

LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

NOTICE 61 OF 2019**COLLINS CHABANE AMENDMENT SCHEME 32****NOTICE OF APPLICATION FOR THE SUBDIVISION AND AMENDMENT OF COLLINS CHABANE LAND USE MANAGEMENT SCHEME, 2018 IN TERMS OF SECTION 64 AND 67 OF THE COLLINS CHABANE SPATIAL PLANNING, LAND DEVELOPMENT AND LAND USE MANAGEMENT BY-LAW, 2019 READS WITH RELEVANT PROVISIONS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)**

We, Mavona and Associates Development Consultants CC being the authorized agent of the owner of the property mentioned below hereby give notice in terms of Section 64 and 67 of the Collins Chabane Spatial Planning, Land Development and Land Use Management By-Law 2019 reads with relevant provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) that we have applied to the Collins Chabane Local Municipality for the subdivision and amendment of the Land Use Management Scheme known as the Collins Chabane Land Use Management Scheme, 2018 to subdivide and rezone the property described as: a remainder of portion 1 of the farm Malmesbury 72 LT at Bungeni Village from "Agricultural" to "Business 4" for the establishment of a Shopping Mall and Filling Station.

Particulars of the application will lie for inspection during normal office hours at Collins Chabane Local Municipality: Director, Department of Development and Planning, Civic Centre, Hospital Road, Malamulele for a period of 30 days from 24 May 2019.

Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or at Private Bag X2596, Malamulele, 0982 within a period of 30 days from 24 May 2019.

Address of agent: Suite 202, Parklane Office Park, 76 Hans Van Rensburg Street, Polokwane, 0699: **Tel:** 015 065 0446, **Fax:** 086 600 7119 and **Email:** info@khosads.co.za

24-31

NDZULAMISO WA VU MAKUME-NHARHU MBIRHI (32) WA XIKIMI XA MASIPALA WA COLLINS CHABANE XITIVISO XA XIKOMBELO XA NDZULAMISO WA XIKIMI XA MASIPALA WA COLLINS CHABANE, 2018, KU YA HI XIYENGE XA 64 NA 67 XA COLLINS CHABANE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019 LEXI HLAYIWAKA XIKAN'WE NA SPATIAL PLANNING AND LAND USE ACT, 2013 (ACT 16 OF 2013)

Hina va Mavona and Associates Development Consultants CC tani hi muyimeri wa n'winyi wa xitandi lexi tsariweke la hansi hi mi nyika xitiviso kuya hi xiyengexa 64 na 67 xa Collins Chabane Spatial Planning and Land Use Management By-Law 2019 lexi hlayiwaka xikan'we na Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) leswaku hi endlile xikombelo eka masipala wa Collins Chabane xandzulamiso wa xikimi lexi tivekaka hi Collins Chabane Collins Land Use Management Scheme, 2018 kuva hi avanyisa na ku cinca xiphemu xo sala eka xo sungula xa purasi ra Malmesbury 72 LT eka Bungeni ku suka ka "xitandi xa swavurimi" kuya eka "xitandi xa swamabindzu xa ntlawa wa vumune" hi xikongomelo xo endla Garaji ya Petirolo na ndhawu ya swa Mavhengele.

Vuxokoxoko bya xikombelo lexi mi nga byi kuma hi xitalo etihofisini ta Masipalawa Collins Chabane hi nkarhi wa ntirho eka Mulawuri wa ndzawulo ya mapulanelo bya swa vuhluvukisi, etihofisini ta Civic Centre, Patu ra kuya esibendhele, eka Malamulele ku fikela 30 wamasiku ku suka hi ti 24 Mudyaxihi 2019.

Swisolo na swibumabumelo mi nga switsala swi ya eka Mufambisi swa Masipala wa Collins Chabane eka kherefuya: Private Bag X2596, Malamulele, 0982 kumbe mi yisa eka kherifu ya xitandi xa masipala leyi tsariweke le henhla ku nge se hela masiku ya 30 ku sukela hi ti 24 Mudyaxihi 2019.

Kherefu ya Muyimeri: Suite 202, etiofisini ta Parklane, nomboroya 76 ka xitarata xa Hans Van Rensburg, Polokwane, 0699 **Foyini:** 015 065 0446, **nomboro ya fekisi:** 086 600 7119 **emiyili:** info@khosads.co.za

24-31

NOTICE 62 OF 2019**COLLINS CHABANE AMENDMENT SCHEME 28****NOTICE OF APPLICATION FOR THE SUBDIVISION AND AMENDMENT OF COLLINS CHABANE LAND USE MANAGEMENT SCHEME, 2018 IN TERMS OF SECTION 64 AND 67 OF THE COLLINS CHABANE SPATIAL PLANNING, LAND DEVELOPMENT AND LAND USE MANAGEMENT BY-LAW, 2019 READS WITH RELEVANT PROVISIONS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)**

We, Mavona and Associates Development Consultants CC being the authorized agent of the owner of the property mentioned below hereby give notice in terms of Section 64 and 67 of the Collins Chabane Spatial Planning, Land Development and Land Use Management By-Law 2019 reads with relevant provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) that we have applied to the Collins Chabane Local Municipality for the subdivision and amendment of the Land Use Management Scheme known as the Collins Chabane Land Use Management Scheme, 2018 to subdivide and rezone the property described as: a portion of the farm Thorndale 73 LT at Bungeni Village from "Agricultural" to "Business 3" for the establishment of a Resort and related land uses.

