



Koena ke mahlle, go aga setshaba sa koena

**Molemole Municipality**

**DRAFT**  
**THE SPATIAL PLANNING AND LAND USE MANAGEMENT**  
**BY-LAW**

DRAFT

## ARRANGEMENT OF SECTIONS

### CHAPTER 1

#### DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

##### Sections

- 1 Definitions
- 2 Application of By-Law
- 3 Conflict of laws

### CHAPTER 2

#### MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

- 4 Municipal spatial development framework
- 5 Contents of municipal spatial development framework
- 6 Intention to prepare, amend or review municipal spatial development framework
- 7 Institutional framework for preparation, amendment or review of municipal spatial development framework
- 8 Preparation, amendment or review of municipal spatial development framework
- 9 Public participation
- 10 Local spatial development framework
- 11 Compilation, amendment or review of local spatial development framework
- 12 Effect of local spatial development framework
- 13 Record of and access to municipal spatial development framework
- 14 Deviation from municipal spatial development framework

### CHAPTER 3

#### LAND USE SCHEME

- 15 Applicability of Act
- 16 Purpose of land use scheme
- 17 General matters pertaining to land use scheme
- 18 Development of draft land use scheme
- 19 Council approval for publication of draft land use scheme
- 20 Public participation
- 21 Incorporation of relevant comments
- 22 Preparation of land use scheme
- 23 Submission of land use scheme to Council for approval and adoption
- 24 Publication of notice of adoption and approval of land use scheme
- 25 Submission to Member of Executive Council
- 26 Records
- 27 Contents of land use scheme
- 28 Land use scheme register
- 29 Replacement and consolidation of amendment scheme

### CHAPTER 4

#### INSTITUTIONAL STRUCTURE FOR LAND DEVELOPEMNT AND LAND USE MANAGEMENT

#### DECISIONS

##### Part A: Division of Functions

- 30 Division of functions between Municipal Planning Tribunal and Authorised Official

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

- 31 Municipal assessment prior to establishment of Municipal Planning Tribunal

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

- 32 Establishment of Municipal Planning Tribunal for local municipal area
- 33 Composition of Municipal Planning Tribunal for local municipal area
- 34 Nomination procedure
- 35 Submission of nomination
- 36 Initial screening of nomination by Municipality

- 37 Evaluation panel
- 38 Appointment of member to Municipal Planning Tribunal by Council
- 39 Term of office and conditions of service of members of Municipal Planning Tribunal for municipal area
- 40 Vacancy
- 41 Proceedings of Municipal Planning Tribunal for municipal area
- 42 Tribunal of record
- 43 Commencement date of operations of Municipal Planning Tribunal
  - Part D: Establishment of Joint Municipal Planning Tribunal
- 44 Agreement to establish joint Municipal Planning Tribunal
- 45 Status of decision of joint Municipal Planning Tribunal
- 46 Applicability of Part C, F and G to joint Municipal Planning Tribunal
  - Part E: Establishment of District Municipal Planning Tribunal
- 47 Agreement to establish district Municipal Planning Tribunal
- 48 Composition of district Municipal Planning Tribunals
- 49 Status of decision of district Municipal Planning Tribunal
- 50 Applicability of Part C, F and G to district Municipal Planning Tribunal
  - Part F: Decisions of Municipal Planning Tribunal
- 51 General criteria for consideration and determination of application by Municipal Planning Tribunal
- 52 Conditions of approval
  - Part G: Administrative Arrangements
- 53 Administrator for Municipal Planning Tribunal for municipal area

## CHAPTER 5

### DEVELOPMENT MANAGEMENT

#### Part A: Categories of Applications

- 54 Categories of land use and land development applications
- 55 Application for land development required
  - Part B: Establishment of Township or Extension of Boundaries of Township
- 56 Application for establishment of township
- 57 Division or phasing of township
- 58 Lodging of layout plan for approval with the Surveyor-General.
- 59 Compliance with pre-proclamation conditions
- 60 Opening of Township Register
- 61 Proclamation of an approved township.
  - Part C: Rezoning of land
- 62 Application for amendment of a land use scheme by rezoning of land
  - Part D: Removal, Amendment or Suspension of a Restrictive or Obsolete Condition, Servitude or Reservation Registered Against the Title of the Land
- 63 Requirements for amendment, suspension or removal of restrictive conditions or obsolete condition, servitude or reservation registered against the title of the land
- 64 Endorsements in connection with amendment, suspension or removal of restrictive conditions
  - Part E: Subdivision and Consolidation
- 65 Application for subdivision
- 66 Confirmation of subdivision
- 67 Lapsing of subdivision and extension of validity periods
- 68 Amendment or cancellation of subdivision plan
- 69 Services arising from subdivision
- 70 Consolidation of land units
- 71 Lapsing of consolidation and extension of validity periods
- 72 Exemption of subdivisions and consolidations

Part F: Permanent Closure of Public Place

73 Closure of public places

Part G: Consent Use

74 Application for consent use

75 Application for Written Consent

Part H: Traditional Use

76 Land development application on communal land

Part I: Temporary Use

77 Application for temporary use

Part J: General Matters

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

79 Restriction of transfer and registration

80 First transfer

81 Certification by Municipality

82 National and Provincial Interest

CHAPTER 6

APPLICATION PROCEDURES

83 Applicability of Chapter

84 Procedures for making application

85 Information required

86 Application fees

87 Grounds for refusing to accept application

88 Receipt of application and request for further documents

89 Additional information

90 Confirmation of complete application

91 Withdrawal of application

92 Notice of applications in terms of integrated procedures

93 Notification of application in media

94 Serving of notices

95 Content of notice

96 Additional methods of public notice

97 Requirements for petitions

98 Requirements for objections, comments or representations

99 Amendments prior to approval

100 Further public notice

101 Cost of notice

102 Applicant's right to reply

103 Written assessment of application

104 Decision-making period

105 Failure to act within time period

106 Powers to conduct routine inspections

107 Determination of application

108 Notification of decision

109 Pre-promulgation Conditions – Conditional Approval

110 Publication of Promulgation Notice

111 Duties of agent of applicant

112 Errors and omissions

113 Withdrawal of approval

114 Procedure to withdraw an approval

115 Exemptions to facilitate expedited procedures

## CHAPTER 7

### ENGINEERING SERVICES AND DEVELOPMENT CHARGES

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

- 116 Responsibility for providing engineering services
- 117 Installation of engineering services
- 118 Engineering services agreement
- 119 Abandonment or lapsing of land development application
- 120 Internal and external engineering services

#### Part B: Development Charges

- 121 Payment of development charge in respect of engineering services and open spaces or parks
- 122 Offset of development charge
- 123 Payment of development charge in instalments
- 124 Refund of development charge
- 125 General matters relating to contribution charges

## CHAPTER 8

### APPEAL PROCEDURES

#### PART A: ESTABLISHMENT OF MUNICIPAL PLANNING APPEAL AUTHORITY

- 126 Establishment of Appeal Authority
- 127 Institutional requirements for establishment of Municipal Appeal Authority
- 128 Composition and code of conduct of Municipal Appeal Authority
- 129 Disqualification from Membership of Municipal Appeal Authority

#### PART B: MANAGEMENT OF APPEAL AUTHORITY

- 130 Presiding Officer of Appeal Authority
- 131 Bias and disclosure of interest
- 132 Registrar of Appeal Authority
- 133 Powers and duties of registrar

#### PART C: APPEAL PROCESS

- 134 Commencing of appeal
- 135 Notice of appeal
- 136 Notice to oppose an appeal
- 137 Screening of appeal

#### PART D: PARTIES TO AN APPEAL

- 138 Parties to appeal
- 139 Intervention by interested person

#### PART E: JURISDICTION OF APPEAL AUTHORITY

- 140 Jurisdiction of appeal authority
- 141 Appeal hearing by appeal authority
- 142 Written hearing by appeal authority
- 143 Oral hearing by appeal authority
- 144 Representation before appeal authority
- 145 Opportunity to make submissions concerning evidence

#### PART F: HEARINGS OF APPEAL AUTHORITY

- 146 Notification of date, time and place of hearing
- 147 Hearing date
- 148 Adjournment

- 149 Urgency and condonation
- 150 Withdrawal of appeal

PART G: ORAL HEARING PROCEDURE

- 151 Location of oral hearing
- 152 Presentation of each party's case
- 153 Witnesses
- 154 Proceeding in absence of party
- 155 Recording
- 156 Oaths
- 157 Additional documentation

PART H: WRITTEN HEARING PROCEDURE

- 158 Commencement of written hearing
- 159 Presentation of each party's case in written hearing
- 160 Extension of time
- 161 Adjudication of written submissions

PART I: DECISION OF APPEAL AUTHORITY

- 162 Further information or advice
- 163 Decision of appeal authority
- 164 Notification of decision
- 165 Directives to Municipality

PART J: GENERAL

- 166 Expenditure

CHAPTER 9

COMPLIANCE AND ENFORCEMENT

- 167 Enforcement of this by law and other relevant provisions
- 168 Offences and penalties
- 169 Service of compliance notice
- 170 Content of compliance notices
- 171 Objections to compliance notice
- 172 Failure to comply with compliance notice
- 173 Urgent matters
- 174 Subsequent application for authorisation of activity
- 175 Power of entry for enforcement purposes
- 176 Power and functions of authorised employee
- 177 Warrant of entry for enforcement purposes
- 178 Regard to decency and order
- 179 Court order

CHAPTER 10

TRANSITIONAL PROVISIONS

- 180 Transitional provisions
- 181 Determination of zoning

CHAPTER 11

GENERAL PROVISIONS

- 182 Pre-application Procedure
- 183 Approval of Building Plans and Registration
- 184 Schedules and Forms To This By-Law
- 185 Provision of Information
- 186 Delegations
- 187 Short title and commencement

## ARRANGEMENT OF SCHEDULES

<b>Schedule</b>	<b>Content</b>
<b>Schedule 1:</b>	Clauses, Maps and Annexures of the Land Use Scheme in terms of Chapter 3 of this By-Law
<b>Schedule 2:</b>	Land Use Scheme Register
<b>Schedule 3:</b>	Requirements for the Extension of time as may be allowed in terms of any provision of this By-Law
<b>Schedule 4:</b>	Requirements for the alteration, amendment or cancellation of a subdivision plan of a proclaimed township in terms of section 68 of this by-law
<b>Schedule 5:</b>	Invitation to nominate a person to be appointed as a Member of the Municipal Planning Tribunal
<b>Schedule 6:</b>	Call for Nominations for Persons to be appointed as Members of the Municipal Planning Tribunal
<b>Schedule 7:</b>	Disclosure of Interests Form
<b>Schedule 8:</b>	Code of Conduct of Members of the Municipal Planning Tribunal
<b>Schedule 9:</b>	Code of Conduct of Members of the Municipal Appeal Authority
<b>Schedule 10:</b>	Land Development Applications on Communal Land That May Have High Impact On The Community As Contemplated In Section 76 (6) And (7) Of This By-Law
<b>Schedule 11:</b>	Exemption of Fees In Terms Of Section 86(6) Of This By-Law
<b>Schedule 12:</b>	Withdrawal of Application In Terms Of Section 113(2) Of This By-Law

## ARRANGEMENTS OF FORMS

<b>Form</b>	<b>Content</b>
<b>MLM: F/1</b>	Application Form for a Township Establishment or Extension of Boundaries of a Township In Terms of Section 56 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
<b>MLM: F/2</b>	Application Form for a Division of a Township In Terms of Section 57 of the Molemole Spatial Planning And Land Use Management By-Law, 2019
<b>MLM: F/3</b>	Application Form for the amendment of an approved township in terms of Section 58(5) of the Molemole Spatial Planning and Land Use Management By-Law, 2019
<b>MLM: F/4</b>	Application Form for the rezoning application in terms of Section 62 Of The Molemole Spatial Planning and Land Use Management By-Law, 2019
<b>MLM: F/5</b>	Application Form for a removal, amendment or suspension of title conditions application in terms of Section 63 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
<b>MLM: F/6</b>	Application Form for subdivision and consolidation application in terms of Section 65 and Section 70 of the Molemole Spatial Planning and Land Use Management By-Law, 2019

- MLM: F/7** Application Form for consent use in terms of the land use scheme read with Section 74 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/8** Application Form for written consent use in terms of the land use scheme read with Section 75 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/9** Application Form for land development application on communal land or in rural areas in terms of Section 76 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/10** Application Form for temporary use in terms of Section 77 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/11** Application Form for request for amendment prior to approval in terms of Section 99 of the Molemole Spatial Planning and Land Use By-Law, 2019
- MLM: F/12** Request for extension of time in terms of the Molemole Spatial Planning and Land Use Management By-Law, 2019 and as required in terms of Schedule 3 to this By-Law
- MLM: F/13** List of attachments and supporting documents to be submitted to the municipality for various development applications
- MLM: F/14** Example of the provincial gazette, newspaper and site notice in terms of Section 93 for the establishment of a township/ extension of boundaries of a township application in terms of Section 56 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/15** Example of the provincial gazette, newspaper and placard notice in terms of Section 93 for a rezoning application in terms of Section 62 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/16** Example of the provincial gazette, newspaper and site notice in terms of Section 93 for the removal / amendment / suspension of a restrictive condition in the title deed application in terms of Section 63 of the Molemole Spatial Planning and Land Use Management By-Law, 2019
- MLM: F/17** Example of a promulgation notice in terms of Section 110 of the Molemole Spatial Planning And Land Use Management By-Law, 2019 for the adoption of the amendment scheme.
- MLM: F/18** Example of a promulgation notice in terms of Section 110 of the Molemole Spatial Planning and Land Use Management By-Law, 2019 for an adopted removal, amendment or suspension of a restrictive condition in title in terms of Section 63 of the Molemole Spatial Planning And Land Use Management By-Law, 2019
- MLM: F/19** Example of a proclamation notice of an approved township and notice of an adoption of the amendment scheme in terms of Section 61 of The Molemole Spatial Planning And Land Use Management By-Law, 2016
- MLM: F/20** Notice of Appeal



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

**1 Definitions**

In these By-Laws, unless the context indicates otherwise - -

**“Act”** means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), as may be amended from time to time;

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

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

**“adopt or adopted”** in relation to a municipal Spatial Development Framework, Land Use Scheme, amendment scheme, policy or plans, means;

(a) the publication as may be required in terms of this By-law, of the said documents by the Municipality, but shall where the date of coming into operation differs from the date in terms of which any document is published in the provisions of this By-law only be adopted upon the date of coming into operation thereof; or

(b) 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;

**“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;

**“appeal authority”** means an Appeal Authority contemplated in section 123 of this By-law, as established in terms of section 51 of the Act and Regulation 20 of the Regulations to the Act, and Municipal Appeals Tribunal shall have a corresponding meaning;

**“applicant”** means:

(a) an owner(s); or

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

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

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

**“approved township”** means a township declared an approved township in terms of section 61;

**“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) as may be amended from time to time, be assigned to him/her;

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

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

**“By-Law”** mean this By-Law and includes the schedules and forms attached hereto or referred to herein; **“Code of Conduct”** means the Code of Conduct approved and adopted by the Municipal Council to which the members of the Municipal Planning Tribunal or Municipal Appeals Tribunal established in terms of sections 35 and 51 of the Act and/or any official appointed for purposes of considering land development applications shall be bound;

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

**“communal land”** means land under the jurisdiction of a traditional council determined in terms of section 6 of the Limpopo Traditional Leadership and Governance Act, 2005 (Act 6 of 2005)) and which was at any time vested in -

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

**“consent use”** means a land use right that may be obtained by way of consent from the municipality and is specified as such in the land use scheme, and consent shall have a corresponding meaning;

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

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

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

**“Council”** means the municipal council of the Molemole Local Municipality; **“day”** means a calendar day provided that when any number of days is prescribed for the doing of any act in terms of this By-law, it must be calculated by excluding the first day and including the last day; provided further that, if the last day falls on a 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 No. 47 of 1937);

**“Deeds Registries Act”** means the Deeds Registries Act, 1937 (Act No. 47 of 1937);

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

**“draft Land Use Scheme”** means a scheme prepared in terms of sections 24(1), 27 and 28 of the Act and sections 18, 19 and 20 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 19(3) of this By-law until adopted by a Municipal Council in terms of section 24(1) and section 25 of this By-law;

**“draft spatial development framework”** means a draft spatial development framework as contemplated in section 8 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 9 of this By-law and shall be referred to as a draft spatial development framework until adopted in terms of section 9(6)(d) 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;

**“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;

**“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;

**“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;

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

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

**“intervener”** means an interested person who has been granted intervener status by a decision maker or the Appeal Authority in terms of section 45(2) of the Act and section 133 of this By-law;

**“Joint Municipal Planning Tribunal”** means a Joint Municipal Planning Tribunal established in terms of section 34(1) of the Act;

**“land”** means -

- (a) any erf, agricultural holding or farm portion, and includes any improvements or building on the land and any real right in land, and

- (b) the area of communal land to which a household holds an informal right recognized in terms of the customary law applicable in the area where the land to which such right is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

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

**“land development application”** means an application or a combination of the applications envisaged in Chapter 5 of this By-law.

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

**“land use plan”** means a plan indicating existing land uses;

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

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

**“land use management system”** means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development procedures;

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

**“Land Use Scheme register”** means the register as contemplated in Section 25(2)(c) of the Act read with section 28 of this By-law;

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

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

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

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

**“Municipal Council”** means the Council of the Molemole Local 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 Molemole Local Municipality in terms of section 54A of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time, as the head of administration of the Municipal Council and includes any person acting in that position or to whom authority has been delegated;

**“Municipal Planning Tribunal”** means the Municipal Planning Tribunal established in terms of section 35 or section 34(2) of the Act;

**“Municipality”** means the Municipality of Molemole Local Municipality or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No (*insert number and year*) in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and for the purposes of this By-law includes an employee or official acting in terms of a delegation issued under section 59 of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time ;

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

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

**“organ of state”** means an organ of state as defined in section 239 of the Constitution, and includes a state owned enterprise;;

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

**“precinct plan”** means a plan which forms a smaller geographical component of spatial planning as contemplated in section 10 of this By-Law;

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

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

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

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

**“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 may be amended from time to time;

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

**“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;

**“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;, and Municipal Spatial Development Framework has a corresponding meaning;

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

**“the Act”** means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), as may be amended from time to time;

**“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”** means an area of land divided into erven, and may include public places and roads indicated as such on a general plan;

**“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;

**“traditional communities”** means communities recognised in terms of section 3 of the Limpopo Traditional Leadership and Institutions Act, 2005 (Act No. 6 of 2005);

**“traditional council”** means a council established and recognised in terms of section 4 and section 5 of the Limpopo Traditional Leadership Institutions Act, 2005 (Act No. 6 of 2005);

**“traditional leadership”** means the customary institutions or structures, or customary systems or procedures of governance, recognised, utilised or practised by traditional communities;

## **2 Application of By-law**

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



### **3 Conflict of laws**

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

## **CHAPTER 2**

### **MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK**

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

- (1) The Municipality must draft a municipal spatial development framework in accordance with the provisions of sections 6, 20 and 21 of the Act read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) A municipal spatial development framework does not confer or take away land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.

#### **5 Contents of municipal spatial development framework**

- (1) A municipal spatial development framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time, and provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for municipal

planning.

