where such land is acquired by the transferee as a beneficiary in a deceased estate;

(b) the statement contemplated in subsection (10)(a) may, in any other case, be furnished before the development charge and/or monies are paid.

(12) The Municipality may:

(a) in the circumstances contemplated in subsection (11)(a) or (b), allow payment of the development charges for the provision of engineering services or an amount of money for open spaces or parks in instalments over a period not exceeding 3 months;

(b) in any case, allow payment of the development charges for the provision of engineering services or an amount of money for open spaces or parks, becoming payable in terms of this By-law, to be postponed for a period not exceeding 3 months from the date upon which the owner is directed to pay the development charges and/or monies, where security for the payment is given to the Municipality's satisfaction;

(c) in exercising the power conferred by subsections (a) or (b), impose any condition, including a condition for the payment of interest or where applicable the recalculation of development charges for the provision of engineering services or an amount of money for open spaces or parks in accordance with Council policies.

(13) Where any engineering services traverses any property(ies) which is the subject of a land development application or created as a result of a land development application in terms of this By-law or other law the owner shall:

(a) allow access to the property(ies) at any reasonable time for the purpose of constructing, altering, removing or inspecting any engineering services or works referred to in terms of Chapter 7 of this By-law; and

(b) receive material or permit excavation on the property(ies) as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he/she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.

(14) Where the owner of a land development area is the Municipality, engineering services shall be provided by the Municipality and no development charges or monies for open spaces shall be payable; provided that nothing contained herein shall prevent the Municipality from applying the provisions of this Chapter, *mutatis mutandis*, to a land development area and/or on anybody or person; where the Municipality has granted any right to develop, alienate, lease or in any other

manner dispose of the land development area to such body or person to, develop the land development area.

CHAPTER 8

23 Post approval errors and omissions

Correction of errors or omissions

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

(a) referring to the original approval and quoting in the amended approval the error and/or omission that occurred and the manner in which it is corrected; or

(b) by notice in the Provincial Gazette, correct such error or omission as the case may be, where this By-law, the Land Use Scheme or other law requires a notice to be placed in the Provincial Gazette;

provided that:

an amendment or notice as contemplated in subsection (a) and (b) shall not amend the date of the approval or coming into operation of the land development application for purposes of section 43(2) of the Act or this By-law.

Administrative amendment of conditions of application and administrative processes

(2) Where an amendment on a land development application constitutes a minor administrative amendment for the proper implementation of the land development application, which administrative amendment in the opinion of the Municipality does not constitute a material amendment, the Municipality may make such an amendment after consultation with the applicant, and subsection (1) shall apply *mutatis mutandis*.

Cancellation of a land development application

(3) (a) An applicant:

(i) who does not wish to proceed with the implementation or the development of land based on an approved land development application; and/or

(ii) who wishes to avoid the payment of development charges and monies for the provision of open spaces or parks, as may be levied by the Municipality in terms of Chapter 7 of this By-law;

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

(aa) but prior to it coming into operation of any land use rights granted in terms of a land development application, in terms of this By-law or other relevant legislation; or

(bb) prior to the registration of any transaction arising out of the approval of a land development application;

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

(aaa) submitting a written request for cancellation to the Municipality and to any interested person who submitted an objection or made a representation on the application; and

(bbb) providing proof to the satisfaction of the Municipality, that all persons as indicated in section 16(1)(f) to (n) of this By-law has been notified.

(b) the Municipality may allow the cancellation of the application read with Schedule 20 to this By-law; and

(i) the Municipality may impose any condition relating to the cancellation it deems expedient; provided that

(ii) where the Municipality allows the cancellation it shall:

(aa) record the cancellation in the records of the Municipality;

(bb) deliver a notice to the applicant that the application is cancelled:

(cc) regard the land development application as cancelled from the date of the recording thereof in the records of the Municipality as contemplated in subsection (aa);

(4) Subsection (3) shall not apply to any land development application where in terms of this By-law it makes provision for the cancellation of an application as part of the specific provisions of the application or be applicable where an application may lapse as a result of the failure of the applicant to comply with the conditions of that application, the provisions of this By-law or the Act.

CHAPTER 9

GENERAL PROVISIONS

24 Provision of information

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

(a) the copy of the document or information must be provided within a reasonable time of the date of such copy of the document or information being requested in writing;

(b) the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy;

(c) any document containing confidential proprietary information may only be disclosed with the consent of the owner thereof;

(d) where such documents or information can reasonably be accessed at the Municipality's public information counters as public information the Municipality shall not be obliged to provide such information other than making the information available at such public information counters and subject to subsection (b) and (c) copies may be requested at those counters;

(e) the Municipality shall not provide information where the provision thereof constitutes research on behalf of the applicant or interpretation of information; and

(f) information provided in terms of this subsection may be provided electronically by the Municipality where practically possible.

25 Delegations

(1) Any power conferred in this By-law, Act, Land Use Scheme or any other law on the Municipality may be delegated by the Municipality in terms of section 59 of the Municipal Systems Act, 2000 (Act 32 of 2000) and section 56 of the Act, to any official within its employ, which may include the power to sub-delegate as may be determined by the Municipal Council; except in so far as it is a requirement of the Act that applications be dealt with in terms of the categories contemplated in sections 15(1) and 15(3) of this By-law.

(2) Where in terms of subsection (1) an official is delegated to consider category 2 land development applications as contemplated in section 15(4) of this By-law section 16 shall apply *mutatis mutandis* to his/her consideration of a land development application.

(3) Where this By-law requires any discretionary power or opinion to be expressed by the Municipality, such discretion and opinion shall be exercised or expressed, by the official authorized in terms of the delegations contemplated in subsection (1) or, in the absence of a specific delegation by the Head of the Department responsible for Development Planning.

26 Application fees

(1) Where in terms of this By-law the applicant is required to pay an application fee, such fee shall be determined by the Municipality and shall be payable by the applicant prior to or simultaneously with the submission of an application.

(2) Nothing contained in this By-law shall prevent the Municipality from determining application fees for any information, requests, consents or permissions either in terms of this By-law, Land Use Scheme or other law dealing with land development.

(3) Application fees paid to the Municipality are non-refundable and proof of payment must accompany the application.

(4) Fees applicable to application processes and/or requests and certification shall be dealt with as part of the charges and tariffs published by the Municipality in terms of the Municipal System Act, 2000 (Act 32 of 2000).

(5) Where any charges and tariffs have been published in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), prior to the coming into operation of this By-law, with reference to any law dealing with land development applications, processes and/or requests including certifications, such charges and tariffs shall be applicable to application fees in accordance with the type of land development application, processes and/or requests and certifications as defined or provided for in terms of this By-law.

(6) The Municipality may, in its discretion, exempt any person from the payment of the fees prescribed in terms of subsection (1), provided that the Municipality shall with the determination of fees indicated in subsection (1); also determine criteria for exemptions as set out in Schedule 18 to this By-law.

(7) Land development applications which, prior to the enactment of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), were dealt with by spheres of government other than a Municipality, shall be subject to the payment of fees for such in terms of the categories of land development applications provided for in subsection (4) to (6) as may be determined by the Municipality;

provided that:

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

27 Notices and other prescriptions

(1) Nothing contained in this By-law shall prevent the Municipality from requiring that, read with subsection (3), further public participation, notification and/or circulation be undertaken by the applicant or the Municipality on a land development application;

provided that:

(a) the circumstances and/or interested parties and or interests within the area where the land development application is located have changed, to such an extent, that it may impact on:

(i) the decision of the Municipal Planning Tribunal, Authorised Official; or

(ii) interested and affected parties' rights;

(b) such further public participation, notification and/or circulation required shall only be after consultation with the applicant.

Cost of notices

(2) The applicant is liable for the costs of giving notice of any land development application in terms of this By-law, or notices requested by the Municipality in terms of this By-law.

(3) Where in terms of subsection (1) the applicant refuses to undertake any public participation, notification or circulation, the Municipality may do so and the applicant shall be responsible for the cost of such public participation, notification or circulation; provided that the application shall not be processed any further until and unless payment has been made and for purposes of Regulation 16(3) of the Regulations to the Act, shall be regarded as an incomplete application.

Interested parties in multiple public participation processes

(4) Where as a result of any provision of this By-law, or to ensure public participation, notification or circulation of a land development application, an interested person has objected or delivered comments based on the public participation, notification or circulation, such person shall remain an objector for purposes of the consideration of the land development application and the comments will be considered regardless whether the land development application is subject to a further public participation, notification and circulation process or not.

28 Determination of matters related to all erven

(1) Notwithstanding any provision contained in this By-law or any other law, the determination of or amendment of the sizes of erven through registration of servitudes amongst owners or parties without the consent of the Municipality, shall not be permitted, including but not limited to recreational or garden servitudes.

(2) The Municipality shall not be obliged to consider and take decisions on any land development application on a property or portion of a property on which a sectional plan or section title scheme has been approved or opened in terms of other relevant legislation; provided that in considering a land development application on which a sectional title scheme has been opened the Municipality may require that:

(a) the property or portion of property on which the sectional title scheme has been approved be reincorporated into the erf register at the office of the Registrar of Deeds before the consideration and decision on the land development application;

(b) the sectional plan or scheme be amended and or cancelled to the satisfaction of the Municipality before consideration of the land development application; and

(c) the applicant provides a copy of the incorporation of the property into the erf register by the Registrar of Deeds to the Municipality for purposes of subsection (a) and proof of the amendment and or cancellation of the sectional title plan or scheme as may be required for purposes of subsection (b);

(3) Nothing contained herein shall oblige the Municipality from considering an application for further subdivision or consolidation or the amendment of conditions of subdivision and/or consolidation:

(a) on an unregistered portion or consolidated portion which was created through a previous subdivision or consolidation;

(b) on a registered portion which forms part of a previous subdivision and/or consolidation of which not all portions have been registered; and

the Municipality may require that where some of the portions are registered, that the condition may not be amended and that a new application for subdivision be submitted.

(4) Where in terms of this By-law or any other law the approval of the land development application requires the approval of diagrams or general plans by the Surveyor-General, the diagrams and/or general plans shall:

(a) be submitted in accordance with the approval of the Municipality by the applicant; and

(b) the Municipality may refuse to grant consent for the registration of any property, portion of a property or erf created through the land development area, in terms of this By-law or other legislation, if:

(i) the diagram or general plan does not comply or departs from the approval of the land development application and conditions imposed in terms thereof; and

(ii) the diagram or general plan includes servitudes which were not imposed as a condition of subdivision nor were required by the Municipality as part of the land development application.

(5) Access to any property within a land development area shall be to the satisfaction of the Municipality, including access to a public street, which access may be:

(a) by means of the registration of a servitude;

(b) to the satisfaction of the Municipality;

(c) by and at the cost of the owner of a land development area; and

provided that no property shall without the consent of the Municipality, have more than one access.

(6) Upon consolidation of any two or more properties where:

(a) servitudes for engineering services, were registered in favour of the Municipality against the properties on the boundaries of the properties to be consolidated; or

(b) through the general conditions of a Land Use Scheme servitudes are applicable along the boundaries of the properties, to be consolidated; and

(c) engineering services were installed within the servitude areas contemplated in subsection (a) and (b);

the services located within the servitude areas shall be relocated to the satisfaction of the Municipality if required and if it is necessary for the cancellation of any servitudes referred to in subsection (a) or (b), the said servitudes shall be cancelled at the cost of the applicant.

(7) Where an application is submitted to the Municipality, which has the sole purpose of dividing an existing building, in order to avoid having to open a sectional title scheme in terms of relevant legislation and the subdivision of the land is consequential to the division of the building, the Municipality shall not be obliged to deal with it as a land development application in terms of this By-law.

(8) The division of a building as a consequence of an approval of a land development application shall be done to the satisfaction of the Municipality in terms of the National Building Regulations and Standards Act, 1977 (Act 103 of 1997).

Sectional title diagram

(9) (a) An owner of:

(i) land who intends opening a sectional title scheme; or

(ii) a unit, section, exclusive use area and/or a right of extension within a sectional title scheme;

in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), shall comply with the land use rights in terms of the Land Use Scheme of the Municipality, applicable to the property to which the sectional title scheme relates;

(b) the Municipality shall not approve a site development plan or a building plan on a property(ies) or for any individual section thereof, including common property, on which a sectional title scheme has been opened:

(i) where the approval of such plans and erection of such buildings will result in the contravention of the Land Use Scheme applicable to the property; or

(ii) shall create an area on the property to which the Land Use Scheme relates which will limit the development of a section in accordance with the Land Use Scheme or renders it undevelopable.

Copy to Municipality

(10) **Lodging copy of plans, diagrams and/or general plans with the Municipality**

(a) The applicant shall, within a period of 3 months from the date upon which the Surveyor-General has approved the plans, diagrams and/or general plans resulting from the approval of a land development application in terms of this By-law, lodge a certified copy or tracing of such plans, diagrams and/or general plans with the Municipality.

(b) Where the applicant fails to comply with the provisions of subsection (a), the Municipality may obtain a copy or tracing contemplated in subsection (a) from the Surveyor-General and recover the costs from the applicant.

(11) **Approval of Building Plans and Registration**

(a) Over and above the requirements with regard to a provisional authorisation in terms of Section 7(6) of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977), the Municipality shall consider when and whether the land use rights on the property to which the authorisation relates, will come into operation in terms of the provisions of this By-law and specifically the provisions relating to the lapsing of land development applications and land use rights and section 43(2) of the Act.

(b) The Municipality shall not approve the erection of any building in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), on land which is the subject of any land development application, save in accordance with such approval.

(c) The Registrar of Deeds shall not register any transaction in terms of the Deeds Registries Act, 1937 (Act 47 of 1937) or the Sectional Titles Act, 1986 (Act 95 of 1986), where such registration must be authorized in terms of a land development application including the imposition of a condition of title, imposed by the Municipality.

(12) Where any land development application is submitted on a property(ies) that fall in dolomitic areas, the Municipality may require that upon submission, such applications be accompanied by:

(a) a dolomite stability report depending on the specific type of application or land use rights applied for; and/or

(b) comments from the Council of Geoscience on the dolomite stability report or such other comments as the Municipality may require; and/or

(c) an audit report and a dolomite risk management program by an expert as required in the discretion of the Municipality;

provided that, the Municipality may determine at what time in the processing, consideration or decision on the application the requirements for the submission thereof shall be required.

(13) Nothing contained herein shall prevent the Municipality from requiring that a geotechnical report be submitted with the land development application submitted on a property(ies) falling within a non-dolomitic area.

(14) Where the Municipality requires a geotechnical or dolomite stability report the said report must classify the soil types, indicate risk classifications and recommended type of development and the National Building Regulation classification.

29 Change of ownership

(1) Application for change of ownership to the Municipality:

(a) If a property(ies) are the subject of a land development application submitted to the Municipality, in terms of the provisions of this By-law, excluding a removal of restrictive conditions contemplated in section 16(2)(a) read with section 16(2)(g) of this By-law, and that land is transferred to any other person before:

(i) the approval of the land development application, which approval has the purpose of bringing the land use rights into operation; or

(ii) before the coming into operation of the land use rights in terms of a notice required in terms of this By-law or other legislation;

the transferor of the property(ies) forming the subject of the land development application shall have an obligation to disclose to the transferee that an application has been submitted in terms of this By-law or any other law administered by the Municipality dealing with land development applications and he/she shall for that purpose include the following:

(aa) proof that the transferee is aware of all the obligations arising out of the application on the owner of the property, including any agreements that may have been entered into with the Municipality or any other parties as a result of the land development application;

(bb) particulars of any financial implications and/or payment of monies, including development charges or monies for the provision of parks and open space to the Municipality that may result out of the submission of the land development application or the potential approval of the land development application; and

(cc) particulars of any land that may be required to be transferred to the Municipality, any body or person that may arise out of the potential approval of the land development application.

(b) The transferee shall, without delay after the registration of the property(ies) applies in writing to the Municipality as may be prescribed continue with the application as the new owner and shall provide to the Municipality:

(i) proof of registration and a copy of the registered title deed and or any registered notarial deed against the property(ies);

(ii) power of attorney as may be required;

(iii) any other information as may be required by the Municipality to consider his/her application for change of ownership; and

(iv) if a bond is registered against the property, the bondholder's consent.

(c) If the land development application has lapsed prior to the application for change of ownership having been submitted, the Municipality shall not approve the change ownership contemplated in subsection (a).

(d) The Municipality shall consider the application for change of ownership with due regard to the application as submitted and the land development application and may approve or refuse the change of ownership;

provided that:

prior to consideration the application for change of ownership may be circulated to any:

(i) body or person who in the opinion of the Municipality has an interest in the application; and/or

(ii) internal or external body, entity or department required to provide or consider the impact and availability of engineering services.

(e) If the Municipality approves the application for change of ownership, it may impose any condition it deems expedient and all rights and obligations on the applicant in terms of this By-law or relevant law applicable to the land development application shall be regarded as rights and obligations on the new owner(s).

(f) For purposes of any agreements that have been signed with regard to the land development application the Municipality reserves the right to continue with the new owner as the applicant,

provided that;

the previous owner and the new owner signs a cession agreement, wherein the new owner takes over all the obligations of the previous owner with regard to the land development application, within 4 months of the date of registration of the property in his/her name or such further period as the Municipality may allow in terms of Schedule 10 to this By-law; and, if the applicant fails to comply with this subsection the application shall lapse.

(g) Having granted the approval for the continuation of the land development application subject to any conditions the Municipality may deem expedient, the new owner in terms of subsection (1)(e) and subject to subsection (1)(f), shall be deemed to be the applicant for purposes of this By-law.

(h) An application for a change of ownership shall be done in accordance with the requirements determined by the Municipality from time to time;

30 False or misleading information in connection with application

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

31 Contracts and options

(a) After an owner of land has applied in terms of the provisions of this By-law or any other relevant law for the approval of a land development application, but prior to the rights coming into operation in terms of this By-law, he/she may apply to the Municipality for consent to enter into any contract or to grant any option, and the Municipality may consent to the entering into of such contract or the granting of such option subject to any condition it may deem expedient, and thereupon it shall deliver a notice thereof to the owner in writing and of any condition imposed.

(b) On receipt of a notice contemplated in subsection (a) the applicant shall, before entering into a contract or granting the option, but within a period of 6 months from the date of the consent, furnish the Municipality with a guarantee of such type and for such amount as the Municipality may determine and which is otherwise to its satisfaction to the extent that he/she will fulfill his/her duties in respect of the engineering services contemplated in Chapter 7 of this By-law, and, if he/she fails to do so, the consent shall lapse.

(c) The owner of land shall not enter into any contracts and/or options contemplated in subsection (a) until and unless he/she has provided the guarantees as contemplated in subsection (b).

(d) A determination by the Municipality in terms of subsection (b) shall not be subject to an appeal in terms of this By-law.

(e) Where the Municipality has, in terms of subsection (b) consented to the entering into of a contract or the granting of an option, the contract or option shall contain a clause stating that the rights have not yet come into operation.

(f) Where a contract or option contemplated in subsection (e) does not contain the clause contemplated in that subsection, the contract or option shall, at any time before the land use rights comes into operation, be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the property(ies) erf or who grants the option.

(g) Any person who alienates or disposes of a property and who enters into a contract contemplated in subsection (e) or grants an option contemplated in that subsection which does not contain the clause contemplated therein, shall be guilty of an offence.

32 Excision of land from Agricultural Holding Register

(a) If required to do so the Applicant shall be responsible for the excision of land from an Agricultural Holding.

(b) If the excision of an Agricultural Holding is required as a result of a township establishment application it may be included as a pre-proclamation condition in terms of section 16(7) of this By-law.

(c) The endorsement of the Agricultural Holding Title by the Registrar of Deeds, to the effect that it is excised and known as a farm portion for purposes of a township establishment application, can be done simultaneously with the endorsement of the title deed of the farm portion and the opening of a township register in terms of section 16(4) of this By-law.

(d) The Municipality shall issue a certificate certifying that the pre-proclamation conditions have been complied with in terms of section 16(7)(b) of this By-law and in so certifying it may require that certain conditions be complied with together with the opening of a township register, which may include the registration of the excision of an Agricultural Holding.

(e) If an applicant wishes to excise an Agricultural Holding from the Agricultural Holding Register at the Registrar of Deeds for whatever purpose, including the removal of restrictive conditions of title applicable to Agricultural Holding, the Municipality shall only regard proof of such excision as being the endorsed title deed of the Agricultural Holding by the Registrar of Deeds and a copy of the farm title deed created at the Registrar of Deeds as a result of the excision.

(f) Where the Municipality is authorized to grant permission for the excision of an Agricultural Holding in terms of any other law the applicant shall submit an application for excision as may be prescribed in Schedule 22 to this By-law; provided that an application for excision shall not be regarded as a land development application for purposes of this By-law.

(g) The Municipality shall consider the permission application submitted in terms of subsection (f) and may make a recommendation on whether it is in a position to grant the application for excision of an Agricultural Holding and may do so subject to such condition as the Municipality may deem expedient or postpone or refuse the application.

(h) The applicant shall upon receipt from the Municipality of a recommendation for granting the application contemplated in subsection (g) for excision without delay submit the recommendation to the Surveyor-General, with a request for a new property description of the farm into which the Agricultural Holding will be incorporated.

(i) The applicant shall upon receipt of a new farm description as contemplated in subsection (h) from the Surveyor-General submit, proof to the satisfaction of the Municipality of:

(i) the new farm description;

(ii) a draft surveyed diagram; and

confirm that he/she wishes to proceed with the excision, quoting the new farm portion number contemplated in subsection (h).

(j) The Municipality shall consider the information provided and may grant the permission for the excision application contemplated in subsections (f) and (i) and may impose any condition it deems expedient and for purposes of granting the excision application shall issue a certificate that excision of the Agricultural Holding has been approved.

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

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

33 Not more than one application pending at any time

(1) Save for circumstances where the Municipality has:

(a) granted its prior consent in writing; or

(b) in terms of the provisions of this By-law the Municipality permitted simultaneous land development applications to be submitted by an applicant or applicants;

not more than one land development application may at any time be pending before the Municipality on the same property either in terms of this By-law or any other legislation, which application seeks to accomplish the same or similar approval of a land development application, as contemplated in this By-law, unless specifically provided for in terms of the provisions of this By-law read with section 15(6) of this By-law.

34 Entities established for the provision of engineering services and management purposes

(1) If in terms of the provisions of this By-law, any condition of approval of a land development application or any other law, a non-profit company or property- homeowners association or other entity, as may be approved by the Municipality, is to be created or established in respect of a land development application then:

(a) such an entity shall be established or registered prior to the proclamation of a township in terms of section 16(4)(g)(vi) or at such time as the Municipality may determine, in the case of a township, but prior to the registration of any property as contemplated in section 16(10) of this By-law; and

(b) in the case of a subdivision or any other land development application, prior to the registration of any newly created portions or the exercising of any land use rights granted in terms of any land development application.

(2) Any entity established in terms of subsection (1) shall:

(a) be established in accordance with Schedule 19 to this By-law;

(b) the documentation required for the proper establishment of such an entity shall at least contain the conditions as set out in Schedules 19 to this By-law, unless otherwise directed by the Municipality; and

(c) no variation or amendment of the conditions contained in Schedule 19 to this By-law may be done without the consent of the Municipality first being obtained.