Particulars of the application will lie for inspection during normal office hours at Collins Chabane Local Municipality: Director, Department of Development and Planning, Civic Centre, Hospital Road, Malamulele for a period of 30 days from 24 May 2019.

Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager at the above address or at Private Bag X2596, Malamulele, 0982 within a period of 30 days from 24 May 2019.

Address of agent: Suite 202, Parklane Office Park, 76 Hans Van Rensburg Street, Polokwane, 0699: **Tel:** 015 065 0446, **Fax:** 086 600 7119 and **Email:** info@khosads.co.za

24-31

NDZULAMISO WA VU MAKUME-MBIRHI NHUNGU (28) WA XIKIMI XA MASIPALA WA COLLINS CHABANE XITIVISO XA XIKOMBELO XA NDZULAMISO WA XIKIMI XA MASIPALA WA COLLINS CHABANE, 2018, KU YA HI XIYENGE XA 64 NA 67 XA COLLINS CHABANE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019 LEXI HLAYIWAKA XIKAN'WE NA SPATIAL PLANNING AND LAND USE ACT, 2013 (ACT 16 OF 2013)

Hina va Mavona and Associates Development Consultants CC tani hi muyimeri wa n'winyi wa xitandi lexi tsariweke la hansi hi mi nyika xitiviso ku ya hi xiyenge xa 64 na 67 xa Collins Chabane Spatial Planning and Land Use Management By-Law 2019 lexi hlayiwaka xikan'we na Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) leswaku hi endlile xikombelo eka masipala wa Collins Chabane xa ndzulamiso wa xikimi lexi tivekaka hi Collins Chabane Collins Land Use Management Scheme, 2018 kuva hiavanyisa na ku cinca xiphemu xa purasi ra Thorndale 73 LT eka Bungeni ku suka ka "xitandi xa swavurimi" kuya eka "xitandi xa swa mabindzu xa ntlawa wa vunharhu" hi xikongomelo xo endla ndzhawu ya swa vuhungaselo na leswi fambisanaka na swona.

Vuxokoxoko bya xikombelo lexi mi nga byi kuma hi xitalo etihofisini ta Masipala wa Collins Chabane hi nkarhi wa ntirho eka Mulawuri wa ndzawulo ya mapulanelo bya swavuhluvukisi, etihofisini ta Civic Centre, Patu ra ku ya esibendlhele, eka Malamulele ku fikela 30 wa masiku kusuka hi ti 24 Mudyaxihi 2019.

Swisolo na swibumabumelo mi nga swi tsala swi ya eka Mufambisis wa Masipala wa Collins Chabane eka kherefu ya: Private Bag X2596, Malamulele, 0982 kumbe mi yisa eka kherifu ya xitandi xa masipala leyi tsariweke le henhla ku nge se hela masiku ya 30 ku sukela hi ti 24 Mudyaxihi 2019.

Kherefu ya Muyimeri: Suite 202, etiofisini ta Parklane, nomboro ya 76 ka xitarata xa Hans Van Resburg, Polokwane, 0699, **Foyini:** 015 065 0446, **nomboro ya fekisi:** 086 600 7119 emiyili: info@khosads.co.za

24-31

NOTICE 64 OF 2019



MODIMOLLE- MOOKGOPONG LOCAL MUNICIPALITY THE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS

The Municipal Manager of Modimolle- Mookgophong Local Municipality hereby, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) read together with section 162 of the Constitution of the Republic of South Africa, publishes the Spatial Planning and Land Use Management By-law in line with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013 for Modimolle- Mookgophong Local Municipality, as approved by its Council, as set out hereunder.

PREAMBLE

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

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

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

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

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

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

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

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

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

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

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-
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CHAPTER 1

DEFINITIONS, APPLICABILITY AND CONFLICT OF LAWS

1 Definitions

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

“Act” means the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013); as published on 5 August 2013;

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

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

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

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

“Agent” means a duly authorised person or company authorised in terms of a power of attorney to submit a land development application on behalf of the owner of land

“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;

“Authorised Official” means an official who may consider and determine applications as contemplated in section 35(2) of the Act;

“Appeal”

“Appeal authority” means the appeal authority referred to in section 51(2) or (6) of the Act;

“Applicant” means:

(a) an owner(s); or

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

of property(ies) or land within the jurisdiction of the Municipality read with section 45 of the Act who submits land use and land development applications contemplated in section 46 of this By-law. It also includes the municipality and an organ of state under who's control and management the property(ies) or land falls in terms of the Local Government Ordinance, 1939 (Ord. 17 of 1939), or relevant legislation;

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

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

“Approved township” means a township declared an approved township in terms of section 53 this By-Law;

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

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

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

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

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

“Bulk Service” means

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

(b) 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;

“Capacity” means the extent of availability of a municipal infrastructure service;

“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, (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);

“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;

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

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

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

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

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

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

“Council” means the municipal council of the Municipality;

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

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

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

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

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

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

“Internal Department” means a department of the administration of the Municipality in the context of this By-law;

“External Department” means any department outside the municipal administration

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

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

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

(b) the associated development charges;

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

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

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

“Engineering services agreement and services agreement” shall have a corresponding meaning;

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

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

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

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

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

“External engineering services” has the same meaning as defined in section 1 of the Act and consist of both "bulk services" and "link services";

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

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

“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;

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

“Internal engineering services” has the same meaning as defined in section 1 of the Act and includes any link services linking such internal services to the external engineering services.