The purpose and content of the Municipal Spatial Development Framework must, over and above what is contained in section 21 of the Act, specifically:

- (a) include land use management guidelines regarding the appropriate nature, form, scale and location of development, contributing to spatial co-ordination;
  - (b) guide investment and planning for municipal departments and where appropriate other spheres of government;
  - (c) guide investment for the private sector; and
  - (d) reflect relevant provisions of strategies, policies, plans and other planning mechanisms adopted by the Municipal Council; and guiding decision making on land development applications.
- (2) Over and above the matters required in terms of subsection (1), the Municipality may determine any further plans, policies and instruments by virtue of which the municipal spatial development framework must be applied, interpreted and implemented.
- (3) A municipal spatial development framework must make provision for transitional arrangements with regard to the manner in which the municipal spatial development framework is to be implemented by the Municipality.

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

- (1) For purposes of drafting, reviewing or amending its Municipal Spatial Development Framework the Municipality \_
- (a) may convene an technical steering committee and a project committee in accordance with section 7;
  - (b) must inform the Member of the Executive Council in writing of -
    - (i) its intention to prepare, amend or review the municipal spatial development framework;
    - (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation;
  - (c) must publish a notice in two of the official languages of the Province most spoken in the municipal area of the Municipality of its intention to prepare, amend or review the municipal spatial development framework and the process to be followed in accordance with section 28(3) of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time, in two newspapers circulating in the area concerned; and
  - (e) must register relevant stakeholders who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

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

- (1) The purpose of the technical steering committee contemplated in section 6 (1)(a) is to co-ordinate the applicable contributions into the municipal spatial development framework and to-
- (a) provide technical knowledge and expertise;
  - (b) provide input on outstanding information that is required to draft the municipal spatial development framework or an amendment or review thereof;
  - (c) communicate any current or planned projects that have an impact on the municipal area;
  - (d) provide information on the locality of projects and budgetary allocations; and
  - (e) provide written comment to the project committee at each of various phases of the process.
- (2) The Municipality may, before commencement of the preparation, amendment or review of the municipal spatial development framework, in writing, invite nominations for representatives to serve on the technical steering committee from, but not limited to —
- (a) departments in the national, provincial and local sphere of government, internal municipal departments, other organs of state, community representatives, engineering services providers, traditional councils; and
  - (b) any other body or person that may assist in providing information and technical advice on the content of the municipal spatial development framework.

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.

- (3) The purpose of the project committee contemplated in section 6(a) is to —
- (a) prepare, amend or review the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise;
  - (c) monitor progress and ensure that the drafting municipal spatial development framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
  - (d) guide the public participation process, including ensuring that the registered key public sector stakeholders remain informed;
  - (e) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and organs of state as contemplated in

section 24(1) of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time;

- (f) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;
  - (i) if the Municipality decides to establish a technical steering committee—
    - (i) assist the Municipality in ensuring that the technical steering committee is established and that timeframes are adhered to; and
    - (ii) ensure the flow of information between the project committee and the technical steering committee.
- (4) The project committee consists of –
- (a) the Municipal Manager;
  - (b) Senior Managers from at least the following municipal departments:
    - (i) Local Economic Development and Planning
    - (ii) Technical Services
    - (iii) Community Services

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

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the technical steering committee for comment.
- (2) After consideration of the comments of the technical steering committee, the project committee must finalise the status quo document and submit it to the Council for adoption.
- (3) The project committee must prepare a first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and must submit it to the technical steering committee for comment.
- (4) After consideration of the comments of the technical steering committee, the project committee must finalise the first draft of the municipal spatial development framework or first draft amendment or review of the municipal spatial development framework and submit it to the Council, together with the report referred to in subsection (5), to approve the publication of a notice referred to in section 6(4) that the draft municipal spatial development framework or an amendment or review thereof is

available for public comment.

- (5) The project committee must submit a written report as contemplated in subsection (4) which must at least —
  - (a) indicate the rationale in the approach to the drafting of the municipal spatial development framework;
  - (b) summarise the process of drafting the municipal spatial development framework;
  - (c) summarise the consultation process to be followed with reference to section 9 of this By-law;
  - (d) indicate the involvement of the technical steering committee, if convened by the Municipality;
  - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
  - (f) the alignment with the national and provincial spatial development frameworks;
  - (g) any sector plans that may have an impact on the municipal spatial development framework;
  - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
  - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment or review of the municipal spatial development framework for adoption by the Council.
- (7) If the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, as contemplated in subsection (6), is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process before it is adopted by the Council.
- (8) The Council must adopt the final municipal spatial development framework or final amendment or review of the municipal spatial development framework, with or without amendments, and must within 14 days of its decision give notice of its adoption in the media and the Provincial Gazette.
- (9) If no technical steering committee is convened by the Municipality, the project committee submits the draft and final municipal spatial development framework or amendment or review thereof directly to the Council.

## **9 Public participation**

- (1) Public participation undertaken by the Municipality must contain and comply with all the essential

elements of any notices to be placed in terms of the Act or the Municipal Systems Act.

(2) In addition to the publication of notices in the *Provincial Gazette* and newspapers as required in terms of this Chapter, the Municipality may use any other method of communication it may deem appropriate

(3) The Municipality may for purposes of public engagement on the content of the draft municipal spatial development framework arrange -

- (a) specific consultations with professional bodies, ward communities or other groups; and
- (b) public meetings.

(4) The notice contemplated in section 8(4) must specifically state that any person or body wishing to provide comments shall-

- (a) do so within a period of 60 days from the first day of publication of the notice;
- (b) provide written comments; and
- (c) provide their contact details as specified in the definition of contact details.

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

- (a) its intention to draft, review or amend the Municipal Spatial Development Framework;
- (b) its decision in terms of section (8)(8); and
- (c) the process that will be followed in the drafting, review or amendment of the Municipal Spatial Development Framework including the process for public participation.

(6) Consideration of the Municipal Spatial Development Framework:

(a) After the public participation process contemplated in section (9)(1) to (5) the Department responsible for Development Planning shall review and consider all submissions made in writing or during any engagements.

(b) 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.

(c) 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 section 9 (1) to (5), the Municipality must follow a further consultation and public participation process before adoption by the Municipal Council as provided for in section 9 (1) to (5).

(d) 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).

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

## **10 Local spatial development framework**

(1) The Municipality may adopt a local spatial development framework for a specific geographical area of a portion of the municipal area.

(2) The purpose of a local spatial development framework is to:

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

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

(1) If the Municipality prepares, amends or reviews a local spatial development framework, it must draft and approve a process plan, including public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.

(2) The municipality must, within 21 days of adopting a local spatial development framework or an amendment of local spatial development framework, publish a notice of the decision in the media and the Provincial Gazette.

## **12 Effect of local spatial development framework**

(1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 8(2).

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

### **13 Record of and access to municipal spatial development framework**

(1) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved municipal or local spatial development framework and or any component thereof applicable within the jurisdiction of the Municipality.

(2) Should anybody or person request a copy of the municipal or local spatial development framework the Municipality must provide on payment by such body or person of the prescribed fee, a copy to them of the approved municipal spatial development framework or any component thereof.

### **14 Deviation from municipal spatial development framework**

(1) For purposes of section 22(2) of the Act, site specific circumstances include –

(a) a deviation that does not materially change the municipal spatial development framework;

(2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, prior to taking a decision which constitutes a deviation from the municipal spatial development framework.



## **CHAPTER 3**

### **LAND USE SCHEME**

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

Sections 24 to 30 of the Act apply to any land use scheme developed, prepared, adopted and amended by the Municipality.

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

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

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

- (1) In order to comply with section 24(1) of the Act, the Municipality must -
  - (a) develop a draft land use scheme as contemplated in section 18;
  - (b) obtain Council approval for publication of the draft land use scheme as contemplated in section 19;
  - (c) embark on the necessary public participation process as contemplated in section 20;
  - (d) incorporate relevant comments received during the public participation process as contemplated in section 21;
  - (e) prepare the land use scheme as contemplated in section 22;
  - (f) submit the land use scheme to the Council for approval and adoption as contemplated in section 23;
  - (g) publish a notice of the adoption and approval of the land use scheme in the Provincial Gazette as contemplated in section 24; and
  - (h) submit the land use scheme to the Member of the Executive Council as contemplated in section 25.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (3) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.
- (4) The land use scheme of the Municipality must take into consideration:

- (a) the Integrated Development Plan in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time, ;
- (b) the Spatial Development Framework as contemplated in Chapter 4 of the Act and Chapter 2 of this By-law, and
- (c) provincial legislation.

## **18 Development of draft land use scheme**

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

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

- (1) Upon completion of the draft land use scheme, the department responsible for development planning in the Municipality must submit it to the Council for approval as the draft land use scheme.
- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the department responsible for development planning in the Municipality and the report must at least –
  - (a) indicate the rationale in the approach to the drafting of the land use scheme;
  - (b) summarise the process of drafting the draft land use scheme;

- (c) summarise the consultation process to be followed with reference to section 20 of this By-law;
- (d) indicate the departments that were engaged in the drafting of the draft land use scheme;
- (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Municipal Council;
- (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.

(3) The Council must approve the draft land use scheme and authorise the public participation thereof in terms of this By-law and the relevant legislation referred to in section 15.

## **20 Public participation**

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

(4) The Municipality must inform the Member of the Executive Council in writing of the intention to draft a land use scheme and provide him or her with a copy of the draft land use scheme after it has been approved by the Council as contemplated in section 18.

## **21 Incorporation of relevant comments**

(1) After the public participation process outlined in section 20 the department responsible for development planning in the Municipality must –

- (a) review and consider all submissions made in writing or during any engagements; and
- (b) prepare a report including all information they deem relevant, on the submissions made; provided that:
  - (i) for purposes of reviewing and considering all submissions made, the Municipal Manager may elect to hear the submission through an oral hearing process;
  - (ii) all persons and or bodies that made submissions shall be notified of the time, date and place of the hearing as may be determined by the Municipality not less than 30 days prior to the date determined for the hearing, by means of registered mail;
  - (iii) for purposes of the consideration of the submissions made on the land use scheme the Municipality may at any time prior to the submission of the land use scheme to the Council, request further information or elaboration on the submissions made from any person or body.

(2) The department responsible for development planning in the Municipality must for purposes of proper consideration provide comments on the submissions made which comments must form part of the documentation to be submitted to the Council as contemplated in section 8.

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

The department responsible for development planning in the Municipality must, where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of section 19(2), the Municipality must follow a further consultation and public participation process in terms of section 19(2) of this By-law, before the land use scheme is adopted by the Council.

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

- (1) The department responsible for development planning in the Municipality must submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.
- (2) The Council must consider and adopt the land use scheme with or without amendments.

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

- (1) The Council must, within 60 days of its decision referred to in section 22, give notice of its decision to all persons or bodies who gave submissions on the land use scheme, and publish such notice in the media and the *Provincial Gazette*.

- (2) The date of publication of the notice referred to in subsection (1), in the *Provincial Gazette*, is the date of coming into operation of the land use scheme unless the notice indicates a different date of coming into operation.

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

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

## **26 Records**

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

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

- (1) The contents of a land use scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain –
  - (a) a zoning for all properties within the geographic area of the Municipality in accordance with a category of zoning as contemplated in Schedule1 of this By-law;
  - (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
  - (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;

- (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
  - (e) servitudes for municipal services and access arrangements for all properties;
  - (f) provisions applicable to all properties relating to storm water;
  - (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
  - (h) zoning maps as prescribed in Schedule 1 that depicts the zoning of every property in Municipality's geographical area as updated from time to time in line with the land use rights approved or granted; and
  - (i) transitional arrangements with regard to the manner in which the land use scheme is to be implemented.
- (2) The land use scheme may –
- (a) determine the components of the land use scheme for purposes of it being applied, interpreted and implemented; and
  - (b) include any matter which it deems necessary for municipal planning in terms of the constitutional powers, functions and duties of a municipality; and

## **28 Land use scheme register**

The Municipality must keep and maintain a land use scheme register in a hard copy and electronic format as approved by the Council and in accordance with Schedule 2 of this by law.

## **29 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 4**

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

#### **Part A: Division of Functions**

#### **30 Division of functions between Municipal Planning Tribunal and Authorised Official**

- (1) For purposes of section 35(3) of the Act, the following categories of applications defined in section 54 of these By-laws must be considered and determined -
- (a) by the Municipal Planning Tribunal:
    - (i) All category 1 applications; and
    - (ii) all opposed category 2 applications;
  - (b) by the Authorised Official:

(i) All category 2 applications that are not opposed.

(2) For the purposes of subsection (1), an opposed application means an application on which negative comments or objections were received after the public participation process from persons, internal municipal departments, ward councillors, service providers and organs of state.

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

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

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

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

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

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

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

- (1) the composition of the Municipal Planning Tribunal for the local municipal area shall be in terms of the provisions of section 36 of the Act.
- (2) The structure of the of the Municipal Planning Tribunal contemplated in subsection(1) shall comprise of at least 8 members, as follows:



- (a) Two professional planner registered with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act 36 of 2002);
  - (b) a Civil engineer registered with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act 46 of 2000);
  - (c) an environmental management specialist who is registered with a voluntary association;
  - (d) a registered electrical engineer registered with the Engineering Council of South Africa in terms of the Engineering Profession Act;
  - (e) a person either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
  - (f) an economist or economic development specialist; and
  - (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.
- (3) From the members referred to in subsection (2), at least three members must be officials in full-time service of the Municipality.
- (4) The persons referred to in subsection (2) must –
- (a) demonstrate knowledge of spatial planning, land use management and land development of the law related thereto;
  - (b) have at least five years' practical experience in the discipline within which he or she is practising; and
  - (c) demonstrate leadership in his or her profession or vocation or in community organisations.

### **34 Nomination procedure**

- (1) The Municipality must -
- (a) in the case of the first appointment of members to the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of Chapter 2 of the Regulations as soon as possible after the approval of the Regulations by the Minister; and
  - (b) in the case of the subsequent appointment of members to the Municipal Planning Tribunal, 90 days before the expiry of the term of office of the members serving on the Municipal Planning Tribunal, invite and call for nominations as contemplated in Part B of the Regulations.
- (2) The invitation to the organs of state and non-governmental organisations contemplated in regulation 3(2)(a) of the Regulations must be addressed to the organs of state and non-governmental organisations and must be in the form contemplated in Schedule 5 together with any other information deemed necessary by the Municipality.
- (3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations must be in the form contemplated in Schedule 6 and–

- (a) must be published in one local newspaper that is circulated in the municipal area of the Municipality in two languages commonly spoken in the area;
- (b) may be submitted to the various professional bodies which registers persons referred to in section 33(2) with a request to distribute the call for nominations to their members and to advertise it on their respective websites; and
- (c) may advertise the call for nominations on the municipal website.

### **35 Submission of nomination**

- (1) The nomination must be in writing and be addressed to the Municipal Manager.
- (2) The nomination must consist of –
  - (a) the completed declaration contained in the form contemplated in Schedule 5 and 6 and all pertinent information must be provided within the space provided on the form;
  - (b) the completed disclosure of interest form contemplated in Schedule 7;
  - (c) the motivation by the nominator contemplated in subsection (3)(a); and
  - (d) the curriculum vitae of the nominee contemplated in subsection (3)(b).
- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the call for nomination must request –
  - (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
  - (b) a curriculum vitae of the nominee.

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

- (1) After the expiry date for nominations the Municipality must screen all of the nominations received by it to determine whether the nominations comply with the provisions of section 35.
- (2) The nominations that are incomplete or do not comply with the provisions of section 35 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 35 must be subjected to verification by the Municipality.
- (4) If, after the verification of the information by the Municipality, the nominee is ineligible for appointment due to the fact that he or she –
  - (a) was not duly nominated;
  - (b) is disqualified from appointment as contemplated in section 38 of the Act;
  - (c) does not possess the knowledge or experience as required in terms of section 33(4); or
  - (d) is not registered with the professional councils or voluntary bodies contemplated in section 33(2), if applicable,

the nomination must be rejected and may not be considered by the evaluation panel contemplated in section 37.

- (5) Every nomination that has been verified by the Municipality and the nominee found to be eligible for appointment to the Municipal Planning Tribunal, must be considered by the evaluation panel contemplated in section 37.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

### **37 Evaluation panel**

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

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

- (1) Upon receipt of the report contemplated in section 37(2), the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.
- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson and a deputy chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 43, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

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

- (1) A member of the Municipal Planning Tribunal appointed in terms of this Chapter is appointed for a term of five years, which is renewable once for a further period of five years.
- (2) The office of a member becomes vacant if that member -
  - (a) is absent from two consecutive meetings of the Municipal Planning Tribunal without the permission of the chairperson of the Municipal Planning Tribunal;
  - (b) tenders his or her resignation in writing to the chairperson of the Municipal Planning Tribunal;
  - (c) is removed from the Municipal Planning Tribunal under subsection (3); or

- (d) dies.
- (3) The Council may remove a member of the Municipal Planning Tribunal if -
  - (a) sufficient reasons exist for his or her removal;
  - (b) a member contravenes the code of conduct contemplated in Schedule 8;
  - (c) a member becomes subject to a disqualification as contemplated in section 38(1) of the Act. after giving the member an opportunity to be heard.
- (4) An official of a municipality contemplated in section 33(3) who serves on the Municipal Planning Tribunal –
  - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
  - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
  - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality shall immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) All members of the Municipal Planning Tribunal shall sign the Code of Conduct contain in Schedule 8 before taking up a seat on the Municipal Planning Tribunal.
- (6) All members serving on the Municipal Planning Tribunal shall adhere to ethics adopted and applied by the Municipality and shall conduct themselves in a manner that will not bring the name of the Municipality into disrepute.
- (7) The members of the Municipal Planning Tribunal in the execution of their duties shall comply with the provisions of the Act, provincial legislation, these By-laws and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

#### **40 Vacancy**

- (1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 33.
- (2) A member who is appointed by virtue of subsection (1) holds office for the unexpired portion of the period for which the member he or she replaces was appointed.

#### **41 Proceedings of Municipal Planning Tribunal for municipal area**

- (1) The Municipal Planning Tribunal must operate in accordance with the operational procedures determined by the Municipality.
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of the members appointed for that decision meeting.

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

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

- (1) The Municipal Planning Tribunal is a Tribunal of record and must record all proceedings, but is not obliged to provide the in -committee discussions to any member of the public or any person or body.
- (2) The Municipality must make the record of the Municipal Planning Tribunal available to any person upon payment of any fees prescribed in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time.

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

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

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

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

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

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

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

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

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

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

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

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

- (1) If requested by a district municipality and after the assessment contemplated in section 31, the Municipality decides to establish a district Municipal Planning Tribunal, it must, as soon as possible, commence discussions with the other Municipalities in the district and conclude the necessary agreement that complies with the requirements of the Act.
- (2) The Municipality must, within 30 days after signing the agreement, publish the agreement as contemplated in section 34(3) of the Act.