(3) An owners' association, property owners association and/or homeowners association or any other association, whether established in terms of subsection (1) or of their own accord or as may be determined in terms of any relevant legislation, shall not encroach into the powers, functions and duties of a Municipality to perform "municipal planning" as contemplated in the Constitution;

(4) Any decision taken by a decision-maker with regard to development within the jurisdiction of the Municipality shall be taken within his/her sole discretion whether permission has been granted by an association established in terms of subsection (1) or (2) above or not and the Municipality shall not be bound by the articles, constitution, rules or regulations of the associations of which it is not a member.

(5) An entity established in terms of subsection (1) shall have the duty to ensure that all its members are made aware, know and understand the purpose for which the entity has been established, and the Municipality shall not be liable or take any responsibility for any decision, action or failure to take action by an entity, outside of the purpose for which the entity has been established.

CHAPTER 10

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

(1) The observance and enforcement of this By-law, Land Use Scheme or of conditions imposed by the Municipality as a result of any land development application either in terms of this By-law, and Land Use Scheme or any other law shall be read with section 32 of the Act.

(2) Where the Municipality has, in terms of the provisions of any law, imposed a condition relating to a land development application or any land use right in terms of a Land Use Scheme it shall:

(a) observe such condition; and

(b) refuse to approve:

(i) any land development application;

(ii) any site development plan or other plan as may be required by the land use scheme in operation; or

(iii) any building plan for the erection or alternation of or addition to an existing building;

in conflict with any provision of a Land Use Scheme, this By-law or any other law related to land development applications.

36 Offences and penalties

(1) An owner and/or other person are guilty of an offence if such owner or person:

(a) contravenes or fails to comply with a:

(i) decision taken or a condition imposed or deemed to have been taken or imposed by the Municipality in terms of this By-law or any other law relating to land development;

(ii) provision of the Land Use Scheme or amendment scheme;

(iii) uses land or permits land to be used in a manner other than permitted by the Land Use Scheme or amendment scheme;

(iv) compliance notice issued in terms of subsection (5);

(v) uses land or permits land to be used in a manner that constitutes an illegal township as defined in terms of the provisions of this By-law;

(b) alters or destroys land or buildings to the extent that the property cannot be used for the purpose set out in the Land Use Scheme or zoning scheme;

(c) threatens, obstructs, hinders or fails to permit entry when called upon to do so or uses abusive language to a Development Compliance Officer or any persons lawfully accompanying such Development Compliance Officer in the exercising of a power conferred in terms of section 38 of this By-law;

(d) furnishes false or misleading information to an official of the Municipality when called upon to furnish information; or

(e) supplies particulars, information or answers in a land development application, request or other application, hearing or in an appeal knowing it to be false, incorrect or misleading.

(2) An owner who permits land to be used in a manner contemplated in subsection (1) and who does not cease such use or who permits a person to breach the provision of subsection (1) is guilty of an offence and upon conviction is liable to the penalties contemplated in subsections (3) and (4).

(3) Any person convicted of an offence in terms of this By-law, shall be liable to a fine not exceeding R5 000 or as may be determined by a Court of Law or to imprisonment for a period not exceeding 12 months or both such fine and such imprisonment.

(4) A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he/she was so convicted, is guilty of a continuing offence and liable to a fine not exceeding R5000, or upon conviction, to imprisonment for a period not exceeding three months or to both such fine and imprisonment, in respect of each day for which he/she has so continued or continues with such act or omission.

(5) The Municipality may issue a compliance notice to a person contemplated in subsections (1) to (4) who uses any land or building or causes it to be used in a manner as contemplated in subsection (1) to (4), in writing requiring that person to:

(a) discontinue such erection, alteration, addition or other work or such use or cause it to be discontinued; and

(b) at his/her own expense:

(i) to remove such building or other work or cause it to be removed; or

(ii) to cause such building or other work or such use to comply with the provisions of the scheme;

and the directive shall state the period within which it shall be carried out.

(6) The provisions of subsection (1) shall not apply to the erection or alteration of or addition to a building in accordance with an approved building plan.

(7) Any person who contravenes or fails to comply with a compliance notice issued in terms of subsection (5) shall be guilty of an offence.

(8) Where any person fails to comply with a compliance notice issued in terms of subsection (5), the Municipality may, whether or not a prosecution has been or will be instituted, remove the building or other works or cause the building or other works executed to comply with the provisions of its Land Use Scheme and recover all expenses incurred in connection therewith from such person.

(9) In the event of an offence in terms of subsection 1(a)(v) the Municipality may request the Registrar of Deeds to place a *caveat* against the property title deed on which the offence is being committed to the effect that no registration transaction may be registered which shall have the purpose of disposing of any property, portion thereof or unit in a sectional title scheme to facilitate or permit the implementation and continuation of an illegal township in terms of this By-law.

(10) Where the Municipality, Surveyor-General or Registrar of Deeds has reasonable grounds to believe that any person in the exercising of land use rights, layout plans, divisions or disposal of land, the erection of any building on a subdivision of farm land is defeating or is about to defeat any object of this By-law, Land Use Scheme or relevant legislation in whatever manner the Municipality may issue a notice or notices upon such person as contemplated in subsection (5) and the provisions of subsection (6) to and including (9) shall apply *mutatis mutandis*.

37 Prosecution of corporate body and partnership

A partner in a partnership, a member of the board, executive committee or other managing body or a corporate body is personally guilty of an offence contemplated in terms of this By-law if such offence was committed by:

(1) a corporate body established in terms of any law; or

(2) a partnership; and

(3) such person failed to take reasonable steps to prevent the offence.

38 Powers and functions of a Development Compliance Officer

(1) The Municipality may authorise an official or any other person to act in terms of this By-law for the purposes of investigating any matter in connection with this By-law.

(2) A peace-officer appointed in terms of the Criminal Procedures Act, 1977 (Act 51 of 1977), or any officer duly authorised and entrusted with law enforcement in terms any law related to land development, appointed by the Municipality as such, are considered to be a Development Compliance Officer contemplated in subsection (1).

(3) A Development Compliance Officer may, subject to subsection (4), at any reasonable time, and without prior notice, enter any land, building or premises purposes of ensuring compliance with this By-law.

(4) An inspection of a private dwelling may only be carried out by a Development Compliance Officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of section 32 of the Act.

(5) The Development Compliance Officer is not required to give reasonable or any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:

(a) He/she believes on reasonable grounds that a warrant would be issued to him/her on application under section 38 of this By-law; and

(b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.

(6) The Municipality must issue each official contemplated in subsection (2) with a written appointment, stating that the person has been appointed for executing functions in terms of this By-law.

(7) A Development Compliance Officer contemplated in subsection (2) must show proof when required to do so by any person affected by the exercising of a power in terms of this section of such appointment, which proof shall be in accordance with the provisions of subsection (6).

(8) A Development Compliance Officer may not investigate a matter in which he/she has a direct or indirect personal interest.

(9) In ascertaining compliance with this By-law, a Development Compliance Officer may:

(a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;

(b) question any person who is or was on that land or other land, who in the opinion of the Development Compliance Officer may be able to furnish information on a matter to which this By-law relates;

(c) question any person 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 breach of an approval or a term or condition of such approval.

(d) question a person about any structure, object, document, book or record or inspect any written or electronic information or object which may be relevant for the purpose of subsection (1).

(e) examine any book, record or other written or electronic information and make a copy thereof or an extract therefrom and remove such document, book, record or written or electronic information in order to make copies or extracts;

(f) require a person to produce or to deliver to a place specified by the Development Compliance Officer, any document, book, record, or any written or electronic information referred to in subsection (e) for inspection;

(g) require from such person an explanation of any entry in such document, book, record or 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) seize any book, record or other document, details or any article, substance, plant or machinery or a part or sample thereof which in his/her opinion may serve as evidence at the trial of any person charged with an offence under this By-law, provided that the person in control or the article, substance, plant or machinery concerned, as the case may be, may make copies of such book, record or document before such seizure;

(j) direct any person to appear before him or her at such time and place as may be determined by the Development Compliance Officer and question such person either alone or in the presence of his/her representative any other person on any matter to which this By-law relates; and

(k) take photographs or make audio visual recordings or tape recordings of any person or anything the purposes of his/her investigation.

(10) When a Development Compliance Officer removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated above, he/she must issue a receipt to the owner or person in control thereof and return it as soon as practicable after achieving the purpose for which it was removed or seized.

(11) Where a Development Compliance Officer enters any land in terms of subsection (3), a person who controls or manages the land must at all times provide such facilities as are reasonably required by the Development Compliance Officer to enable him/her to perform his/her functions effectively and safely under this By-law.

(12) A Development Compliance Officer who enters and searches any land or private dwelling under this section, must conduct such search or seizure with strict regard for decency and order and with regard for each person's right to dignity, freedom, security and privacy.

39 Warrant of entry for enforcement purposes

(1) A judge or magistrate for the district in which the land is situated, may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the:

(a) Development Compliance Officer has been refused entry to land or a building that he/she is entitled to inspect;

(b) prior permission of the occupier or owner of land on which a private dwelling is situated cannot be obtained after reasonable attempts;

(c) the owner, occupier or person in control of a private dwelling has refused consent; or

(d) the purpose of the inspection would be defeated by the prior knowledge thereof.

(2) A warrant referred to in subsection (1) may be issued by a judge of the High Court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may be issued if it appears to the judge or magistrate from information under oath that there are reasonable grounds for believing that an offence in terms of this By-law is being committed and such warrant must specify which of the acts mentioned in section 38 of this By-law may be performed thereunder by the person to whom it is issued.

(3) The warrant must contain at least the following information:

(a) the statutory provision in terms of which it is issued;

(b) the identity of the person who is going to carry out the investigation;

(c) the authority conferred on the person concerned;

(d) the nature of the investigation to be carried out and the items reasonably expected to be obtained;

(e) the premises to be investigated; and

(f) the offence which is being investigated.

(4) A warrant authorises the Development Compliance Officer to enter upon land or to enter the building or premises and to perform any of the acts referred to in section 38 of this By-law as specified in the warrant on one occasion only and that entry must occur:

(a) within one month of the date on which the warrant was issued; and

(b) at a reasonable hour, except where the warrant is issued on grounds of urgency.

40 Resistance of enforcement action

(1) When implementing an order of court or enforcement action provided for in this By-law, the Development Compliance Officer may use such force as may be reasonably necessary to overcome any resistance against the implementation of the court order or other enforcement action or against the entry onto the premises, including the breaking of any door, or window of such premises, provided that the Development Compliance Officer shall first audibly demand admission to the premises and deliver a notice concerning the purpose for which he/she seeks to enter such premises.

(2) Nothing contained herein shall prevent the Development Compliance Officer from requesting assistance from the South African Police Service or the Metropolitan Police Department of the Municipality in enforcing an order of court.

(3) The Municipality is exempt from liability for any damage arising out of any actions contemplated in subsection (1).

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

(1) The Schedules and Forms to this By-law are aimed at assisting the public and the Municipality in dealing with any matter in terms of this By-law and provides draft forms and formats which shall substantially be complied with, in the opinion of the Municipality, by an applicant, owner or anybody or person as contemplated in this By-law.

(2) Nothing contained in this By-law or any other law shall prohibit the Municipal Manager from determining through its Schedules or Forms, or subsequent amendments thereof, processes and procedures to be complied with by the owner, applicant on any other person acting in terms of these By-laws; provided that in determining these processes and procedures it shall not do so if the determination materially, in the opinion of the Municipal Manager, amend this By-law as adopted.

(3) The Municipality's interpretation of the content of the Schedules and Forms to this By-law shall prevail; provided that where a conflict exists between the content of the Schedules and/or Forms to this By-law and the By-law, the By-law shall prevail.

(4) The headings contained in this By-law are for reference purposes only and do not constitute any provisions in the By-law.

(5) Where any provision of this By-law refers to the Schedules to this By-law, the Schedule in relation to the type of land development application, request, actions or other applications shall be applicable; provided that the Schedules may apply *mutatis mutandis* to other type of land development applications, requests, actions or other applications.

(6) Where in terms of this By-law any Schedule or Form is applicable and reference is made to any Schedule, Form or provision of the By-law therein, the Schedule, Form or provision shall be applicable *mutatis mutandis*.

(7) Where any notice is required in terms of this By-law which has the purpose of soliciting public participation, such notices shall be substantially in accordance with the Schedules and Forms to this By-law;

provided that;

public participation and notices shall comply with the intention of soliciting comments and objections through public participation is to ensure that the public is properly informed of the land development application brought in terms of this By-law the Municipality may require the applicant to amplify or supplement the notices in terms of the Schedules and Forms to this By-law.

(8) Any documentation issued by the Municipality in terms of the provisions of this By-law:

(a) which does not comply with any procedural requirement of the By-law, is nevertheless valid if the non-compliance is not material and does not prejudice any person; and

(b) may be amended or replaced without following a procedural requirement of this By-law if:

(i) the purpose is to correct an error; and

(ii) the correction does not change the rights and duties of any person materially.

(9) The failure to take any steps in terms of this By-law as a prerequisite for any decision or action does not invalidate the decision or action if the failure:

(a) is not material;

(b) does not prejudice any person; and

(c) is not procedurally unfair.

Limitation of liability

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

(a) the exercise of any power or the performance of any duty under this By-law; or

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

42 Naming and numbering of streets

(1) If, as a result of the approval of a land development application, streets or roads are created, whether public or private, the Municipality must approve the naming of streets and must allocate a street number for each of the erven or land units located in such street or road.

(2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision and/or township establishment as contemplated in sections 16(3), 16(4), 16(5) and 16(12) of this By-law.

(3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.

(4) The Municipality must, within 30 days of the approval of street names related to land development applications in writing inform the Surveyor General of the approval thereof as contemplated in subsection (1).

(5) The owner of the land development application must erect street name boards according to the name board specifications determined by the Municipality.

(6) No person may alter or amend any street name previously approved by the Municipal Council without the Municipal Council approving the amendment/alteration; provided that any unauthorised amendment or alteration shall be regarded as an offence in terms of this By-law.

(7) The Municipality as the sole custodian of street addresses must allocate a street number for each property located in public and private streets/roads read with subsection (1).

(8) An owner of property(ies) to which a street number has been allocated as envisaged in subsection (1) and (7), shall ensure that the number as approved for that property is displayed and remain displayed.

(9) In the case of corner stands, the owner may request the street address to be amended by the Municipality to the side where the entrance is. The street address number must be placed according to the street in which the street address entrance is situated as approved by the Municipality.

(10) The Municipality may, by written notice, direct the owner of a property to display the number allocated to the property and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such land shall, within 30 days of the date of such notice, affix the allocated number on the premises in accordance with such notice.

(11) The Municipality may direct the owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

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

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

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

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

(4) The Municipality is exempt from liability for any damage which may be caused by:

(a) an error in the Land Use Scheme; or

(b) an erroneous presentation by the Municipality about the land use rights or the zoning of a property.

44 Prohibition of works on and use of certain land.

(1) Where the Municipality intends to acquire land it may subject to subsection (2) prohibit:

(a) the proposed erection or alteration of or addition to any building on the land;

(b) any other proposed work on the land; or

(c) any particular use of the land.

(2) Where the Municipality fails within a period of 12 months from the date of a prohibition imposed in terms of subsection (1) to take possession of the land concerned, the prohibition shall lapse and in such a case no further prohibition shall be so imposed in respect of that land.

(3) Any person who contravenes or fails to comply with a prohibition imposed in terms of subsection (1) shall be guilty of an offence.

(4) Where any person has erected, altered or added to a building or other work in contravention of a prohibition imposed in terms of subsection (1), the Municipality may remove the building or other work and recover all expenses incurred in connection therewith from such person.

45 Legal effect of the adopted Land Use Scheme

(1) The adopted Land Use Scheme:

(a) Has, with effect from the date as contemplated in section 11(9) of this By-law, the force of law and binds all persons, and particularly owners and users of land, including the Municipality, a state owned enterprise and organs of state within the municipal area are bound by the provisions of such a Land Use Scheme;

(b) replaces all existing schemes within the municipal area to which the Land Use Scheme applies; and

(c) provides for land use rights.

(2) Land may be used only for the purposes permitted by the adopted Land Use Scheme.

(3) Where any provision in a Land Use Scheme is in conflict with the provisions of this By-law, the provisions of this By-law shall prevail.

(4) Where a land development application:

(a) has been approved, but does not require to a notice in terms of this By-law; or

(b) requires a notice in terms of this By-law; or

(c) requires any other action to bring the land use rights into operation, either in terms of this By-law Land Use Scheme or any other law;

the decision, conditions and documents forming part of the land development application approved shall similarly have force of law.

46 Power of Attorney

(1) Where any land development application, other application or request, either in terms of this By-law, Land Use Scheme in operation or any other applicable law relating to municipal planning is made on behalf of the owner of a property, the person making the application or request shall submit a power of attorney by the owner in terms of which he/she is authorized to do so, which power of attorney shall be in accordance with Schedule 21 to this By-law.

(2) Where any person acts, performs or appears in any capacity on behalf of the owner of property in terms of this By-law, Land Use Scheme or any other law in any engagement with the Municipality, the Municipal Planning Tribunal, Municipal Appeals Tribunal or Authorised Official, the person so doing shall provide a power of attorney authorizing such person to do so on behalf of the owner in accordance with Schedule 21 to this By-law.

(3) Where the Municipality or any official duly authorized to engage in any manner with any person who in terms of this By-law, Land Use Scheme or other relevant legislation, is required to submit an application, any documentation, correspondence or engage in discussions or negotiations on agreements or any other act in terms of this By-law, Land Use Scheme or other relevant legislation, nothing contained herein shall oblige the Municipality to engage with any other person(s) or legal entity other than the person(s) or legal entity, holding the power of attorney on behalf of the owner of property.

47 Provision of open spaces and parks

(1) Where, in terms of section 16 of this By-law, a Land Use Scheme or other legislation, a land development application was approved by the Municipality, Municipal Planning Tribunal, Municipal Appeals Tribunal or Authorised Official and a conditions is imposed or it is required that land for the provision of open spaces or parks be provided by the owner in terms of the provisions of this By-law, the Municipality may:

(a) determine that the requirement be met by providing for:

(i) public open space;

(ii) private open space;

(iii) conservation areas and/or the floodline area; and/or

(iv) any areas for the benefit of the community or public as may be determined by the Municipality; and

(b) not require an area in excess of the area calculated in terms of Schedule 16 to this By-law.

(2) Nothing contained in this By-law shall oblige the Municipality to accept land for the provision of open spaces and parks and the Municipality may in lieu of the provision of open spaces and parks require that the owner of property, on which a land development application has been approved, pay an amount of money in lieu of the provision of land for opens spaces and parks as contemplated in section 16 read with Section 21(3) of this By-law; and

(3) In the event of the Municipality deciding on monetary payment instead of the provision of open spaces and parks the money payable shall be done in accordance with a policy approved by the Municipality and applicable formulate provided for and in accordance with Schedule 16 of this By-law.

(4) Where monies are payable as contemplated in subsections (2) and (3) for the provision of open spaces and parks, the Municipality may determine that the amount of money may be re-calculated annually until the rights have come into operation in terms of the provisions of this By-law.

(5) In the calculation of an area of land for the provision of open spaces and parks as contemplated in subsection (3) read with Schedule 16 of this By-law, the following areas shall not be included as an area of land for the provision of open spaces and parks:

(a) parking areas or roads and/or roadways;

(b) private open spaces and gardens, unless the Municipality is convinced that the said areas will be for the use and benefit of a community or the public;

(c) children's playground as contemplated in a Land Use Scheme;

(d) club houses, recreational areas and facilities;

(e) any area for engineering services including but not limited to Stormwater systems or attenuation ponds or a servitude area for power lines which, in the opinion of the Municipality cannot be regarded as open spaces or parks for the benefit of the community and/or public; and

(f) any other area which in the opinion of the Municipality shall not contribute to the open spaces and parks system of the Municipality and are for the exclusive use of only specific residents.

(6) In the provision of open spaces and parks of whatever nature as contemplated in subsection (3) the formulae in terms of Schedule 16 to this By-law shall apply; provided that the Municipality may determine the formulae applicable to dwelling units or residential units, other than residential units zoned "Residential 1, 2, 3, 4 and 5", in which case the formulae in Schedule 16 to this By-law shall apply irrespective of the use zone.

(7) Any areas of land to be provided for purposes of open spaces and parks, may at the request of the Municipality and/or as a condition of approval of a land development application, be made subject to the requirement that:

(a) a servitude be registered by and at the cost of the owner of a land development area for purposes of protecting or securing the land for the use and benefit of the community, public or specific groups of persons, prior to the exercising of any land use rights granted by virtue of the land development application or at a time as may be determined by the Municipality and subject to section 16(10) of this By-law; and

(b) the land be transferred to the Municipality or any other entity to the satisfaction of the Municipality for purposes of providing open spaces and parks for the use and benefit of the public, the community or residents or groups of residents to be kept open in trust for their use and benefit subject to section 16(10) and (11) of this By-law.

(8) Nothing contained in this section shall prohibit the Municipality from accepting an area of land for the provision of open spaces and park or oblige it to accept land that do not form part of a land development area or is located on a property that do not form part of a land development area, provided that:

(a) in the event of the Municipality accepting an area of land as contemplated in subsection (8), such land shall be owned by the owner of property on which the land development application is brought; and

(b) the owner shall be responsible for the development and maintenance of the area of land provided for in terms of subsection (8).

(9) Where any open space or parks are created as a result of a land development application and it is intended as public open space or parks, such public open space or parks shall be vested in terms of section 21(9) of this By-law.

48 Language of Communication, Land Development Applications, Notices and related matters

(1) This By-law on commencement will be published in English, provided that on request to the Municipality it may be provided either wholly or in part in the languages adopted by the Municipality as the official language of communication.

(2) Where practicably possible any and all land development applications, requests, reports, documentation or communication with or to the Municipality in terms of this By-law, should be in English; provided that:

(a) where such land development applications, requests, reports, documentation or communication are in one of the official languages adopted by the Municipality, other than English, the Municipality may require that it be translated prior to dealing with it;

(b) if translated by the Municipality's language services the time delay shall not be calculated as part of the phases as contemplated in Regulation 16 of the Regulations to the Act and such time shall be excluded;

(c) where the applicant submits the application in terms of subsection (2) and have at its own costs translated the application thereafter, the date of the receipt of the translated land development application shall be the date upon which the application shall be regarded as submitted;

(d) where in terms of subsection (a) the Municipality's language services translates any land development application, request, report, documentation or communication, the Municipality shall not be held accountable for the accuracy of the translation; and

(e) where a registered title deed contains conditions or servitudes in any other language than English, the applicant and Municipality shall not be obliged to translate the condition or servitude provision.

(3) All notices for the adoption of any land development application, amendments scheme, Land Use Scheme or other application, by notice in the Provincial Gazette in terms of this By-law, shall be placed in English only; provided that any interested person may request that it be translated either wholly or in part by the Municipality in terms of its approved and adopted language policy.