“Land” means -

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

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

- rezoning;
- consent uses, permissions, temporary consents and relaxations in terms of the Land Use Scheme;
- the subdivision and/or consolidation of land;
- the establishment of a township;
- the extension of the boundaries of a township;
- the amendment or cancellation of a general plan; and/or
- any other land development application in terms of the Land Use Scheme or National or Provincial Planning and Development Legislation within the jurisdiction of the Municipality as may be determined by the Municipality from time to time;

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

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

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

“Land Invasion” means the illegal occupation of land or any settlement or occupation of people on land without the express or tacit consent of the owner of the land or the person in charge of the land or without any other right to settle on or occupy such land.

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

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

“Layout Plan” means a plan indicating information relevant to a land development application and the land intended for development and includes the relative locations of erven, public places, or roads, subdivision or consolidation, and the purposes for which the erven are intended to be used.

“**Land Survey Act**” means the Land Survey Act, 1997 (Act 8 of 1997);

“**Land Use Rights**” means adopted land use applicable to land in terms of this By-law or relevant law; for purposes of issuing a zoning certificate;

“**Link services**” means all new services necessary to connect the internal services to the bulk services;

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

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

“**Municipal manager**” means the person appointed as the Modimolle- Mookgophong local Municipality Municipal Manager in terms of appointed in terms of section 82 of the Municipal Systems Act and includes any person acting in that position or to whom authority has been delegated;

“**Municipal Planning Tribunal**” means the Municipal Planning Tribunal established in terms of section 32 of the Spatial Planning and Land Use Management Act 16 of 2013 and its regulations.

“**Municipality**” means the Municipality of Modimolle- Mookgophong local Municipality or its successor in title as envisaged in section 155(1) of the Constitution, established by Notice No (484 dated 28 February 2000) 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;

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

“**Overlay zone**” means a mapped overlay superimposed on one or more established zoning areas which may be used to impose supplemental restrictions on uses in these areas or permit uses otherwise disallowed;

“**Premier**” means the Premier of Limpopo Province appointed in terms of the Constitution;

“**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 as may be promulgated by the Province;

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

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

“**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)

“**Spatial Development Framework**” means the Fetakgomo –Tubatse local Municipality Spatial Development Framework as adopted by council;

“**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), Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 and any subsidiary legislation or other legal instruments issued in terms thereof;

“**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 Governance Act, (6 of 2005).

2 Application By-law

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

3 Conflict of laws

(1) The provisions of this 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 as contemplated in section 150 of Constitution of the Republic of South Africa Act, 1996.

(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);

(4) Where a provision of the land use scheme is in conflict with the provisions of this By-law, the By-law shall prevail.

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

CHAPTER 2

MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

4 Municipal spatial development framework

(1) The Municipality must prepare, amend or review a municipal spatial development framework in accordance with the provisions of section 20 and 21 of the Act read with section 23 to 35 of the Local Government: Municipal Systems Act.

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

(3) The provisions of this Chapter apply, with the necessary change, to the review or amendment of a municipal spatial development framework.

5 Contents of municipal spatial development framework

(1) A municipal spatial development framework must provide for the matters contemplated in section 21 of the Act, section 26 of the Local Government: Municipal Systems Act and Provincial legislation, if any, and the Municipality may for purposes of reaching its constitutional objectives include any matter which it may deem necessary for municipal planning.

(2) 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 in accordance with subsection

(1) above.

(3) A municipal spatial development framework must make provision for transitional arrangements with regard to the manner in which the municipal spatial development framework is to be implemented by the Municipality.

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

- (1) A Municipality which intends to prepare, amend or review its municipal spatial development framework -
- (a) may convene an intergovernmental steering committee and a project committee in accordance with section 7;
 - (b) must publish a notice in two of the official languages of the Province most spoken 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 Local Government: Municipal Systems Act in two newspapers circulating in the area concerned;
 - (c) must inform Council in writing of -
 - (i) its intention to prepare, amend or review the municipal spatial development framework;
 - (ii) the process that will be followed in the drafting or amendment of the municipal spatial development framework including the process for public participation; and
 - (d) must register relevant stakeholders who must be invited to comment on the draft municipal spatial development framework as part of the process to be followed.

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

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

- (c) monitor progress and ensure that the drafting 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 Local Government: Municipal Systems Act;
 - (f) facilitate the integration of other sector plans into the municipal spatial development framework;
 - (g) oversee the incorporation of amendments to the draft municipal spatial development framework or review of the municipal spatial development framework to address comments obtained during the process of drafting thereof;
 - (i) if the Municipality decides to establish an intergovernmental steering committee—
 - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
 - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (4) The project committee consists of –
- (a) the Municipal Manager;
 - (b) municipal employees from at least the following municipal departments:
 - (i) the integrated development planning office;
 - (ii) the planning department;
 - (iii) the engineering department;
 - (iv) the local economic development department; and
 - (v) the human settlement department.