**48 Composition of district Municipal Planning Tribunals**

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

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

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

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

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

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

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

- (1) When the Municipal Planning Tribunal considers an application it must have regard to the following, but not limited to:
  - (a) the application submitted in terms of this By-law;
  - (b) the procedure followed in processing the application;
  - (c) the desirability of the proposed utilisation of land and any guidelines issued by the member of the Executive Council regarding proposed land uses;
  - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
  - (e) the response by the applicant to the comments referred to in paragraph (d);
  - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
  - (g) a written assessment by a registered planner registered in terms of the Planning Profession Act, 2002 as may be amended from time to time, in respect of the following applications:
    - (i) a rezoning;
    - (ii) a subdivision of more than 20 cadastral units;
    - (iii) a removal, suspension or amendment of a restrictive condition, if it relates to a change of land use.
    - (iv) an amendment, deletion or additional conditions in respect of an existing approval, listed in this paragraph;
    - (v) an approval of an overlay zone as provided in the land use scheme;
    - (vi) a phasing, amendment or cancellation of a plan of subdivision or a part thereof;
    - (vii) a determination of a zoning as contemplated in section 175;
    - (viii) a closure of a public place or part thereof;
  - (h) the integrated development plan and municipal spatial development framework;
  - (i) the applicable local spatial development frameworks adopted by the Municipality;
  - (j) the applicable structure plans;
  - (k) the applicable policies of the Municipality that guide decision-making;
  - (l) the provincial spatial development framework;
  - (m) where applicable, the regional spatial development framework;

- (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
- (o) the matters referred to in section 42 of the Act;
- (p) the relevant provisions of the land use scheme.

## **52 Conditions of approval**

- (1) When the Municipal Planning Tribunal approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include but not limited to conditions relating to—
  - (a) the provision of engineering services and infrastructure;
  - (b) the cession of land or the payment of money;
  - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
  - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
  - (e) settlement restructuring;
  - (f) agricultural or heritage resource conservation;
  - (g) biodiversity conservation and management;
  - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
  - (i) energy efficiency;
  - (j) requirements aimed at addressing climate change;
  - (k) the establishment of an owners' association in respect of the approval of a subdivision;
  - (l) the provision of land needed by other organs of state;
  - (m) the endorsement in terms of section 31 of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality or the registration of public places in the name of the municipality, and the transfer of ownership to the municipality of land needed for other public purposes;
  - (n) the implementation of a subdivision in phases;
  - (o) requirements of other organs of state;



- (p) the submission of a construction management plan to manage the impact of a new building on the surrounding properties or on the environment;
  - (q) agreements to be entered into in respect of certain conditions;
  - (r) the phasing of a development, including lapsing clauses relating to such phasing;
  - (s) the delimitation of development parameters or land uses that are set for a particular zoning;
  - (t) the setting of validity periods, if the Municipality determined a shorter validity period as contemplated in this By-law;
  - (u) the setting of dates by which particular conditions must be met;
  - (v) requirements relating to engineering services as contemplated in Chapter 7;
  - (w) requirements for an occasional use that must specifically include –
    - (i) parking and the number of ablution facilities required;
    - (ii) maximum duration or occurrence of the occasional use; and
    - (iii) parameters relating to a consent use in terms of the land use scheme;
- (3) If a Municipal Planning Tribunal imposes a condition contemplated in subsection (2)(a), an engineering services agreement must be concluded between the municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) A condition contemplated in subsection (2)(b) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the municipality in accordance with norms and standards, as may be prescribed.
- (5) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
  - (b) conservation purposes;
  - (c) energy conservation;
  - (d) climate change; or
  - (e) engineering services.
- (6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (7) A Municipal Planning Tribunal may not approve a land development or land use application subject to a condition that approval in terms of other legislation is required.

- (8) Conditions which require a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed which affect a third party or which are reliant on a third party for fulfilment.
- (10) If the Municipal Planning Tribunal approves a land development or use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
- (11) The Municipal Planning Tribunal may, on its own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.

### **Part G: Administrative Arrangements**

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

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

- (ii) on-site inspections and any matter recorded as a result thereof;
  - (iii) reasons for decisions;
  - (iv) proceedings of the Municipal Planning Tribunal; and
- (l) keep records by any means as the Municipal Planning Tribunal may deem expedient.

**CHAPTER 5**  
**DEVELOPMENT MANAGEMENT**  
**Part A: Categories of Applications**

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

(1) The categories of land development applications for the Municipality, as contemplated in section 35(3) of the Act, are as follows -

- (a) **Category 1**; and
  - (b) **Category 2**, applications.
- (2) **Category 1**: shall be the following land development applications and shall be referred to the Municipal Planning Tribunal:
- (a) All opposed Category 2 applications;
  - (b) All the applications for the the establishment of a township or the extension of the boundaries of a township;
  - (c) the amendment or cancellation in whole or in part of a general plan of a township;
  - (d) the subdivision of agricultural land, holding, farms and farm portions;
  - (e) the amendment of an existing scheme or land use scheme by the rezoning of land;
  - (f) the removal, amendment or suspension of a restrictive or obsolete condition against the title of the land;
  - (g) permanent closure of any public place;
  - (h) all applications for the restriction of access to a public road in terms of the Rationalization of Local Government Affairs Act, 1998 (Act No. 10 of 1998);
  - (i) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
  - (j) instances where the Municipality acting on its own accord wishes to remove, amend a restrictive or obsolete condition, servitude or reservation registered against the title deed of a property or properties which may also arise out of a condition of establishment of a township or any other legislation;

- (k) all land development applications deviating from Spatial Development Framework and any other municipal land use policies ;
- (l) any consent or approval provided for in a provincial law;
- (m) All land development applications which in the opinion of the Municipality, National or Provincial Departments are of National or Provincial interest;
- (n) the amendment of the use of communal land in instances where such amendment will have a high impact on the community and may require special studies.

(3) **Category 2:** shall be the following land development applications and shall be referred to the Authorised Official:

- (a) the subdivision of any land in a proclaimed township where such subdivision is expressly provided for in a land use scheme;
- (b) the consolidation of any land;
- (c) the simultaneous subdivision, under circumstances contemplated in paragraph (a) and consolidation of land;
- (d) Special Consent and Written Consent applications in terms of the applicable scheme;
- (e) the amendment of the use of communal land in instances where such amendment will have less impact on the community;
- (f) A temporal use application.

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

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

- (1) No person may commence with, carry on or cause the commencement with or carrying on of land development without the approval of the Municipality in terms of subsection (3).
- (2) No person may commence with, carry on or cause the commencement with or carrying on of a land use activity which is permitted in the land use scheme but not exercised by the owner of the land.
- (3) When an applicant or owner exercises a use right granted in terms of an approval he or she must comply with the conditions of the approval and the applicable provisions of the land use scheme.
- (4) In addition to the provisions of this Chapter, the provisions of Chapter 6 apply to any application submitted to the Municipality in terms of this Chapter.

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

### **56 Application for establishment of township**

- (1) An applicant who wishes to establish a township on land or for the extension of the boundaries of an approved township must apply to the Municipality for the establishment of a township or for the extension of the boundaries of an approved township in the manner provided for in Chapter 6.
- (2) The Municipality must, in approving an application for township establishment, set out:
  - (a) the conditions of approval in a statement of conditions;
  - (b) the statement of conditions shall be known as conditions of establishment for the township; and
  - (c) the statement of conditions must, in the opinion of the Municipality, substantially be in accordance with this By-law.
- (3) The statement of conditions must, read with directives that may be issued by the Registrar of Deeds, contain the following:
  - (a) Specify those conditions that must be complied with prior to the opening of a township register for the township with the Registrar of Deeds;
  - (b) the conditions of establishment relating to the township that must remain applicable to the township;
  - (c) conditions of title to be incorporated into the title deeds of the erven to be created for purposes of the township;
  - (d) third party conditions as required by the Registrar of Deeds;
  - (e) the conditions to be incorporated into the land use scheme by means of an amendment scheme;
  - (f) if a non-profit company is to be established for purposes of maintaining or transfer of erven within the township to them the conditions that must apply;
  - (g) any other conditions and or obligation on the township owner, which in the opinion of the Municipality deemed necessary for the proper establishment, execution and implementation of the township.
- (4) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant, amend or delete any condition imposed in terms of subsection (3) or add any further condition, provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality may not exercise its powers in terms hereof and must require the applicant to submit an amended or new application and in the sole discretion of the Municipality to re-advertise the application in accordance with section 92.

- (5) After the applicant has been notified that his or her application has been approved, the Municipality or at the applicant's request may, after consultation with the applicant and the Surveyor General, amend the layout of the township approved as part of the township establishment: Provided that if the amendment is in the opinion of the Municipality so material as to constitute a new application, the Municipality may not exercise its powers in terms hereof and require the applicant to submit an amended or new application in the opinion of the Municipality and re-advertise the application in the sole discretion of the Municipality in accordance with section 92.
- (6) Without detracting from the provisions of subsection (4) and (5) the municipality may require the applicant, or the applicant of his or her own accord, amend both the conditions and the layout plan of the township establishment application as contemplated therein.

### **57 Division or phasing of township**

- (1) An applicant who has been notified in terms of section 108 that his or her application has been approved may, within a period of eight months from the date of the notice, or such further period as the Municipality may allow, apply to the Municipality for the division of the township into two or more separate townships.
- (2) On receipt of an application in terms of subsection (1) the Municipality must consider the application and may for purposes of the consideration of the application require the applicant to indicate whether the necessary documents were lodged with the Surveyor-General or provide proof that he or she consulted with the Surveyor-General.
- (3) Where the Municipality approves an application it may impose any condition it may deem expedient and must notify the application in writing thereof and of any conditions imposed.
- (4) The applicant shall, within a period of 3 months from the date of the notice contemplated in subsection (3), submit to the Municipality such plans, diagrams or other documents and furnish such information as may be required in respect of each separate township.
- (5) On receipt of the documents or information contemplated in subsection (4) the Municipality must notify the Surveyor-General, and the registrar in writing of the approval of the application and such notice must be accompanied by a copy of the plan of each separate township.

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

- (1) An applicant who has been notified in terms of section 108 that his or her application has been approved, shall, within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the applicant fails to do so the application shall lapse.
- (2) For purposes of subsection (1), the Municipality must provide to the applicant a final schedule as contemplated in section 56(2) and (3) of the conditions of establishment together with a stamped and approved layout plan.

- (3) The Municipality may for purposes of lodging the documents contemplated in subsection (1) approves street naming whether for public or private, and must allocate a street number for each of the erven or land units located in such street or road.
- (4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General shall notify the Municipality that he or she is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, and thereupon the application shall lapse.
- (5) After an applicant has been notified that his or her application has been approved, the municipality may, or at the applicant's request:
  - (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General; or
  - (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;

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

## **59 Compliance with pre-proclamation conditions**

- (1) The applicant shall provide proof to the satisfaction of the Municipality within the timeframes as prescribed in terms of this By-law, that all conditions contained in the schedule to the approval of a township establishment application have been complied with.
- (2) The Municipality shall certify that all the conditions that have to be complied with by the applicant or owner as contemplated in section 56(2) and (3) have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).
- (4) The municipality may agree to an extension of time as contemplated in subsection(1), after receiving a written application from the applicant for an extension of time in a manner prescribed in schedule 3 to this By-law.

## **60 Opening of Township Register**

- (1) The applicant shall lodge with the Registrar of Deeds the plans and diagrams contemplated in section 58 as approved by the Surveyor-General together with the relative title deeds for endorsement or registration, as the case may be.

- (2) For purposes of subsection (1) the Registrar shall not accept such documents for endorsement or registration until such time as the Municipality has certified that the applicant has complied with such conditions as the Municipality may require to be fulfilled in terms of section 56(3).
- (3) The plans, diagrams and title deeds contemplated in subsection (1) shall be lodged within a period of 12 months from the date of the approval of such plans and diagrams, or such further period as the Municipality may allow.
- (4) If the applicant fails to comply with the provisions of subsections (1), (2) and (3), the application lapses.
- (5) Having endorsed or registered the title deeds contemplated in subsection (1), the Registrar shall notify the Municipality forthwith of such endorsement or registration, and thereafter the Registrar shall not register any further transactions in respect of any land situated in the township until such time as the township is declared an approved township in terms of section 61.

#### **61 Proclamation of approved township.**

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

### **Part C: Rezoning of land**

#### **62 Application for amendment of a land use scheme by rezoning of land**

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) 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
- (3) A rezoning approval lapses after a period of three years, or a shorter period as the municipality may determine, from the date of approval or the date that the approval comes into operation if, within that five year period or shorter period—
  - (a) the zoning is not utilised in accordance with the approval thereof; or
  - (b) the conditions of approval are not complied with.
- (4) The Municipality may grant extensions to the periods contemplated in subsection(3), which period together with any extensions that the Municipality grants, may not exceed 5 years.



- (5) If a rezoning approval lapses, the zoning applicable to the land prior to the approval of the rezoning applies, or where no zoning existed prior to the approval of the rezoning, the Municipality must determine a zoning as contemplated in section 176.

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

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

- (1) The Municipality may of its own accord or on application by notice in the *Provincial Gazette* amend, suspend or remove, either permanently or for a period specified in the notice and either unconditionally or subject to any condition so specified, any restrictive condition.
- (2) An applicant who wishes to have a restrictive condition amended, suspended or removed must apply to the municipality for the amendment, suspension or removal of the restrictive condition in the manner provided for in Chapter 6.
- (3) In addition to the procedures set out in Chapter 6, the applicant must—
  - (a) submit the original title deed to the Municipality or a certified copy thereof; and
  - (b) submit the bondholder's consent with the application, where applicable.
- (4) The Municipality must cause a notice of its intention to consider an application under subsection (1) to be served on—
  - (a) all organs of state that may have an interest in the title deed restriction;
  - (b) every holder of a bond encumbering the land;
  - (c) a person whose rights or legitimate expectations will be materially and adversely affected by the approval of the application; and
  - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (5) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
  - (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
  - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
  - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;

- (d) the social benefit of the restrictive condition remaining in place in its existing form;
- (e) the social benefit of the removal or amendment of the restrictive condition; and
- (f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

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

(1) The applicant shall, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* contemplated in section 63(1), submit the following to the Registrar of Deeds:

- (a) the original title deed;
- (b) the original letter of approval; and
- (c) a copy of the notification of the approval .

(2) The Registrar of Deeds and the Surveyor-General must, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette*, as contemplated in section 63(1), make the appropriate entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as may be necessary to reflect the effect of the amendment, suspension or removal of the restrictive condition.

**Part E: Subdivision and Consolidation**

**65 Application for subdivision**

(1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 72.

(2) An owner of:

- (a) an erf in a proclaimed township who wishes to subdivide that erf;
- (b) Subject to the provision of the Subdivision of Agricultural Land Act 70 of 1970 as may be amended from time to time, registered farm portion, land or agricultural holding who wishes to subdivide that farm portion, land or agricultural holding not less than 1 Hectare; provided that such subdivision shall not constitute a township in the opinion of the Municipality;

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

(3) No application for subdivision involving a change of zoning may be considered by the Municipality, unless the land concerned is zoned for such subdivision.

- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a draft general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the Municipality's decision to approve the subdivision;
  - (b) the conditions of approval contemplated in subsection (4) and section 58; and
  - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of three years or the shorter period as the Municipality may determine, from the date of approval of the subdivision or the date that the approval comes into operation, comply with the following requirements:
  - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (5);
  - (b) completion of the installation of engineering services in accordance with the conditions contemplated in subsection (4) or other applicable legislation;
  - (c) proof to the satisfaction of the Municipality that all relevant conditions for the approved subdivision in respect of the area shown on the general plan or diagram and that must be complied with before compliance with paragraph (d) have been met; and
  - (d) registration of the transfer of ownership in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- (7) A confirmation from the Municipality in terms of subsection (6)(c) that all conditions of approval have been met, which is issued in error, does not absolve the applicant from complying with the obligations imposed in terms of the conditions or otherwise complying with the conditions after confirmation of the subdivision.

## **66 Confirmation of subdivision**

- (1) Upon compliance with section 65(6), the subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof under section 65(6), the zonings indicated on the approved subdivision plan as confirmed cannot lapse.
- (3) The Municipality must in writing confirm to the applicant or to any other person at his or her written request that a subdivision or a part of a subdivision is confirmed, if the applicant has to the satisfaction of the Municipality submitted proof of compliance with the requirements of section 65(6) for the subdivision or part thereof.

- (4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in section 65(6) or the Municipality approved the construction prior to the subdivision being confirmed.

#### **67 Lapsing of subdivision and extension of validity periods**

- (1) An approved subdivision or a portion thereof lapses if no consequent registration by the Registrar of Deeds takes place within three years of the approval, unless an application for extension of time is applied for in terms of section
- (2) An applicant may apply for an extension of the period to comply with subsections 65(5) and 65(6) or must comply with subsection (4).
- (3) An extension contemplated in subsection (2) may be granted for a period not exceeding two years and if after the expiry of the extended period the requirements of subsections 65(5) and 65(6) has not been complied with, the subdivision lapses and subsection (5) applies.
- (4) If only a portion of the general plan, contemplated in subsection 65(5) complies with subsection 65(5)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (5) If an approval of a subdivision or part thereof lapses under subsection (1) —
  - (a) the Municipality must—
    - (i) amend the zoning map and, where applicable, the register accordingly; and
    - (ii) notify the Surveyor-General accordingly; and
  - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

#### **68 Amendment or cancellation of subdivision plan**

- (1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval, the general plan or diagram, in relation to land units shown on the general plan or diagram of which no transfer has been registered in terms of the Deeds Registries Act.
- (2) the applicant shall comply with such requirements and pay such fees as may be prescribed by the Municipality.
- (3) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed.
- (4) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
- (5) An approval of a subdivision in respect of which an amendment or cancellation is approved in terms of subsection (1), remains valid for the remainder of the period contemplated in section 65(6)

applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

## **69 Services arising from subdivision**

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

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

## **70 Consolidation of land units**

[(1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 72.

(2) An owner of:

- (a) two or more erven in a proclaimed township who wishes to consolidate those erven and where such to the same owner and the application properties are located within the same township;

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

- (3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
  - (a) the decision to approve the consolidation;
  - (b) the conditions of approval contemplated in section 58; and
  - (c) the approved consolidation plan.
- (4) If the Municipality approves a consolidation, the Municipality must amend the zoning map and, where applicable, the register accordingly.

#### **71 Lapsing of consolidation and extension of validity periods**

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

#### **72 Exemption of subdivisions and consolidations**

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

- (a) if the subdivision or consolidation arises from the implementation of a court ruling;
  - (b) if the subdivision or consolidation arises from an expropriation;
  - (c) a minor amendment of the common boundary between two or more land units if the resulting change in area of any of the land units is not more than 10 per cent;
  - (d) the registration of a servitude or lease agreement for the provision or installation of—
    - (i) water pipelines, electricity transmission lines, sewer pipelines, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
    - (ii) telecommunication lines by or on behalf of a licensed telecommunications operator;
    - (iii) the imposition of height restrictions;
  - (e) the exclusive utilisation of land for agricultural purposes, if the utilisation—
    - (i) requires approval in terms of legislation regulating the subdivision of agricultural land; and
    - (ii) does not lead to urban expansion.
  - (f) the subdivision and consolidation of a closed public place with an abutting erf; and
  - (g) the granting of a right of habitation or usufruct.
- (2) The Municipality must, in each case, certify in writing that the subdivision has been exempted from the provisions of this Chapter.
- (3) The Municipality must indicate on the plan of subdivision that the subdivision has been exempted from the provisions of sections 65 to 68.