49 Short Title and commencement

(1) This By-law is to be known as the “City of Tshwane Land Use Management By-law, 2016”

(2) This By-law shall commence on 2 March 2016

THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW SCHEDULES, 2016

Definitions

1. In these Schedules, unless the context otherwise indicates –

(i) **"an annexure or annexure to the land use scheme"** means a document or set of documents annexed to the land use scheme identified by any symbol or letter or number, in such form as may be prescribed by the Municipality, and shall include documents showing details of land use rights permitted and conditions imposed in relation thereto applicable on the property(ies) and land, marked with a black number within a black circle on the scheme map, which rights and conditions shall prevail over any other scheme clause; except that if land use rights and conditions are not stipulated the provisions of the scheme clauses shall apply and includes any approved annexure or schedule of a former Town-planning Scheme applicable in the Tshwane Municipal area;

(ii) **"categories of land use zoning and use zones"** means the different land use zones applicable on land as a primary right for which buildings may be erected or used or the land may be used in accordance with a land use scheme and may include sub-categories of land use as may be determined by the Municipality;

(iii) **"key plan"** means a plan showing the position of the area of a scheme map and, if the scheme map is drawn on more than one sheet, the division of that scheme map into sheets;

(iv) **"land use scheme regulation"** means any regulation to the Land Use Scheme as contemplated in section 24(1)(a) of the Act;

(v) **"schedule to the clauses of the land use scheme"** means a schedule which is contained in a land use scheme setting out the provisions applicable to specific categories of land use zoning and/or clauses or provisions in the Land Use Scheme;

(vi) **"scheme clauses"** means the clauses applicable to all land, buildings and/or property within the jurisdiction of the Municipality, except where such clauses are amended or varied in terms of a lawfully approved and adopted land development application, which has the purpose of amending the Land Use Scheme and/or clauses for a land development area;

(vii) **"scheme map"** means a map depicting the zoning of every property in the municipal area, being a map of the area to which the scheme relates, drawn on one or more sheets;

and any other word or expression shall have the meaning assigned thereto in this By-law and where any reference is made to any form in these schedules or this By-law the forms shall be fully completed and where indicated that it serves as an example should be used as examples only for purposes of assisting applicants or any other persons in dealing or engaging with a land development application read with section 41 of this By-law and an applicant or any other person shall substantially comply with the format of the forms; provided that the Municipality may allow an applicant or person to depart from the format of the forms if in the opinion of the Municipality such departure shall not defeat the purpose of this By-law, Schedules and for which the Forms are required.

SCHEDULE 1

CLAUSES, MAPS AND ANNEXURES OF THE LAND USE SCHEME IN TERMS OF SECTION 12 OF THIS BY-LAW

1. Subject to the provisions of section 12 of this By-law the following shall be included in a Land Use Scheme:

   (1) categories of land use zoning and/or use zones;

   (2) scheme clauses;

   (3) schedules to the clauses of the scheme;

   (4) a scheme map;

   (5) a key plan;

   (6) a Land Use Scheme register;

   (7) where applicable a description of the land to which the Land Use Scheme relates; and

   contain the provisions relating to the Land Use Scheme, and may include annexures and regulations to the scheme clauses and Land Use Scheme.

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

   (1) the scale and the true north of the area on each sheet;

   (2) the boundaries, descriptions of surrounding properties and the property(ies) descriptions of all townships, agricultural holdings and farms, lots, plots, stands or portions into which they have been divided, if any and any erf or erven;

   (3) the position and names of all streets, roads, thoroughfares, squares, other open spaces and public places;

   (4) every railway reserve;

   (5) cadastral information;

   (6) any other information that may be required by the Municipality and such information shall be illustrated by notations where applicable;

   (7) an annexure and/or whether an annexure is applicable to the property(ies).

3. The scheme map and annexures of an amendment scheme shall reflect only the matters relating to the particular amendment to be effected by such scheme.

4. The scheme map and annexure of:

   (1) a draft amendment scheme as contemplated in this By-law, is an amendment scheme that has not been approved in terms of section 12 or 16 of this By-law and is submitted for purposes of indicating the provisions of the Land Use Scheme to be amended and shall be referred to as a draft amendment scheme map and annexure;

   (2) an approved amendment scheme is an amendment scheme which has been approved by the Municipal Planning Tribunal, Municipal Appeals Tribunal or Authorised Official of an application brought in terms of Chapters 5 and 6 of this By-law as part of the conditional approval indicating the provisions of the Land Use Scheme to be amended, and shall be referred to as an approved amendment scheme map and annexure; and

   (3) an adopted amendment scheme as contemplated in this By-law, is an amendment scheme that has

been published in the Provincial Gazette and has come into operation, shall be referred to as an adopted amendment scheme map and annexure.

read with the definitions and provisions of this By-law *mutatis mutandis.*

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

(1) zoning category;

(2) primary uses;

(3) uses that can be obtained with consent use and/or permission application;

(4) density;

(5) coverage;

(6) height;

(7) floor area ratio;

(8) building lines;

(9) approved consent use and/or permission; and

the Zoning Certificate shall be available to the public upon request during normal office hours after payment of the prescribed fees, which shall be for information purposes only and must be verified with the adopted Land Use Scheme and amendment schemes thereto by the owner.

6. The scheme clauses of a Land Use Scheme, subject to the provisions of section 24 of the Act and section 12 of this By-law, may include the following provisions relating to –

(1) the use of land for –

(a) new streets;

(b) the widening of existing streets;

(c) parking areas and public and private open spaces and parks;

(d) residential areas;

(e) government and railway purposes and municipal purposes;

(f) cemeteries, airfield, sewage disposal works, surface water drainage systems and afforestation purposes;

(g) business and industrial areas and commercial areas;

(2) drainage;

(3) the prohibition, regulation or control of the deposit or disposal of waste material and refuse;

(4) streets with particular reference to:

(a) the improvement of communications or the securing of facilities for any municipal or public purpose by:

(i) the deviation, widening, reduction of the width of or permanent closure of any public place as defined in section 2 and 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

(ii) the construction of new streets;

(iii) the provision of parking areas;

(iv) the provision of cycle tracks;

(b) the splaying of corners at the intersection of streets or building restrictions along streets;

(c) the prohibition or control of access to and from streets;

(d) planting and conserving of trees, shrubs or plants and the provision of other works to improve the appearance of streets;

(e) streets which may include private streets and the provisions of paragraph (a) to (d) shall apply *mutatis mutandis;*

(5) the zoning of the property(ies) and land to be used for specific purposes, including agricultural purposes;

(6) the area of the property(ies);

(7) the regulation of the erection and extent of buildings with particular reference to:

(a) the maximum number of buildings which may be erected upon any property(ies) or other area of land;

(b) the maximum area of any property(ies) or other area of land upon which buildings may be erected;

(c) open spaces around buildings and parking areas in and around buildings;

(d) the position of buildings on any property(ies) or other area of land in relation to any boundary, street or other buildings;

(e) the character, height, coverage, harmony, design or external appearance of buildings;

(f) the prohibition or control of the erection of buildings within an area which is subject to flooding by a 1: 100 year flood;

(g) the floor area of buildings;

(h) the ratio between the area of the property(ies) and where expressed in the Land Use Scheme includes an erf or other area of land upon which a building is to be erected or has been erected and the area of the building;

(8) the control or prohibition of advertising;

(9) the planning or re-planning of any developed or undeveloped area;

(10) the control of development on land which is underlain by dolomite, clay or subsiding soil; and/or

(11) any matter which in the opinion of the Municipality is necessary to ensure the proper development and interpretation of land use rights on a property(ies).

SCHEDULE 2

LAND USE SCHEME REGISTER

1. A Land Use Scheme Register as contemplated in section 12(2) of this By-law may where applicable include the following information relating to land development applications as contemplated in sections 16(1), (3), (4), and (5) of this By-law:

   (a) date of application of the land development application;

   (b) name and contact details of the applicant;

   (c) the land development application type;

   (d) property description;

   (e) existing zoning;

   (f) amendment scheme number;

   (g) Annexure number;

   (h) decision and date;

   (i) date of adoption and publication; and

   (j) any other information which in the opinion of the Municipality shall be required to assist land development in general; provided that information in paragraph 1(a) to (i) can be made available to the public but information in terms of paragraph 1(j) need not be made available.

SCHEDULE 3

APPLICATION REQUIREMENTS FOR AN APPLICATION FOR REZONING IN TERMS OF SECTION 16(1) OF THIS BY-LAW

1. An owner of a property(ies) who wishes to apply in terms of section 16(1) of this By-law for an amendment of the Land Use Scheme relating to his/her property(ies), shall apply to the Municipality in the Forms as set out in COT: F/1, COT: F/2 and COT: F/10 to this By-law, and such application shall, in addition to the fees prescribed be accompanied by the maps and documents indicated in paragraph 2 of this Schedule.

2. The applicant shall submit at least for purposes of a complete submission of an application in terms of section 16(1) of this By-law, the following documentation:

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

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

   (3) the completed and signed **application forms** as set out on COT: F/1 and COT: F/2;

   (4) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

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

   (6) list of names and full postal addresses of the registered **adjoining owners** to the land development application;

   (7) a **motivating memorandum** with at least but not limited to the following information:

      (a) detailed description and explanation of the proposed amendment to the land use scheme and intended land use rights;

      (b) reference to the objective and principles contained in this By-law as well as the principles as contained in section 7 of the Act;

      (c) reference to the Integrated Development Plan and Municipal Spatial Development Framework, and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or departs based on specific circumstances of the property(ies) from it, as well as the desirability thereof;

      (d) the development context of the area and impact of the development on the surrounding properties;

      (e) reference to the adherence of the land development application in terms of section 9(1)(b) of this By-law;

      (f) as required in terms of section 42 of the Act indicate the following:

         (i) the public interest;

         (ii) the constitutional and transformation imperatives and the related duties of the State;

         (iii) the facts and circumstances relevant to the application;

         (iv) the respective rights and obligations of all those affected;

         (v) the state and impact of engineering services, social infrastructure and open space requirements; and

(vi) the effect of the land development application on the environment and environmental legislation; provided that:

(aa) in the event of an Environmental Impact Assessment (EIA) process having been initiated, it shall include specifically:

(aaa) the date initiated;

(bbb) name and details of environmental consultant;

(ccc) what process has been initiated; and

(ddd) relevant Provincial Reference number assigned.

(bb) in the event of the Environmental Impact Assessment (EIA) process not being required as indicated in by environmental legislation read with paragraph (cc), in any event:

(aaa) give a short, general overview/description of the site situation highlighting identified site sensitivities;

(bbb) indicate if the site is situated next to an existing open space resource; and

(ccc) indicate how the proposed development respond to the open space resource with specific referral to levels, placing and functioning of building footprints, landscaping, and access.

(cc) in the event of an **Environmental Impact Assessment** being required as a result of a request for additional information or in terms of environmental legislation, submit at least but not limited to, **an executive summary** to the Municipality, to enable an informed decision by the Department responsible for Development Planning on the merits of the application which information shall include:

(aaa) fauna and flora;

(bbb) ridges;

(ccc) watercourses (indicating 1:50 and 1:100 year flood lines);

(ddd) Red Data Species;

(eee) culture historical aspects;

(fff) high potential agricultural land;

(ggg) an overlay of the above information to deliver a composite site sensitivity map, indicating high, high-medium, medium and low sensitivity areas;

(hhh) a responding development layout on the composite site sensitivity map;

(iii) well motivated arguments, should the development layout not respond to site sensitivities, to ensure overall sustainability; and

(jjj) where applicable a map of a similar scale than the sensitivity map and development layout of the above information.

any explanation, information or matter which will have an impact on the application as per this By-law;

(8) The **draft amendment scheme (annexure** and **map**) prepared in the format as contemplated in COT: F/21 to this By-law read with section 12 of this By-law: provided that the draft amendment scheme map indicates the following if applicable:

(a) the boundaries, descriptions of surrounding properties and the property(ies) descriptions of all property(ies), townships, agricultural holdings, farms, lots, plots, portions of the land development application property(ies);

(b) the scale;

(c) the true north;

(d) the position and names of all municipal, provincial and national streets, roads, thoroughfares;

(e) the position and names of all open spaces and squares;

(f) the position of every rail reserve;

(g) all lines of no access;

(h) proposed Use Zone(s);

(i) existing and proposed split zoning indicated with a figure;

(j) existing and proposed building lines and building restriction area(s);

(k) a legend.

(9) A **locality, land use and zoning plans** substantially in accordance with COT: F/17 and COT: F/18 and COT: F/19 to this By-law.

(10) A **site plan**, on a scale of 1:500, indicating the layout of the proposed land development application and land development, parking layout and landscaped areas or as determined by the Municipality, must be submitted substantially in accordance with COT: F/20 to this By-law.

(11) A copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable; and

(12) A copy of a **zoning certificate**.

2. The application must be advertised as contemplated in section 16(1)(f) and Schedule 13 to this By-law, and proof shall be submitted in accordance with Schedule 13 to this By-law by the applicant.

SCHEDULE 4

APPLICATION REQUIREMENTS FOR AN APPLICATION FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS IN A TITLE DEED IN TERMS OF SECTION 16(2) OF THIS BY-LAW

1. An owner of a property(ies) who wishes to apply in terms of section 16(2) of this By-law for the removal, amendment or suspension of a restrictive or obsolete condition, obligation or reservation registered against the title of a property(ies) shall apply to the Municipality in the Forms as set out in COT: F/1, COT: F/3 and COT: F/10 to this By-law and such application shall, in addition to the fees prescribed, be accompanied with the documentation indicated in paragraph 2 of this Schedule.

2. The applicant shall submit at least for purposes of a complete submission of an application in terms of section 16(2) of this By-law the following documentation:

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

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

(3) the completed and signed **application forms** as set out in COT:F/1 and COT: F/3 to this By-law;

(4) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

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

(6) list of names and full postal addresses of the registered **adjoining owners** to the land development application;

(7) a **motivation memorandum** with at least but not limited to the following information:

(a) clearly indicate precisely which Title Deed conditions are to be removed, amended or suspended;

(b) indicate how the application meets the requirements of the Gauteng Removal of Restrictions Act, 1996 (Act 3 of 1996) as well as section 47(2) of the Act;

(c) the necessity (need) and desirability of the application with regard to:

(i) the Land Use Scheme;

(ii) the future development of the area; and

(iii) contain a thorough motivation, from a land use point of view, of the proposed removal/amendment or suspension of the conditions in the Title Deed.

(d) as required in terms of section 42 of the Act indicate the following:

(i) the public interest;

(ii) the constitutional and transformation imperatives and the related duties of the State;

(iii) the facts and circumstances relevant to the application;

(iv) the respective rights and obligations of all those affected;

(v) the state and impact of engineering services, social infrastructure and open space requirements; and

(vi) the effect of the land development application on the environment.

(8) A **locality plan** substantially in accordance with COT: F/17 to this By-law.

(9) A copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;

(10) A copy of a **zoning certificate**; and

(11) A **site plan** on a scale of 1:500 indicating the layout of the proposed land development application and land development or as determined by the Municipality, substantially in accordance with COT: F/20 to this By-law, should the application be for the removal/suspension or amendment of a condition in the title deed relating to building lines.

3. The application must be advertised as contemplated in section 16(1)(f) and Schedule 13 to this By-law, and proof shall be submitted in accordance with Schedule 13 to this By-law by the applicant.

SCHEDULE 5

RESERVATION OF A TOWNSHIP NAME

1. Before the submission of a township establishment or extension of boundaries application as contemplated in section 16(4) of this By-law or a division of a township as contemplated in section 16(5) of this By-law a request for approval for the reservation of a township name must be submitted to the Municipality.

2. The applicant shall for purposes of a complete submission for a request for reservation of a township name at least submit the following documentation:

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

   (2) a covering letter with the **written request** for a new township name;

   (3) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

   (4) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;

   (5) a **locality plan indicating** where the proposed township establishment or division of the township establishment will be as well as the exact boundaries of the proposed township; and

   (6) the **township layout plan** on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 as determined by the Municipality.

SCHEDULE 6

APPLICATION REQUIREMENTS FOR AN APPLICATION FOR TOWNSHIP ESTABLISHMENT IN TERMS OF SECTION 16(4) OF THIS BY-LAW

1. An owner who wishes to apply in terms of section 16(4) of this By-law for an establishment of a township or extension of boundaries relating to his/her property(ties), shall apply to the Municipality in the Forms as set out in COT: F/1, COT: F/4 and COT: F/10 to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the maps and documents indicated in paragraph 3 of this Schedule.

2. The applicant must first ensure that he/she has applied substantially, in the opinion of the Municipality, in accordance with Schedule 5 to this By-law and received approval for a Township Name from the Department responsible for Development Planning.

3 The applicant shall submit at least for purposes of a complete submission of an application in terms of section 16(4) of this By-law the following documentation:

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

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

   (3) the completed and signed application forms as set out on COT: F/1 and COT: F/4 to this By-law;

   (4) Township **Name Reservation Letter**;

(5) An **draft amendment scheme (annexure and map)** prepared in the format as contemplated in COT: F/21 to this By-law read with section 12 of this By-law for purposes of incorporation into the Land Use Scheme in terms of section 16(4)(b) of this By-law; provided that the draft amendment scheme map indicate the following if applicable:

(a) the boundaries, description of surrounding properties and the property(ies) descriptions of all property(ies), townships, agricultural holdings, farms, lots, plots, portions of the land development application property(ies);

(b) the scale;

(c) the true north;

(d) the position and names of all municipal, provincial and national streets, roads, thoroughfares;

(e) the position and names of all open spaces and squares;

(f) the position of every rail reserve;

(g) all lines of no access;

(h) proposed Use Zone(s);

(i) existing and proposed split zoning indicated with a figure;

(j) existing and proposed building lines and building restriction area(s);

(k) a legend; and

(6) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

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

(8) list of names and full postal addresses of the registered **adjoining owners** to the land development application;

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

(a) reference to the objective and principles contained in this By-law as well as the Principles as contained in section 7 of the Act;

(b) reference to the Integrated Development Plan and Municipal Spatial Development Framework, and its components and any other policies, plans or frameworks with specific reference on how this application complies with or departs from it as well as the desirability thereof;

(c) the development context of the area and impact of the development on the surrounding properties and area;

(d) As required in terms of section 42 of the Act indicate the following:

(i) The public interest;

(ii) The constitutional and transformation imperatives and the related duties of the State;

(iii) The facts and circumstances relevant to the application;

(iv) The respective rights and obligations of all those affected;

(v) The state and impact of engineering services, social infrastructure and open space requirements;

(vi) The effect of the land development application on the environment;

(e) a comprehensive report containing the following:

(i) the need and desirability of the township with reference to section 9(1)(b) of this By-law;

(ii) the design and use of the erven and streets in the township with special reference to:

(aa) the nature of the application;

(bb) the situation of the township and its proposed uses in relation to the surrounding land and the influence which its establishment is likely to exercise on;

(aaa) land situated within a distance of 1 km from its boundaries and vice versa; and

(bbb) the provision of engineering services;

(cc) how the proposed township will be affected by:

(aaa) topography;

(bbb) geotechnical conditions;

(ccc) existing and proposed transportation routes and systems;

(ddd) pollution and other environmental factors; and

(eee) existing and proposed sewage disposal works;

(iii) how the proposed township will accord with the proposed development pattern of the area; and

(iv) any other aspect necessary for the consideration of the application;

(10) a **Conveyancer's Certificate** including a **land audit report from a Conveyancer**, indicating who the registered owner of the property(ies) is, the conditions of title or servitudes recorded in the Title Deed(s), how these conditions of title or servitudes affect the proposed land development, as well as the mortgage bond registered against the property. The report must indicate how to deal with such conditions or restrictions in the proposed conditions of establishment;

(11) a **Land Surveyor's Certificate** including **land audit report from a Land Surveyor** indicating whether and how the property(ies) are affected by conditions of title or servitudes recorded in the Title Deed(s) and on an approved general plan or small scale diagram, that affect the proposed land development area;

(12) a **Geo-technical report (including Geology report)** by a professional that classify the soil types, indicate risk classifications and recommended type of development and in accordance with the National Building Regulation and Standards Act, 1977 (Act 103 of 1977) classification;

(13) a **Township Layout Plan** that complies with the requirements as set out in COT: F/5 to this By-law, including geological zones and descriptions, certified by an engineering geologist and the Council of Geo Science (depending on the application specifics), preferably maximum A3 size;

(14) a **locality plan** in accordance with see COT: F/17 to this By-law;

(15) a **proposed statement of conditions** as contemplated in section 16(4)(f) and (g) of this By-law;

(16) a **Transport Impact Assessment** relating to the land development area and surrounding property(ies);

(17) a plan indicating the proposed locality of the development on the land development area in relation to the land development application or **draft site development plan**;

(18) an **Environmental Impact Assessment ("EIA")** in terms of the National Environmental Management Act, 2004 (Act 8 of 2004) ("NEMA") provided that;

(a) if the development is a "listed activity" in terms of the National Environmental Management Amendment Act, 2004 (Act 8 of 2004) (NEMA), with specific reference to the Regulations promulgated under Section 24(5). The applicant must **submit proof** that **comments** from the relevant competent authority e.g. Gauteng Department of Agriculture and Rural Development (GDARD), Department Environmental Affairs (DEA) or its successors in title, have been requested;

(b) if an **Environmental Impact Assessment** (EIA) process has been initiated, then specify:

(i) date initiated;

(ii) name and details of environmental consultant;

(iii) what process has been initiated; and

(iv) relevant competent authority reference number assigned.

(c) if the land use rights being applied for does not require an EIA with specific reference to the Regulations to NEMA, submit proof that such EIA is not required and an explanation as to why it will not be required by the Municipality over and above the legislation; including:

(i) give a short, general overview / description of the site situation highlighting identified site sensitivities;

(ii) indicate if the site is situated next to an existing open space resource; and

(iii) indicate how the proposed development respond to the open space resource with specific referral to levels, placing and functioning of building footprints, landscaping, and access.

(d) if an **EIA was conducted in any event** as indicated in paragraph (a) submit at least but not limited to, an executive summary to the Municipality, to enable an informed decision by the Department responsible for Development Planning on the merits of the application which information shall include:

(i) fauna and flora;

(ii) ridges;

(iii) watercourses (indicating 1:50 and 1:100 year flood lines);

(iv) Red Data Species;

(v) culture historical aspects; and

(vi) high potential agricultural land.

(vii) an overlay of the above information to deliver a composite site sensitivity map, indicating high, high-medium, medium and low sensitivity areas;

(viii) a responding development layout on the composite site sensitivity map;

(ix) well motivated arguments, should the development layout not respond to site sensitivities, to ensure overall sustainability;

(x) where applicable a map of a similar scale than the sensitivity map and development layout of the above information.

(19) A **copy of the application** submitted to the **Department of Minerals and Energy** seeking consent alternatively confirmation as contemplated in Section 54 of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002); and

where mining rights have been granted to a party other that the state the applicant shall provide the following further information:

(a) the name and contact details of the holder of the mining right (or similar);

(b) the extent of the mining right (in geographical terms) and the anticipated impact thereof on the proposed development within the township applied for.

(20) A copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;

(21) A copy of a **zoning certificate**; and

(22) The Municipality may require additional information and documentation, to be submitted by the application, including copies of the plan of the proposed township, drawn to such scale as required, site plans and transport impact studies, to be submitted in support of the application before the application is finalized, that will place it in a position to evaluate and take a decision on the land development application; including but not limited to:

(a) a **Retail Study** if required in terms of the policies of Council or as a standard or additional information requirement from the relevant department of the Municipality;

(b) **an architectural drawings and/or draft site development plans and landscape development plans** if required in terms of the policies of Council or as a standard or additional information requirement from the relevant department of the Municipality;

(c) a **Noise Impact Assessment** if required in terms of the policies of Council or as a standard or additional information requirement from the relevant department of the Municipality;

4. The application must be advertised as contemplated in section 16(1)(f) and Schedule 13 to this By-law, and proof shall be submitted in accordance with Schedule 13 to this By-law by the applicant.