8 Preparation, amendment or review of municipal spatial development framework

- (1) The project committee must compile a status quo document setting out an assessment of existing levels of development and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comment.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the status quo document and submit it to the Council for adoption.
- (3) The project committee must prepare a first draft of the municipal spatial development framework or review of the municipal spatial development framework and must submit it to the intergovernmental steering committee for comment.
- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must finalise the first draft of the municipal spatial development framework or 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 intergovernmental steering committee, if convened by the Municipality;
 - (e) indicate the departments that were engaged in the drafting of the municipal spatial development framework;
 - (f) the alignment with the national and provincial spatial development frameworks;
 - (g) any sector plans that may have an impact on the municipal spatial development framework;
 - (h) indicate how the municipal spatial development framework complies with the requirements of relevant national and provincial legislation, and relevant provisions of strategies adopted by the Council; and
 - (i) recommend the adoption of the municipal spatial development framework for public participation as the draft municipal spatial development framework for the Municipality, in terms of the relevant legislation and this By-law.
- (6) After consideration of the comments and representations, the project committee must compile a final municipal spatial development framework or review of the municipal spatial development framework for adoption by the Council.
- (7) If the final municipal spatial development framework 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 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 intergovernmental steering committee is convened by the Municipality, the project committee must submit 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.

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 departure, deviation or amendment that does not materially change the desired outcomes and objectives of a municipal and local spatial development framework, if applicable;
 - (b) a unique circumstance pertaining to a discovery of national or provincial importance.
- (2) If the effect of an approval of an application will be a material change of the municipal spatial development framework, the Municipality may amend the municipal spatial development framework in terms of the provisions of this Chapter, prior to taking a decision which constitutes a deviation from the municipal spatial development framework.

CHAPTER 3 LAND USE SCHEME

15 Applicability of Act

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

16 Purpose of land use scheme

The municipality must in accordance with the purpose of a land use scheme stipulated in section 25(1) of the Act, 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 Council as contemplated in section 25.
- (2) The Municipality may, on its own initiative or on application, create an overlay zone for land within the municipal area.
- (3) Zoning may be made applicable to a land unit or part thereof and zoning must follow cadastral boundaries, except for a land unit or part thereof which has not been surveyed, in which case a reference or description as generally approved by Council may be used.
- (4) The land use scheme of the Municipality must take into consideration:
 - (a) the Integrated Development Plan in terms of the Municipal Systems Act;
 - (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) Prior to the Municipality commencing with the development of a draft land use scheme, the Council must resolve to develop and prepare a land use scheme, provided that in its resolution the Council must:
 - (a) establish a land use scheme committee and appoint the members to the land use scheme committee from the relevant municipal department responsible for spatial planning and land use management;
 - (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 to be used and whether it should be available in an electronic media;
 - (e) determine any other relevant issue that will impact on the development and final adoption of the land use scheme which will allow for it to be interpreted and or implemented; and
 - (f) confirm the manner in which the land use scheme must inter alia set out the general provisions for land uses applicable to all land, categories of land use, zoning maps, restrictions, prohibitions and or any other provision that may be relevant to the management of land use, which may or 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 Land Use Scheme Committee 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 land use scheme committee must submit it to the Council for approval.
- (2) The submission of the draft land use scheme to the Council must be accompanied by a written report from the land use scheme committee and the report must at least –
 - (a) indicate the rationale in the approach to the drafting of the land use scheme;
 - (b) summarise the process of drafting the draft land use scheme;
 - (c) summarise the consultation process to be followed with reference to section 20 of this By-law;
 - (d) indicate the departments that were engaged in the drafting of the draft land use scheme;

- (e) indicate how the draft land use scheme complies with the requirements of relevant national and provincial legislation, and relevant mechanism controlling and managing land use rights by the Municipal Council;
- (f) recommend the approval of the draft land use scheme for public participation in terms of the relevant legislation and this By-law.

(3) 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, community structures or other groups; and
- (b) public meetings.

(4) The Municipality must inform Council in writing of the intention to draft a land use scheme and provide 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 land use scheme committee 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 land use scheme committee responsible for development planning in the Municipality must for purpose 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

- (1) The land use scheme committee must where required and based on the submissions made during public participation, make final amendments to the draft land use scheme, provided that if such amendments are in the opinion of the Municipality materially different to what was published in terms of section 19(2).
- (2) The Municipality must follow a 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 land use scheme committee must submit the proposed land use scheme and all relevant supporting documentation to the Council with a recommendation for adoption.
- (2) The Council must consider and adopt the land use scheme with or without amendments.

24 Publication of notice of 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 Municipal Council

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

26 Records

- (1) The Municipality must in hard copy and an electronic media and or data base keep record in the register of amendments to the land use scheme contemplated in section 28, the land use rights in relation to each erf or portion of land and which information shall be regarded as part of its land use scheme.
- (2) The Municipality must keep, maintain and make accessible to the public, including on the Municipality's website, the approved land use scheme and or any component thereof applicable within the jurisdiction 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 No 2 of 2000.