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

### **73 Closure of public places**

- (1) The Municipality may on own initiative or on application close a public place or any portion thereof in accordance with the procedures in Chapter 6.
- (2) An applicant who wishes to have a public place closed or a portion of a public place closed must apply to the municipality for the closure of the public place or portion thereof in the manner provided for in Chapter 6.
- (3) If any person lodges a claim against the Municipality for loss or damage that he or she has allegedly suffered as a result of the wrong doing on the part of the Municipality as a result of the closure of a public place, the authorised employee must—
  - (a) require proof of negligence on the part of the Municipality which resulted in the loss or damage; and

- (b) before any claim is paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
- (4) The Municipality may pay a claim if—
- (a) the circumstances of loss or damage reveal that the Municipality acted negligently;
  - (b) the circumstances of the loss are not inconsistent with this By-law;
  - (c) the claimant has proved his or her loss or damage;
  - (d) the claimant has provided the proof of a fair and reasonable quantum;
  - (e) no claim has been made and paid by personal insurance covering the same loss; and
  - (f) any other relevant additional information as requested by the authorised employee has been received.
- (5) The ownership of the land comprised in any public place or portion thereof that is closed in terms of this section continues to vest in the Municipality unless the Municipality determines otherwise.
- (6) The municipal manager may, without complying with the provisions of this Chapter temporarily close a public place—
- (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of the public place;
  - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
  - (c) if the street or place is, in the opinion of the municipal manager, in a state dangerous to the public;
  - (d) by reason of any emergency or public event which, in the opinion of the municipal manager, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
  - (e) for any other reason which, in the opinion of the municipal manager, renders the temporary closing of the public place necessary or desirable.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.



## Part G: Consent Use

### 74 Application for consent use

- (1) An applicant may apply to the Municipality for a consent use provided for in the land use scheme in the manner provided for in Chapter 6.
- (2) Where the development parameters for the consent use that is being applied for are not defined in an applicable land use scheme, the Municipality must determine the development parameters that apply to the consent use as conditions of approval contemplated in section 56.
- (3) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 58.
- (4) A consent use granted for a specified period of time contemplated in subsection (3) must not have the effect of preventing the property from being utilised in the future for the primary uses permitted in terms of the zoning of the land.
- (5) A consent use contemplated in subsection (1) lapses after a period of five years or the shorter period as the Municipality may determine from the date that the approval comes into operation if, within that five year period or shorter period—
  - (a) the consent use is not utilised in accordance with the approval thereof; or
  - (b) the following requirements are not met:
    - (i) the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right; and
    - (ii) commencement with the construction of the building contemplated in subparagraph (i).
- (6) The Municipality may grant extensions to the period contemplated in subsection (5), which period together with any extensions that the Municipality grants, may not exceed 10 years.

### 75 Application for Written Consent

(1) The Land Use Scheme may contain provisions in the discretion of the Municipality, and on such conditions as the Municipality may determine, that deals with the granting of written consent and or permission by the Municipality for the use of land and buildings or to relax or amend certain conditions provided for in the scheme.

(2) Any owner of land intending to apply to the Municipality for written consent to:

- (a) erect and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the written consent of the Municipality ;
- (b) the carrying on of a household enterprise from a dwelling unit in a the use zones specified in the land use scheme;
- (c) the use of a dwelling unit for a for a spaza or kiosk;
- (d) relaxation of the line(s) of no access
- (e) relaxation of a building line;
- (f) relaxation of coverage;
- (g) relaxation of height;
- (h) site development plan and amendment thereof; and
- (i) Other written consents as envisaged in various clauses in the land use scheme.

Shall do so in writing in the manner provided for in Chapter 6 of this By-Law and will pay the prescribed application fee to the Municipality.

(3) No written consent shall be granted in terms of this Section until the applicant has, to the satisfaction of the Municipality, obtained the written comments of the surrounding owners which comments have been requested in the prescribed format and or by the way of registered post and proof submitted with regard to a site notice placed in terms of the provisions of this by-law.

#### **Part H: Traditional Use**

##### **76 Land Development Application on communal land**

- (1) No land development application on communal land or in rural areas may be accepted by the Municipality without a recommendation letter from the Traditional Council or power of attorney signed by the property owner.
- (2) The applicant who wishes to make a land development application on land held by the Traditional Council shall approach the relevant Traditional Council to apply for land to be developed by completing an appropriate form.
- (3) The applicant stated in subsection (2) must indicate the description of the property, location, desired size, purpose of the intended use.
- (4) The Traditional Council shall upon receipt of the application contemplated in subsection 2, submit the application to the Municipality for assessment before the applicant can be notified of the outcome of the land application, whether it is supported or not.
- (5) Any person who causes any development of land on land held by a Traditional Council i.e. subdivision, consent use etc., without obtaining prior permission for such development from the Traditional Authority, in terms of subsection (2) shall be guilty of an offense and liable upon conviction of R10 000.00 or imprisonment for a period as determined by a Court of Law or to both a fine and such imprisonment.

- (6) Over and above the provisions of subsections (1) to (5), the use of communal land where such development will have a high impact on the community must also follow the provisions contained in Chapter 6.
- (7) Developments with a potential to have high impact on the community as contemplated in subsection (6) are listed in schedule 10 to this By-law.

### **Part I: Temporary Use**

#### **77 Application for temporary use**

(1) Notwithstanding any other provision of this By-Law, the Local Authority may on receipt of a written application from the owner of land or his authorised agent, give its consent to the temporary use of a property within any use zone for:

- (a) the erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, or such other uses as may be necessary during the erection of any permanent structure.
  - (b) building or structure on the land; provided that such consent shall ipso facto lapse upon completion of the permanent structure or on the expiry date thereof as determined by the Local Authority;
  - (c) the occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall;
  - (d) the use of land or buildings thereon for State or municipal purposes;
  - (e) the use of land or the erection of buildings necessary for the purpose of informal retail trade;
  - (f) Prospecting rights granted in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act No.28 of 2002), as may be amended from time to time.
- (2) Such temporary consent granted shall be for a period determined by the Municipality which shall not exceed 12 calendar months.
- (3) . The Municipality may grant extensions to the period contemplated in subsection (2), which period together with any extensions that the Municipality grants, may not exceed 5 years.

### **Part J: General Matters**

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

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

## **79 Restriction of transfer and registration**

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

## **80 First transfer**

- (1) Where an owner of land to which a land development application relates is required to:
  - (a) transfer land to the Municipality;
  - (b) a non-profit company

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

## **81 Certification by Municipality**

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

- (2) The Municipality may not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
- (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
  - (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
  - (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme and the National Building Regulations Act (103 of 1977) as may be amended from time to time;
  - (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred; and
  - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

## **82 National and provincial interest**

- (1) In terms of section 52 of the Act an applicant shall refer any application which affects national or provincial interest respectively to the Minister and the Member of the Executive Council for comments, which comments are to be provided within 21 days as prescribed in subsection 52(5) of the Act.
- (2) Where any application in terms of this By-law, which in the opinion of the Municipal Manager affects national or provincial interest as defined in section 52 of the Act, is submitted, such application must be referred to the Minister or the Member of the Executive Council respectively and the provisions of subsections 52(5) to 52(7) of the Act, apply with the necessary changes.
- (3) The Municipal Planning Tribunal or Authorised Official as the case may be, as contemplated in this By-law and the Act, may direct that an application before it, be referred to the Minister and the Member of the Executive Council, if such an application in their opinion affects national or provincial interest and the provisions of subsections 52(5) to 52(7) apply with the necessary changes.
- (4) Subsections (1) to (3) shall be read with subsection 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance.

## **CHAPTER 6**

### **GENERAL APPLICATION PROCEDURES**

## **83 Applicability of Chapter**

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

#### **84 Procedures for making application**

An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter 5 and Chapter 11 of this By-law.

#### **85 Information required**

- (1) An application must be accompanied by the following documents:
  - (a) an approved application form, completed and signed by the applicant;
  - (b) if the applicant is not the owner of the land, a power of attorney authorising the applicant to make the application on behalf of the owner;
  - (c) if the owner of the land is a company, closed corporation, trust, body corporate or home owners' association, proof that the person is authorised to act on behalf of the company, closed corporation, trust, body corporate or a home owners' association;
  - (d) the relevant bondholder's consent, if required by the Municipality;
  - (e) a written motivation for the application based on the criteria for consideration of the application;
  - (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;
  - (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
  - (h) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following (where relevant):
    - (i) the location of the proposed land units;
    - (ii) the proposed zonings in respect of the proposed land units;
    - (iii) all existing structures on the property and abutting properties;
    - (iv) the public places and the land needed for public purposes;
    - (v) the existing access points;
    - (vi) all servitudes;
    - (vii) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
    - (viii) the street furniture;
    - (ix) the light, electrical and telephone poles;
    - (x) the electrical transformers and mini substations;
    - (xi) the storm water channels and catch pits;

- (xii) the sewerage lines and connection points;
  - (xiii) any significant natural features; and
  - (xiv) the scale and all distances and areas.
- (i) any other plans, diagrams, documents or information that the Municipality may require;
  - (j) the proof of payment of application fees;
  - (k) a full copy of the title deeds indicating all existing title conditions in current and historic title deeds; and
  - (l) if required by the Municipality, a certificate of a conveyancer indicating that no restrictive condition in respect of the application is contained in such title deeds.; and
  - (m) in the case of traditional use application referred to in section 54, community approval granted as a result of a community participation process conducted in terms of Customary Law.

(2)The Municipality may make guidelines relating to the submission of additional information and procedural requirements.

## **86 Application fees**

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

indicated in subsection (1); also determine criteria for exemptions as set out in Schedule 11 to this By-law.

- (7) Land development applications which, prior to the enactment of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), were dealt with by spheres of government other than a Municipality, shall be subject to the payment of fees for such in terms of the categories of land development applications provided for in Chapter 5 of this By-law as may be determined by the Municipality;

provided that:

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

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

The Municipality may refuse to accept an application if—

- (a) the municipality has already decided on the application;
- (b) there is no proof of payment of fees;
- (c) the application is not in the form required by the Municipality or does not contain the documents required for the submission of an application as set out in section 84.
- (d) if there is no consent from relevant traditional council in the case of traditional use application (applications on communal land).

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

The Municipality must—

- (a) record the receipt of an application in writing or by affixing a stamp on the application on the day of receipt;
- (b) notify the applicant in writing of any outstanding or additional plans, documents, other information or additional fees that it may require within 30 days of receipt of the application or the further period as may be agreed upon, failing which it is regarded that there is no outstanding information or documents.

### **89 Additional information**

- (1) The applicant must provide the Municipality with the information or documentation required for the completion of the application within 30 days of the request therefor or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality may refuse to consider the application if the applicant fails to provide the information within the timeframes contemplated in subsection (1).



- (3) The Municipality must notify the applicant in writing of the refusal to consider the application and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (3) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider under subsection (3), the applicant must make a new application and pay the applicable application fees.

## **90 Confirmation of complete application**

- (1) The Municipality must notify the applicant in writing that the application is complete within 21 days of receipt of the additional plans, documents or information required by it or if further information is required as a result of the furnishing of the additional information.
- (2) If further information is required, section 89 applies to the further submission of information that may be required.

## **91 Withdrawal of application**

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

## **92 Notice of applications in terms of integrated procedures**

- (1) The Municipality may, on prior written request and motivation by an applicant, determine that—
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
  - (b) notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms other legislation;
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b) an agreement must be entered into by the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within 30 days of having notified the applicant that the application is complete, simultaneously—
  - (a) cause public notice of the application to be given in terms of subsection 92(1); and
  - (b) forward a copy of the notice together with the relevant application to every municipal department, service provider and organ of state that has an interest in the application,unless it has been determined by the Municipality that a procedure in terms of another law, as determined in subsection (1), is considered to be public notice in terms of this By-law.

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

### **93 Notification of application in media**

- (1) The Applicant must cause notice to be given in the media, in accordance with this By-law, of the following applications:
  - (a) an application for a rezoning or a rezoning on the initiative of the Municipality;
  - (b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its municipal spatial development framework;
  - (c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its municipal spatial development framework;
  - (d) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
  - (e) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
  - (f) the closure of a public place;
  - (g) an application in respect of a restrictive condition;
  - (h) application for township establishment;
  - (i) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Notice of the application in the media must be given by—
  - (a) publishing a notice of the application, in the *Provincial Gazette* and in one newspaper with a general circulation in the area concerned in at least two of the official languages of the Province most spoken in the area concerned for two consecutive weeks; or  
if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.
  - (b) posting a notice as contemplated in subsection (a), on his/her property(ies) which applies *mutatis mutandis* and the applicant shall maintain such notice for a period of at least 30 days from the date of the first publication of the notice contemplated in subsection (a) above: Provided that the Municipality may, in its discretion, grant exemption from compliance with the provisions of this subsection;

- (c) the site notice contemplated in subsection (b) must at least be 60 cm by 42 cm in size and must be on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that—
  - (i) the notice must be displayed for a minimum of 30 days during the period that the public may comment on the application;
  - (ii) the applicant must, within 21 days from the last day of display of the notice, submit to the Municipality—
    - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
    - (bb) at least two photos of the notice, one from nearby and one from across the street.

#### **94 Serving of notices**

- (1) Notice of an application contemplated in section 93(1) and subsection (2) must be served—
  - (a) in accordance with section 115 of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time ;
  - (b) in at least two of the official languages of the Province most spoken in the area concerned; and
  - (c) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) When the Municipality intends to consider any of the following, it must at least cause a notice to be served as contemplated in section 93 of its intention:
  - (a) a determination of a zoning;
  - (b) a land use application for subdivision or the amendment or cancellation of a subdivision contemplated in sections 65 and 68, respectively;
  - (c) a land use application for consolidation contemplated in section 71;
  - (d) a consent use;
  - (e) a written consent; or
  - (f) the imposition, amendment or waiver of a condition.
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law.
- (4) The Municipality may require notice of its intention to consider all other applications not listed in subsection (2) to be given in terms of section 96.
- (5) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).

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

## **95 Content of notice**

- (1) When notice of an application must be given in terms of section 93 or served in terms of section 94, the notice must contain the following information:
  - (a) the details of the applicant;
  - (b) identify the land or land unit to which the application relates by giving the property description and the physical address;
  - (c) state the intent and purpose of the application;
  - (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
  - (e) state the contact details of the relevant municipal employee;
  - (f) invite members of the public to submit written comments, objections or representations together with the reasons therefor in respect of the application;
  - (g) state in which manner comments, objections or representations may be submitted;
  - (h) state the date by when the comments, objections or representations must be submitted which may not be less than 30 days from the date on which the notice was given;
  - (i) state that any person who cannot write may during office hours attend at an address stated in the notice where a named staff member of the Municipality will assist that person to transcribe that person's objections, comments or representations.

## **96 Additional methods of public notice**

- (1) If the Municipality considers notice in accordance with sections 93 or 94 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application:

- (a) to convene a meeting for the purpose of informing the affected members of the public of the application;
  - (b) to broadcast information regarding the application on a local radio station in a specified language;
  - (c) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
  - (d) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
  - (e) to obtain letters of consent or objection to the application.
- (2) Where an applicant has given additional public notice of an application on behalf of a Municipality, the applicant must provide proof that the additional public notice has been given as required.

#### **97 Requirements for petitions**

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

#### **98 Requirements for objections, comments or representations**

- (1) A person may, in response to a notice received in terms of sections 93, 94 or 96, object, comment or make representations in accordance with this section.
- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice and in the manner set out in this section.
- (3) The objection must state the following:
- (a) the name of the person or body concerned;
  - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
  - (c) the interest of the body or person in the application;
  - (d) the reason for the objection, comment or representation.

- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—
  - (a) indicate the facts and circumstances which explains the objection, comment or representation;
  - (b) demonstrate the undesirable effect which the application will have on the area;
  - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality may refuse to accept an objection, comment or representation received after the closing date.

### **99 Amendments prior to approval**

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

### **100 Further public notice**

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

### **101 Cost of notice**

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

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

- (1) Copies of all objections, comments or representations lodged with a Municipality must be provided to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.

- (2) The applicant may, within a period of 30 days from the date of the provision of the objections, comments or representations, submit written reply thereto with the Municipality and must serve a copy thereof on all the parties that have submitted objections, comments or representations.
- (3) The applicant may before the expiry of the 30 day period referred to in subsection (2), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (4) If the applicant does not submit comments within the period of 30 days or within an additional period 14 of days if applied for, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations lodged with a Municipality, additional information regarding the application are required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality.
- (6) If the applicant does not provide the information within the timeframes contemplated in subsection (5), section 89(2) to (5) with the necessary changes, applies.

### **103 Written assessment of application**

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

### **104 Decision-making period**

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

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

- (1) If no decision is made by the Municipal Planning Tribunal or Authorised Official within the period required in terms of the Act, it is considered undue delay for purposes of these By-Laws and the applicant or interested person may report the non-performance of the Municipal Planning Tribunal or Authorised Official to the municipal manager, who must report it to the municipal council and mayor.
- (2) The Municipal Manager must within 30 days of receipt of the notice contemplated in subsection (1) report it to the Municipal Council and Mayor.

## **106 Powers to conduct routine inspections**

- (1) An employee authorised by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a report contemplated in section 103.
- (2) When conducting an inspection, the authorised employee may—
  - (a) request that any record, document or item be produced to assist in the inspection;
  - (b) make copies of, or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
  - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; or
  - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorised employee who is conducting an inspection as contemplated in subsection (1).
- (4) The authorised employee must, upon request, produce identification showing that he or she is authorised by the Municipality to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

## **107 Determination of application**

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



### **108 Notification of decision**

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

### **109 Pre-promulgation conditions – Conditional Approval**

- (1) An applicant shall within a period of 12 months or such further period as the Municipality may allow, which period shall not exceed 3 years as contemplated in section 62(3) of this by law:
  - (a) provide proof that he has complied with the provisions of chapter 7 of this By-law read with section 40(7) of the Act, with regard to conditions related to payment of development charges and/or contributions, the provision of engineering services and the provision of parks and open spaces; and
  - (b) complied with the conditions as contemplated in section 52 which conditions must be complied with prior to the land use rights being adopted, coming into operation or exercised;

failing which the application shall lapse.

### **110 Publication of Promulgation Notice**

- (1) After the Municipality is satisfied that the applicant has within the period prescribed in section 109 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;
  - (a) on the date of the notice; or
  - (b) on a date as may be determined by the Municipality and indicated in the notice;

provided that such notice, shall not within a period of 42 days from the date of delivery of notification of the decision of the municipality contemplated in subsection 108 (1); for purposes of an appeal read with section 51 of the Act be published.

### **111 Duties of agent of applicant**

- (1) An applicant who is not the owner of the land concerned must ensure that he or she has the contact details of the owner of the property.
- (2) The agent must ensure that all information furnished to the Municipality is accurate.

- (3) The agent must ensure that no misrepresentations are made.
- (4) The provision of inaccurate, false or misleading information is an offence.

### **112 Errors and omissions**

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

### **113 Withdrawal of approval**

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of approval. Prior to doing so, the Municipality must serve a notice on the owner—
  - (a) informing the owner of the alleged breach of the condition;
  - (b) instructing the owner to rectify the breach within a specified time period;
  - (c) allowing the owner to make representations on the notice within a specified time period.
- (2) An applicant\_
  - (a) Who does wish to proceed with the implementation or the development of land based on an approved land development application; or
  - (b) Who wishes to avoid the payment of development charges and monies for provision of open spaces or parks, as may be levied by the Municipality in Chapter 7 of this By-law;may within a period of 60 days from the date of having been notified of the approval of the land development application by the Municipal Planning Tribunal, Authorised Official or Municipal Appeals Tribunal, in terms of this By-law;
  - (i) but prior to it coming into operation of any land use rights granted in terms of a land development application, in terms of this By-law or other relevant legislation; or
  - (ii) prior to the registration of any transaction arising out of the approval of a land development application;  
request, that the application be cancelled by the Municipality by;
    - (aa) submitting a written request for cancellation to the Municipality and to any interested person who submitted an objection or made a representation on the application, in a manner prescribed in Schedule 12; and

- (ab) providing proof to the satisfaction of the Municipality, that all interested person who submitted an objection or made a representation on the application have been notified.