SCHEDULE 7

APPLICATION REQUIREMENTS FOR AN APPLICATION FOR THE DIVISION OF A TOWNSHIP IN TERMS OF SECTION 16(5) OF THIS BY-LAW

1. An applicant who wishes to apply in terms of section 16(5) of this By-law for a division of a township relating to his/her property(ies), shall apply to the Municipality in the forms as set out in COT: F/1, COT: F/6 (with Part C to D of COT:F/4) and COT: F/10 to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the maps and documents indicated in paragraph 3 below.

2. The applicant must first ensure that he/she has applied in accordance with Schedule 5 to this By-law and received approval for the Township Names for the division of the township from the Department responsible for Development Planning. The applicant must ensure that the Township Name Reservation Letter is submitted with the land development application.

3. The applicant shall submit at least for purposes of a complete submission of an application in terms of section 16(5) of this By-law the following documentation:

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

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

(3) the completed and signed **application forms** as set out in COT: F/1 and COT: F/6 (with Part C to D of COT:F/4) to this By-law;

(4) Township **Name Reservation Letter**;

(5) An **draft amendment scheme (annexure** and **map)** prepared in the format as contemplated in COT: F/21 to this By-law read with section 12 of this By-law for purposes of incorporation into the Land Use Scheme in terms of section 16(5)(b)(vi) of this By-law; provided that the draft amendment scheme map indicate the following if applicable:

(a) the boundaries, description of surrounding properties and the property(ies) description of all property(ies), townships, agricultural holdings, farms, lots, plots, portions of the land development application property(ies);

(b) the scale;

(c) the true north;

(d) the position and names of all municipal, provincial and national streets, roads, thoroughfares;

(e) the position and names of all open spaces and squares;

(f) the position of every rail reserve;

(g) all lines of no access;

(h) proposed Use Zone(s);

(i) existing and proposed split zoning indicated with a figure;

(j) existing and proposed building lines and building restriction area(s);

(k) a legend;

(6) if the applicant is not the owner of property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

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

(8) a **motivating memorandum** with reasons for the division a township and the manner in which it will be done;

(9) the **approved conditions for the establishment of the township** to be divided together with the **township layout plan**(s) indicating the individual divisions;

(10) **proof of compliance with** section16(6) or proof of compliance with section 16(5)(b)(iv) of this By-law;

(11) **a Land Surveyor's Certificate** including **a land audit report from a Land Surveyor** indicating whether and how the property(ies) are affected by the conditions of title or servitudes recorded in the Title Deed(s) affect the proposed land development;

(12) a **Conveyancer's Certificate** including a **land audit report from a Conveyancer**, indicating who the registered owner of the property(ies) is, the conditions of title or servitudes recorded in the Title Deed(s), how these conditions of title or servitudes affect the proposed land development, as well as the mortgage bond registered against the property. The report must indicate how to deal with such conditions or restrictions in the proposed conditions of establishment;

(13) a **Geo-technical (including Geology) Report** classifying the soil types, indicate risk classifications

and recommended type of development and the National Building Regulation Classification;

(14) **Proposed township layout plans per proposed division** that complies with the requirements as set out in COT: F/5 to this By-law, preferably maximum A3 size;

(15) the **proposed revised statements of conditions of approval**;

(16) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable; and

(17) A copy of a **zoning certificate**.

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

SCHEDULE 8

APPLICATION REQUIREMENTS FOR AN APPLICATION FOR SUBDIVISION AND/OR CONSOLIDATION IN TERMS OF SECTION 16(12)(a)(i) AND (ii) OF THIS BY-LAW

1. An owner who wishes to apply in terms of section 16(12))(a)(i) and (ii) of this By-law for the subdivision and/or consolidation relating to his/her property(ies) shall apply to the Municipality in the Forms as set out in COT: F/1, COT: F/8 and COT: F/10 to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the documentation indicated in paragraph 2 of this Schedule.

2. The applicant shall submit at least for purposes of a complete submission of an application in terms of section 16(12)(a)(i) and (ii) of this By-law the following documentation:

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

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

(3) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 45 and Schedule 21 of this By-law;

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

(5) the completed and signed **application forms** as set out in COT: F/1 and COT: F/8 to this By-law;

(6) the **motivation memorandum** indicating at least the following information:

(a) reference to the objectives and principles contained in this By-law as well as the principles contained in section 7 of the Act.

(b) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or deviated from it as well as the desirability thereof;

(c) the development context of the area and impact of the development on the surrounding properties;

(d) reference to the adherence of section 9(1)(b) of this By-law and how the subdivision and/or consolidation accords with the approved Land Use Scheme or amendment schemes applicable on the property(ies);

(e) as required in terms of section 42 of the Act indicate the following:

(i) the public interest;

(ii) the constitutional and transformation imperatives and the related duties of the State;

(iii) the facts and circumstances relevant to the application;

(iv) the respective rights and obligations of all those affected;

(v) the state and impact of engineering services, social infrastructure and open space requirements;

(vi) the effect of the land development application on the environment and environmental legislation;

(7) a **locality plan** in accordance with COT: F/17 to this By-law;

(8) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;

(9) A copy of the **Zoning Certificate**;

(10) A4 or A3 size copy(ies) of the **subdivision and/or consolidation sketch plan(s)** of the erf/erven in question must be submitted and shall be in accordance with the following requirements:

(a) the plan must be drawn in black on a white background;

(b) the plan must be drawn to a scale:

(i) not smaller than 1:500 for erven smaller than 2 000 m²;

(ii) not smaller than 1:1 000 for erven from 2 000 m² up to and including 3 000 m²; and

(iii) not smaller than 1:1 500 for erven larger than 3 000 m² but smaller than 10 000 m²;

provided that the Municipality may authorise another scale to be used;

(c) the following information must be indicated on the consolidation and/or subdivision sketch plan(s):

(i) the erf number(s);

(ii) the name of the township in which the erven are situated;

(iii) the erf numbers of adjoining erven, and the township(s) in which they are situated;

(iv) proposed consolidation and subdivision lines and existing or proposed servitude lines;

(v) north point (true north);

(vi) a legend identifying each proposed consolidated and subdivided portion by means of a figure;

(vii) the applicant's signature;

(viii) the dimensions of the erven;

(ix) the dimensions of each consolidated and/or subdivided portion;

(x) the size of the erven;

(xi) the size of each consolidated and/or subdivided portion;

(xii) the location and nature of every building on the erf or erven and the distances between the buildings and the street boundaries, existing boundaries and the consolidation and/or subdivision line;

(xiii) the number of storeys in every existing building situated within 5,0 metres of any proposed subdivision line;

(xiv) the direction, by means of small arrows, of the slope of the roof of every building situated immediately next to any proposed subdivision line;

(xv) the nature of any building fronting on and which is within 10,0 metres of the subdivision line;

(xvi) the purpose for which every room on the side of a building that fronts on any subdivision line is used;

(xvii) the position of every door and window in any wall facing any subdivision line;

(xviii) the approximate location of any existing overhead conductor or structure used for -

(aa) telephone/telecommunication purposes;

(bb) electrical purposes; and

(cc) other infrastructure;

(xix) the approximate location, in the street reserve adjacent to the erf or erven, of -

(aa) trees;

(bb) fire hydrants;

(cc) bus shelters;

(dd) storm-water catch pits; and

(ee) water connection points, indicated with the symbol.

(xx) if the cross slope of the street reserve or the slope of any proposed new access is more than 1:5, an insert on the sketch plan that indicates contours with intervals of 1,0 m;

(aa) all buildings and structures or any portion of buildings and structures the applicant intends demolishing;

(bb) all natural watercourses traversing the erf or erven in question;

(cc) the 1:50 and 1:100 year flood lines if the erf or erven in question is situated in an area that is subject to flooding; and

(dd) existing drains on the erf, the street number and name;

(11) Where a simultaneous consolidation and subdivision land development application is submitted and the sketch plan in the opinion of the Municipality results in a complex sketch plan that cannot easily be interpreted; the applicant must submit separate plans showing the various stages of the combined consolidation and subdivision.

(12) Properties can only be consolidated if the application properties belongs to the same owner and the application properties are located within the same township as contemplated in section 16(12)(a)(ii) of this By-law.

SCHEDULE 9

APPLICATION REQUIREMENTS FOR AN APPLICATION FOR SUBDIVISION IN TERMS OF SECTION 16(12)(a)(iii) OF THIS BY-LAW

1 An owner who wishes to apply in terms of section 16(12)(a)(iii) of this By-law for the subdivision relating to his/her property shall apply to the Municipality in the form as set out in COT: F/1, COT: F/8 and COT: F/10 to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the documentation indicated in paragraph 2 of this Schedule.

2. The applicant shall submit at least for purposes of a complete submission of an application in terms of section 16(12)(a)(iii) of this By-law the following documentation:

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

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

(3) if the applicant is not the owner of the property a **power of attorney** that complies with the provisions of section 45 and Schedule 21 of this By-law;

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

(5) the completed and signed **application forms** as set out in COT: F/1 and COT: F/8 to this By-law;

(6) list of names and full postal addresses of the **registered adjoining** owners to the land development application;

(7) a **motivation memorandum** indicating at least the following information:

(a) reference to the objectives and principles contained in this By-law as well as the principles contained in section 7 of the Act.

(b) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or depart from it as well as the desirability thereof;

(c) the development context of the area and impact of the development on the surrounding properties;

(d) reference to the adherence of section 9(1)(b) of this By-law;

(e) as required in terms of section 42 of the Act indicate the following:

(i) the public interest;

(ii) the constitutional and transformation imperatives and the related duties of the State;

(iii) the facts and circumstances relevant to the application;

(iv) the respective rights and obligations of all those affected;

(v) the state and impact of engineering services, social infrastructure and open space requirements;

(vi) the effect of the land development application on the environment and environmental legislation;

(f) the need and desirability of the subdivision;

(g) how the proposed subdivision is affected by:

(i) topography;

(ii) geotechnical conditions;

(iii) transportation routes and systems (existing and proposed);

(iv) environmental factors such as pollution; and

(v) existing and proposed sewage disposal works;

(h) how the subdivision will accord with the proposed development pattern of the area;

(i) the provision made or to be made for the supply of water, electricity and sanitary services to each portion;

(j) any other aspect deemed to be necessary for the consideration of the application;

(k) how the subdivision accords with the existing land use scheme or amendment schemes applicable on the property(ies);

(8) a **locality plan** in accordance with COT: F/17 to this By-law;

(9) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;

(10) a copy of the **Zoning Certificate**;

(11) a **Conveyancer's Certificate** including **land audit report from a Conveyancer**, indicating who the registered owner of the land is, the conditions of title or servitudes recorded in the Title Deed(s), how these conditions of title or servitudes affect the proposed land development, as well as the mortgage bond registered against the property. The report must indicate how to deal with such conditions or restrictions in the proposed conditions of establishment;

(12) a **Land Surveyor's Certificate** including **land audit report from a Land Surveyor** indicating whether and how the property are affected by conditions of title or servitudes recorded in the Title Deed(s) affect the proposed land development area;

(13) an **Environmental Impact Assessment ("EIA")** in terms of the National Environmental Management Act, 2004 (Act 8 of 2004) ("NEMA") provided that;

(a) if the development is a "listed activity" in terms of the National Environmental Management Amendment Act, 2004 (Act 8 of 2004) (NEMA), with specific reference to the Regulations promulgated under Section 24(5). The applicant must **submit proof** that **comments** from the relevant competent authority e.g. Gauteng Department of Agriculture and Rural Development (GDARD), Department Environmental Affairs (DEA) or its successors in title, have been requested;

(b) if an **Environmental Impact Assessment** (EIA) process has been initiated, then specify:

(i) date initiated;

(ii) name and details of environmental consultant;

(iii) what process has been initiated; and

(iv) relevant competent authority reference number assigned.

(c) if the land use rights being applied for does not require an EIA with specific reference to the Regulations to NEMA, submit proof that such EIA is not required and an explanation as to why it will not be required by the Municipality over and above the legislation;

including:

(i) give a short, general overview / description of the site situation highlighting identified site sensitivities;

(ii) indicate if the site is situated next to an existing open space resource; and

(iii) indicate how the proposed development respond to the open space resource with specific referral to levels, placing and functioning of building footprints, landscaping, and access.

(d) if an **EIA was conducted in any event** as indicated in paragraph (a) submit at least but not limited to, an executive summary to the Municipality, to enable an informed decision by the Department responsible for Development Planning on the merits of the application which information shall include:

(i) fauna and flora;

(ii) ridges;

(iii) watercourses (indicating 1:50 and 1:100 year flood lines);

(iv) Red Data Species;

(v) culture historical aspects; and

(vi) high potential agricultural land.

(vii) an overlay of the above information to deliver a composite site sensitivity map, indicating high, high-medium, medium and low sensitivity areas;

(viii) a responding development layout on the composite site sensitivity map;

(ix) well motivated arguments, should the development layout not respond to site sensitivities, to ensure overall sustainability;

(x) where applicable a map of a similar scale than the sensitivity map and development layout of the above information.

(14) Requirements for the **subdivision plan** for applications lodged in terms of section 16(12)(a)(iii) of this By-law:

(a) contour lines, the values of which shall be based on the datum plane of national geodetic bench-marks based on sea-level as datum plane or, with the written approval of the Municipality, on some other datum plane;

(b) the area of the land and distinctive numbers and areas of the portions;

(c) existing buildings on the land;

(d) roads, their names, widths and connections with existing streets or roads in adjoining areas;

(e) water courses, railways, pipelines, power lines, existing public roads and all servitudes in or abutting to the land;

(f) by means of a distinctive notation, the sites proposed to be reserved for specific purposes;

(g) the name of the Municipality in whose area of jurisdiction the land is situated;

(h) a locality plan, as an inset to the divisional plan, drawn on a scale of not less than 1:50000, showing -

(i) the locality of the land with the principal topographical features of the land and its environs, its position in relation to surrounding farms, farm portions and agricultural holdings and portions of agricultural holdings;

(ii) the names and numbers of adjoining properties;

(iii) the routes, which provide access to the nearest main road and an indication of the road network in the vicinity of the land;

(iv) the boundaries of any demarcated noise zone; and

(v) the bar scale in respect of the locality plan;

(i) in an enclosure, the names of the persons responsible for the contour surveys and a reference of the datum plane on which the contour values are based;

(j) each registered servitude over the land with a reference to the notarial deed or approved diagram relating to such servitude and where an alteration in the route of such servitude is contemplated the proposed route;

(k) grid co-ordinates and a reference to the geodetic system used;

(l) if the land is subject to flooding, the 1:50 and 1: 100 year flood line or, if the land is not subject to flooding, a certificate by an engineer qualified to do so to the effect that the land is not so subject: Provided that the Municipality may at the written request of an applicant, waive compliance with this subparagraph; and

(m) a bar scale.

3. The application must be advertised as contemplated in section 16(1)(f) and Schedule 13 to this By-law, and proof shall be submitted in accordance with Schedule 13 to this By-law by the applicant.

SCHEDULE 10

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

1. An applicant who wishes to request the Municipality, in terms of any provision of this By-law to allow and extension of time on any land development application, as the case may be, must do so where practically possible at least one month before the expiry date of the time as provided for in this By-law or approval of a land development application to comply with any provision and/or condition(s) of approval.

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

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

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

(3) the completed and signed **application form** as set out in COT:F/9 to this By-law;

(4) if the applicant is not the owner of the property(ies) a **power of attorney that** complies with the provisions of section 46 and Schedule 21 of this By-law;

(5) **compelling reasons** for the request for extension of time;

(6) proof of submission of documents to the Surveyor-General if relevant; and

(7) summary of the progress of the application.

SCHEDULE 11

REQUIREMENTS FOR THE ALTERATION, AMENDEMENT OR CANCELLATION OF A GENERAL PLAN OF A PROCLAIMED TOWNSHIP IN TERMS OF SECTION 16(15) OF THIS BY-LAW

1. An owner of a property(ies) who wishes to have the general plan of a proclaimed township altered, amended or wholly or partially cancelled, shall at least for purposes of a complete submission of an application in terms of section 16(15) of this By-law submit the following documentation:

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

   (2) copies of the **relevant sheet of the general plan** which may be reduced copies of the original;

   (3) copies of a **plan of the township** showing the posed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;

   (4) a **motivational memorandum** stating the reasons for the application;

   (5) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable;

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

   (7) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

2. The application must be advertised as contemplated in section 16(1)(f) and Schedule 13 to this By-law, and proof shall be submitted in accordance with Schedule 13 to this By-law by the applicant.

SCHEDULE 12

AMENDMENT OF A LAND DEVELOPMENT APPLICATION PRIOR TO APPROVAL IN TERMS OF SECTION 16(18) OR POST APPROVAL IN TERMS OF SECTION 16(4)(j) OR SECTION 16(19)

PRIOR TO APPROVAL

1. An applicant may apply to the Municipality for the amendment of his/her land development application in terms of section 16(18) of this By-law and shall for purposes of a complete submission of such application, submit at least the following documentation:

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

   (2) the completed and signed **application form** COT: F/7 (with COT: F/4 Part C to D) to this By-law for an application for the amendment of the layout plan of a township as contemplated in terms of section 16(4)(j) of this By-law;

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

   (4) **a motivating memorandum** clearly indicating the reasons for the amendment as well as the proposed amendment;

   (5) all **documents relevant to the proposed amendment** including:

      (a) a revised set of the draft amendment scheme referring to a draft amendment scheme map and a draft annexure;

      (b) proposed conditions of approval; or

(c) proposed statement of conditions of establishment;

(d) proposed amended layout plan, diagrams;

(e) proposed amended site plans; and

(f) any other relevant documentation, reports and information.

2. **Notice of the amendment if** required by the Municipality in terms of section 16(18) of this By-law shall be published in accordance with Schedule 13 to this By-law and proof thereof shall be submitted in accordance with Schedule 13 to this By-law.

POST APPROVAL

3. An applicant may apply to the Municipality for the amendment of his/her approved land development application in terms of section 16(19) of this By-law, prior to such rights being adopted and shall for purposes of a complete submission of such application, submit at least the following documentation:

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

(2) the completed and signed **application form** COT: F/7 (with COT:F/4 Part C to D) to this By-law for an application for the amendment of the layout plan of a township as contemplated in terms of section 16(4)(j) of this By-law;

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

(4) **a motivating memorandum** clearly indicating the reasons for the amendment as well as the proposed amendment which shall include but not limited to:

(a) indicating who the approval has been communicated to;
(b) the impact of the amendment of the approval of the land development application on the interested and affected parties;

(c) whether as a result of the approval any further actions either in terms of this By-law or any other law was done to implement the application;

(d) whether any engineering services have been installed or are to be installed including the impact on engineering services of such amendment;

(e) whether any other land development application or other application was submitted as a result of the application being approved;

(f) whether any registration transactions have been registered as a result of the approval of the land development application;

(g) whether any transfer or rights have been granted in any whatsoever form and manner to any person as a result of the approval of the land development application;

(h) whether any plans or diagrams have been approved as a result of the approval of the land development application; and/or

(i) any site development plan, landscape plan or provisional building plans have been approved as a result of the approval of the land development application; and/or

(j) any other information that the Municipality in its opinion deems necessary in order for them to consider the application for amendment; and

(5) the applicant shall provide proof of paragraphs (4)(a) to (j);

(6) All documents that formed part of and were considered as part of the approval of the land development application; and

(7) All **documents relevant to the proposed amendment** including:

(a) a revised set of the draft amendment scheme referring to a draft amendment scheme map and a draft annexure;

(b) proposed conditions of approval; or

(c) proposed statement of conditions of establishment;

(d) proposed- amended layout plan, diagrams;

(e) proposed amended site plans; and

(f) any other relevant documentation, reports and information.

SCHEDULE 13

REQUIREMENTS FOR THE PUBLIC PARTICIPATION OF APPLICATIONS AND SUBMISSION OF PROOF THEREOF IN TERMS OF SECTION 16(1)(f) to (h) OF THIS BY-LAW

1. Notices must be published once a week for two consecutive weeks in two local newspapers and in the Provincial Gazette in English and one other official language commonly spoken in the area as set out in COT: F/12, COT: F/13 COT: F/14, COT: F/15 or COT: F/16 to this By-law or other provisions, as the case may be.

2. A notice as set out in COT: F/12, COT: F/13, COT: F/14, COT: F/15 or COT: F/16 to this By-law or other provisions as the case may be must be placed on the property boundary clearly visible to the general public and maintained for a period of at least 14 days from the date of first publication. The Placard must be at least 594 mm x 420 mm and the lettering on the notices shall be at least 6 mm high, legible, upright and in print.

3. A notice as set out in COT: F/12, COT: F/13, COT: F/14, COT: F/15 or COT: F/16 to this By-law or other provisions, as the case may be must be sent by registered mail or delivered by hand to each owner of a property that abuts the land development application area and adjacent street, not later than the date of the first publication.
The diagrams below indicate which adjoining owner(s) of properties surrounding the land development application area must be notified by means of a notice.

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

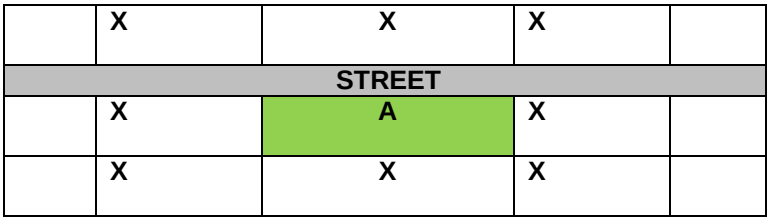
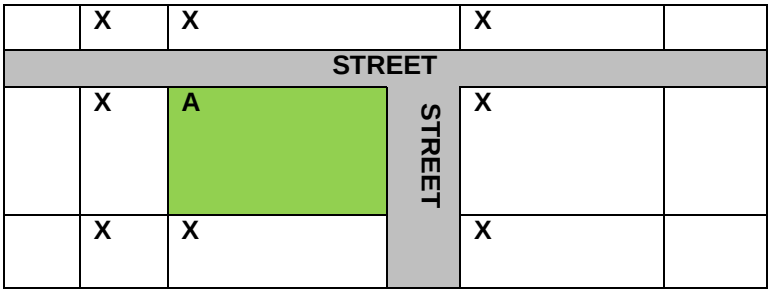


Diagram B: Land development area on a corner of two streets



Erven marked **A** represent the land development area (application property)

Erven marked **X** represent the properties whose owners must receive the notice.