27 Contents of land use scheme

(1) The contents of a land use scheme developed and prepared by the Municipality must include all the essential elements contemplated in Chapter 5 of the Act and provincial legislation and must contain-

- (a) a zoning for all properties within the municipal area of the Municipality in accordance with a category of zoning as approved by Council;
- (b) land use regulations including specific conditions, limitations, provisions or prohibitions relating to the exercising of any land use rights or zoning approved on a property in terms of the approved land use scheme or any amendment scheme, consent, permission or conditions of approval of a land development application on a property;
- (c) provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved land use scheme;
- (d) provisions relating to the provision of engineering services, which provisions must specifically state that land use rights may only be exercised if engineering services can be provided to the property to the satisfaction of the Municipality;
- (e) servitudes for municipal services and access arrangements for all properties;
- (f) provisions applicable to all properties relating to storm water;
- (g) provisions for the construction and maintenance of engineering services including but not limited to bodies established through the approval of land development applications to undertake such construction and maintenance;
- (h) zoning maps as approved by Council that depicts the zoning of every property in Municipality's geographical area as updated from time to time in line with the land use rights approved or granted; 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 Register of amendments to land use scheme

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

- (a) Date of application
- (b) Name and contact details of applicant
- (c) Type of Application
- (d) Township/Farm name
- (e) Erf or farm number
- (f) Portion / Remainder

- (g) Property Description
- (h) Existing Zoning
- (i) Square Metres Granted
- (j) Density
- (k) FAR
- (l) Height (storeys/meters)
- (m) Coverage
- (n) Building Line
- (o) Parking Requirements
- (p) Amendment scheme no
- (q) Annexure Number
- (r) Item No
- (s) Item Date
- (t) Decision (Approved/Not Approved)
- (u) Decision Date

29 Replacement and consolidation of amendment of land use scheme

- (1) The Municipality may of its own accord in order to replace or consolidate an amendment scheme or several amendment schemes, map(s), annexure(s) or schedule(s) of the approved land use scheme, of more than one property, prepare a certified copy of documentation as the Municipality may require, for purposes of replacing or consolidating the said amendment scheme(s), which consolidated or replacement amendment scheme shall from the date of the signing thereof, be in operation; provided that:
- (a) such replacement and consolidation shall not take away any land use rights granted in terms of an approved land use scheme, for purposes of implementation of the land use rights and may include a provision for consolidation of property for purposes of consolidating land use schemes; provided that if a consolidation is required, the Municipality only do so after consultation with the owner(s).
 - (b) after the Municipality has signed and certified a consolidation or replacement amendment scheme, it must publish it in the *Provincial Gazette*.
- (2) Where as a result of a repealed legislation, the demarcation of municipal boundaries or defunct processes it is necessary in the opinion of the Municipality for certain areas where land use rights are governed through a process, other than a land use scheme; the Municipality may for purposes of including such land use rights into a land use scheme prepare an amendment scheme and incorporate it into the land use scheme.
- (3) The provisions of sections 15 to 28 apply, with the necessary changes, to the review or amendment of an existing land use scheme other than a rezoning or similar application relating to a property or properties or multiple portions thereof, which in the opinion of the Municipality is dealt with as a land development application.

CHAPTER 4
INSTITUTIONAL STRUCTURE FOR LAND 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 as prescribed in section 47 of this By-laws must be considered and determined -
- (a) by the Municipal Planning Tribunal:
- (i) Township establishments; and
 - (ii) All opposed applications;
- (b) by the Authorised Official:
- (i) all Land use and land development applications not mentioned in 30(1)(a);
 - (ii) given the nature of the land use and land development application in Subsection 30 (1), it is upon the municipality's discretion to refer the application to the Municipal Planning Tribunal
- (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 Municipal Planning Tribunal for its municipal area, must be preceded by an assessment of the factors referred to in sub section (2).
- (2) The assessment referred to in sub section (1) includes, amongst others, the following factors -
- (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
 - (b) the ability of the municipality to effectively implement the provisions of the Act;
 - (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
 - (d) the development pressures in the municipal area.

Part C: Establishment of Municipal Planning Tribunal

32 Composition of Municipal Planning Tribunal

- (1) The Municipal Planning Tribunal consists of at least 13 members made up as follows:
- (a) three officials in the full-time service of the Municipality;
 - (b) two persons registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 2002 (Act No. 36 of 2002);
 - (c) two persons registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 2000 (Act No. 46 of 2000);

- (d) two persons with financial experience relevant to land development and land use and who is registered with a recognised voluntary association or registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);
- (e) two persons either admitted as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979) or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964);
- (f) an environmental assessment practitioner registered with a voluntary association; and
- (g) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.

(2) The officials referred to in subsection (1)(a) must have at least five years' experience in the field in which they are performing their services.

(3) The persons referred to in subsection (1)(b) to (g) must –

- (a) demonstrate knowledge of spatial planning, land use management and land development of the law related thereto;
- (b) have at least five years' practical experience in the discipline within which they are registered or in the case of a person referred to in subsection (1)(g) in the discipline in which he or she is practising;
- (c) demonstrate leadership in his or her profession or vocation or in community organisations.