#### **114 Procedure to withdraw an approval**

- (1) The Municipality may withdraw an approval granted—
  - (a) after consideration of the representations made in terms of section 113(2)(c); and
  - (b) if the Municipality is of the opinion that the condition is still being breached and not being complied with at the end of the period specified in terms of section 113(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the activity immediately.
- (3) The approval is withdrawn from date of notification of the owner.

#### **115 Exemptions to facilitate expedited procedures**

- (1) An application for exemption must be in writing setting out which section of the By-law, exemption is being applied for, accompanied by a full motivation stating reasons why such exemption should be granted.
- (2) The Municipality may in writing -
  - (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
    - (i) integrated application processes as contemplated in section 92;
    - (ii) the provision of housing with the assistance of a state subsidy; or
    - (iii) incremental upgrading of existing settlements;
  - (b) in an emergency situation authorise that a development may depart from any of the provisions of this By-law.

## **CHAPTER 7**

### **ENGINEERING SERVICES AND DEVELOPMENT CHARGES**

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

#### **116 Responsibility for providing engineering services**

- (1) Every land development area must be provided with such engineering services as the Municipality may deem necessary for the appropriate development of the land.
- (2) An applicant is responsible for the provision and installation of internal engineering services required for a development at his or her cost when a land development application is approved.

- (3) The Municipality is responsible for the installation and provision of external engineering services, unless the engineering services agreement referred to in section 118 provides otherwise.

### **117 Installation of engineering services**

- (1) 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 and social infrastructure 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 and social infrastructure to the satisfaction of the Municipality
- (2) The applicant shall provide and install the internal engineering services in accordance with the conditions of establishment and to the satisfaction of the Municipality, and for that purpose the applicant shall lodge with the Municipality such reports, diagrams and specifications as the Municipality may require.
- (3) The Municipality shall have regard to such standards as the Minister/MEC may determine for streets and storm water drainage, water, electricity and sewage disposal services in terms of the Act.
- (4) If an engineering service within the boundaries of the land development area is intended to serve any other area within the municipal area, such engineering service and the costs of provision thereof must be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.

### **118 Engineering services agreement**

- (1) An applicant of a land development application and the Municipality must enter into an engineering service agreement if the Municipality requires such agreement.
- (2) The engineering services agreement must –
  - (a) classify the services as internal engineering services or external engineering services ;
  - (b) be clear when the applicant and the Municipality are to commence construction of internal engineering services and external engineering services, at which rate construction of such services is to proceed and when such services must be completed;
  - (c) provide for the inspection and handing over of internal engineering services to the Municipality;
  - (d) determine the date on which all risk and ownership in respect of such services shall pass to the Municipality;

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

- (ii) such guarantee is irrevocable during its period of validity; and
  - (iii) such guarantee is transferable by the person to whom such guarantee is expressed to be payable; and
- (b) provide for the manner in which the parties are to finance their relative responsibilities in terms of the engineering services agreement and where appropriate, either party may undertake to provide bridging finance to the other party.
- (3) Where only basic services are to be provided initially, the timeframes and the responsibility of the parties for the upgrading (if any) of services must be recorded in the engineering services agreement.

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

Where a land development application is abandoned by the applicant or has lapsed in terms of any provision in terms of the Act, provincial legislation or conditions or this By-law, the engineering services agreement referred to in section 118 lapses and if the applicant had installed any engineering services before the lapsing of the application in terms of the engineering services agreement he or she shall have no claim against the Council with regard to the provision and installation of any engineering services of whatsoever nature.

### **120 Internal and external engineering services**

For the purpose of this Chapter:

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

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

#### **121 Payment of development charge in respect of engineering services and open spaces or parks**

- (1) The Municipality must develop a policy for development charges and may levy a development charge in accordance with the policy, for the provision of -

- (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improves such services as a result of the commencement of the amendment scheme; and
  - (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.
- (2) If a land development application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must, subject to section 123, pay the development charge to the Municipality.
- (3) An applicant or owner who is required to pay a development charges in terms of this By-law shall pay such development charges to the Municipality before:
- (a) a written statement or certificate contemplated in section 118 of the Municipal System Act, 2000 (Act 32 of 2000) is furnished in respect of the land;
  - (b) any connection is made to the municipal bulk infrastructure;
  - (c) a building plan is approved in respect of:
    - (i) the proposed alteration of or addition to an existing building on the land;
    - (ii) the erection of a new building on the land where 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.

### **122 Offset of development charge**

- (1) An agreement concluded between the Municipality and the applicant in terms of section 49(4) of the Act, to offset the provision of external engineering services against the applicable development charge, must be in writing and must include the estimated cost of the installation of the external engineering services.
- (2) The applicant or the owner must submit documentary proof of the estimated cost of the installation of the external engineering services.
- (3) The amount to be offset against the applicable development charge must be determined by the Municipality.
- (4) if the cost of the installation of the external engineering services exceed the amount of the applicable development charge, the Municipality may refund the applicant or the owner if there are funds available in the Municipality's approved budget.

- (5) This section does not oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in section 118.

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

(1) The Municipality may -

- (a) in the circumstances contemplated in subparagraph (b) or (c), allow payment of the development charge contemplated in section 121 in instalments over a period not exceeding three months;
- (b) in any case, allow payment of the development charge contemplated in section 121 to be postponed for a period not exceeding three months where security for the payment is given to its satisfaction;
- (c) in exercising the power conferred by subparagraphs (a) or (b), impose any condition, including a condition for the payment of interest 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.

### **124 Refund of development charge**

No development charge paid to the Municipality in terms of section 121 or any portion thereof shall be refunded to an applicant or owner: Provided that where the owner paid the applicable charge prior to the land use rights coming into operation and the application is abandoned in terms of section 119 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

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

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



**CHAPTER 8**  
**APPEAL PROCEDURES**

**PART A: ESTABLISHMENT OF MUNICIPAL PLANNING APPEAL AUTHORITY**

**126 Establishment of Appeal Authority**

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

**127 Institutional requirements for establishment of Municipal Appeal Authority**

- (1) The Municipality, in establishing a Municipal Appeals Authority in terms of section 126, must\_
- (a) Determine the terms and conditions of service of the members of the Municipal Appeal Authority;
  - (b) Inform members in writing of their appointment;
  - (c) Publish the names of the members of the Municipal Appeals Authority and their terms of office in the Provincial Gazette; and
  - (d) Develop operational procedures for the Municipal Appeal Authority.

**128 Composition and code of conduct of Municipal Appeal Authority**

- (1) The Municipal Appeal Authority in terms of section 51 (2) of the Act , will consist of:
- (a) the mayoral committee.
- (2) No Member of Parliament, the Provincial Legislator or a House of Traditional Leaders may be appointed as a member of the Municipal Appeal Authority.
- (3) No member of the Municipal Planning Tribunal or joint Municipal Planning Tribunal may serve on the Municipal Appeal Authority.
- (4) The Municipal Manager may appoint external Technical Advisors to support the Municipal Appeal Authority.
- (5) A technical and other adviser must be a person with knowledge and expertise specific to the land development and land use application and who is registered with the relevant professional body and voluntary association.
- (1) Members of the Municipal Appeal Authority must sign and uphold the code of conduct contemplated in Schedule 9.

**129 Disqualification from membership of Municipal Appeal Authority**

(1) A person may not be appointed or continue to serve as a member of the Municipal Appeal Tribunal, if that person –

(a) is not a citizen of the Republic, and resident in the province;

(b) is a member of Parliament, a provincial legislature, House of Traditional Leaders;

(c) is an un-rehabilitated insolvent;

(d) is of unsound mind, as declared by a court;

(e) has previously been removed from a Municipal Appeal for a breach of any provision of the Act and this by law.

(2) Should any Councillor as a member of the Municipal Appeals Authority, be found guilty of misconduct under the Act and this By law, he/she shall be disqualified immediately from serving as a member on the Municipal Appeals Authority.

**PART B: MANAGEMENT OF APPEAL AUTHORITY**

**130 Presiding officer of appeal authority**

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

**131 Bias and disclosure of interest**

(1) No presiding officer or member of an appeal authority may sit at the hearing of an appeal against a decision of a Municipal Planning Tribunal if he or she was a member of that Municipal Planning Tribunal when the decision was made or if he or she was the official contemplated in section 35(2) of the Act and he or she made the decision that is the subject of the appeal.

(2) A presiding officer or member of an appeal authority who has or appears to have a conflict of interest as defined in sub-sections (5) and (6) must recuse himself or herself from the appeal hearing.

(3) A party may in writing to the appeal authority request the recusal of the presiding officer or member of that appeal authority on the grounds of conflict of interest and the presiding officer must decide on the request and inform the party of the decision in writing.

(4) A decision by a presiding officer or member to recuse himself or herself or a decision by the appeal authority to recuse a presiding officer or member, must be communicated to the parties concerned by the registrar.

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

(6) A conflict of interest arises where an appeal assigned to an appeal authority involves any of the following:

- (a) A person with whom the presiding officer or member has a personal, familiar or professional relationship;
- (b) a matter in which the presiding officer or member has previously served in another capacity, including as an adviser, counsel, expert or witness; or
- (c) any other circumstances that would make it appear to a reasonable and impartial observer that the presiding officer's or member's participation in the adjudication of the matter would be inappropriate.

### **132 Registrar of Appeal Authority**

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

### **133 Powers and duties of registrar**

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

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

## **PART C: APPEAL PROCESS**

### **134 Commencing of appeal**

- (1) An appellant must commence an appeal by delivering a Notice of Appeal using form MLM: F/20 to the registrar of the relevant appeal authority within 21 days as contemplated in section 51 of the Act.
- (2) The Municipal Appeals Authority shall consider the appeal with due regard to\_
- (a) The content of the report
  - (b) The record of proceedings;
  - (c) All approved policies of the Municipality, its Integrated Development Plan and Municipal Spatial Development Framework and its components as contemplated in the Municipal Systems act, 2000 (Act No.32 of 2000).
  - (d) Subject to the provisions of the Act and specifically section 40 and 42 thereof which shall apply *mutatis mutandis* to the consideration of an appeal and may for that purpose\_
    - (i) Carry out an inspection or institute any investigation; but
    - (ii) May not consider any new evidence on the Land Development Application that may negatively affect the respective rights and obligations of interested and affected parties.

### **135 Notice of appeal**

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

- (2) An appellant may, within seven days from receipt of a notice to oppose an appeal amend the notice of appeal and must submit a copy of the amended notice to the appeal authority and to every respondent.

### **136 Notice to oppose an appeal**

- (1) A notice to oppose an appeal must be delivered to the Municipal Manager within 21 days from delivery of the of appeal referred to in section 135, and must clearly indicate:
- (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
  - (b) whether any conditions of approval of an application are opposed and which conditions;
  - (c) whether the relief sought by the appellant is opposed;
  - (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute; and
  - (e) a clear statement of relief sought on appeal.

### **137 Screening of appeal**

- (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:
- (a) It complies with form MLM: F/20;
  - (b) it is submitted within the required time limit; and,
  - (c) the appeal authority has jurisdiction over the appeal.
- (2) If a Notice of Appeal does not comply with the form MLM: F/20 , the appeal authority must return the Notice of Appeal to the appellant, indicating what information is missing and require that information to be provided and returned to the appeal authority by the appellant within a specific time period.
- (3) If the Notice of Appeal is not provided and returned to the appeal authority with the requested information within the specified time period, the appellant's appeal will be considered abandoned and the appeal authority must notify the parties in writing accordingly.
- (4) If the Notice of Appeal is received by the appeal authority after the required time limit has expired, the party seeking to appeal is deemed to have abandoned the appeal and the appeal authority will notify the parties in writing.
- (5) If the appeal relates to a matter that appears to be outside the jurisdiction of the appeal authority, it must notify the parties in writing.
- (6) The appeal authority may invite the parties to make submissions on its jurisdiction and it will then determine, based on any submissions received, if it has jurisdiction over the appeal and must notify the parties in writing of the decision.

## **PART D: PARTIES TO AN APPEAL**

### **138 Parties to appeal**

- (1) The parties to an appeal before an appeal authority are:

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

### **139 Intervention by interested person**

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing using form MLM: F/20 B to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or Authorised Official and might therefore be affected by the decision of the appeal authority.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –
  - (a) does not collude with any of the appellants; and
  - (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.
- (3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.
- (5) An “interested person” for the purpose of this Part means a person who -
  - (a) does not have a direct or indirect pecuniary or proprietary interest in the land affected by the decision of the Municipal Planning Tribunal or Authorised Official and might therefore be affected by the judgement of the appeal authority; and
  - (b) who submitted written comments or made oral representations during the decision-making process of the Municipal Planning Tribunal or Authorised Official.

## **PART E: JURISDICTION OF APPEAL AUTHORITY**

### **140 Jurisdiction of appeal authority**

- (1) An appeal authority may consider an appeal on one or more of the following:
  - (a) the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
  - (b) the merits of the land development or land use application.

#### **141 Appeal hearing by appeal authority**

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

#### **142 Written hearing by appeal authority**

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

#### **143 Oral hearing by appeal authority**

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

#### **144 Representation before appeal authority**

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

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

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

### **PART F: HEARINGS OF APPEAL AUTHORITY**

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

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

#### **147 Hearing date**

A hearing will commence within 30 days after the completed Notice of Appeal has been delivered to the appeal authority, unless the parties and the presiding officer of the appeal authority consent to a later date.

#### **148 Adjournment**

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

#### **149 Urgency and condonation**

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

#### **150 Withdrawal of appeal**

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



## **PART G: ORAL HEARING PROCEDURE**

### **151 Location of oral hearing**

- (1) An oral hearing must be held in a location within the area of jurisdiction of the municipality where the land affected by the decision is located.
- (2) Oral hearing may not be held in the office of the Municipal Planning Tribunal or the Authorised Official authorised in terms of section 35(2) of the Act whose decision is under appeal.

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

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

### **153 Witnesses**

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

### **154 Proceeding in absence of party**

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

### **155 Recording**

Hearings of the appeal authority must be recorded.

### **156 Oaths**

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

### **157 Additional documentation**

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

## **PART H: WRITTEN HEARING PROCEDURE**

### **158 Commencement of written hearing**

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

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

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given 7(seven) days to provide a written submission.
- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Authorised Official.
- (4) The Municipal Planning Tribunal or the Authorised Official has 21 (twenty-one) days in which to provide a submission in response.
- (5) The appellant shall within 7(seven) days from receipt of the submissions referred to in subsection (4), reply thereto.
- (6) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

### **160 Extension of time**

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

### **161 Adjudication of written submissions**

- (1) Following receipt of any written submissions from the parties, the registrar must forward the appeal record, which includes the written submissions, to the appeal authority for adjudication.
- (2) If no written submissions are received from the parties, the registrar will forward the existing appeal record to the appeal authority for adjudication.
- (3) Any submission received after the date it was due and with regard to which no application for an extension of time was made and granted, shall not be accepted and shall not be considered by the appeal authority in adjudicating the appeal.

## **PART I: DECISION OF APPEAL AUTHORITY**

### **162 Further information or advice**

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

### **163 Decision of appeal authority**

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

### **164 Notification of decision**

The registrar must notify the parties of the decision of the appeal authority in terms of section 163 of this by law read with section 51 (3) of the Act , together with the reasons therefor within seven days after the appeal authority handed down its decision.

### **165 Directives to Municipality**

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

## **PART J: GENERAL**

### **166 Expenditure**

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

## **CHAPTER 9**

### **COMPLIANCE AND ENFORCEMENT**

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

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

#### **168 Offences and penalties**

- (1) Any person who—
  - (a) contravenes or fails to comply with any provision of this By-law or condition of a decision notice
  - (b) contravenes any decision taken or conditions, restrictions or prohibitions imposed in terms of this By-law;
  - (c) fails to comply with a compliance notice issued in terms of section 169;
  - (d) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
  - (e) upon registration of the first land unit arising from a subdivision, fails to transfer all common property, including private roads and private places originating from the subdivision, to the owners' association;

- (f) supplies particulars, information or answers in an application or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
- (g) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
- (h) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee;
- (i) alters or destroys land or buildings to the extent that the property cannot be used for the purposes set out in the Land Use Scheme;

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

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

### **169 Service of compliance notice**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 168.
- (2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality.
- (3) a notice referred to in subsection (2) may include an instruction to—
  - (a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or
  - (b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.

- (3) A person who has received a compliance notice with an instruction contemplated in subsection (3)(a) may not submit an application in terms of subsection (3)(b).
- (4) An instruction to submit an application in terms of subsection (3)(b) must not be construed as an indication that the application will be approved.
- (5) In the event that the application submitted in terms of subsection (3)(b) is refused, the owner must demolish the unauthorised work.
- (6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the compliance notice.

### **170 Content of compliance notices**

- (1) A compliance notice must—
  - (a) identify the person to whom it is addressed;
  - (b) describe the activity concerned and the land on which it is being carried out;
  - (c) state that the activity is illegal and inform the person of the particular offence contemplated in section 168 which that person allegedly has committed or is committing through the carrying on of that activity;
  - (d) the steps that the person must take and the period within which those steps must be taken;
  - (e) anything which the person may not do, and the period during which the person may not do it;
  - (f) provide for an opportunity for a person to lodge representations contemplated in terms of section 169 with the contact person stated in the notice;
  - (g) issue a warning to the effect that—
    - (i) the person could be prosecuted for and convicted of an offence contemplated in section 168;
    - (ii) on conviction of an offence, the person will be liable for the penalties as provided for;
    - (iii) the person could be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
    - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval could be withdrawn;
    - (v) in the case of an application for authorisation of the activity or development parameter, that a contravention penalty including any costs incurred by the Municipality, will be imposed;

- (2) Any person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 171.

#### **171 Objections to compliance notice**

- (1) Any person or owner who receives a compliance notice in terms of section 169 may object to the notice by making written representations to the Municipal Manager within 30 days of receipt of the notice.
- (2) Subject to the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
  - (a) may suspend, confirm, vary or cancel a notice or any part of the notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or modified.

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

- (1) If a person fails to comply with a compliance notice, the Municipality may—
  - (a) lay a criminal charge against the person;
  - (b) apply to the High Court for an order restraining that person from continuing the illegal activity, to demolish, remove or alter any building, structure or work illegally erected or constructed without the payment of compensation or to rehabilitate the land concerned; or
  - (c) in the case of a temporary departure or consent use, the Municipality may withdraw the approval granted and then act in terms of section 169.