4. In terms of section 16(1)(h) of this By-law, the applicant must submit proof in the following manner to the satisfaction of the Municipality that he/she has complied with all the provisions of this By-law or relevant legislation:

(a) the applicant must submit the full pages of the newspapers and Provincial Gazette in which the notice appeared or certificates from the editors of the newspapers and Provincial Gazette;

(b) the applicant must submit an affidavit in compliance with COT: F/23 to this By-law, stating that the provisions of section 16(1)(f) of this By-law have been complied with;

(c) the applicant must submit two legible dated photographs of the placard notice as contemplated in section 16(1)(f)(ii) of this By-law, not smaller than half-postcard size:

(i) one close-up of the notice to clearly show the wording; and

(ii) one from a distance across the road to show the visibility of the notice;

(d) the applicant must submit proof that a notice as prescribed in section 16(1)(f)(iii) of this By-law and in accordance of COT: F/12, COT: F/13, and COT: F/14, COT: F/15 or COT: F/16 to this By-law as the case may be, have been sent by registered mail or delivered by hand to every owner of land directly adjacent to and opposite the land development area provided that proof of compliance with this requirement may include:

(i) an affidavit by the applicant of compliance to the satisfaction of the Municipality; and

(ii) where the owner of the adjoining property(ies) cannot be traced and proof having been submitted of the efforts made by the applicant and in the opinion of the Municipality the owner cannot be traced, by affixing of the notice contemplated in section 16(f)(iii) of this By-law on the property(ies) and taking a photograph which indicates the date on which it was taken;

5 In terms of section 16(1)(n) of this By-law a copy of every objection and/or comment that is received by the applicant must be submitted to the Municipality. The applicant will also receive a copy of each objection and/or comment from the Department responsible for Development Planning.

6 When an application for rezoning to a category of land use zoning or use zone for “Special” is made, the notices in the newspapers and Provincial Gazette and placard notices must clearly specify what new land use rights, which may not be defined in the Land Use Scheme, are envisaged with the proposed zoning as well as a clear description of the intended development on the application site.

7. When an application is made for a category of land use zoning or use zone other than “Special”, the category of land use zoning or use zone formulated in the Land Use Scheme must be mentioned in the notices.

8. The notice must clearly indicate the current zoning of the property and the new category of zoning or use zoned to which the Land Use Scheme will be amended through the land development application.

9. Notices have the intention of placing the public in a position to provide comment and/or objections to the land development application and therefore shall contain all information which in the opinion of the Municipality shall comply therewith and shall specifically allow for the application to be open for inspection to look at the detail of the land development application to be considered by the Municipality.

10. Notices shall specifically when soliciting or calling for objections and/or comments require that for purposes of commenting or objecting the objector or interested person shall provide contact details as contemplated in this By-law to enable the Municipality to correspond or send notices to the objectors and/or interested parties.

SCHEDULE 14

REQUIREMENTS FOR CONSENT OF THE MUNICIPALITY IN TERMS OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 16(2)(d) OF THIS BY-LAW

1. An owner of property(ies) who wishes to apply in terms of section 16(2)(d) of this By-law for the consent of the Municipality in terms of a restrictive condition in title relating to his/her property(ies) shall apply to the Municipality in the form as set out in COT: F/1, COT: F/3 and COT/ F/10 to this By-law, and such application shall, in addition to the fees prescribed, be accompanied by the documentation indicated in paragraph 2 of this Schedule.

2. The applicant shall at least for purposes of a complete submission of an application in terms of section 16(2)(d) of this By-law, submit the following documentation:

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

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

   (3) the completed and signed **application forms** as set out in COT: F/1 and COT: F/3 to this By-law;

   (4) if the applicant is not the owner of the property(ies) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

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

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

      (a) address the restrictive condition(s) in the Title Deed that relates to the consent to be granted by the Municipality;

      (b) the applicant should indicate where applicable in terms of what other legislation the same planning or land use matter is being governed e.g. National Building Regulations or Land Use Scheme and its specific provisions et cetera;

      (c) the future development of the area, (it should provide for the present and the future needs of the city, or a part of it, rather than just benefit a specific business);

      (d) contain a thorough motivation, from a land use point of view, of the proposed consent of the Municipality in the Title Deed;

      (e) Indicated how the application meets the requirements of the Gauteng Removal of Restrictions Act, 1996 (Act 3 of 1996) as well as section 47(2) of the Act.

      (f) as required in terms of section 42 of the Act indicate the following:

         (i) the public interest;

         (ii) the constitutional and transformation imperatives and the related duties of the State;

         (iii) the facts and circumstances relevant to the application;

         (iv) the respective rights and obligations of all those affected;

         (v) the state and impact of engineering services, social infrastructure and open space requirements;

         (vi) the effect of the land development application on the environment and environmental legislation;

   (7) a **locality plan** in accordance with COT: F/17 to this By-law;

   (8) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application

is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable; and

(9) a copy of the **Zoning Certificate.**

3. Where the consent as contemplated above forms part of a rezoning or other type of land development application the applicant should indicate that they are also applying for consent in terms of the conditions as indicated above.

4. The Municipality reserves the right that, upon this request for consent of the local authority in terms of the restrictive condition in the Title Deed having been submitted and after evaluation of the application, in the sole opinion of the Municipality the rights and obligation of any other party shall be affected, then the applicant shall be required to embark on a process of public participation to the satisfaction of the Municipality.

SCHEDULE 15

CORRECTION OF ERRORS OR OMISSION IN TERMS OF SECTION 23 OF THIS BY-LAW

1. An applicant who wishes to request the Municipality to correct an error or omission in terms of section 23 of this By-law on and approved land development application must for purposes of completion of his/her submission at least submit the following documentation:

(1) motivation memorandum that clearly indicates the reasons for the submission as well as the alleged error or omission with specific reference to whether the error or omission is so material as to constitute a new land development application or not as is required to be considered by the Municipality in terms of this By-law;

(2) substantial proof such as an official approval of land use rights must be submitted that clearly and without any doubt indicates the error or omission; and

(3) the proposed corrected approval letter, development controls, amendment scheme map and/or annexure statement of conditions of establishment, layout plan or any other document that must be corrected.

(4) If the application was adopted, promulgated or declared, in accordance with COT: F/26, COT: F/27 and COT: F/28 to this By-law as the case may be, a correction notice shall be published in the Provincial Gazette.

SCHEDULE 16

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

1. Determination of an area of land/or an amount or contribution payable in respect of provision of open spaces or parks, including private open space, public open space or areas contemplated in section 47(3) of this By-law, shall be in accordance with this schedule or as may be determined by the Municipality from time to time;

2. Where, by virtue of a condition or in terms of the provisions of this By-law an owner of property(ies) on which a land development application is approved, excluding a township establishment in terms of section 16(4) or an application in terms of section 16(5) of this By-law, is required to provide land or pay an amount of money or a contribution to the Municipality, in respect of the provision of open spaces or parks, such area of land or amount money or contribution shall be determined, in accordance with the following formula:

$$\frac{(a - b) \times c \times e}{d}$$ in which formula:

(a) "a" represents the number of dwelling houses/residential units which may be erected on the land to which the application relates in terms of the approved application;

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

(c) "c" represents:

(i) 24m² where, in terms of the approved land development application, the land contemplated in paragraph (a) may be used for Residential 1 or 2 purposes, or for purposes as may be determined by the Municipality from time to time; provided that the area excludes private gardens and "left over" undevelopable open spaces;

(ii) 18m² where, in terms of the approved land development application, the land contemplated in paragraph (a) may be used for Residential 3, 4 or 5 for purposes as may be determined by the Municipality from time to time; provided that the area excludes private gardens and "left over" undevelopable open spaces;

(iii) an area of land as may be determined by the Municipality, expressed in m^2 where, in terms of the approved land development application the land contemplated in paragraph (a) may be used for residential units that may in the opinion of the Municipality create a lesser impact, or require a lesser area for the provision open spaces and parks and may include retirement villages or centres.

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

(e) "e" represents the site value of the land contemplated in paragraph (a)

(i) as reflected in the valuation roll or the supplementary valuation roll of the Municipality; or

(ii) if the land is not reflected in the valuation roll or supplementary valuation roll of the Municipality, as determined by a Municipal Valuer, duly appointed by the Municipality;

(aa) who is a member of the South African Institute of Valuers; or

(bb) as defined in the Local Government Property Rates Act, 2004.

3. Where, by virtue of a condition or a provision of this By-law an owner of property, on which a land development application for a township or division of township is approved, in terms of section 16(4) and (5) of this By-law, is required to provide land or pay an amount of money or a contribution to the Municipality, in respect of the provision of open spaces or parks, such area of land or amount or contribution, shall be determined in accordance with the following formula:

a x 24 m² + b x 18 m² + c x m², in which formula:

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

(b) "b " represents the number of residential units which may be erected on land in the township which, in terms of the Land Use Scheme concerned, is to be zoned "Residential 3' "Residential 4" or "Residential 5" or as may be determined by the Municipality from time to time, as the case may be;

(c) "c" represents the number of residential units that may in the opinion of the Municipality create a lesser impact or require a lesser area for the provision of open spaces and parks and may include retirement villages or centres, which area of land may be determined by the Municipality, expressed in m²;

4. Any area of land in a proposed township or divided township in terms of section 16(4) and/or section 16(5) of this By-law, which is subject to environmentally sensitive portions that include flooding by a 1:100 year flood line, sensitive habitats, wetlands and ridges shall be shown on the layout plan of the township, as an open space reserved for conservation purposes if and when required by the Municipality.

5. Any area of land to be provided for purposes of open spaces and parks shall be zoned in accordance with the purpose for which the land is set aside, in terms of section 47(3) of this By-law;

6. If, in a proposed township or division of a township, part of any area of land subject to flooding, is subject to a 1:100 year flood line, such area shall be provided for the provision of open spaces and parks; and

(a) if such area of land is less than 32 m measured from the centre of a water course, the area of land shown as an open space or park on the layout plan of the township or division of township, shall be extended to measure 32 m from the centre of the water course; and/or

(b) this area shall be retained for purposes of nature conservation and not a park for purposes of a park, if required by the Municipality; and

7. The area of land to be provided for open spaces or parks in terms of Section 47 of this By-law may not be reduced by the area of land to be shown as open spaces or parks in terms of paragraph 6(a) and (b); provided that the Municipality may give consent to reduce this requirement.

8. Where reference is made to "residential units" or "dwelling houses/units/residential units" in the calculation of monies and or land for the provision of open spaces and parks as a result of a land development application the increase in the number of dwelling houses/unit/residential units shall be based on the potential for the development thereof irrespective of the use zone approved by the land development application.

9. For purposes of the calculation of monies and/or land to be paid or provided for open spaces and parks the Municipality may determine the area in the formulae based on the size of the property(ies) forming the subject of the land development area, the translation of Floor Area Ratio and Coverage in terms of the Land Use Scheme and land development controls applicable to the property(ies).

SCHEDULE 17

CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL, OPERATING PROCEDURES AND GUIDELINES

PROCEDURE FOR THE MUNICIPAL PLANNING TRIBUNAL TO CONSIDER LAND DEVELOPMENT APPLICATIONS

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

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

1. The process refers to all land development applications submitted in terms of this By-law, the Act or other relevant legislation i.e. national, provincial or municipal.

2. Applicants lodge a land development application with the Department responsible for Development Planning or as the case may be. Depending on the nature of the application, an application will be advertised or not. The method of advertising may differ from one type of application to the other. The application is circulated to various departments within the Municipality as well as those bodies the Municipality is obliged to consult with as prescribed by the different legislation. The application may be circulated to the Ward Councillor for comment at this stage.

3. The different types of land development applications submitted have different procedural requirements, which include different prescribed fees, specific documentations, different advertising requirements, affidavits, etc.

4. Upon submission of the land development applications the administration must ensure that all procedural requirements have been met in terms of the relevant legislations.

5. The Deputy Director for the Municipal Planning Tribunal and committees assigned to him/her shall ensure that all relevant documents have been submitted for consideration of the land development application and may for that purpose prepare a report if required to that effect.

6. Once all the advertising periods, as well as circulation dates have expired the application is ready to be processed by the administration.

7. The Department responsible for Development Planning prepares a report capturing the assessment that include assessment and evaluation of evidence presented by the applicant or other parties to the application for their burden of proof in terms of the Act and need and desirability or any other compliance for the application to be considered including policy frameworks, responses to all comments received and specifically dealing with objections.

8. Once a report has been prepared by the Department responsible for Development Planning it will be determined whether the application can be dealt with in terms of powers delegated to the Authorised Official in terms of the categorisation of development applications or whether the application must be referred to the Municipal Planning Tribunal for decision-making in terms of their functions and delegated powers.

9. If an application is referred to the Municipal Planning Tribunal, all relevant documentation, the applicant's memorandum, objections, the applicant's reply to the objections and the official's comments are annexed to a report which sets out the basis of the application.

10. The administration responsible for supporting the Municipal Planning Tribunal arranges for a public hearing contacting all objectors and advising them to attend an inspection of site and the hearing. It is important to send out the notification strictly in accordance with the requirements of the relevant legislation, in most instances fourteen days' notice plus seven days for postal delivery for the hearing.

11 The schedule of meetings and items to be considered during a month may be circulated to the relevant ward councillors at the beginning of the month.

B. OPERATIONAL FRAMEWORK FOR THE MUNICIPAL PLANNING TRIBUNAL

1. The policy guidelines and operation framework are intended to assist the Municipal Planning Tribunal with decision-making on land development applications and should work towards the implementation of the Integrated Development Plan for Council. These policies would include proposed densities, areas where mixed land use could be supported and policy statements with regard to the treatment of development corridors, etc. before they can be implemented. The most important policy document being the Municipal Spatial Development Framework ("MSDF") and its components.

2. The MSDF's (IDP) shall be adhered to at all times unless it may be departed from as provided for in terms of the Act or this By-law.

3. In terms of the relevant municipal planning legislation the Municipality may take certain decisions with regard to land development applications.

4. In taking decisions as contemplated in the various land development pieces of legislation, such decisions may be regarded as an administrative action in terms of administrative law. The Promotion of Administrative Justice Act, 2000 (Act 2 of 2000) should be complied with at all times. All administrative actions should be lawful, reasonable and procedurally fair. Further, the Municipal Planning Tribunal can be regarded as a quasi-judicial body in the execution of its responsibilities.

5. A quasi-judicial act or function refers to an act or function, which influence the liberty, property or other existing rights of an individual. Submissions made to the Municipal Planning Tribunal will range from new development to change of land use rights on a given site, and they involve both public and private sector initiatives, all of which need to be assessed in terms of their strategic influence on the whole of the City of Tshwane area.

6. Any quasi-judicial body is required to comply with the rules of natural justice, as well as administrative action. This legislation dealing with land development provides that certain requirements be adhered to with regards to any decision that may be taken by the Municipal Planning Tribunal and no discretion exists to deviate there from.

7. In order to remain objective in the decision-making process, the applicant will only discuss the application with the relevant officials and objectors prior to the hearing. If the matter is discussed with any member of the Municipal Planning Tribunal prior to the hearing, it could be construed that, a decision taken by the Municipal Planning Tribunal where such interaction did take place, that such a decision is not objective. The planning official will negotiate conditions and problem areas with the applicant and the service departments may need to discuss specific issues relating to implementation. The rules of natural justice, however, indicate that it would be fair to all parties concerned, if negotiations take place prior to the Municipal Planning Tribunal hearings.

8. In order to save time and to ensure that matters do not have to be postponed unnecessarily, applicants and objectors would be requested to submit *points in limine* prior to the meeting. These *points in limine* should be submitted, in writing to the administration supporting the Municipal Planning Tribunal within a specific time frame. These may then be dealt with administratively, in consultation with the legal department, prior to the meeting. If necessary, the meeting date may be changed to accommodate the correction of matters i.e. if all objectors did not receive notification of the meeting.

9. The rules of natural justice, which should be adhered to, include the *nemo index insua causa* rule, i.e. no person may be a judge in his own case. Various case law confirms the above and goes further to apply the principle that "justice should not only be done, but should be seen to be done". In other words, even if it can indisputably be proven that a person is not biased, if it appears to the layman that somebody may be biased he/she must recuse themselves from the decision making process.

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

C. SITE INSPECTION

1. Applicants, interested parties and objectors will be requested to bring evidence along to the hearing such as photographs, video recordings, models, etc. with regards to any physical features they wish to base their submission on.

2. Parties will be permitted to argue the relevance of a site inspection at the hearing if they so wish.

3. The Municipal Planning Tribunal will decide whether to go on a site inspection or not. This will follow the next day of the hearing where after the hearing will be concluded or where the Department deems it necessary the site inspection can be arranged before the hearing of the land development application.

4. In the case where it has been argued and agreed that the inspection of the site is important, the inspection must be attended by a quorum of the Municipal Planning Tribunal and preferably all the members of the Municipal Planning Tribunal who are due to hear the matter.

   The procedure adopted to facilitate this is as follows:

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

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

5. The following points should be noted with regard to site inspections:

* All the Municipal Planning Tribunal members will concentrate on the physical features pointed out by the parties to the hearing and will at all relevant times pay full attention to the submissions made on site.

* The Municipal Planning Tribunal members will follow the Chairman/Presiding Officer on the tour of the site and/or relevant building(s). The inspection will be of a visual nature elucidated by questions or requests for further particulars. No doors, cabinets or drawers are to be opened unless the applicant or his representative offers to do so.

* The Chairperson/Presiding Officer will meet the applicant and/or representatives of the applicant and explain the nature and purpose of the site inspection.

* The site inspection will be regarded as concluded when the Chairman/Presiding Officer has ascertained that there are no further questions to be asked and informed the participants where and at which time all parties will meet again to conclude the hearing.
* No bias towards a decision should be communicated by any Tribunal member at this stage. All members are to remain objective, until the hearing is concluded. Concerns and objections by Tribunal members should be raised in the Tribunal in committee session.

* Tribunal members and/or officials will switch off their cellular telephones and/or pagers during site inspection and the formal hearing.

* No discussion of any nature whatsoever will be allowed on the bus, should a bus be used, on the merits or physical features or any time prior or after the site inspection thereof.

D. ORDER OF HEARING

1. In order to ensure that proceedings of the Tribunal take place in a dignified atmosphere. The Municipal Planning Tribunal members are requested to refrain from criticizing other officials, expressing disagreement with other members of the Tribunal or making statements, which could be construed as pre-judgment of the issue before the or during the hearing itself. Members are free to express themselves fully at the decision making stage of the proceedings. Members should respect the procedures by asking leave from the chair to leave the proceedings.

2. If any Municipal Planning Tribunal member or his or her family has a vested interest as contemplated in section 38 of the Act, in the application, he/she should recuse himself or herself from the hearing for the application.

3. The Appeal Court has expressed itself as follows regarding the principles that govern properly conducted meetings: -

* *The* Municipal Planning Tribunal *has specially been created to deal with disputes relating to administration and are not bound to follow the procedure of* a *court of law. Certain elementary principles, speaking generally, they must have due and proper opportunity of producing their evidence and stating their contentions, (and the statutory duties imposed must be honestly and impartially discharged). These elementary principles must be regarded* as *embodied in the Act, and regulations running counter to them could be upheld."*

4. The above principles should be seen to be observed both at the site inspection and the hearing in order to enhance the reputation of the Tribunal as a credible body and to ensure that the Tribunal proceedings cannot be attacked in the courts on the basis that such principles were not properly observed.

5. The procedure adopted in the hearing shall be in accordance with section 18(3) of this By-law;

E. IN-COMMITTEE DISCUSSIONS

1. The Tribunal may approve the application as submitted, in an amended form subject to conditions, refuse the application or postpone its decision as contemplated in the provisions of this By-law read section 35, 40 and 42 of the Act. The Tribunal should also take a decision on the merit of an application and look at all the relevant information and disregard the irrelevant information. The Tribunal has to apply its mind in the consideration of an application before it.

2. The Chairman/Presiding Officer facilitates the Tribunal discussions. It is the duty of the legal adviser to ensure that the decision that is made can be substantiated by the relevant facts and can be upheld in a court of law. The proceeding is also recorded and the Tribunal should state its reasons for the decision on record.

3. If the Tribunal intends to change the conditions of an application substantially, it should be done in consultation with the parties to the application. The development planning legislation makes provision for the amendment of the application, after consultation with the applicant and/or parties to the Tribunal hearing. However, no greater rights than that which has been applied for and consequently advertised may be asked for or given or where the rights of an interested and affected party are affected whether the rights are increased or not can be granted in an amended form.

4. An application can only be postponed for relevant reasons. These include: by request and agreement of the objectors, if points *in limine* were raised, adequate notification of the hearing was not received, etc.
5. Consideration of the application should be done with due regard to all relevant facts, policies and in particular the Integrated Development Plans and Municipal Spatial Development Framework with reference to section 35 of the Municipal Systems Act, 2000 (Act 32 of 2000) and section 35, 40 and 42 of the Act. It is the responsibility of the Council to formulate policy, including consultation with all stakeholders not that of the Municipal Planning Tribunal and this should be taken into account.

F. OBJECTIVES AND DEVELOPMENT PRINCIPLES FOR CONSIDERATION

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

G. ASSISTANCE IN TAKING DECISIONS

1. Council policies

   Some of the developed areas of City of Tshwane are subject to development policies that were developed for those areas. These are in many cases very detailed and address the specific needs and dynamics of the various areas. These policy documents were drawn up in consultation with the affected community and where it has been approved by Council and incorporated into the RSDF's of the Municipality may be considered. The policies also included an evaluation of the infrastructure capacity and transportation routes, and development proposals were made accordingly.

2. Official's Comments

   The Department responsible for Development Planning or as the case may be assesses applications that are submitted to the Municipality. Planning staff is trained to assess the impacts of development and make recommendations thereon. The Municipal Planning Tribunal is a quasi-judicial body, and therefore need to make the final decision on development applications, but the planning staff act in an advisory capacity as professionals in planning in the Municipality to the Municipal Planning Tribunal. Note that the Department responsible for Development Planning is not a party to the application, but merely provides a professional assessment of the application and recommendations to guide and assist the Municipal Planning Tribunal to make a decision and for that purpose the report contemplated in section 15(2) of this By-law shall include the information as contained in this By-law but for summary may include:

   * Site details and important physical factors that may impact on the development
   * Development context of the area that may impact on the site
   * History of development in terms of use, scale and intensity
   * Impact of the proposed development on the surrounding properties and area

* Assessment of proposed development in terms of Council policies and infrastructure and
* Recommendations from a town planning point of view.

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

3. The Chair/Presiding Officer and Legal Adviser

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

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

4. Infrastructure Capacity

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

5. 3rd party agreements and conditional withdrawal of objections.

In terms of section 18(3)(n) of this By-law the Municipal Planning Tribunal shall not be bound by agreements reached between parties to the land development application and the assessment and imposition of conditions shall be done based on the facts and merits in front of it.

H. APPLICABLE LEGISLATION AND LAND USE SCHEME

All members of the Tribunal shall have a duty to familiarize themselves with the content of any legislation, policy, plan framework in terms of which they consider any matter before it and the provisions of the Promotion of Administrative Justice Act, 2000 (Act 2 of 2000).

They shall have specific regard to what shall be required by the applicant to be proven in terms of the said legislation in order for the land development application or any matter before it, to be considered.

I. NOTICE V. AGENDA

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

J. ATTENDANCE REGISTER

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

K. ADJOURNMENT IN THE EVENT OF NO QUORUM

- If a quorum is not present at the expiry of 30 minutes after the time scheduled for a meeting, the meeting may not be held unless it is decided, with the consent of the majority of the members present, that a further 15 minutes should be allowed to enable a quorum to be present.

- The quorum at the hearing(s) of the Tribunal will be three (3) or more members, including the Chairperson and of which one (1) members shall be a non-municipal official as contemplated in section 40 (2) of the Act.