33 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; 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 1 together with any other information deemed necessary by the Municipality.

(3) The call for nominations to persons in their individual capacity contemplated in regulation 3(2)(b) of the Regulations must be in the form contemplated in Schedule 2 and –

- (a) must be published in one local newspaper that is circulated in the municipal area of the Municipality in two languages commonly spoken in the area;
- (b) may be submitted to the various professional bodies which registers persons referred to in section 32(1) with a request to distribute the call for nominations to their members and to advertise it on their respective websites;
- (c) may advertise the call for nominations on the municipal website; and
- (d) utilise any other method and media it deems necessary to advertise the call for nominations.

34 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 3 and all pertinent information must be provided within the space provided on the form;
 - (b) the completed declaration of interest form contemplated in Schedule 3;
 - (c) the motivation by the nominator contemplated in subsection (3)(a); and
 - (d) the summarised curriculum vitae of the nominee contemplated in subsection (3)(b).
- (3) In addition to the requirements for the call for nominations contemplated in regulation 3(6) of the Regulations, the nomination must request –
 - (a) a motivation by the nominator for the appointment of the nominee to the Municipal Planning Tribunal which motivation must not be less than 50 words or more than 250 words; and
 - (b) a summarised curriculum vitae of the nominee not exceeding two A4 pages.

35 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 34.
- (2) The nominations that are incomplete or do not comply with the provisions of section 34 must be rejected by the Municipality.
- (3) Every nomination that is complete and that complies with the provisions of section 34 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 32(3); or
 - (d) is not registered with the professional councils or voluntary bodies contemplated in section 32(1), if applicable, the nomination must be rejected and may not be considered by the evaluation panel contemplated in section 35.
- (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 36.
- (6) The screening and verification process contained in this section must be completed within 30 days from the expiry date for nominations.

36 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 employment 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.

37 Appointment of members to Municipal Planning Tribunal by Council

- (1) Upon receipt of the report, the Council must consider the recommendations made by the evaluation panel and thereafter appoint the members to the Municipal Planning Tribunal.
- (2) After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson and a deputy chairperson from the members so appointed.
- (3) The Municipal Manager must, in writing, notify the members of their appointment to the Municipal Planning Tribunal and, in addition, to the two members who are designated as chairperson and deputy chairperson, indicate that they have been appointed as such.
- (4) The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in section 42, publish the names of the members of the Municipal Planning Tribunal and their term office in the same notice.

38 Term of office and conditions of service of members of Municipal Planning Tribunal

- (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 notifying the administrator 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 4;
 - (c) a member becomes subject to a disqualification as contemplated in section 37(1) of the Act.
- (4) An official of a municipality contemplated in section 32(1)(a) who serves on the Municipal Planning Tribunal -
 - (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) who is found guilty of misconduct under the collective agreement applicable to employees of the Municipality shall immediately be disqualified from serving on the Municipal Planning Tribunal.
- (5) A person appointed by a municipality in terms of section 32(2)(b) to (g) to the Municipal Planning Tribunal -
 - (a) is not an employee on the staff establishment of that municipality;
 - (b) if that person is an employee of an organ of state as contemplated in regulation 3(2)(a) of the Regulations, is bound by the conditions of service determined in his or her contract of employment

and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;

- (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her for a decision hearing of the Municipal Planning Tribunal ;
- (d) sits at such meetings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
- (e) in the case of a person referred to in regulation 3(2)(b) of the Regulations is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on determined annually by the municipality in accordance with the Act;
- (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.

(6) All members of the Municipal Planning Tribunal shall sign the Code of Conduct contain in Schedule 4 before taking up a seat on the Municipal Planning Tribunal.

(7) All members serving on the Municipal Planning Tribunal shall adhere to ethics adopted and applied by the Municipality and shall conduct themselves in a manner that will not bring the name of the Municipality into disrepute.

(8) The members of the Municipal Planning Tribunal in the execution of their duties shall comply with the provisions of the Act, provincial legislation, this By-laws and the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

39 Vacancy

(1) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 32(2).

(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.

40 Proceedings of Municipal Planning Tribunal

(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.

41 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.

42 Commencement date of operations of Municipal Planning Tribunal

- (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 37(4).
- (2) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (1).

Part F: Decisions of Municipal Planning Tribunal or Authorised Official**43 General criteria for consideration and determination of application by Municipal Planning Tribunal or Authorised Official**

- (1) When the Municipal Planning Tribunal or Authorised Official considers an application it must have regard to the following:
 - (a) the application submitted in terms of this By-law;
 - (b) the procedure followed in processing the application;
 - (c) the desirability of the proposed utilisation of land and any guidelines issued by Council regarding proposed land uses;
 - (d) the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - (e) the response by the applicant to the comments referred to in paragraph (d);
 - (f) investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - (g) a written assessment by a professional planner registered in terms of the Planning Profession Act, 2002, in respect of the applications prescribed in section 30 (1) and (b)
 - (h) the integrated development plan and municipal spatial development framework;
 - (i) the applicable local spatial development frameworks adopted by the Municipality;
 - (j) the applicable structure plans;
 - (k) the applicable policies of the Municipality that guide decision-making;
 - (l) the provincial spatial development framework;

- (m) where applicable, the regional spatial development framework;
 - (n) the policies, principles, planning and development norms and criteria set by national and provincial government;
 - (o) the matters referred to in section 42 of the Act;
 - (p) the relevant provisions of the land use scheme.
- (2) A municipality must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) is consistent with the development rules of the zoning;
 - (b) is consistent with the development rules of the overlay zone;
 - (c) complies with the conditions of approval; and
 - (d) complies with this By-law.
- (3) When a site development plan is required in terms of development parameters or conditions of approval—
- (a) the municipality may not approve a building plan if the site development plan has not been approved; and
 - (b) the municipality may not approve a building plan that is inconsistent with the approved site development plan.