#### **173 Urgent matters**

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

#### **174 Subsequent application for authorisation of activity**

- (1) If instructed to rectify or cease an unlawful land use or building activity, a person may make an application to the Municipality for any land development contemplated in Chapter 5, unless the person is instructed under section 169 to demolish the building work.
- (2) The applicant must, within 30 days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

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

- (1) The Municipality may authorise an official or any other person to act in terms of this By-law for the purposes of investigating any matter in connection with this By-law.
- (2) A peace-officer appointed in terms of the Criminal Procedures Act, 1977 (Act 51 of 1977), or any officer duly authorised and entrusted with law enforcement in terms any law related to land development, appointed by the Municipality as such, are considered to be authorised employee or a Development Compliance Officer contemplated in subsection (1)
- (3) An authorised employee may, subject to subsection (4),. at any reasonable time, and without prior notice, enter any land, building or premises purposes of ensuring compliance with this By-law.
- (4) An inspection of a private dwelling may only be carried out by authorised employee at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of section 32 of the Act.
- (5) Where a authorised employee enters any land in terms of subsection (3), a person who controls or manages the land must at all times provide such facilities as are reasonably required by the authorised employee to enable him/her to perform his/her functions effectively and safely under this By-law.
- (6) The authorised employee is not required to give reasonable or any notice to enter land or a building, other than a private dwelling, and may conduct an inspection or take enforcement action without the consent of the owner or occupier of such land or building and without a warrant if:
  - (a) He/she believes on reasonable grounds that a warrant would be issued to him/her on application under section 175 of this By-law; and
  - (b) the delay in obtaining the warrant would defeat the object of the inspection and enforcement action.
- (7) The Municipality must issue each official contemplated in subsection (2) with a written appointment, stating that the person has been appointed for executing functions in terms of this By-law.
- (8) An authorised employee must be in possession of proof that he or she has been designated as an authorised employee for the purposes of this By-law.
- (9) An authorised employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

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

- (1) In ascertaining compliance with this By-law as contemplated in section 167, an authorised employee may exercise all the powers and must perform all the functions granted to him or her under section 32 of the Act.
- (2) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.



## **177 Warrant of entry for enforcement purposes**

- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
  - (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
  - (b) purpose of the inspection would be frustrated by the prior knowledge thereof.
- (2) A warrant referred to in subsection (1) may be issued by a judge of a High Court or by a magistrate who has jurisdiction in the area where the land in question is situated, and may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
  - (a) an authorised employee has been refused entry to land or a building that he or she is entitled to inspect;
  - (b) an authorised employee reasonably anticipates that entry to land or a building that he or she is entitled to inspect will be refused;
  - (c) there are reasonable grounds for suspecting that a contravention contemplated in section 168 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
  - (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must specify which of the acts mentioned in section 168 may be performed under the warrant by the person to whom it is issued and authorises the Municipality to enter upon the land or to enter the building or premises and to perform any of the acts referred to in section 162 as specified in the warrant on one occasion only, and that entry must occur—
  - (a) within one month of the date on which the warrant was issued; and
  - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

## **178 Regard to decency and order**

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

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

## **179 Court order**

- (1) Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 167, the Municipality may apply to the High Court for an order compelling that person to—
  - (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
  - (b) rehabilitate the land concerned;
  - (c) compelling that person to cease with the unlawful activity; or
  - (d) any other appropriate order.

## **CHAPTER 10 TRANSITIONAL PROVISIONS**

### **180 Transitional provisions**

- (1) Any land development application or other matter in terms of any provision of National or Provincial legislation dealing with land development applications that are pending before the Municipality on the date of the coming into operation of this By-law, shall be dealt with in terms of that legislation or if repealed in terms of its transitional arrangements or in the absence of any other provision, in terms of this By-law, read with section 2(2) and section 60 of the Act;
- (2) Where on the date of the coming into operation of an approved land use scheme in terms of section 26(1) of the Act, any land or building is being used or, within one month immediately prior to that date, was used for a purpose which is not a purpose for which the land concerned has been reserved or zoned in terms of the provisions of a land use scheme in terms of this By-law read with section 27 of the Act, but which is otherwise lawful and not subject to any prohibition in terms of this By-law, the use for that purpose may, subject to the provisions of this subsection (3), be continued after that date read with the provisions of a Town Planning Scheme or land use scheme.
- (3) The right to continue using any land or building by virtue of the provisions of subsection (2) shall;
  - (a) where the right is not exercised in the opinion of the Municipality for a continuous period of 15 months, lapse at the expiry of that period;
  - (b) lapse at the expiry of a period of 15 years calculated from the date contemplated in subsection (2);
  - (c) where on the date of the coming into operation of an approved land use scheme -
    - (i) a building, erected in accordance with an approved building plan, exists on land to which the approved land use scheme relates;
    - (ii) the erection of a building in accordance with an approved building plan has commenced

on land and the building does not comply with a provision of the approved land use scheme, the building shall for a period of 15 years from that date be deemed to comply with that provision.

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

### **181 Determination of zoning**

- (1) Notwithstanding the provisions of section 180(2) and (3), the owner of land or a person authorised by the owner may apply to the Municipality for the determination of a zoning for land referred to in section 26(3) of the Act
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
  - (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised immediately before the commencement of this By-law if it can be determined;
  - (b) the zoning, if any, that is most compatible with that utilisation or purpose and any applicable title deed condition;
  - (c) any departure or consent use that may be required in conjunction with that zoning;

- (d) in the case of land that was vacant immediately before the commencement of this By-law, the utilisation that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
  - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised immediately before the commencement of this By-law, cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (1) cannot be determined, the Municipality must determine a zoning and give notice of its intention to do so in terms of section 93.
  - (4) A land use that commenced unlawfully, whether before or after the commencement of this By-law, may not be considered to be the lawful land use.

## **CHAPTER 11**

### **GENERAL PROVISIONS**

#### **182 Pre-application Procedure**

- (1) The Municipality may assist an applicant to identify the information that is required to make a land development application for municipal planning approval.
- (2) The Municipality may not give advice on the merits of a land development application for municipal planning approval when it assists an applicant.
- (3) An applicant must obtain approvals or the necessary comments from the relevant organs of state, and any other information which are necessary for determining an application for municipal planning approval.
- (4) The Municipality may require an applicant to provide proof of any other statutory approval if, in its opinion, it is necessary to enable it to decide an application for municipal planning approval.

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

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

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

- (1) The Schedules and Forms to this By-law are aimed at assisting the public and the Municipality in dealing with any matter in terms of this By-law.
- (2) Where any notice is required in terms of this By-law which has the purpose of soliciting public participation, such notices shall be substantially in accordance with the Schedules and Forms to this By-law: provided that the intention of soliciting comments and objections through public participation is to ensure that the public is properly informed of the land development application brought in terms of this By-law; and for that purpose the Municipality may require the applicant to amplify or supplement the notices in terms of the Schedules and Forms to this By-law.
- (3) In the event of a discrepancy between the by-law and any Schedule or Forms, the By-law will prevail.

#### **185 Provision of Information**

- (1) Subject to the Promotion of Access to Information Act, 2000 (**Act 2 of 2000**) and the law relating to documentary privilege, any person shall be entitled to obtain a copy of any document or information relating to a land development application or any other document referred to in this By-law from the Municipality, provided that:
  - (a) the copy of the document or information must be provided within a reasonable time of the date of such copy of the document or information being requested in writing;
  - (b) the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy; and
  - (c) any document containing confidential proprietary information may only be disclosed with the consent of the owner thereof.
- (2) Any form of communication by any employee of the Municipality in relation to any intended or pending land development application and which may be construed as advice shall not be binding or have any effect in the determination of such a land development application by either the Municipal Planning Tribunal, Authorised Official or Appeal Authority.

#### **186 Delegations**

Any power conferred in this By-law on the Municipality may be delegated by the municipality subject to section 56 of the Act and section 59 of the Municipal Systems Act, 2000 (Act 32 of 2000), as may be amended from time to time.

**187 Short title and commencement**

This By-law is called the Molemole Spatial Planning and Land Use Management By-law, 2019 and takes effect on the date of publication thereof in the *Provincial Gazette*.

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

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

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

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

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

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

- (1) zoning category;
- (2) primary uses;
- (3) uses that can be obtained with consent use and/or permission application;
- (4) density;
- (5) coverage;
- (6) height;
- (7) floor area ratio;
- (8) building lines;

(9) approved consent use and/or permission; and  
the Zoning Certificate shall be available to the public upon request during normal office hours after payment of the prescribed fees, which shall be for information purposes only and must be verified with the adopted Land Use Scheme and amendment schemes thereto by the owner

## **SCHEDULE 2**

### **LAND USE SCHEME REGISTER**

1. A Land Use Scheme Register as contemplated in section 28 of this By-law may where applicable include the following information:

- (a) Date of application
- (b) Name and contact details of applicant
- (c) Type of Application
- (d) Township/Farm name
- (e) Erf or farm number
- (f) Portion / Remainder
- (g) Property Description
- (h) Existing Zoning
- (i) Square Metres Granted
- (j) Density
- (k) FAR
- (l) Height (storeys/meters)
- (m) Coverage
- (n) Building Line
- (o) Parking Requirements
- (p) Amendment scheme no
- (q) Annexure Number
- (r) Item No
- (s) Item Date
- (t) Decision (Approved/Not Approved)
- (u) Decision Date



**SCHEDULE 3**  
**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 payment of the request application fee; the application will not be processed before confirmation of payment has been received;
  - (2) a covering letter addressed to the Department responsible for Development Planning;
  - (3) the completed and signed application form as set out in MLM:F/12 to this By-law;
  - (4) if the applicant is not the owner of the property(ies) a power of attorney must be attached;
  - (5) compelling reasons for the request for extension of time;
  - (6) proof of submission of documents to the Surveyor-General (where relevant); and
  - (7) summary of the progress of the application.

**SCHEDULE 4**  
**REQUIREMENTS FOR THE ALTERATION, AMENDMENT OR CANCELLATION**  
**OF A SUBDIVISION PLAN OF A PROCLAIMED TOWNSHIP IN TERMS OF SECTION 68 OF THIS BY-**  
**LAW**

1. An owner of a property(ies) who wishes to have the subdivision plan or 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 68 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 subdivision plan or 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 of power of attorney must be attached;
2. The application must be advertised, and the applicant shall submit proof.

**SCHEDULE 5**

**INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER OF THE MUNICIPAL PLANNING TRIBUNAL**

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the \_\_\_\_\_ Municipality hereby invites nominations for officials or employees of the (*insert name of organ of state or non-governmental organisation contemplated in regulation (3)(2)(a) of the Regulations*) to be appointed to the \_\_\_\_\_ Municipal Planning Tribunal for its first term of office.

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

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the By-law on Municipal Land Use Planning, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto. Each nomination must be in writing and must contain the following information:

- (a) The name, address and identity number of the nominee;
- (b) The designation or rank of the nominee in the organ of state or non-governmental organisation;
- (c) A short curriculum vitae of the nominee (not exceeding two pages);
- (d) Certified copies of qualifications and registration certificates indicating registration with the relevant professional body or voluntary association.

Nominations must be sent to:

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

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

\_\_\_\_\_

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

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

Tel \_\_\_\_\_

\_\_\_\_\_

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

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

hereby declare that –

- (a) I am available to serve on \_\_\_\_\_ Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me OR I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) there is no conflict of interest OR I have the following interests which may conflict with the \_\_\_\_\_ Municipal Planning Tribunal which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the \_\_\_\_\_ Municipal Planning Tribunal and I authorise the \_\_\_\_\_ Municipality to verify any record in relation to such disqualification or requirement.
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the \_\_\_\_\_ Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

**CLOSING DATE: (INSERT DATE)**

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

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

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

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

**SCHEDULE 6**

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

**CLOSING DATE: (INSERT DATE)**

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

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

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the By-law on Municipal Land Use Planning, 2015, who have leadership qualities and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

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

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

Nominations must be sent to:

The Municipal Manager  
\_\_\_\_\_ Municipality  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

Tel \_\_\_\_\_

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

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

hereby declare that –

- (a) I am available to serve on \_\_\_\_\_ Municipal Planning Tribunal and I am willing to serve as chairperson or deputy chairperson should the Council designate me / I am not willing to serve a chairperson or deputy chairperson (*delete the option not applicable*);
- (b) there is no conflict of interest OR I have the following interests which may conflict with the \_\_\_\_\_ Municipal Planning Tribunal and which I have completed on the declaration of interest form (*delete the option not applicable*);
- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the \_\_\_\_\_ Municipal Planning Tribunal and I authorise the \_\_\_\_\_ Municipality to verify any record in relation to such disqualification or requirement;
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the \_\_\_\_\_ Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

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

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

**SCHEDULE 7  
DISCLOSURE OF INTERESTS FORM**

I, the undersigned,

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

do hereby declare that -

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

<b>CONFLICTING INTERESTS</b>

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

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

<b>2. REMUNERATIVE WORK, CONSULTANCY &amp; RETAINERSHIPS</b>			
<b>Name of Company &amp; Occupation</b>	<b>Type of Business</b>	<b>Rand amount per month</b>	<b>Period</b>
1.			
2.			
3.			
4.			
5.			

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

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

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

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

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

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

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

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

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

**SCHEDULE 8**  
**CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

I, the undersigned,

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

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

---

**General conduct**

1. A member of the Municipal Planning Tribunal must at all times—
  - (a) act in accordance with the principles of accountability and transparency;
  - (b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
  - (c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has given written approval and has expressly authorised his or her participation.
  
2. A member of the Municipal Planning Tribunal may not—
  - (a) use the position or privileges of a member of the Municipal Planning Tribunal or confidential information obtained as a member of the Municipal Planning Tribunal for personal gain or to improperly benefit another person; and
  - (b) participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

**Gifts**

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



**Undue influence**

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

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

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

**SCHEDULE 9  
CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL APPEAL AUTHORITY**

I, the undersigned,

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

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

---

**General conduct**

- 3. A member of the Municipal Appeal Authority must at all times—
  - (d) act in accordance with the principles of accountability and transparency;

- (e) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
  - (f) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the municipality has given written approval and has expressly authorised his or her participation.
4. A member of the Municipal Appeal Authority may not—
- (a) use the position or privileges of a member of the Municipal Appeal Authority or confidential information obtained as a member of the Municipal Appeal Authority for personal gain or to improperly benefit another person; and
  - (b) participate in a decision concerning a matter in which that member or that members' spouse, partner or business associate, has a direct or indirect personal interest or private business interest.

**Gifts**

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

**Undue influence**

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

**Signature of Nominee:** \_\_\_\_\_

**Full Names:** \_\_\_\_\_

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

## **SECHEDULE 10**

### **LAND DEVELOPMENT APPLICATIONS ON COMMUNAL LAND THAT MAY HAVE HIGH IMPACT ON THE COMMUNITY AS CONTEMPLATED IN SECTION 76 (6) AND (7) OF THIS BY-LAW**

- (1) High impact Development on communal land as contemplated in sections 76(6) and (7), include the following:
- (a) Abattoir;
  - (b) Cemetery;
  - (c) Community facilities, including educational institutions and health care facilities;
  - (d) Crematorium and funeral parlour;
  - (e) Filling station and public garage;
  - (f) Lodge;
  - (g) High density residential;
  - (h) Industry;
  - (i) Mining;
  - (j) Office park;
  - (k) Shopping complex and centres;
  - (l) Any other development which may require a specialist report or study, including but not limited to, a geotechnical report, traffic impact assessment, feasibility report, market (socio-economic) study.

## **SECHEDULE 11**

### **EXEMPTION OF FEES IN TERMS OF SECTION 86(6) OF THIS BY-LAW**

1. An applicant may request the Municipality for exemption of payment of application fees and/or fees for a copy of the Land Use Scheme or any component thereof in the following instances:
  - (1) The proposed land development application will be for National, Provincial or Municipal uses; and/or

- (2) Municipal projects and/or Consultants that have been appointed by the Municipality to lodge a specific land development application or project; and/or
  - (3) academic research projects.
2. The applicant must submit at least the following documentation before submission of a land development application as contemplated in Chapter 6 of this By-law for completeness of his/her request:
    - (1) written motivation with the reasons for exemption of fees;
    - (2) proof that the proposed development will be of National, Provincial or Municipal purposes or interest;
    - (3) proof of ownership of the proposed application property(ies);
    - (4) proof to the satisfaction of the Municipality that the project is for academic research.
  3. Exemption for payment of application fees must be granted before the submission of a land development application, failing which section 86(3) of this By-law shall apply.

## **SECHEDULE 12**

### **WITHDRAWAL OF APPLICATION IN TERMS OF SECTION 113(2) 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 113(2)) of this By-law and for purposes of completion at least submit the following documentation:
  - (1) submit proof that the applicant requesting cancellation, have the authority to do so;
  - (2) a written notification for the cancellation;
  - (3) submit proof that all the interested persons who submitted an objection or made a representation on the application have been notified of the request for cancellation of the land development application; and
  - (4) submit an acknowledgement that the owner shall not have any claim for any re-instatement of such land development application.

**MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW FORMS, 2019:**

**MLM: F/1**

**APPLICATION FORM FOR A TOWNSHIP ESTABLISHMENT OR EXTENSION OF BOUNDARIES OF A TOWNSHIP IN TERMS OF SECTION 56 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**

**303 Church Street**

**Mogwadi**

**0715**

**For Office Use Only**

Date Received:

Received by:

Receipt No.:

File Ref.No:

**Pre-Consultation**

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

<b>YES</b>	<b>NO</b>
------------	-----------

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

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

.....

.....

**PART B: APPLICANT DETAILS**

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

Individual

Legal Entity

**Applicant Details: Individual**

Title

Name

Surname

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

**PART C: OWNER DETAILS**

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

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

**PART D: PROPERTY INFORMATION**

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

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

**PART E: EXISTING LAND USE INFORMATION**

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

**PART F: PROPOSED TOWNSHIP**

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

**PART G: GENERAL INFORMATION**

Is the property situated within 3km of a sewage disposal works?		Yes	No
Name the local authorities or authorised bodies that provide the following services:			
Water			
Electricity			
Sewage			
Roads and storm water			
Is the existing development (structures and land use) on the property described in the memorandum?		Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage Resource Act, 1999 (Act 25 of 1999)?		Yes	No
<b>PAYMENT OF OPEN SPACES AND PARKS/DWELLING UNITS</b>			
Does the layout plan provide for open spaces or parks in accordance with the requirements of the <b>Molemole Spatial Planning And Land Use Management By-Law, 2019</b> ?		Yes	No
Motivate if answer is “no” above			
Provide the total number of dwelling units on all Erven in the proposed township			
<b>ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES</b>			
Is there any part of the proposed development, forming the subject of this application, deemed to be a “listed activity” in terms of the National Environmental		Yes	No



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

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

No.	Requirements of information to be provided		Yes	No
1	Prints of the layout plan of the proposed township			
2	Plan number; CPD (Township name, extension/number of plan e.g/ CPD MVO x 55/1			
3	*Contour lines and values			
4	A bar scale			
5	The true north			
6	The name of the Municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated			
7	Boundaries of the proposed township			
8	The Property description as indicated in the ‘Township name reservation letter’			
9	Grid co-ordinates and a reference to the geodetic system used			
10	Existing buildings in the proposed township			
11	Adjoining existing and adjoining proposed streets and roads with their names			

12	Adjoining proposed public street/roads with their names and widths			
13	Adjoining erven, farm portions/agricultural holdings in existing townships or proposed townships in respect of which applications have been submitted or notice has been given in terms of section 56 or 57			
14	Streets, squares and Recreational / Natural Open spaces (Private and Public) in the proposed township			
15	Adjoining erven in existing townships or proposed townships in respect of which applications have been submitted			
16	Water courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township			
17	Public roads in or abutting the proposed township			
18	All servitude in or abutting the proposed township			
19	Private 'access' erven (name and widths) in or abutting the proposed township			
20	A table indicting the total number of erven in the proposed township, the number of erven for specific purposes (proposed zoning) and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets, the total length of the streets within the township, the area of streets as a percentage of the total area of the township and the area of parks and open spaces, if any, as a percentage of the total area of the township			
21	A locality plan, as an inset on the plan of the township, accurately drawn to a scale of not less than 1:50 000 or such other scale which the Municipality, as the case may be, may approve indicating:			
21.1	The situation of the proposed township on the farm or agricultural holding			
22.2	The routes giving access to the nearest main road and the road network in the vicinity of the township			
22.3	The boundaries of the farm portion or agricultural holding on which the township is to be established			
22.4	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			
22.5	The boundaries of a demarcated noise zone			
22.6	A bar scale, in respect of the locality plan			
22.7	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	1m
Greater than 1 in 20 but less than 1 in 5	2m
1 in 5 and greater	5m

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

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

**CHECKLIST: REQUIRED DOCUMENTS**

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**MLM: F/2**

**APPLICATION FORM FOR A DIVISION OF A TOWNSHIP IN TERMS OF SECTION 57 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

*(Complete MLM: F/2 Form For Each Division Of The Approved Township )*

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to: <b>The Manager of Town Planning</b> <b>303 Church Street</b> <b>Mogwadi</b> <b>0715</b>			
<b>For Office Use Only</b>			
Date Received:	Received by:		
Receipt No.:	File Ref.No:		
<b>Pre-Consultation</b>			
Has the Application undergone Pre-consultation with the relevant department? If <b>“YES”</b> attach proof/record of such consultation.			
<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 50px; text-align: center; padding: 2px;"><b>YES</b></td> <td style="width: 50px; text-align: center; padding: 2px;"><b>NO</b></td> </tr> </table>		<b>YES</b>	<b>NO</b>
<b>YES</b>	<b>NO</b>		
If <b>“NO”</b> please state the reason(s) below. ..... .....			