L. METHOD OF VOTING DURING MEETING(S)

- The members of Municipal Planning Tribunal will be required to vote in favour of or against the recommendation of the report(s) or make any other recommendation and vote for the said recommendation.

- Should there be an equal number of votes in respect of a proposal/application during meeting(s) the Chairperson/Presiding Officer of a Tribunal must record his or her casting vote.

M. CONSIDERATION OF THE MINUTES OF A PREVIOUS MEETING OR MEETINGS

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

N. RECORDING

Municipal Planning Tribunal is a tribunal of record and all the documents submitted and the proceedings of the committee shall, consequently be recorded. Provision must also be made for the recording of the proceedings during the site inspection, alternatively, that such proceedings be read into the record by the chairperson or his/her nominee during the site inspection subject to sections 18(7), 20(8) and (11) of this By-law.

……

DECLARATION

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

…….. ……..…….
Signature Date

SCHEDULE 18

EXEMPTION OF FEES IN TERMS OF SECTION 26(6) OF THIS BY-LAW

1. An applicant may request the Municipality for exemption of payment of application fees and/or fees for a copy of the Land Use Scheme or any component thereof in the following instances:

   (1) The proposed land development application will be for National, Provincial of Municipal uses; and/or

   (2) Municipal projects and/or Consultants that have been appointed by the Municipality to lodge a specific land development application or project; and/or

   (3) academic research projects.

2. The applicant must submit at least the following documentation before submission of a land development application as contemplated in section 16 of this By-law for completeness of his/her request:

   (1) written motivation with the reasons for exemption of fees;

   (2) proof that the proposed development will be of National, Provincial or Municipal purposes or interest;

(3) proof of ownership of the proposed application property(ies);

(4) proof to the satisfaction of the Municipality that the project is for academic research.

3. Exemption for payment of application fees must be granted before the submission of a land development application, failing which section 26(3) of this By-law shall apply.

SCHEDULE 19

CONDITIONS TO BE INSERTED IN THE MEMORANDUM OF INCORPORATION OF A NON-PROFIT COMPANY

The following conditions as, the case may be and as contemplated section 34 of this By-law shall be included in the documents establishing a non-profit company(ies) and shall be filed with the Registrar Companies where applicable, which condition may not be amended without the consent of the Municipality.

(1) The main purpose of the non-profit company shall be to provide access, engineering services and maintain the said engineering services, own, maintain and manage access erven, open spaces and or recreational areas for the benefit of the owners of the proposed Portions/Erven within the development and/or township

(2) Each and every owner of Portions of…..Erf OR Erven in ……..Extension … Township (*insert numbers of newly created portions/Erven in the township*) and/or owners of units erected thereon, shall have free access over Portion/s …….. of Erf (*insert number/s of the access erf/erven*) to afford them access to a public road.

(3) Each and every owner of Portions of…..Erf OR Erven in ……..Extension … Township (*insert numbers of newly created portions/Erven in the township*) and/or owners of units erected thereon, shall have free entrance to Portion/s …..of Erf ……(*insert the number/s of the private open space erf/erven*).

(4) The Municipality shall not be liable for the malfunction of the surfacing of the access erf/erven, the private open space erf/erven, the storm water drainage system and/or any engineering services in or on the newly created erven.

(5) The entire Portion/s …….. of Erf ….. (*insert number/s of the access erf/erven*) shall be subject to a servitude for municipal purposes and right of way in favour of the Municipality and each and every Erf/Portion or Unit in the township/subdivision or development.

(6) The Municipalities engineering services departments and its emergency services are guaranteed 24 hour access to Portion/s …….. of Erf ….. (*insert number/s of the access erf/erven*) to maintain the Municipalities installations and/or to provide services to the owners of the newly created erven.

(7) Portion/s ……of Erf…… (*insert the number/s of the access erf/erven and private open space erf/erven*) shall be maintained at its own costs by …….. (*insert the name of the NPC*) in good order and repair, to the satisfaction of the Municipality, failing which such maintenance will be done by the Municipality at the costs of the …… (*insert the name of NPC*).

(8) …….. (*insert the name of the Section 21 company*) shall undertake not to submit an application to rezone Portion/s ….. of Erf/Erven …… (*insert the number/s of the access erf/erven and private open space erf/erven*).

(9) Portion/s ……of Erf…… (*insert the number/s of the access erf/erven and private open space erf/erven*) shall not be alienated to or transferred into the name of any purchaser other than ……(*insert name of the NPC*) without the written consent of the Municipality first having been obtained.

(10) …… *(insert the name of the NPC)* shall not be de-registered at the Registrar of Companies without the written consent of the Municipality first having been obtained.

(11) The street name allocated to the internal road/s (over the access erf/erven) and the street numbers allocated to the newly created erven in the development, shall be properly and clearly displayed and shall be maintained by ……(NPC) to the satisfaction of the Municipality, failing which such maintenance will be done by the Municipality at the costs of the …….. (*NPC*).

(12) Neither the access Erf…….. nor the private open space Erf…….. in the development shall be bonded.

(13) The developer shall become and remain a member of the NPC, until the last transfer of any portion/erf or unit within the development and shall be liable for all rates and taxes, or metered services payable in relation to any of the portions/erven or units including payments due to the Municipality on the remainder of the development, should they have separate title or not.

(14) This Memorandum of Incorporation shall not be amended, without the written consent of the Municipality first being had and obtained;

(15) The developer shall for purposes of the remainder of the development after having sold and transferred the first unit, erf or portion remain a member of the NPC but shall only have one vote within the NPC for the remaining part of the development whether Certificates of Registered Title have been registered or through sectional title ownership in the name of the developer or any subsidiary or company of which the developer is the full shareholder or partial shareholder;

(16) Any other condition which in the opinion of the Municipality is deemed expedient.

SECHEDULE 20

CANCELLATION OF A LAND DEVELOPMENT APPLICATION IN TERMS OF SECTION 23(3) OF THIS BY-LAW

1. An owner or applicant may request the Municipality to cancel a land development application as contemplated in terms of section 23(3) of this By-law and for purposes of completion at least submit the following documentation:

   (1) submit proof that the applicant requesting cancellation, have the authority to do so;

   (2) a written notification for the cancellation;

   (3) submit proof that all the persons as contemplated in section 16(f) to (n) of this By-law have been notified of the request for cancellation of the land development application; and

   (4) submit an acknowledgement that the owner shall not have any claim for any re-instatement of such land development application.

SCHEDULE 21

REQUIREMENTS FOR THE SUBMISSION OF A POWER OF ATTORNEY IN TERMS OF SECTION 46 OF THIS BY-LAW

(1) A power of attorney for purposes of section 46 of this By-law for any land development application, other application or request either in terms of this By-law, Land Use Scheme in operation or any other applicable law relating to municipal planning, made on behalf of the owner of property shall comply with the following:

   (a) it shall contain detail with regard to the actions to be taken on behalf of the owner including but not limited to:

      (i) the type of applications, actions and/or representation to be done by the person being authorized in terms of the power of attorney;

      (ii) the person and/or legal entity on whose behalf any application, actions and/or representation is to be done or made;

      (iii) details of the person and/or legal entity who will be making the application, action and/or representation on behalf of the owner as contemplated in paragraph (ii);

      (iv) may include any other action that may arise out of the power of attorney to which the action in paragraph (i) relate;

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

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

(b) A power of attorney contemplated in paragraph (1)(a) by the owner of the property shall be substantially, in the opinion of the Municipality, in accordance with COT: F/22, to this By-law if he/she is not the owner of property as contemplated in section 46 of this By-law read with paragraph (1)(a) and shall further comply with the following:

(i) the power of attorney must correspond with the registered Title Deed; provided that:

(aa) if a property changes ownership while an application is being considered, the new owner must submit a power of attorney indicating that accepts the rights and obligations arising out of the application, actions and/or representations made by or on behalf of the previous owner and wishes to continue with the application subject to the provisions of section 29 of this By-law; specifically –

(bb) before any amendment scheme may be promulgated read with section 16(2)(g) and section 29 of this By-law; and/or

(cc) in any other event before the land use rights may come into operation or may be exercised;

(ii) the power of attorney shall be accompanied by such documentation as may be required by the Municipality in terms of section 29 of this By-law and the Schedules to this By-law;

(c) if the registered owner is a company, close corporation or trust, the applicant must submit a resolution of the company, close corporation or trust substantially, in the opinion of the Municipality, in accordance with this schedule read with COT: F/1 to this By-law stating the grounds on which the applicant is authorized to act on behalf of the company, close corporation or trust; and

a copy of the following must be attached:

(i) a copy of the CM 29 form in the case of a company;

(ii) a copy of the CK 1 or 2 forms in the case of a close corporation; and

(iii) letter of appointment of trustees in the case of a trust; and

the resolution contained in this paragraph shall not be regarded as a power of attorney nor shall it exempt the applicant or any other person from submitting a power of attorney in terms of section 46 of this By-law;

(d) if and when required the Municipality may request that the owner granting a power of attorney in terms of section 46 of this By-law must state his/her marital status: provided that:

(i) in the case of a natural person and specifically where the owner granting any power of attorney is married in community of property the person granting the power of attorney shall:

(aa) provide proof that his/her spouse or partner has consented to the granting of the power of attorney; and

(bb) shall for purposes of paragraph (aa) co-sign the power of attorney/application form.

(e) Where any action as contemplated in paragraph (1)(a) read with section 46 of this By-law is taken on property or land on which a sectional title scheme has been opened:

(i) the owners of the sections and/or the Body Corporate, as may be required by the Municipality, shall give a power of attorney for the land development application read with paragraph 1(a) of this Schedule; and

(ii) in the case of a Body Corporate contemplated in paragraph (i) an original resolution granting signing powers to a trustee or other entity or person of the Body Corporate, to sign on behalf of the Body Corporate a power of attorney to bring a land development application; and

(iii) a consent from any other person and/or legal entity to whom other registered rights have been granted which may include exclusive use areas or rights of extension, as contemplated in the Section Titles Act, Act, 1986 (Act 95 of 1986), which in the opinion of the Municipalities may be affected by actions contemplated in paragraph (e);

(f) Where any representation is made on behalf of an interested person or group of interested persons by any person or organization whether registered or not, the person or organization authorized shall provide a power of attorney and/or a resolution authorizing such person or organization acting on behalf of an interested person or group of interested person; provided that nothing contained in this By-law or Schedules to this By-law from the Municipality requesting any organization or body acting on behalf of a group of interested and affected parties, proof of membership or representation.

(g) Where the owner of property is the Municipality or the land is vested under the control and management of the Municipality and a land development application, request or other application, or action or representation is made on behalf of the Municipality in terms of section 46 read with paragraph (1):

(i) the applicant or any person submitting an land development application, request or other application or undertakes any action or representation in terms of this By-law, Land Use Scheme or other legislation shall be duly authorized by:

(aa) Municipal Council through a Council Resolution; and/or
(bb) the Executive Authority of the Municipality; and/or
(cc) the Municipal Manager of the Municipality; and/or
(dd) any person or body duly delegated;

as the case may be;

(ii) which authorization shall be in writing and shall substantially comply with the provisions of the Schedules to this By-law.

(2) In respect of a land development application, request or action as contemplated in paragraph (1), where the land to which the application, request or action relates:

(a) is held in joint ownership, the application, request or action shall be signed by each owner of a share therein or by his authorized agent;

(b) is registered in the name of a partnership, the application, request or action shall be signed by one or more of the partners on behalf of the partnership or by the authorized agent of the partnership;

(c) is registered in the name of a company, the application, request or action shall be signed by a director of the company over his designation on behalf of the company or by the authorized agent of the company subject to the provisions of paragraph (1)(c) of this Schedule.

(3) (a) If in terms of section 46 of this By-law an owner of property fails to submit a power of attorney for a land development application or request in terms of this By-law, Land Use Scheme or other relevant legislation, the application shall be regarded as incomplete; and

(b) in the case of any other action and/or representation the Municipality that requires a power of attorney or documents in terms of paragraph (1), shall not be obliged to deal with the said action and/or representation, as the case may be.

SCHEDULE 22

EXCISION OF AN AGRICULTURAL HOLDING IN TERMS OF SECTION 32(f) OF THIS BY-LAW

1. An owner of a property(ies) who wishes to apply for the excision of an agricultural holding from the Agricultural Holding Register and the Registrar of Deeds as contemplated in terms fo section 32(f) of this By-law, shall apply to the Municipality in the forms as set out in COT: F/1 and COT: F/10 to this By-law, and such application shall, in addition to the fees prescribed be accompanied by the maps and documents indicated in paragraph 2 this Schedule.

2. The applicant shall for purposes of a complete submission of an application in terms of section 32(f) of this By-law at least submit the following documentation:

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

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

   (3) the completed and signed **application form** as set out on COT: F/1;

   (4) a **power of attorney** that complies with the provisions of section 46 and Schedule 21 of this By-law;

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

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

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

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

      (c) purpose of the excision application (whether it is intended to remove the restrictive conditions relevant to Agricultural Holdings or are as a result of an application contemplated in paragraph (b);

      (d) if the Agricultural Holding is excised the farm register into which it will be re-incorporated with an indication whether that farm is exempted in terms of the Subdivision of Agricultural Land, 1970 (Act 70 of 1970);

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

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

   (9) the **agricultural holding layout plan** on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 as the case may be, or as determined by the Municipality

   (10) a copy of the **Title Deed** which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable.

THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW FORMS, 2016:

COT: F/1

APPLICATION FORM TO BE SUBMITTED FOR ANY APPLICATION AND/OR REQUEST WITH THE APPLICANT AND OWNER DETAILS AS REQUIRED IN TERMS OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

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

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 30 ofthis By-law.

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

SIGNATURE ……..… DATE: ……..……..

COT: F/2

APPLICATION FORM FOR A REZONING APPLICTION IN TERMS OF SECTION 16(1) AND AS REQUIRED IN TERMS OF SCHEDULE 3 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

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

Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Planning Region	

REZONING DETAILS

Town-planning or Land Use Scheme			
Present Zoning			
Property Size (m²)			
Present Height (Scheme)			
Present Density (Scheme)			
Present Coverage (Scheme)			
Present Floor Area Ratio (FAR)			
Present Annexure No			
Present Amendment Scheme No			
Present Land Value			
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			
Title Deed/ Notarial Deed No			
Restrictive Title Deed Condition paragraph No			
Proposed Use Zone			
Proposed Primary Right			
Proposed number of units			
Proposed density			
Proposed Density (m²/units per ha)			
Proposed Height (m/storey)			
Proposed coverage (%)			
Proposed Floor Area Ratio (FAR)			
Estimate project value			
Applicant responsible to request comments from external departments/institutions?	Yes	No	N/a

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering Letter		Application Form COT: F/1	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholders Consent		Motivating Memorandum	
EIA executive Summary if relevant		Draft annexure		Draft amendment scheme map	
Locality Plan		Land Use Plan		Zoning Plan	
Site Plan		Registered Title Deed and/or notarial deed		Zoning Certificate	
List of adjoining owners		Form COT: F/10			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE: …… DATE: ……

COT: F/3

APPLICATION FORM FOR A REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS APPLICATION IN TERMS OF SECTION 16(2) AND AS REQUIRED IN TERMS OF SCHEDULE 4 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

PROPERTY INFORMATION

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

Township / Agricultural Holding / Farm		Portion (e.g. /R1)	
Erf / Plot / Farm No			
Ward			
Street Name			
Street Number		Planning Region	
Town-planning or Land Use Scheme			
Present Annexure No			
Present Zoning			
Property Size (m²)			
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			

REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIONS IN TITLE DEED

Title Deed Number				
Indicate the conditions to be removed, or suspended in the Title Deed				
Indicate the conditions to be amended in the Title Deed				
Indicate whether the property/ties is/are situated in a conservation area or has/have been included in a register of properties worthy of conservation		Yes		NO

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering Letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholders Consent		Locality Plan	
Registered Title Deed and/or notarial deed		Zoning Certificate		List of adjoining owners	
Form COT: F/1		Form COT: F/10			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE: ……..…..… DATE: ……..…

COT: F/4

APPLICATION FORM FOR A TOWNSHIP ESTABLISHMENT OR EXTENSION OF BOUNDARIES APPLICATION IN TERMS OF SECTION 16(4) AND AS REQUIRED IN TERMS OF SCHEDULE 6 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

PART A: PROPERTY INFORMATION

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

Agricultural Holding / Farm			
Plot / Farm No		Portion (e.g. /R/1)	
Title Deed No/ Certificate of Registered Title No			
Size of property			
Name of Bond Holder			
Mortgage Bond Account No		Date of Bond	
Ward		Planning Region	

PART B: EXISTING LAND USE INFORMATION

Town-planning or Land Use Scheme			
Present Zoning			
Present Height (Scheme)			
Present Density (Scheme)			
Present Coverage (Scheme)			
Present Annexure T No		Present Amendment Scheme No	
Present Land Value		Present FAR	
Existing Development			

PART C: PROPOSED TOWNSHIP

Name and Extension of the proposed township							
Use zone no	Proposed use zone	Erf no	Average size m²	Height	FAR	Coverage	Other development control measures (density)

PART D: GENERAL INFORMATION

Is the property situated in a demarcated noise zone in terms of the Gauteng Noise Control Regulations, 1999?			Yes	No
Is the property situated within 3 km of a sewerage disposal works?			Yes	No
Name the local authority(s) that is situated within 10 km of the boundaries of the property				
Name the local authorities or authorised bodies that provide the following services:				
Water				
Electricity				
Sewerage				
Roads and storm water				
Is the existing development (structures and land use) on the property described in the memorandum?			Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage Resource Act, Act 25 of 1999?			Yes	No
PAYMENT OF OPEN SPACES AND PARKS/DWELLING UNITS				
Does the layout plan provide for open spaces or parks according to sections 22 and 47 of this By-law?			Yes	No
Motivate if answer is “no” above				
Provide the total number of dwelling units on all erven in the proposed township				
ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES				
Is any part of the proposed development, forming the subject of this application, deemed to be a "listed activity" in terms of the National Environmental Management Act with specific reference to the regulations promulgated under Section 24(5) thereof?			Yes	No
If "Yes" please provide the reference number of the application submitted to the environmental authorities with regard to the requirement to procure environmental authorization to conduct the listed activity as aforesaid: Reference Number …….				
Provide the contact details of the appointed Environmental Assessment Practitioner: Name: …….., Contact Details ……				
Indicate which process has been initiated		Basic	Yes	No
		Scoping	Yes	No
		None	Yes	No
Appointed environmental consultant	Name			
	Contact details			
If the development is not a "listed activity" or if the above EIA process has not been initiated, have the on-site ecological issues been discussed in the memorandum?			Yes	No
The applicant acknowledge that he/she is responsible to forward a copy of the application to external bodies and to submit proof thereof to the Municipality.			Yes	No

REQUIRED DOCUMENTS

Receipt of proof of payment of application fees		Covering Letter		Township Reservation Letter	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholders Consent		Motivating Memorandum	
Draft annexure		Draft amendment scheme map		Conveyancer's Certificate	
Land Surveyor Certificate		Geo-technical Report		Township Layout Plan	
Locality Plan		Statement of conditions		Application to Dpt. Minerals and Energy or compliance with section 54 of Act 28 of 2002	
EIA executive Summary if relevant		Registered Title Deed and/or notarial deeds		Zoning Certificate	
List of adjoining owners		Form COT: F/1		Form COT: F/5	
Form COT: F/10					

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE ……..…….. DATE: ……..……

COT: F/5

CHECKLIST FOR LAYOUT PLANS FOR A TOWNSHIP ESTABLISHMENT OR EXTENSION OF BOUNDARIES APPLICATION IN TERMS OF SECTION 16(4) OR SECTION 16(5) AND AS REQUIRED IN TERMS OF SCHEDULE 6 OR SCHEDULE 7 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

No	Requirements of information to be provided	Yes	No
1	Prints of the layout plan of the proposed township		
2	Plan number; CPD (Township name, extension / number of plan e.g. CPD MVO x 55/1)		
3	* Contour lines and values		
4	A bar scale		
5	The true north		
6	The name of the Municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated		
7	The boundaries of the proposed township		
8	The Property description as indicated in the 'Township name reservation letter'		
9	Grid co-ordinates and a reference to the geodetic system used		
10	Existing buildings in the proposed township		
11	Adjoining existing and adjoining proposed streets and roads with their names;		
12	Adjoining proposed public streets/roads with their names and widths		
13	Adjoining erven, farm portions/agricultural holdings in existing townships or proposed townships in respect of which applications have been submitted or notice has been given in terms of section 16(4) or 16(5)		
14	Streets, squares and Recreational / Natural Open spaces (Private and Public) in the proposed township		
15	Adjoining erven in existing townships or proposed townships in respect of which applications have been submitted		
16	Water courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township		
17	Public roads in or abutting the proposed township		
18	All servitude in or abutting the proposed township		
19	Private 'access' erven (name and widths) in or abutting the proposed township		
20	A table indicting the total number of erven in the proposed township, the number of erven for specific purposes (proposed zoning) and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets, the total length of the streets within the township, the area of streets as a percentage of the total area of the township and the area of parks and open spaces, if any, as a percentage of the total area of the township		
21	A locality plan, as an inset on the plan of the township, accurately drawn to a scale of not less than 1:50 000 or such other scale which the Municipality, as the case may be, may approve indicating:		
21.1	The situation of the proposed township on the farm or agricultural holding		
21.2	The routes giving access to the nearest main road and the road network in the vicinity of the township		
21.3	The boundaries of the farm portion or agricultural holding on which the township is to be established		
21.4	the situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 km of the boundaries of the township		
21.5	The boundaries of a demarcated noise zone		
21.6	A bar scale, in respect of the locality plan		
21.7	The true north		
22	The erven in the proposed township accurately drawn to a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000; 1:2 500 or 1: 5000 and numbered consecutively in each block		
23	In an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plan on which the contour values are based		
24	If the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings		

25	Each registered servitude over the land in the proposed township with a reference to the purpose of the servitude, the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed route		
26	The boundaries and descriptions of the geological zones shall be depicted on the layout plan as well as the original certification thereof of the geologist and the Council for Geoscience (where applicable);		
27	The 1:50 year and 1:100 year flood line shall be certified on the layout plan (not more than 3 years old)		

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

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

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

SIGNATURE ……..… DATE: ……..

COT: F/6

APPLICATION FORM FOR A DIVISION OF A TOWNSHIP APPLICATION IN TERMS OF SECTION 16(5) AND AS REQUIRED IN TERMS OF SCHEDULE 7 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

NOTE: COT: F/4 PART C TO D MUST BE SUBMITTED TOGETHER WITH COT: F/6.

COMPLETE A COT: F/6 FORM FOR EACH DIVISION OF THE APPROVED TOWNSHIP

1. Name and extension of the approved Township:……..……..

2. Date of approval of township to be divided: ……..……..

3. Has extension of time in terms of section 16(6) been granted?

   Yes ☐ No ☐ Not applicable ☐

4. Has the general plan of the township to be divided been approved by the Surveyor-General?

   Yes ☐ No ☐

5. Division of township in ……..……..…… separate townships, namely:

   ……..……..

   ……..……..