44 Conditions of approval

- (1) When the Municipal Planning Tribunal or Authorised Official approves an application subject to conditions, the conditions must be reasonable conditions and must arise from the approval of the proposed utilisation of land.
- (2) Conditions imposed in accordance with subsection (1) may include conditions relating to—
- (a) the provision of engineering services and infrastructure;
 - (b) the cession of land or the payment of money;
 - (c) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
 - (e) settlement restructuring;
 - (f) agricultural or heritage resource conservation;
 - (g) biodiversity conservation and management;
 - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - (i) energy efficiency;
 - (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 (3) 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.

Establishment of Joint Municipal Planning Tribunal

45 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.

46 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.

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, 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.
- (3) **Modimolle- Mookgophong Local Municipality opted for a District Municipal Planning Tribunal, the agreement was signed on (insert a date of the joint agreement herein)**

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.

Part G: Administrative Arrangements

50 Administrator for Municipal Planning Tribunal

(1) The Municipal Manager must designate an employee as the administrator for the Municipal Planning Tribunal.

(2) The person referred to in subsection (1) must—

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

CHAPTER 5
LAND USE AND LAND DEVELOPMENT APPLICATIONS

Part A: Categories of Applications

51 Categories of land use and land development applications

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

(a) by the Municipal Planning Tribunal:

(i) Township establishments; and

(ii) all opposed applications;

(b) by the Authorised Official:

(i) all Land use and land development applications not mentioned in 30(1)(a);

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

52 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

53 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 (2) 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 103.
- (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 103.
- (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.

54 Division or phasing of township

- (1) An applicant who has been notified in terms of section 100 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.

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

- (1) An applicant who has been notified in terms of section 100 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 48(2) and (4) of the conditions of establishment together with a stamped and approved layout plan.
- (3) The Municipality may for purposes of lodging the documents contemplated in subsection (1) determine street names and numbers on the layout plan.
- (4) Where the applicant fails, within a reasonable time as may be determined by the Municipality after he or she has lodged the plans, diagrams or other documents contemplated in subsection (1), to comply with any requirement the Surveyor-General may lawfully determine, the Surveyor-General 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:
- (a) where the documents contemplated in subsection (1) have not yet been lodged with the Surveyor General;
 - (b) where the documents contemplated in subsection (1) have been lodged with the Surveyor General, after consultation with the Surveyor General;

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

56 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 44 have been complied with including the provision of guarantees and payment of monies that may be required.
- (3) The Municipality must at the same time notify the Registrar of Deeds and Surveyor General of the certification by the Municipality in terms of subsection (2).
- (4) The municipality may agree to an extension of time as contemplated in subsection (1), after receiving a written application from the applicant for an extension of time: Provided that such application provides motivation for the extension of time.

57 Opening of Township Register

- (1) The applicant shall lodge with the Registrar of Deeds the plans and diagrams contemplated in section 50 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 48(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 53.

58 Proclamation of approved township.

After the provisions of sections 49, 50, 51 and 52 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**59 Application for amendment of a land use scheme by rezoning of land**

- (1) An applicant, who wishes to rezone land, must apply to the Municipality for the rezoning of the land in the manner provided for in Chapter 6.
- (2) A rezoning approval lapses after a period of two (2) years from the date of approval or the date that the approval comes into operation if, within that two (2) year period—
 - (a) the zoning 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).
- (2) 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 167.

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

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

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

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

- (1) The applicant shall, after the amendment, suspension or removal of a restrictive condition by notice in the *Provincial Gazette* as contemplated in section 55(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 55(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

62 Application for subdivision

- (1) No person may subdivide land without the approval of the Municipality, unless the subdivision is exempted under section 61.
- (2) An applicant who wishes to subdivide land must apply to the Municipality for the subdivision of land in the manner provided for in Chapter 6.
- (3) No application for subdivision involving a change of zoning may be considered by the Municipality, unless the land concerned is zoned for such subdivision.
- (4) The Municipality must impose appropriate conditions relating to engineering services for an approval of a subdivision.
- (5) If a Municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
 - (a) the Municipality's decision to approve the subdivision;
 - (b) the conditions of approval contemplated in subsection (3) and section 44; and
 - (c) the approved subdivision plan.
- (6) If the Municipality approves an application for a subdivision, the applicant must within a period of two (2) years or the shorter period as the Municipality may determine, from the date of approval of the subdivision or the date that the approval comes into operation, comply with the following requirements:
 - (a) the approval by the Surveyor-General of the general plan or diagram contemplated in subsection (4);
 - (b) completion of the installation of engineering services in accordance with the conditions contemplated in subsection (3) or other applicable legislation;
 - (c) proof to the satisfaction of the Municipality that all relevant conditions contemplated in section 44 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.