**PART B: APPLICANT DETAILS**

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

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

**PART C: OWNER DETAILS**

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

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

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

- Name and extension of the approved Township: .....
- Date of approval of township to be divided: .....
- Has extension of time in terms of section 59(4) been granted?  
 Yes  No  Not applicable
- Has the general plan of the township to be divided been approved by the Surveyor-General?  
 Yes  No
- Division of township in .....separate townships, namely:  
 .....  
 .....

**6. Approved Zoning**

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

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


**7. PROPOSED ZONING FOR SEPARATE TOWNSHIPS**

Details of proposed zoning for township .....

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

(Complete a separate table for each new township.)

**8. GENERAL INFORMATION**

Is the property situated within 3km of a sewage disposal works?		Yes	No
Name the local authorities or authorised bodies that provide the following services:			
Water			
Electricity			
Sewage			
Roads and storm water			
Is the existing development (structures and land use) on the property described in the memorandum?		Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage Resource Act, 1999 (Act 25 of 1999)?		Yes	No
<b>DETAILS OF THE PROVISION OF OPEN SPACES AND PARKS</b>			
Does the layout plan provide for open spaces or parks in accordance with the requirements of the <b>Molemole Spatial Planning And Land Use Management By-Law, 2019?</b>		Yes	No
Motivate if answer is “no” above			



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

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

**ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES**

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

**CHECKLIST: REQUIRED DOCUMENTATION**

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**APPLICATION FORM FOR THE AMENDMENT OF AN APPROVED TOWNSHIP IN TERMS OF SECTION 58(5) OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**

**303 Church Street**

**Mogwadi**

**0715**

**For Office Use Only**

Date Received:

Received by:

Receipt No.:

File Ref.No:

**Pre-Consultation**

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

If **“YES”** attach proof/record of such consultation.

<b>YES</b>	<b>NO</b>
------------	-----------

If **“NO”** please state the reason(s) below.

.....  
 .....

**PART B: APPLICANT DETAILS**

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

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

**PART C: OWNER DETAILS**

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

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

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

- Name and extension of the approved Township: .....
- Date of approval of township to be divided: .....
- Has extension of time in terms of section 59(4) been granted?  
 Yes  No  Not applicable
- If "Yes", have the Surveyor-General's comments on the proposed amendment been submitted?  
 Yes  No

**5. Approved Zoning (Use Zones)**

Details of approved zoning (use zones)

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


**PART E: PROPOSED AMENDMENT**

**6. Description of the proposed amendment:**

.....

.....

.....

.....

.....

.....

**7. Proposed Zoning (Use Zones)**

Details of proposed zoning (use zones)

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

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of application fees		Covering letter		Motivating Memorandum	
Approved conditions of Establishment		Amended annexure draft		Amended draft amended scheme map	

Amended Township Layout Plan		Amended Statement Conditions	Draft of			
---------------------------------	--	------------------------------------	-------------	--	--	--

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 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**MLM: F/4**

**APPLICATION FORM FOR THE REZONING APPLICATION IN TERMS OF SECTION 62 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

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

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**  
**303 Church Street**  
**Mogwadi**  
**0715**

**For Office Use Only**

Date Received:	Received by:
Receipt No.:	File Ref.No:

**Pre-Consultation**

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

If **“YES”** attach proof/record of such consultation.

<b>YES</b>	<b>NO</b>
------------	-----------

If **“NO”** please state the reason(s) below.

.....

.....

**PART B: APPLICANT DETAILS**

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

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

**Applicant Details: Individual**

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



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

**PART C: OWNER DETAILS**

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

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

**PART D: PROPERTY INFORMATION**

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

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

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

Land Use Scheme <i>(name)</i>	
Present Zoning	
Existing Development/Land Use	
Present Amendment Scheme no.	
<b>Existing development parameters (if applicable)</b>	
Height	
Density	
Coverage	

FAR	
-----	--

**PART F: REZONING DETAILS**

Proposed Use Zone			
Proposed primary right			
Proposed number of units			
Proposed density			
Proposed density (m <sup>2</sup> /units per ha)			
Proposed height (m/storey)			
Proposed coverage (%)			
Proposed Floor Area Ratio (FAR)			
Applicant responsible to request comments from external department/institutions?	Yes	No	N/A
Is the proposed rezoning and/ or development in line with the Municipal Spatial Development Framework(MSDF)?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Specify if the proposal is in line with the MSDF or not and, or reasons for deviation: ..... ..... .....			
Which uses and/or buildings are adjoining the property and what is the condition of such buildings? ..... ..... .....			
Are there any restrictive conditions i.e. Title Deed Conditions etc?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
If "YES", give details: ..... ..... .....			
Is there any structure(s) or building(s) on the property older than 60 years?	<input type="checkbox"/> YES <input type="checkbox"/> NO		
If "YES", furnish details thereof and indicate their position on a site plan and also indicate if it is to be altered, destroyed, excavated or removed from its original position.			

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

Is any portion of the land unit situated in a flood-plain of a river under the 1 in 50 and, or 1 in 100 year flood-line or subject to any floods? YES NO

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

Does the proposed development invoke any provisions of the National Environmental Management Act, 1998 (Act 107 of 1998)? YES NO

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

Does the land unit abut on the area of jurisdiction of another local authority or does any other local authority have an interest in this application? YES NO

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

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Application Form	
Power of Attorney (If applicant is not the registered owner)		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
Proof of Marital Status of owner		Bondholders Consent (if relevant)		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		Proof of advertisement			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**APPLICATION FORM FOR A REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS  
APPLICATION IN TERMS OF SECTION 63 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE  
MANAGEMENT BY-LAW, 2019**

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**  
**303 Church Street**  
**Mogwadi**  
**0715**

**For Office Use Only**

Date Received:	Received by:
Receipt No.:	File Ref.No:

**Pre-Consultation**

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

<b>YES</b>	<b>NO</b>
------------	-----------

If **“YES”** attach proof/record of such consultation.

If **“NO”** please state the reason(s) below.

.....  
.....

**PART B: APPLICANT DETAILS**

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

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

**Applicant Details: Individual**

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

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

**PART C: OWNER DETAILS**

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

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

**PART D: PROPERTY INFORMATION**

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

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

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

Title Deed Number		
Indicate the conditions to be removed or suspended in the Title Deed		
Indicate the conditions to be amended in the Title Deed		
Indicate whether the property(ies) is/are situated in a conservation area or has/have been included in a register of properties worthy	Yes	No
<b>Is the property bonded?</b> (if "YES" Bond Holder's Consent must be attached)	YES	NO
Briefly give reasons for the proposed removal, amendment or suspension of restrictive conditions: ..... .....		



.....

.....

Is the proposed removal, amendment or suspension of restrictive conditions and/ or development in line with the Municipal Spatial Development Framework(MSDF)? YES NO

Specify if the proposal is in line with the MSDF or not and, or reasons for deviation:

.....

.....

.....

Which uses and/or buildings are adjoining the property and what is the condition of such buildings?

.....

.....

.....

Is there any structure(s) or building(s) on the property older than 60 years? YES NO

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

.....

.....

.....

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
Proof of Marital status of the owner		Bondholders consent		Locality Plan	
Registered Title Deed and/or Notarial Deed		Zoning Certificate		List of adjoining owners	
Proof of advertisement					

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**APPLICATION FORM FOR SUBDIVISION AND CONSOLIDATION APPLICATION IN TERMS OF SECTION 65 AND SECTION 70 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

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

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to: <b>The Manager of Town Planning</b> <b>303 Church Street</b> <b>Mogwadi</b> <b>0715</b>			
<b>For Office Use Only</b>			
Date Received:	Received by:		
Receipt No.:	File Ref.No:		
<b>Pre-Consultation</b>			
Has the Application undergone Pre-consultation with the relevant department? If <b>"YES"</b> attach proof/record of such consultation.			
	<table border="1"> <tr> <td><b>YES</b></td> <td><b>NO</b></td> </tr> </table>	<b>YES</b>	<b>NO</b>
<b>YES</b>	<b>NO</b>		
If <b>"NO"</b> please state the reason(s) below. ..... .....			

**PART B: APPLICANT DETAILS**

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

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

**PART C: OWNER DETAILS**

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

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

**PART D: SUBDIVISION DETAILS**

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

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

.....

.....

.....

.....

Are there any Title Deed Restrictions affecting the proposed subdivision?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<p>If "YES", give details:</p> <p>.....</p> <p>.....</p>		
Is the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970), applicable to the application?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<p><i>If "YES" furnish details and, or attach any necessary approvals/consents obtained in terms of that Act.</i></p> <p>.....</p> <p>.....</p>		
Does the proposed development invoke any provisions of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended?	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<p><i>If "YES" furnish details and, or attach any necessary approvals obtained in terms of that Act.</i></p>		

**PART E: CONSOLIDATION DETAILS**

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

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

.....

.....

.....

.....

Are there any Title Deed Restrictions affecting the proposed consolidation?	YES	NO
---	-----	----

If "YES", give details:

.....

.....

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

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust Resolution		Proof of members of Company/Close Corporation/Trust	
Proof of Marital status of the owner (if relevant)		Bondholders consent (if relevant)		Locality Plan	
Registered Title Deed and/or Notarial Deed		Zoning Certificate		Subdivision and/or consolidation plans	
Land Surveyor Certificate (if relevant)		Conveyancer's Certificate (if relevant)		Act 70 of 70 Approval/Consent (if relevant)	
EIA executive Summary (if relevant)		Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)			

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



**MLM: F/7**

**APPLICATION FORM FOR CONSENT USE IN TERMS OF THE LAND USE SCHEME READ WITH SECTION 74 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**  
**303 Church Street**  
**Mogwadi**  
**0715**

**For Office Use Only**

Date Received:	Received by:
Receipt No.:	File Ref.No:

**Pre-Consultation**

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

If **“YES”** attach proof/record of such consultation.

<b>YES</b>	<b>NO</b>
------------	-----------

If **“NO”** please state the reason(s) below.

.....  
 .....

**PART B: APPLICANT DETAILS**

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

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

**Applicant Details: Individual**

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

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

**PART C: OWNER DETAILS**

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

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

**PART D: PROPERTY INFORMATION**

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

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

**PART E: APPLICATION DETAILS**

Current Zoning of the subject property	
Current Land Use	
Current Development on site (structures)	
Existing Height (Scheme)	
Existing Coverage (Scheme)	
Existing FAR (Scheme)	
Existing Density (Scheme)	
Brief description of the proposed Consent Use: A detailed motivation <b>MUST</b> be attached to the application. ..... .....	

.....  
 .....

Are there any Title Deed Restrictions affecting the proposed written consent? YES NO

If "YES", give details:  
 .....  
 .....

**PART F: NEIGHBOUR'S COMMENTS**

MID-BLOCK SITUATION

(2)	(3)	(4)	
(1)		(5)	
STREET NO.			
STREET NAME			
(8)	(7)	(6)	

1) .....  
 .....  
 Signature.....

2) .....  
 .....  
 Signature:.....

3) .....  
 .....  
 Signature:.....

4) .....  
 .....  
 Signature:.....

CORNER SITUATION

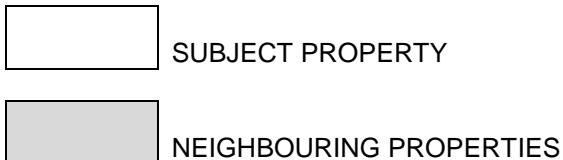
(2)	STREET NAME	(3)	(4)	
(1)			(5)	
STREET NAME		STREET NO.		
(8)		(7)	(6)	

5) .....  
 .....  
 Signature:.....

6) .....  
 .....  
 Signature:.....

7) .....  
 .....  
 Signature:.....

8) .....  
 .....  
 Signature:.....



**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust Resolution <i>(if relevant)</i>		Proof of members of Company/Close Corporation/Trust	
Proof of Marital status of the owner <i>(if relevant)</i>		Bondholders consent <i>(if relevant)</i>		Locality Plan	
Registered Title Deed and/or Notarial Deed		Zoning Certificate		Proposed Site Development Plan	
Traffic Impact Assessment/ Study <i>(if relevant)</i>		Conveyancer's Certificate <i>(if relevant)</i>		Signed <u>PART F</u> / Neighbour's Comments	
Nosie Impact assessment <i>(if relevant)</i>		Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract <i>(if relevant)</i>		Environmental Impact Assessment <i>(if relevant)</i>	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**APPLICATION FORM FOR WRITTEN CONSENT USE IN TERMS OF THE LAND USE SCHEME READ WITH SECTION 75 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**  
**303 Church Street**  
**Mogwadi**  
**0715**

**For Office Use Only**

Date Received:	Received by:
Receipt No.:	File Ref.No:

**Pre-Consultation**

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

If **“YES”** attach proof/record of such consultation.

<b>YES</b>	<b>NO</b>
------------	-----------

If **“NO”** please state the reason(s) below.

.....

.....

**PART B: APPLICANT DETAILS**

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

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

**Applicant Details: Individual**

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

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

**PART C: OWNER DETAILS**

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

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

#### PART D: PROPERTY INFORMATION

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

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

#### PART E: APPLICATION DETAILS

Mark the appropriate application with an **X**.

Erect and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the written consent of the Municipality.	
The carrying on of a household enterprise from a dwelling unit in a the use zones specified in the land use scheme.	
The use of a dwelling unit for a for a spaza or kiosk.	
Relaxation of the line(s) of no access.	
Relaxation of a building line.	
Relaxation of coverage.	
Relaxation of height.	



Site development plan and amendment thereof.	
Other Written Consents in terms of various sections of the Land Use Scheme.	
<b>Specify:</b>	
.....	
.....	
.....	

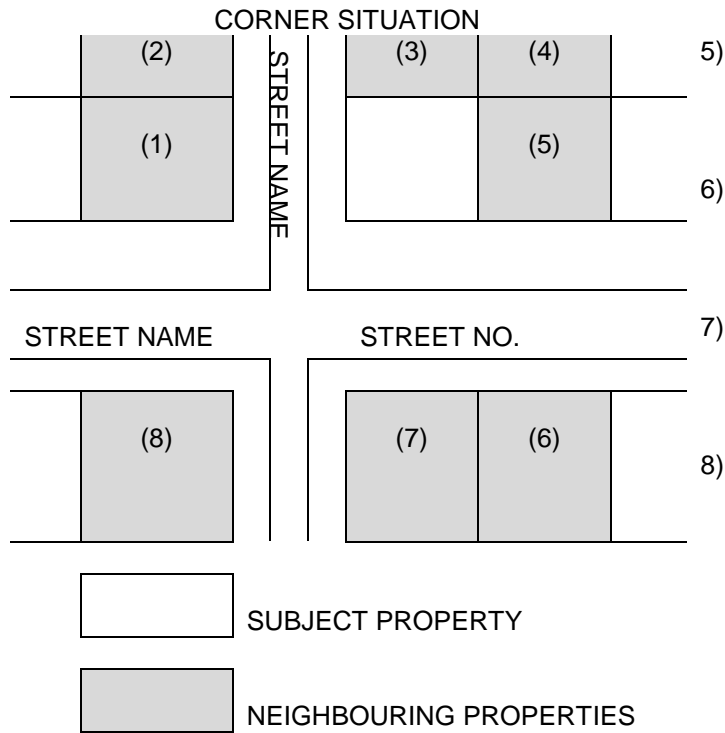
Brief description of the proposed development: A detailed motivation <b><u>MUST</u></b> be attached to the application.			
.....			
.....			
.....			
.....			
Are there any Title Deed Restrictions affecting the proposed written consent?	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="padding: 2px 10px;">YES</td> <td style="padding: 2px 10px;">NO</td> </tr> </table>	YES	NO
YES	NO		
If "YES", give details:			
.....			
.....			

**PART F: NEIGHBOUR'S COMMENTS**

*This section is not applicable to a written consent for 'Side Development Plan and amendment thereof'.*

MID-BLOCK SITUATION					
	(2)	(3)	(4)		1) .....
					.....
	(1)		(5)		Signature.....
					2) .....
					.....
					Signature:.....
					3) .....
					.....
					Signature:.....
					4) .....
					.....
	(8)	(7)	(6)		

\_\_\_\_\_



.....  
Signature:.....

.....  
Signature:.....

.....  
Signature:.....

.....  
Signature:.....

.....  
Signature:.....

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney		Company/Close Corporation/Trust Resolution <i>(if relevant)</i>		Proof of members of Company/Close Corporation/Trust	
Proof of Marital status of the owner <i>(if relevant)</i>		Bondholders consent <i>(if relevant)</i>		Locality Plan	
Registered Title Deed and/or Notarial Deed		Zoning Certificate		Proposed Site Development Plan	
Land Surveyor Certificate <i>(if relevant)</i>		Conveyancer's Certificate <i>(if relevant)</i>		Signed <u>PART F</u> / Neighbour's Comments	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**APPLICATION FORM FOR LAND DEVELOPMENT APPLICATION ON COMMUNAL LAND OR IN RURAL AREAS IN TERMS OF SECTION 76 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**PART A: APPLICATION SUBMISSION**

The application must be submitted together with all the required information to: <b>The Manager of Town Planning</b> <b>303 Church Street</b> <b>Mogwadi</b> <b>0715</b>			
<b>For Office Use Only</b>			
Date Received:	Received by:		
Receipt No.:	File Ref.No:		
<b>Pre-Consultation</b>			
Has the Application undergone Pre-consultation with the relevant department? If <b>"YES"</b> attach proof/record of such consultation.			
	<table border="1"> <tr> <td>YES</td> <td>NO</td> </tr> </table>	YES	NO
YES	NO		
If <b>"NO"</b> please state the reason(s) below. ..... .....			