6. **APPROVED ZONING**

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

Use zone no	Proposed use zone	Erf no	Size m²	Height	FAR	Coverage	Other development control measures (density)

7. **PROPOSED ZONING FOR SEPARATE TOWNSHIPS**

Details of proposed zoning for township: ….……....……..……..…….
……

Use zone no	Proposed use zone	Erf no	Ave-rage size m²	Height	FAR	Coverage	Other development control measures (density)

(Complete a separate table for each new township.)

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

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

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

REQUIRED DOCUMENTATION

Receipt of application fees		Covering Letter		Township Name Reservation Letter	
Power of Attorney		Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust	
Proof of Marital Status of the Owner		Bondholder's Consent		Motivating Memorandum	
Approved conditions of Establishment		Draft annexure per proposed township		Draft amendment scheme map per proposed township[	
Proof of compliance with section 16(5)(b)(iv) or section 16(6)		Land Surveyor Certificate		Geo-technical Report	
Conveyancer's Certificate		Locality Plan		Proposed Statement of conditions	
Township Layout plan		EIA executive Summary if relevant		Registered Title Deed or notarial deeds	
Form COT: F/4		Form COT: F/10		Form COT: F/1	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE ……..…….…. DATE: …….

COT: F/7

APPLICATION FORM FOR THE AMENDMENT OF AN APPROVED TOWNSHIP IN TERMS OF SECTION 16(4)(j) AND AS REQUIRED IN TERMS OF SECHEDULE 12 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

NOTE: COT F/4 PART C TO D MUST BE SUBMITTED TOGETHER WITH COT: F/7

1. Name and extension of approved township: ……..……

2. Date of approval of township: ……

3. Have the documents contemplated in the above township been lodged at the Surveyor-General?

   Yes ☐ No ☐

4. If "Yes", have the Surveyor-General's comments on the proposed amendment in terms of section 16(4)(j) been submitted?

   Yes ☐ No ☐

5. **APPROVED ZONING (USE ZONES)**

Details of approved zoning (use zones)

Use zone no	Approved use zone	Erf no	Size m²	Height	FAR	Coverage	Other development control measures (density)

6. **PROPOSED ZONING (USE ZONES)**
Details of proposed zoning (use zones)

Use zone no	Proposed use zone	Erf no	Average size m²	Height	FAR	Coverage	Other development control measures (density)

REQUIRED DOCUMENTS

Receipt of application fees		Covering Letter		Motivating Memorandum	
Approved conditions of Establishment		Amended Draft annexure		Amended draft amendment scheme map	
Amended Township Layout Plan		Amended Draft Statement of Conditions		Form COT: F/4	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE ……..…… DATE: …….

COT: F/8

APPLICATION FORM FOR SUBDIVISION AND/OR CONSOLIDATION APPLICATION IN TERMS OF SECTION 16(12) AND AS REQUIRED IN TERMS OF SCHEDULE 8 OR SCHEDULE 9 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

PROPERTY INFORMATION

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

Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion (e.g. /R1)	
Ward			
Street Name			
Street Number		Planning Region	

SUBDIVISION OR SIMULTANEOUS SUBDIVISION AND CONSOLIDATION				
Proposed Portion Description	Buildable Area (m²)	Panhandle Area (m²)	Panhandle Width (m)	Portion Area

CONSOLIDATION DETAILS	
Proposed Portion Description	Size (m²)

Town-planning or Land Use Scheme			
Present Zoning (Scheme)			
Present Height (Scheme)			
Present Density (Scheme)			
Present Coverage (Scheme)		Present FAR (Scheme)	
Present Annexure No		Present Amendment Scheme No	
Present Land Value			
Property Size (m²)			
Existing Development			
Title Deed Number			
Restrictive Title Deed Condition paragraph No			
Does all the erven to be consolidated belong to the same owner?			

REQUIRED DOCUMENTS

Receipt of application fees		Covering Letter		Power of Attorney	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		Proof of Marital Status of the Owner	
Bondholder's Consent		Motivating Memorandum		EIA executive Summary if relevant	
Subdivision and/or consolidation plans		Locality Plan		Subdivision and/or consolidation Plans	
Registered Title Deed or notarial deeds		Zoning Certificate		List of adjoining owners (Section 16(12)(a)(iii) applications)	
Conveyancer's Certificate if relevant		Land Surveyor Certificate if relevant		Form COT: F/1	
From COT: F/10					

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE ……..…… DATE: ……..

COT: F/9

REQUEST FOR EXTENSION OF TIME IN TERMS OF THIS BY-LAW AND AS REQUIRED IN TERMS OF SCHEDULE 10 TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

APPROVED LAND DEVELOPMENT APPLICATION INFORMATION
Complete this section for each property (make a separate copy for each property)

Type of land development application (section in terms of the By-law)			
Reference number			
Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Planning Region	
Date of approval of the land development application			
Date approval will lapse			
Date(s) of previously approved extension of time			

REQUIRED DOCUMENTS

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I hereby acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

SIGNATURE ……..…… DATE: ……..……..……..

COT: F/10

LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS REQUIRED IN TERMS OF THE SCHEDULES TO THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016 AS SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE

PROPERTY(IES) DESCRIPTION: ……..……..

……

……

APPLICATION TYPE: ……..……

……

Checklist: to be completed by the Applicant				**Checklist: for Official Use only**		
YES	**NO**	**ANNEXURE OR PAGE REFERENCE**	**DOCUMENT ATTACHED**	**YES**	**NO**	**NA**
			Receipt of payment of the application fees			
			Covering letter			
			Completed Application form of the relevant application			
			Power of Attorney			
			Company/ Close corporation/Trust resolution			
			Proof of Members of Company/Close Corporation/Trust			
			In the instant of the owner being a company: CM 29 form			
			In the instant of a close corporation: CK 1 or 2 forms			
			In the instant of a Trust: Letter of appointment of the Trustees			
			Proof of marriage out / in community of property			
			Bondholder's consent			
			Motivational Memorandum			
			List of adjoining owners			
			Draft annexure			
			Draft amendment scheme map			
			Statement of conditions			
			Locality Plan			
			Land Use Plan			
			Zoning Plan			
			Site Plan			
			Township Layout Plan			
			Zoning Certificate			
			Registered Title Deed and/or Notarial Deed			
			Township Name Reservation Letter			
			Conveyancer's Certificate			
			Land Surveyor Certificate			
			Proposed design / layout Plan			
			Proposed Subdivision Plan			
			Proposed Consolidation Plan			
			Proposed simultaneous Subdivision and Consolidation Plan			
			Environmental Impact Assessment executive summary			
			Geo-technical Report (including geology)			
			Transport Impact Report			
			Retail Study			
			Architectural drawings / draft Site Development Plans and Landscape Framework Plans			
			Noise Impact assessment			
			List of conditions to be removed, amended or suspended in the Title Deed			
			Application to the Department Mineral Recourses or compliance with section 54 of Act 28 of 2002			
			Approved conditions of Establishment			
			Proof of compliance with section 16(5)(b)(iv) of this By-law			
			Amended Township Layout Plan			

Checklist: to be completed by the Applicant				Checklist: for Official Use only		
YES	**NO**	**ANNEXURE OR PAGE REFERENCE**	**DOCUMENT ATTACHED**	**YES**	**NO**	**NA**
			Amended conditions of establishment			
			Amended draft annexure			
			Amended draft amendment scheme map			
			Form COT: F/1			
			Application Form relevant to the application (COT: F/2, COT: F/3, COT: F/4, COT: F/6, COT:F/7, COT:F/8 COT:F/9)			
			Form COT: F/5			
			Form COT: F/10			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 16(1)(c) of this By-law. Should the application found to be incomplete, the application will be returned to the applicant without further consideration or refunding of the application fees.

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 30 of this By-law.

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

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

COT: F/11

LIST OF NUMBER OF COPIES PER DOCUMENT TO BE SUBMITTED BY THE APPLICANT AS PER RELVANT APPLICATION

NOTE: if the number of copies are not indicated it does not exclude that the Municipality can request additional information or documentation as set out in section 16(1)(c)(iii) of this By-law

Documents	Rezoning 16(1)	Removal of Restrictions 16(2)	Reservation of Township Name	Township Establishment 16(4)	Division or Phasing of Township 16(5)	Subdivision & Consolidation 16(12)	Application for extension of time	Alteration, amendment or cancellation of a general plan 16(15)	Application for the amendment of an approved Township	Amendment of an application 16(18) or 16(19)	Consent ito restrictive condition 16(2)(d)
Receipt of proof of payment	1	1	1	1	1	1	1	1	1	1	1
Covering Letter	5	5	1	5	10	5	1	1	10	1	5
Application and Owner detail application form (COT: F/1)	5	5	nil	2	2 per divi-sion	5	nil	nil	nil	nil	5
Application Form (COT: F/2, COT: F/3, COT: F/4, COT:F/6, COT:F/7, COT:F/8)	5	5	nil	20 (Plus 20 External Dpt)	10	5 (Plus 5 External Dpt)	1	nil	10	nil	5
List of attachments and supporting documents and information required / submitted by the applicant (COT:F/10)	2	2	nil	2	2	2	2	2	nil	nil	nil
Power of Attorney	3	3	1	3	3	3	3	3	nil	nil	3
Company/close corporation/trust resolution (if required)	3	3	1	3	3	3	3	3	nil	nil	3
Proof of Members of company/close Corporation/trust (if required)	3	3	1	3	3	3	3	3	nil	nil	3
In the instant of an owner being a company: CM 29 Form	3	3	1	3	3	3	3	3	nil	nil	3
In the instant of a close corporation: CK 1 or 2 form	3	3	1	3	3	3	3	3	nil	nil	3
In the instant of a Trust: Letter of appointment of the Trustees	3	3	1	3	3	3	3	3	nil	nil	3
Proof of Marital Status of the Owner	3	3	1	3	3	3	3	nil	nil	nil	3
Bondholder's consent	3	3	nil	3	3	3	nil	nil	nil	nil	3
Motivating Memorandum	5	5	nil	15 Plus 20 (External Dpt)	10	5 (Plus 15 External Dpt)	3	3	10	3	5
Draft annexure	5	nil	0	5	5	nil	nil	nil	nil	nil	nil

Documents	Rezoning 16(1)	Removal of Restrictions 16(2)	Reservation of Township Name	Township Establishment 16(4)	Division or Phasing of Township 16(5)	Subdivision & Consolidation 16(12)	Application for extension of time	Alteration, amendment or cancellation of a general plan 16(15)	Application for the amendment of an approved Township	Amendment of an application 16(18) or 16(19)	Consent ito restrictive condition 16(2)(d)
Draft amendment scheme map	5	nil	0	5	5	nil	nil	nil	nil	nil	nil
List of adjoining owners	2	2	nil	2	nil	2 (section 16(12)(a)(iii))	nil	nil	nil	nil	nil
Proposed Statement of Conditions	nil	nil	nil	15	10	nil	nil	nil	nil	nil	nil
Locality Plan	5	5	1	15		5	nil	nil	nil	nil	5
Land Use Plan	5	nil	nil	15	nil	nil	nil	nil	nil	nil	nil
Zoning Plan	5	nil	nil	nil	nil	nil	nil	nil	nil	nil	nil
Site Plan	5	5	nil	nil	nil	nil	nil	nil	nil	nil	nil
Landscape Framework Plan	0	nil	nil	2 (EMS &CP)	nil	nil	nil	nil	nil	nil	nil
Township Layout Plan	0	nil	1	15 (Plus 20 External Dpt)	10	nil	nil	nil	10	nil	nil
Zoning Certificate	5	5	nil	3	nil	5	nil	nil	nil	nil	5
Registered Title Deed and/or Notarial Deed	5	5	1	3	nil	3	nil	nil	nil	nil	5
Township Name Reservation Letter	nil	nil	nil	3	3	nil	nil	nil	nil	nil	nil
Land Surveyor Certificate	nil	nil	nil	3	3	nil 3 for section 16(12) (a)(iii)	nil	nil	nil	nil	nil
Conveyancer's Certificate	nil	nil	nil	3	3	nil 3 for section 16(12) (a)(iii)	nil	nil	nil	nil	nil
Subdivision and/or consolidation sketch plans	nil	nil	nil	nil	nil	5 (Plus 15 External Dpt)	nil	nil	nil	nil	nil
The Municipality's report on the sale/lease of the application property as approved by Council(if application is on Council owned land)	3	3	nil	3	nil	3	nil	nil	nil	nil	nil
Environmental Impact Assessment executive summary (if required)	3	nil	nil	5	nil	5	nil	nil	nil	nil	nil

Documents	Rezoning 16(1)	Removal of Restrictions 16(2)	Reservation of Township Name	Township Establishment 16(4)	Division or Phasing of Township 16(5)	Subdivision & Consolidation 16(12)	Application for extension of time	Alteration, amendment or cancellation of a general plan 16(15)	Application for the amendment of an approved Township	Amendment of an application 16(18) or 16(19)	Consent ito restrictive condition 16(2)(d)
Geo-technical Report (including geology) (if required)	nil	nil	nil	2 + CD	nil	nil	nil	nil	nil	nil	nil
Tansport Impact Report (if required)	3	nil	nil	5 +CD	nil	nil	nil	nil	nil	nil	nil
Retail Study (if required)	3	nil	nil	2	nil	nil	nil	nil	nil	nil	nil
Architectural drawings/ Draft Site Development Plans (if required)	nil	nil	nil	15	nil	1 (section 16(12)(a)(iii))	nil	nil	nil	nil	nil
Noise Impact Assessment (if required)	nil	nil	nil	2	nil	nil	nil	nil	nil	nil	nil
Approved conditions of Establishment	nil	nil	nil	nil	2	nil	nil	nil	nil	nil	nil
Proof of compliance with section 16(5)(b)(iv) or 16(6)	nil	nil	nil	nil	3	nil	nil	nil	nil	nil	nil
Amended Township Layout Plan	nil	nil	nil	nil	10	nil	nil	nil	10	nil	nil
Application to Department Mineral and Energy or compliance with section 54 of Act 28 of 2002	nil	nil	nil	2	nil	nil	nil	nil	nil	nil	nil
Proof of publication of Notices i.t.o. Schedule 13	1	1	nil	2	nil	1 (section 16(12) (a)(iii))	nil	2	2 (if re-quir-ed)	2 (if re-quir-ed)	2(if re-qui r-ed)
General Plan	nil	nil	nil	nil	nil	nil	nil	3	nil	nil	nil
Certified copy of the altered, amended or cancellation of the General Plan	nil	nil	nil	nil	nil	nil	nil	3	nil	nil	nil
Statement as indicated in Schedule 10, par 3(ii)	nil	nil	nil	nil	nil	nil	nil	3	nil	nil	nil
Revised set of amendment scheme documents (Annexure and map)	nil	nil	nil	nil	nil	nil	nil		nil	3	nil
Revised set of conditions of establishment	nil	nil	nil	nil	nil	nil	nil		10	nil	nil

The number of copies and the documents required for submission per land development application can be amended from time to time by the Municipality.

COT: F/12

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 16(1)(f) FOR A REZONING APPLICATION IN TERMS OF SECTION 16(1) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

CITY OF TSHWANE METROPOLITAN MUNICIPALITY
NOTICE OF A REZONING APPLICATION IN TERMS OF SECTION 16(1) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

I/We, …… (*full name*), being the applicant of property(ies) erf/erven…..……..……..……..……..
…….. (*complete description of property as set out in title deed*) hereby give notice in terms of section 16(1)(f) of the City of Tshwane Land Use Management By-law, 2016, that I/we have applied to the City of Tshwane Metropolitan Municipality for the amendment of the Tshwane Town-planning Scheme, 2008 (Revised 2014), by the rezoning in terms of section 16(1) of the of the City of Tshwane Land Use Management By-law, 2016 of the property(ies) as described above. The property(ies) is/are situated at:
……..……..……
……..……
The rezoning is from ……..
to ……..……..…

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

……..……
……..……
Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: the Strategic Executive Director: City Planning and Development, PO Box 3242, Pretoria, 0001 or to CityP_Registration@tshwane.gov.za from ……..... *(the first date of the publication of the notice set out in section 16(1)(f) of the By-law referred to above),* until ……..…..…. *(not less than 28 days after the date of first publication of the notice).*

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

Address of Municipal offices: ……..…….
……..…….
……..…….
Closing date for any objections and/or comments: ……..……..……..

Address of applicant *(Physical as well as postal address):*
……
……
Telephone No: ……

Dates on which notice will be published: ……..……..……..

Reference: CPD ……..……Item No……

COT:F/13

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 16(1)(f) FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 16(2) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

NOTICE OF AN APPLICATION FOR THE REMOVAL / AMENDMENT / SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 16(2) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

I/We ……..……,(*full name*) being the applicant of property(ies) and/or erf/erven ……..……..……..... ……..……..……..…… (*complete description of property as set out in title deed*) hereby give notice in terms of section 16(1)(f) of the City of Tshwane Land Use Management By-law, 2016 that I/we have applied to the City of Tshwane Metropolitan Municipality for the removal/amendment/ suspension of certain conditions contained in the Title Deed in terms of section 16(2) of the City of Tshwane Land Use Management By-law, 2016 of the above mentioned property. The property(ies) is situated at ..... ……

The application is for the removal / amendment / suspension of the following conditions ……..in Title Deed ……..…../…...……..

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

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: the Strategic Executive Director: City Planning and Development, PO Box 3242, Pretoria, 0001 or to ……..……... (*the first date of the publication of the notice set out in section 16(1)(f) of the By-law referred to above)*, until ……..……... *(not less than 28 days after the date of first publication of the notice*).

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

Address of Municipal Offices: ……..…….

……..……

……..……

Closing date for any objections and/or comments: ……..……..……..

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

……

……..……..……..……..……

Telephone No: ……..……

Dates on which notice will be published: ……..

Reference: CPD ……..……Item No……

COT: F/14

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 16(1)(f) FOR THE ESTABLISHMENT OF A TOWNSHIP /EXTENSION OF BOUNDARIES IN TERMS OF SECTION 16(4) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

NOTICE OF APPLICATION FOR THE ESTABLISHMENT OF TOWNSHIP/EXTENSION OF BOUNDARIES IN TERMS OF SECTION 16(4) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

…… EXTENSION ……

I/We……..…….....…… (*full name*) being the applicant hereby give notice in terms of section 16(1)(f) of the City of Tshwane Land Use Management By-law, 2016, that I/we have applied to the City of Tshwane Metropolitan Municipality for the establishment of the township/extension of boundaries in terms of section 16(4) of the City of Tshwane Land Use Management By-law, 2016 referred to in the Annexure hereto,

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: the Strategic Executive Director: City Planning and Development, PO Box 3242, Pretoria, 0001 or to CityP_Registration@tshwane.gov.za from ……..…….. (*the first date of the publication of the notice set out in section 16(1)(f) of the By-law referred to above)*, until ……..…… *(not less than 28 days after the date of first publication of the notice*).

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

Address of Municipal offices: ……..…….

……losing

date for any objections and/or comments: …..……..……...

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

Telephone No: ……..…….

Dates on which notice will be published: ……..……...……..……..……

ANNEXURE

Name of township: .....……..……..……..…… Extension ……...……

Full name of applicant: ……..……..……..

Number of erven, proposed zoning and development control measures:
……

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

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

The proposed township is situated .....……..……..……

Reference: CPD …… x ……..……Item No ……

COT: F/15

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 16(15) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016 FOR THE ALTERATION / AMENDMENT OR PARTIAL CANCELLATION OF A GENERAL PLAN OF A TOWNSHIP

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

NOTICE OF AN APPLICATION FOR THE ALTERATION/AMENDMENT OR PARTIAL CANCELLATION OF A GENERAL PLAN IN TERMS OF SECTION 16(15) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

I/we ……..(*full name*) the applicant hereby gives notice in terms of section 16(15) of the City of Tshwane Land Use Management By-law, 2016, that an application has been made for the alteration/amendment/total or partial cancellation of the general plan of the township known as .....
……..……
……

The application together with the relevant plans, documents and information will lie for inspection during normal office hours at the Municipal offices, at.....
.....……..……..
for a period of 28 days from ..... *(the date of first publication of this notice).*

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: the Strategic Executive Director: City Planning and Development, PO Box 3242, Pretoria, 0001 or to CityP_Registration@tshwane.gov.za from…… *(the first date of the publication of the notice)* until ..... (*not less than 28 days after the date of first publication of the notice)*.

Closing date for any objections : ……..

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

Telephone No: ……
.
Dates on which notice will be published: ……..……..
.
Reference: CPD ……Item No……

COT: F/16

THE PROVINCIAL GAZETTE, NEWSPAPERS AND PLACARD NOTICE IN TERMS OF SECTION 16(1)(f) FOR SUBDIVISION OF PROPERTY(IES) AS CONTEMPLATED IN TERMS OF SECTION 16(12)(a)(iii) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016
NOTICE OF AN APPLICATION FOR A SUBDIVISION OF LAND IN TERMS OF SECTION 16(12)(a)(iii) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

I/We, …… (*full name*), being the applicant of ……..…….. ……..…….. hereby give notice, in terms of section 16(1)(f) of the City of Tshwane Land Use Management By-law, 2016, that I/we have applied to the City of Tshwane Metropolitan Municipality for the subdivision of the property(ies) described below.

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

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: the Strategic Executive Director: City Planning and Development, PO Box 3242, Pretoria, 0001 or to CityP_Registration@tshwane.gov.za from ……..... (*the first date of the publication of the notice set out in section 16(1)(f) of the By-law referred to above)*, until ……..…..… (*not less than 28 days after the date of first publication of the notice).*

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

Address of Municipal offices: ……
……..……..
Closing date for any objections: ……..……..

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

Telephone No: ……

Dates on which notice will be published: ……..…..

Closing date for any objections : ……..……..

Description of property(ies):

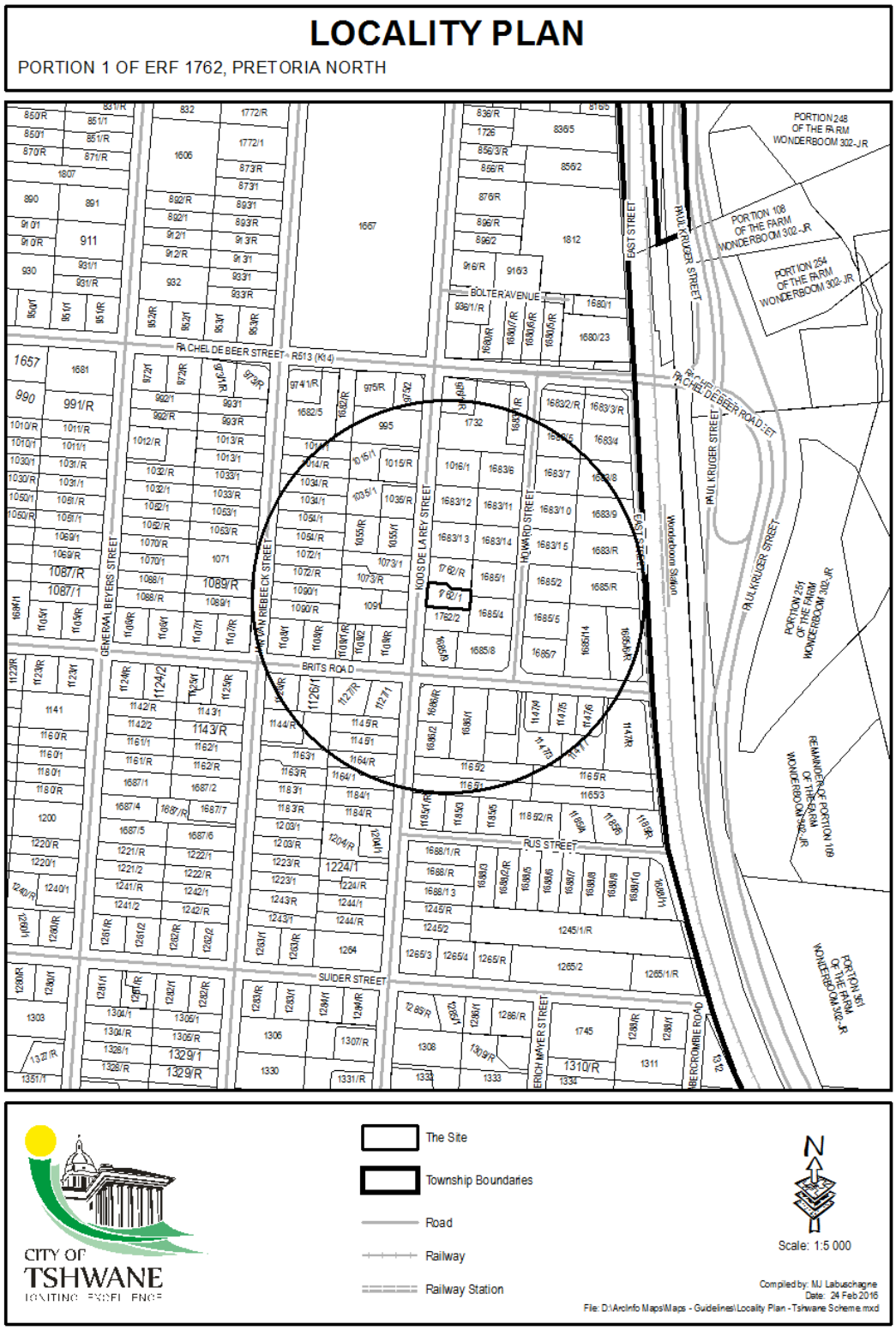
Number and area of proposed portions:

Proposed Portion …….. in extent approximately ……m²
Proposed Remainder…….. . in extent approximately …… m²
TOTAL ……m²

Reference: CPD ……..……Item No……

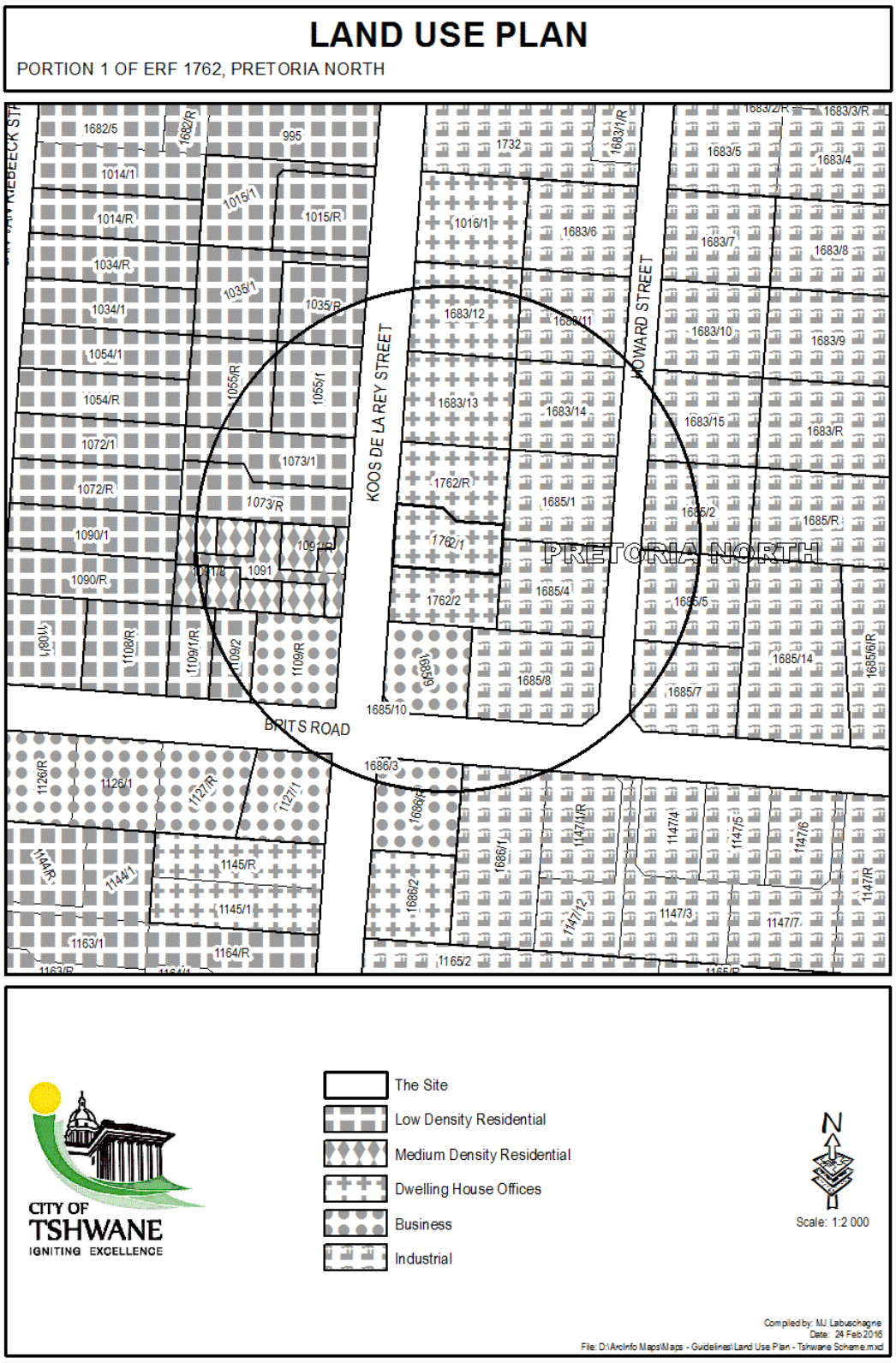
COT: F/17

EXAMPLE OF A LOCALITY PLAN



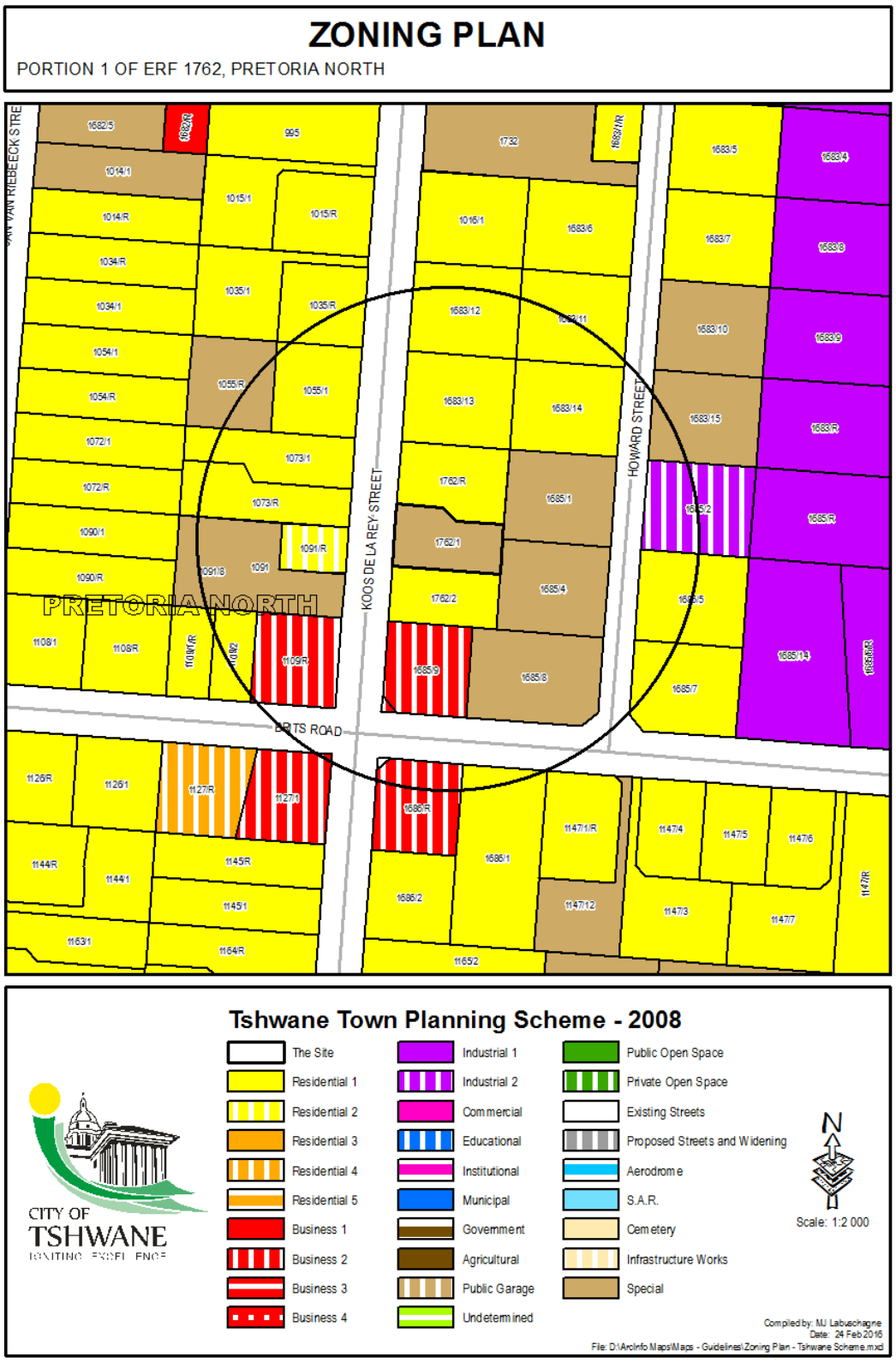
COT: F/18

EXAMPLE OF A LAND USE PLAN



COT: F/19

EXAMPLE OF A ZONING PLAN

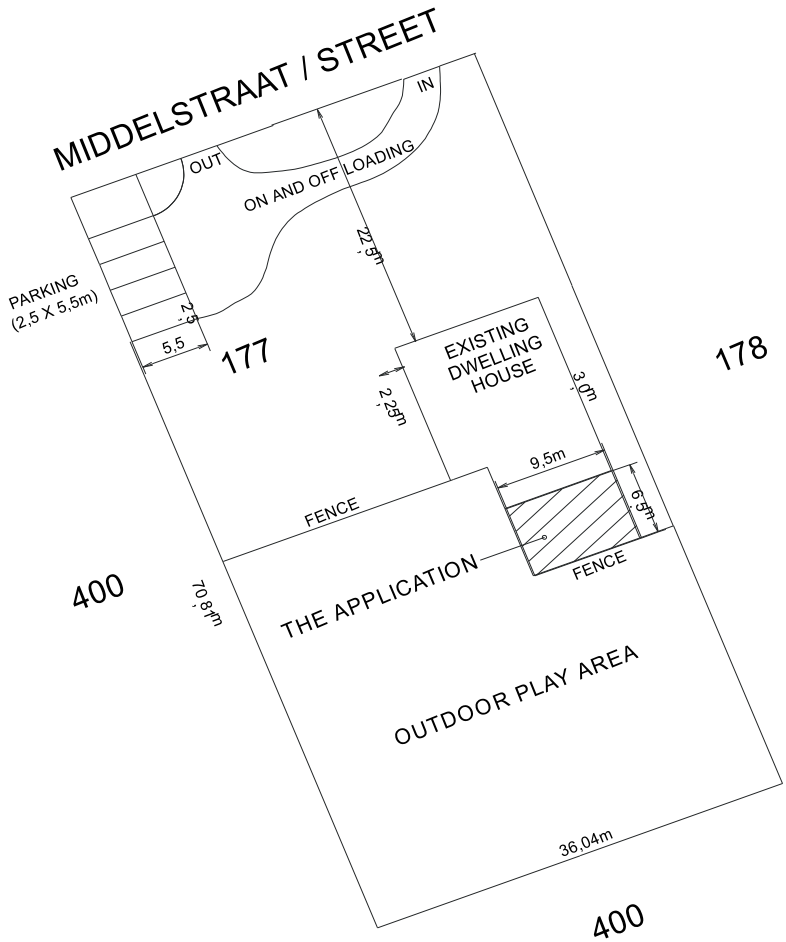


COT:F/20

EXAMPLE OF A SITE PLAN

SITE PLAN

ERF 177, NIEUW MUCKLENEUK



REFERENCE

THE SITE

SCALE 1 : 500

COT: F/21

FORMAT OF THE DRAFT ANNEXURE AND DRAFT AMENDMENT SCHEME MAP READ WITH SECTION 12(2) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

PROPERTY DESCRIPTION :		
1	Use Zone	
2	Uses permitted	
3	Uses with consent	
4	Uses not permitted	
5	Definitions	
6	Density	
7	Coverage	
8	Height	
9	Floor area ratio	
10	Site Development Plan and Landscape Development Plan	
11	Street Building Lines	
12	Building Restriction Areas	
13	Parking requirements	
14	Paving of traffic areas	
15	Access to the erf	
16	Loading and off-loading facilities	
17	Turning facilities	
18	Physical barriers	
19	Health measures	
20	Outdoor advertising	
21	Detrimental soil conditions	
22	Open Space	
23	General: 1) 2) In addition to the above conditions the erf and buildings thereon are further subject to the general provisions of the Land Use Scheme	

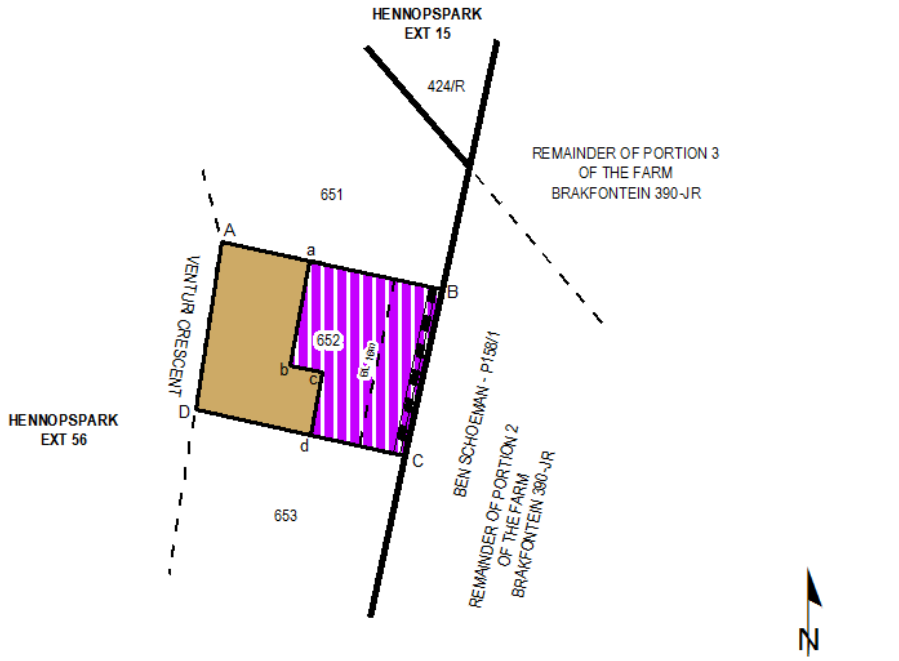
TSHWANE TOWN PLANNING SCHEME 2008

(Revised 2014)

DRAFT AMENDMENT SCHEME MAP

DRAFT AMENDMENT SCHEME NUMBER X001T SHEET 1 OF 1 SHEETS

ERF 652, HENNOPSPARK EXTENSION 56



SCALE : 1:2 000

REFERENCE

USE ZONE

INDUSTRIAL 2

SPECIAL

GENERAL

BL 16m BUILDING LINE

LINE OF NO ACCESS

TOWNSHIP BOUNDARY

SIGNED BY THE APPLICANT

DATE

COT: F/22

EXAMPLE OF A POWER OF ATTORNEY

I/We, [*John Citizen*] ……..

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

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

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

at ……..…….…… The City of Tshwane Metropolitan Municipality and in general to do everything to effect the application and to do whatever I/we would do if I/we were present in person and acting in the matter; and I/we hereby ratify, allow and confirm, and promise and agree to ratify, allow and confirm everything and anything my/our attorney(s) and agent(s) may do or may permit to be done legally in terms of this power of attorney.

Signed at ……..…… on this ……..…. day of ……..20……

in the presence of the undersigned witnesses.

AS WITNESSES:

1.……..……..

2.……..……..

[John Citizen] ……..……
Registered Owner

COT: F/23

EXAMPLE OF AFFIDAVIT / AFFIRMATION

TO WHOM IT MAY CONCERN:

I, the undersigned, …… (*full name and surname)*, hereby *make oath/affirm that the placard notice(s) as prescribed in terms of Section 16(1)(f) on Erf No ……..……., Township ……..…., was displayed and maintained in a conspicuous and to the public accessible place, for a period of 14 days from the first day the advertisements were advertised in local newspapers, viz from ……..…… to ……., both dates inclusive.

SIGNED ……..…….…… (SIGNATURE OF APPLICANT)
on ……..…… at ……..……..

I hereby certify that the deponent acknowledges that *he/she was conversant with the contents of this statement and understood it, and that the deponent uttered the following words: "I swear that the contents of this statement are the truth and nothing but the truth, so help me God".

COMMISSIONER OF OATHS:……..

DATE : ……..

*Delete whichever is not applicable.

COT: F/24

NOTICE OF APPEAL

Appellant Details						
Title						
Initial						
First Name(s)						
Surname						
ID Number						
Physical Address of the Appellant						
Physical Address (Work)						
Address Line 1 (street no)						
Address Line 2 (street name)						
Township						
Postal Code						
Specify City						
Physical Address (Home)						
Address Line 1 (street no)						
Address Line 2 (street name)						
Township						
Postal Code						
Specify City						
Postal Address of the Appellant						
Postal Type	PO Box ☐ Private Bag ☐		Physical Address (Home) ☐ Physical Address (Work) ☐			
Postal Number						
Township						
Postal Code						
Specify City						
APPEAL DETAILS						
Type of application						
Relevant legislation applicable						
Reference number						
Indicate the decision maker	CP&DC (City Planning and Development Committee)		MPT (Municipal Planning Tribunal)		AO (Authorised Official)	
Date of decision						
PROPERTY DESCRIPTION						
Township/Agricultural Holding/Farm						
Erf / Lot / Plot / Farm no						
CONCISE AND SUCCINCT GROUNDS OF APPEAL						

LIST OF ATTACHED DOCUMENTS	
RELIEF SOUGHT BY THE APPELLANT FROM THE APPEAL AUTHORITY	

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

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

REQUIRED DOCUMENTS

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

Declaration:

I/We …….. (*full names*) hereby submit an appeal to the Appeals Authority in terms of section 20 of the City of Tshwane Land Use Management By-law, 2016. I declare that I shall be bound by all the provisions of this By-law. I solemnly declare that, to the best of my knowledge and belief, all the information contained herein is true and correct.

I acknowledge that the appeal as contemplated in section 20 of this By-law can be a written or oral hearing

Signed: …… Date: …….

COT: F/25

NOTICE OF AN APPROVED LAND USE SCHEME IN TERMS OF SECTION 11(9)(b) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

LOCAL AUTHORITY NOTICE ……..

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

NOTICE OF THE …….. LAND USE SCHEME ……..

It is hereby notified in terms of the provisions of section 11(9)(b) of the City of Tshwane Land Use Management By-law, 2016 that the City of Tshwane has approved and adopted the ……..... Land Use Scheme, ……...

This ……..scheme is a substitution of the ……..……Town-planning/ Land Use Scheme……..……..…….. within the jurisdiction of the of the City of Tshwane Area.

The Land Use Scheme the Scheme Clauses and Annexures are filed with the the Municipality and are open to inspection during normal office hours.

This scheme shall be known as the ……..…… Land Use Scheme, …….. and shall come into operation on ……..

(…….Reference number …….)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

(*date of publication*) .....

(Notice ……..…….)

COT: F/26

NOTICE OF THE ADOPTION OF THE AMENDMENT SCHEME IN TERMS OF SECTION 16(1)(Y) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

LOCAL AUTHORITY NOTICE ……

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

……. AMENDMENT SCHEME …….. (NO) ……..

It is hereby notified in terms of the provisions of section 16(1)(y) of the City of Tshwane Land Use Management By-law, 2016, that the City of Tshwane has approved and hereby adopted the land development application for the amendment of the ……..... Scheme, …….. being the rezoning of ..... (*property description*) ……, from…….. (*current zoning*) to …… (*approved zoning*), subject to certain further conditions.

The ……Land Use Scheme, …….. and the adopted scheme clauses and adopted annexure of this amendment scheme are filed with the Municipality, and are open to inspection during normal office hours.

This amendment is known as ……. Amendment Scheme ……and shall come into operation on the date of publication of this notice.

(Reference number……)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

(*date of publication*) ……

(Notice ……..…..)

COT: F/27

NOTICE OF AN ADOPTED REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN TITLE IN TERMS OF SECTION 16(2)(h) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

NOTICE ……. OF 20……

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

NOTICE IN TERMS OF SECTION 16(2)(h) OF CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016 FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIVE CONDITIONS IN TITLE

It is hereby notified in terms of the provisions of section 16(2)(h) of the City of Tshwane Land Use Management By-law, 2016, that the City of Tshwane has approved and adopted the land development application for the removal/ amendment / suspension of certain conditions contained in Title Deed …….., with reference to the following property: ……

The following condition and/or phrases are hereby removed/ amended/suspended: ……..……..

This removal/amendment/suspension will come into effect on the date of publication of this notice.

(……)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

…… 20……..

(Notice ……. /20……...)

COT: F/28

DECLARATION OF AN APPROVED TOWNSHIP AND NOTICE OF AN ADOPTION OF THE AMENDMENT SCHEME IN TERMS OF SECTION 16(9) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016

LOCAL AUTHORITY NOTICE ……
CITY OF TSHWANE METROPOLITAN MUNICIPALITY
DECLARATION OF AN APPROVED TOWNSHIP AND NOTICE OF ADOPTION OF AN AMENDMENT SCHEME IN TERMS OF SECTION 16(9) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016 FOR AN APPROVED TOWNSHIP

……

It is hereby declared that in terms of the provisions of section 16(9) of the City of Tshwane Land Use Management By-law, 2016, that …… is an approved township, subject to the conditions as set out in the schedules hereto.

It is hereby notified in terms of the provisions of section 16(9) of the City of Tshwane Land Use Management By-law, 2016 that the City of Tshwane has approved and hereby adopted the land development application for the amendment scheme with regard to the property(ies) in the township of ……..…., being an amendment of the ….....…….

Scheme ……...……

The ……. Land Use Scheme, …… and the adopted scheme map and the adopted annexures of this amendment scheme are filed with the Municipality, and are open to inspection during normal office hours.

This amendment is known as …… Amendment Scheme ……and shall come into operation on the date of publication of the notice.

(Reference number……)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

(*date of promulgation*) ……