**PART B: PROPERTY INFORMATION**

Area/ Village	
Site Number/ Land Portion	
Size (m <sup>2</sup> / ha)	
Traditional Authority	
Headman	
Applicable Land Use Scheme	
Current Use of Property	

**PART C: PROPOSED USE/ APPLICATION FOR:**

<b>LAND USES</b>			
Place of Public worship (e.g. Church)		Telecommunication Mast	

Spaza/ Tuck shop		Filling Station	
Tavern		Residential	
Café/ Restaurant		High Density Residential	
General Dealer		Offices	
Supermarket		Scrap-Yard	
Hardware		Shopping Complex	
Brickyard		Agricultural Use (e.g. Farming)	
Butchery		Liquor Restaurant/ Bottle Store	
Abattoir		Drop-in-Centre	
Funeral Parlour		Pre-School	
Guest House/ Lodge		Crèche/ Day Care Centre	
Cemetery		Health care facilities	
Other		Specify:	

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

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

	1		5	
	2	3	4	

Site of application

Stand Number	Land Use
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____

**PART D: TRADITIONAL AUTHORITY'S CONSENT**

Name of Traditional Authority: .....	Traditional Local Authority Stamp: Headmen
Name of Headman: .....	
Signature:	

**NB: Attach letter from the Traditional Authority as well.**

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees	Motivational Memorandum	Traffic Impact Study (if required by relevant department)
Power of attorney	Locality Map	Geotechnical Report/ letter signed by a qualified engineer (if applicable)
Consent from Ward Councillor	Layout Plan/ Draft SDP or Site Plan	Flood line Certificate (if property is subject to flooding)
Tribal Authority Letter	Proof of consent from adjoining property owners or institutions within 250m radius	Feasibility Study (if relevant)

ID Copy (individual)		Environmental Impact Assessment (if relevant)		Engineering/Service Report (if relevant)	
Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)					

Additional documents required:

- (1) A locality map, must show the location of the site (where in the area/village and the site or stand is situated and also show significant adjacent or nearby land uses such as a school, clinic, church, shop).
- (2) A site plan, must show the proposed development on the site or stand.
- (3) Applications that require specialist reports, studies and/ or consent from any sector department are contemplated in schedule 10 to this by-law.

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

**MLM: F/10**

**APPLICATION FORM FOR TEMPORARY USE IN TERMS OF SECTION 77 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**PART A: SUBMISSION OF THE APPLICATION**

Four (4) copies of the application must be submitted together with all the required information to:

**The Manager of Town Planning**  
**303 Church Street**  
**Mogwadi**  
**0715**

**For Office Use Only**

Date Received:	Received by:
Receipt No.:	File Ref.No:

**Pre-Consultation**

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

<b>YES</b>	<b>NO</b>
------------	-----------

If **“YES”** attach proof/record of such consultation.

If **“NO”** please state the reason(s) below.

.....

.....

**PART B: APPLICANT DETAILS**

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

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

**Applicant Details: Individual**

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



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

**PART C: OWNER DETAILS**

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

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

**PART D: PROPERTY INFORMATION**

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

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

**PART E: APPLICATION DETAILS**

Mark the appropriate application with an X.

the erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, or such other uses as may be necessary during the erection of any permanent structure.	
building or structure on the land; provided that such consent shall ipso facto lapse upon completion of the permanent structure or on the expiry date thereof as determined by the Local Authority.	
the occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall.	
the use of land or buildings thereon for State or municipal purposes.	
the use of land or the erection of buildings necessary for the purpose of informal retail trade.	

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

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

.....

.....

.....

.....

Are there any Title Deed Restrictions affecting the proposed written consent? 

YES	NO
-----	----

If "YES", give details:

.....

.....

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of payment of application fees		Covering letter		Motivating Memorandum	
Power of Attorney (if relevant)		Company/Close Corporation/Trust Resolution (if relevant)		Proof of members of Company/Close Corporation/Trust	
Proof of Marital status of the owner (if relevant)		Bondholders consent (if relevant)		Locality Plan	
Registered Title Deed and/or Notarial Deed		Zoning Certificate		Proposed Site Development Plan	
Traffic Impact Assessment/Study (if relevant)		Conveyancer's Certificate (if relevant)		Noise Impact Assessment (if relevant)	
Geo-technical Report (if applicable)		Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract (if relevant)		Environmental Impact Assessment (if relevant)	

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 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....

MLM: F/11

APPLICATION FORM FOR REQUEST FOR AMENDMENT PRIOR TO APPROVAL IN TERMS OF SECTION 99 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE BY-LAW, 2019

**PART A: APPLICATION SUBMISSION**

The application must be submitted together with all the required information to: <b>The Manager of Town Planning</b> <b>303 Church Street</b> <b>Mogwadi</b> <b>0715</b>	
<b>For Office Use Only</b>	
Date Received:	Received by:
Receipt No.:	File Ref.No:

**PART B: APPLICANT DETAILS**

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

**PART C: APPLICATION DETAILS**

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

Type of land development application (section in terms of this By-law)	
Reference number	
Physical address	
Date the application (existing) was confirmed complete and accepted by the municipality	
Date(s) of previous request(s) for amendment of an application prior to approval	

Provide reason(s) for request to amend an application prior to approval. **A detailed motivation must be attached to the application.**

.....

.....

.....

.....

**CHECKLIST: REQUIRED DOCUMENTS**

Receipt of proof of application fee		Covering letter		Power of Attorney	
Motivating Memorandum with reasons for amendment of an application		Proof that the existing land development application has been submitted to the municipality		Summary of progress of the application	

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

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

**REQUEST FOR EXTENSION OF TIME IN TERMS OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019 AND AS REQUIRED IN TERMS OF SCHEDULE 3 TO THIS BY-LAW**

**PART A: APPLICATION SUBMISSION**

The application must be submitted together with all the required information to:	
<b>The Manager of Town Planning</b> <b>303 Church Street</b> <b>Mogwadi</b> <b>0715</b>	
<b>For Office Use Only</b>	
<b>Date Received:</b>	<b>Received by:</b>
<b>Receipt No.:</b>	<b>File Ref.No:</b>

**PART B: APPLICANT DETAILS**

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

**PART C: APPLICATION DETAILS**

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

<b>APPROVED LAND DEVELOPMENT APPLICATION INFORMATION</b>	
Type of land development application (section in terms of the by-law)	
Reference number	
Township/ Agricultural Holding/ Farm	
Erf/Farm No.	
Portion No.	
Date of approval of the land development application	
Date approval will lapse	
Date(s) of previously approved extension of time (if relevant)	

Provide details and reasons for the proposed extension of time. Please note that a **Detailed Motivation Report must be attached to the application.**

.....

.....

.....

.....

**CHECKLIST: REQUIRED DOCUMENTS**

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

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

I hereby acknowledge that, should all the required documentation not be submitted in compliance with the requirements of the Municipality, the Municipality may elect not to consider the application as contemplated in section 87 and section 89 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 168 (1) of this By-law.

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

SIGNATURE: .....

DATE: .....



**LIST OF ATTACHMENTS AND SUPPORTING DOCUMENTS TO BE SUBMITTED TO THE MUNICIPALITY FOR VARIOUS DEVELOPMENT APPLICATIONS**

DOCUMENTS	Township Establishment or Extension of boundaries, Section 56	Division of Township, Section 57	Amendment of Approved Township, Section 58(5)	Rezoning, Section 62	Removal, Amendment, or Suspension of Title Conditions, Section 63	Subdivision and / or Consolidation, Section 65 and/ or Section 70	Consent Use, Section 74	Written Consent, Section 75	Application on Communal Land/Rural areas, Section 76	Temporary Use Application, Section 77	Amendment prior to Approval, Section 99	Request for extension of Time
APPLICATION COVERING LETTER. APPLICATION FEE	X	X	X	X	X	X	X	X	X	X	X	X
APPLICATION FORM	X	X	X	X	X	X	X	X	X	X	X	X
TITLE DEED / LEASEHOLD TITLE	X	X	X	X	X	X	X	X		X		
CONVEYANCER CERTIFICATE (Where Title Deed Refers To Conditions Contained In another Title Deed Not Supplied)	X	X	X	X	X	X	X	X		X		
BONDHOLDER'S CONSENT	X	X	X	X	X	X	X	X		X		
POWER OF ATTORNEY (If property is not registered in applicant's name)	X	X	X	X	X	X	X	X		X	X	X
COMPANY/CLOSE CORPORATION/TRUST RESOLUTION (if applicable)*	X	X	X	X	X	X	X	X		X		
PROOF OF MEMBERS OF COMPANY/CLOSE CORPORATION/TRUST (if applicable)*	X	X	X	X	X	X						
LAND SURVEYOR CERTIFICATE	X	X	X									
MOTIVATION MEMORANDUM	X	X	X	X	X	X	X	X	X	X	X	X
LOCALITY PLAN	X	X	X	X	X	X	X	X		X		
ZONING PLAN	X	X	X	X	X	X	X	X		X		
ZONING CERTIFICATE (if applicable)	X	X	X	X	X	X	X	X		X		
SUBDIVISION / CONSOLIDATION PLAN (if applicable)						X						
SITE DEVELOPMENT PLAN (if applicable)	X	X	X				X	X				
LAYOUT PLAN	X	X	X									
DIVISIONAL PLAN		X										
DRAFT AMENDMENT SCHEME MAP	X	X	X									
PROPOSED CONDITIONS OF ESTABLISHMENT	X	X	X									
TOWNSHIP RESERVATION LETTER	X	X	X									
DRAFT ANNEXURE	X	X	X									
MINERAL RIGHTS HOLDER'S CONSENT(if applicable)	X	X	X						X			
GEO-TECHNICAL REPORT (if applicable)	X	X	X									
TRAFFIC IMPACT ASSESSMENT/ STUDY (if applicable)	X	X	X	X			X					
NOISE IMPACT ASSESSMENT(if applicable)*							X	X				
ENVIRONMENTAL IMPACT ASSESSMENT EXECUTIVE SUMMARY (if required)*	X	X	X	X	X	X	X	X	X			
ENGINEERING/SERVICE REPORT	X	X	X									
NOTICES*	X	X	X	X	X	X	X	X				

\*The Municipality may provide advice to the applicant during the pre-consultation phase on whether some of the documents are required or not. The Municipality may also recommend further documents other than those listed above.

**DATE RECEIVED :** \_\_\_\_\_

**APPLICATION TYPE:** \_\_\_\_\_

**OFFICIALS NAME:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**EXAMPLE OF THE PROVINCIAL GAZETTE, NEWSPAPER AND SITE NOTICE IN TERMS OF SECTION 93 FOR THE ESTABLISHMENT OF A TOWNSHIP/ EXTENSION OF BOUNDARIES OF A TOWNSHIP APPLICATION IN TERMS OF SECTION 56 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**MOLOMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**NOTICE OF APPLICATION FOR THE ESTABLISHMENT OF TOWNSHIP/EXTENSION OF BOUNDARIES IN TERMS OF SECTION 56 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

.....EXTENSION.....

I/We..... (full name) being the applicant hereby give notice in terms of the Molemole Spatial Planning and Land Use Management By-law, 2019, that I/we have applied to Molemole Local Municipality for the establishment of the township/extension of boundaries in terms of section 56 of the Molemole Spatial Planning Land Use Management By-law, 2019 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 Senior Manager: Local Economic Development and Planning, Private Bag X 44, Mogwadi, 0715 from .....

.....(the first date of the publication of the notice set out in section 93(2) of the By-law referred to above), until

..... (not less than 30 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 30 days from the date of first publication of the advertisement in the Provincial Gazette / .....newspaper.

Address of Municipal offices:

.....  
.....

.....closing date for any objections and/or comments: .....

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

.....  
.....

.....  
.....

Telephone No: .....

Dates on which notice will be published: .....

**ANNEXURE**

Name of township: ..... Extension .....

Full name of applicant: .....

Number of erven, proposed zoning and development control measures:

.....

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

.....

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

.....

The proposed township is situated .....

Reference: .....

Item No .....

**EXAMPLE OF THE PROVINCIAL GAZETTE, NEWSPAPER AND SITE NOTICE IN TERMS OF SECTION 93 FOR A REZONING APPLICATION IN TERMS OF SECTION 62 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019 NOTICE OF A REZONING APPLICATION IN TERMS OF SECTION 62 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

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 93 of the Molemole Spatial Planning and Land Use Management By-law, 2019, that I/we have applied to Molemole Local Municipality for the amendment of the Molemole Land Use Scheme,..... (*insert promulgation year of the scheme*), by the rezoning in terms of section 62 of the of the Molemole Spatial Planning and Land Use Management By-law, 2019 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 Senior Manager: Local Economic Development and Planning, Private Bag X44, Mogwadi, 0715 from .....

..... (the first date of the publication of the notice set out in section 93(2) of the By-law referred to above), until

..... (not less than 30 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 30 days from the date of first publication of the notice in the Provincial Gazette /

..... (*insert newspaper name*) newspaper.

Address of Municipal offices:

Address of Municipal Offices: .....  
.....  
.....

Closing date for any objections and/or comments: .....

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

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

Telephone No: .....

Dates on which notice will be published: .....

Reference: .....

Item No .....

**EXAMPLE OF THE PROVINCIAL GAZETTE, NEWSPAPER AND SITE NOTICE IN TERMS OF SECTION 93 FOR THE REMOVAL / AMENDMENT / SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED APPLICATION IN TERMS OF SECTION 63 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**NOTICE OF AN APPLICATION FOR THE REMOVAL / AMENDMENT / SUSPENSION OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 63 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

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 93 (2) of the Molemole Spatial Planning and Land Use Management By-law, 2019 that I/we have applied to Molemole Municipality for the removal/amendment/ suspension of certain conditions contained in the Title Deed in terms of section 63 of the Molemole Spatial Planning and Land Use Management By-law, 2019 of the above mentioned property. The property(ies) is situated at .....

.....  
The application is for the removal / amendment / suspension of the following conditions  
.....Contained in Title Deed number:  
...../.....

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

Any objection(s) and/or comment(s), including the grounds for such objection(s) and/or comment(s) with full contact details, without which the Municipality cannot correspond with the person or body submitting the objection(s) and/or comment(s), shall be lodged with, or made in writing to: the Senior Manager: Local Economic Development and Planning, Private Bag X44, Mogwadi, 0715 from.....  
..... (the first date of the publication of the notice set out in section 93(2) of the By-law referred to above), until ..... (not less than 30 days after the date of first publication of the notice).

Full particulars and plans (if any) may be inspected during normal office hours at the Municipal offices as set out below, for a period of 30 days from the date of first publication of the advertisement in the Provincial Gazette / ..... (*insert newspaper name*) newspaper.

Address of Municipal Offices: .....  
.....  
.....

Closing date for any objections and/or comments: .....

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

Telephone No: .....

Dates on which notice will be published: .....

Reference: .....

Item No .....



**MLM: F/17**

**EXAMPLE OF A PROMULGATION NOTICE IN TERMS OF SECTION 110 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019 FOR THE ADOPTION OF THE AMENDMENT SCHEME.**

**THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**NOTICE FOR THE ADOPTION OF THE AMENDMENT SCHEME IN TERMS OF SECTION 110 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**LOCAL AUTHORITY NOTICE .....**

**MOLEMOLE LOCAL MUNICIPALITY**

**..... AMENDMENT SCHEME ..... (NO) .....**

It is hereby notified in terms of the provisions of section 110 of the Molemole Spatial Planning and Land Use Management By-law, 2019, that Molemole 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 .....

**MOLEMOLE LOCAL MUNICIPALITY**

Date of publication .....

Notice .....

**EXAMPLE OF A PROMULGATION NOTICE IN TERMS OF SECTION 110 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019 FOR AN ADOPTED REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN TITLE IN TERMS OF SECTION 63 OF THE MOLMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**NOTICE OF AN ADOPTED REMOVAL, AMENDMENT OR SUSPENSION OF A RESTRICTIVE CONDITION IN TITLE IN TERMS OF SECTION 63 OF THE MOLMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019**

**NOTICE ..... OF 20.....**

**MOLEMOLE LOCAL MUNICIPALITY**

**NOTICE IN TERMS OF SECTION 63 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019 FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIVE CONDITIONS IN TITLE**

It is hereby notified in terms of the provisions of section 63 of the Molemole Spatial Planning and Land Use Management By-law, 2019, that Molemole Municipality has approved and adopted the land development application for the removal/ amendment / suspension of certain conditions contained in Title Deed .....  
....., with reference to the following property:

.....

The following condition and/or phrases are hereby removed/ amended/suspended:

.....

This removal/amendment/suspension will come into effect on the date of publication of this notice.

**EXAMPLE OF A PROCLAMATION NOTICE OF AN APPROVED TOWNSHIP AND NOTICE OF AN ADOPTION OF THE AMENDMENT SCHEME IN TERMS OF SECTION 61 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016**

**LOCAL AUTHORITY NOTICE .....**

**MOLEMOLE LOCAL MUNICIPALITY**

**PROCLAMATION OF AN APPROVED TOWNSHIP AND NOTICE OF ADOPTION OF AN AMENDMENT SCHEME IN TERMS OF SECTION 61 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2019 FOR AN APPROVED TOWNSHIP**

.....

It is hereby declared that in terms of the provisions of section 61 of the Molemole Spatial Planning Land Use Management By-law, 2019, 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 61 of the Molemole Spatial Planning and Land Use Management By-law, 2019 that Molemole Local Municipality has approved and hereby adopted the land development application for the amendment scheme with regard to the property(ies) in the township of ..  
....., being an amendment of the .....

Scheme .....

The ..... Land Use Scheme ..... and the adopted scheme map and the adopted annexures of this amendment scheme are filed with the Municipality, and are open to inspection during normal office hours.

This amendment is known as ..... Amendment Scheme ..... and shall come into operation on the date of publication of the notice.

Reference number: .....

**MOLEMOLE LOCAL MUNICIPALITY**

*Date of promulgation:* .....

Reference number.....

**MOLEMOLE LOCAL MUNICIPALITY**

Date of publication .....

Notice .....

NOTICE OF APPEAL

NOTICE OF APPEAL/PETITION IN TERMS SECTION 139 OF THE MOLEMOLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2016

DETAILS OF THE APPELLANT:	
Please indicate the type of appellant ( <i>mark with an X</i> ):	
Individual	<input type="checkbox"/>
Legal Entity/Other	<input type="checkbox"/>
<b>Appellant Detail: Individual</b>	
Title	
Name	
Surname	
Identity Number	
Physical Address	
<b>Appellant Detail: Legal Entity/Other</b>	
Name	
Registration Number	
Representative Name	
Physical Address	
<b>Communication Details of Appellant</b>	
Postal Address ( <i>if different from physical</i> )	
Email address	
Work Telephone number	
Cell Number	
Fax Number	

Preferred Method of Communication			
<b>APPEAL DETAILS</b>			
Type of application			
Relevant legislation applicable			
Reference number of the application			
Indicate the Decision Maker ( <i>mark with an X</i> )	MPT (Municipal Planning Tribunal)		AO (Authorised Official)
Date of Decision			
<b>Property Description</b>			
Township/Agricultural Holdings/Farms			
Erf/Lot/Plot/Farm No.			
Concise 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.

**CHECKLIST: REQUIRED DOCUMENTS**

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

**DECLARATION:**

I/We ..... (full names) hereby submit an appeal to the Appeals Authority in terms of section 139 of The Molemole Spatial Planning and 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 139 of this By-law can be a written or oral hearing

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

I acknowledge that the provision of false or misleading information is an offence in terms of section 168 (1) of this By-law.

SIGNATURE: .....

DATE: .....