63 Confirmation of subdivision

- (1) Upon compliance with section 57(5), the subdivision or part thereof is confirmed and cannot lapse.
- (2) Upon confirmation of a subdivision or part thereof under section 57(5), 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 57(5) 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 57(5) or the Municipality approved the construction prior to the subdivision being confirmed.

64 Lapsing of subdivision and extension of validity periods

- (1) An approved subdivision or a portion thereof lapses if the applicant does not comply with section 57(5).
- (2) If the subdivision period of two (2) lapses, subsection 4 applies.
- (3) If only a portion of the general plan, contemplated in section 57(5)(b) complies with section 57(5)(b) and (c), the general plan must be withdrawn and a new general plan must be submitted to the Surveyor-General.
- (4) 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.

65 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) When the Municipality approves an application in terms of subsection (1), any public place that is no longer required by virtue of the approval must be closed.
- (3) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
- (4) An 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 57(5) applicable to the initial approval of the subdivision, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

66 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 57 to 60.

67 Services arising from subdivision

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

- (a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:
 - (i) gas mains;
 - (ii) electricity cables;
 - (iii) telephone cables;
 - (iv) television cables;
 - (v) other electronic infrastructure;
 - (vi) main and other water pipes;
 - (vii) foul sewers;
 - (viii) storm water pipes; and
 - (ix) ditches and channels;
- (b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:

- (i) surface installations such as mini-substations;
 - (ii) meter kiosks; and
 - (iii) service pillars;
- (c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs (a) and (b); and
- (d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality.

68 Consolidation of land units

- (1) No person may consolidate land without the approval of the Municipality, unless the consolidation is exempted under section 61.
- (2) A copy of the approval must accompany the diagram which is submitted to the Surveyor-General's office.
- (3) If the Municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
- (a) the decision to approve the subdivision;
 - (b) the conditions of approval contemplated in section 44; 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.

69 Lapsing of consolidation and validity periods

- (1) If a consolidation of land units is approved but no consequent registration by the Registrar of Deeds takes place within two (2) 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) If an approval of a consolidation lapses under subsection (1) the Municipality must—
- (a) amend the zoning map and, where applicable, the register accordingly; and
 - (b) notify the Surveyor-General accordingly; and
 - (c) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

Part F: Permanent Closure of Public Place

70 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: Special Consent of the Municipality

71 Application for special consent and building line relaxation

- (1) An applicant may apply to the Municipality for its special consent provided for in the land use scheme in the manner provided for in Chapter 6, and:
- (a) 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 44.

- (b) A consent use may be granted permanently or for a specified period of time in terms of conditions of approval contemplated in section 44.
 - (c) 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.
 - (d) A consent use contemplated in subsection (1) lapses after a period of two (2) years as the Municipality may determine from the date that the approval comes into operation if, within that two (2) year period—
 - (i) the consent use is not utilised in accordance with the approval thereof; or
 - (ii) if the approval by the Municipality of a building plan envisaged for the utilisation of the approved use right is not obtained or
- (3) An applicant may apply to the municipality for building line restrictions imposed on a property in terms of the Town Planning Scheme to be relaxed in the manner provided for in chapter 6.

Part H: Application on communal land

72 Application on communal land

- (1) An applicant who wishes to amend the use of communal land such amendment will have a high impact on the community must apply to the Municipality for the amendment of the land use in the manner provided for in Section 54 of the By Law.
- (2) A traditional council may conclude a service level agreement with the Municipality, subject to the provisions of any relevant national or provincial legislation in terms of which the traditional council may perform such functions as agreed to in the service level agreement, provided that the traditional council may not make a land development or land use decision;
- (3) If a traditional council does not conclude a service level agreement with the Municipality as contemplated, that traditional council is responsible for providing proof of the allocation of land in terms of customary law applicable in that traditional area to the applicant of the land development and land use application in order for that applicant to submit it in accordance with the provisions of these Regulations;

Part I: Temporary Consent

73 Application for temporary Consent

- (1) An applicant may apply to the Municipality-
 - (a) for a departure from the development parameters of a zoning; or
 - (b) to utilise land on a temporary basis for a purpose for which no provision is made in the land use scheme in respect of a particular zone for a period not exceeding two (2) years as may be necessary, in the manner provided for in Chapter 6.
- (2) A departure contemplated in subsection (1)(a) lapses after a period of two (2) as the municipality may determine from the date that the approval comes into operation if, within that two (2) year period, the departure is not utilised in accordance with the approval thereof.
- (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 five (5) years.
- (4) The Municipality may approve a departure contemplated in subsection (1)(b) for a period shorter than 5 years.

- (5) A temporary departure contemplated in subsection (1)(b) may not be granted more than once in respect of a particular use on a specific land unit.
- (6) A temporary departure contemplated in subsection (1)(b) may not include the improvement of land that is not temporary in nature and which has the effect that the land cannot, without further construction or demolition, revert back to its previous lawful use upon the expiry of the period contemplated in subsection (1)(b).

PART J: Incidents of land invasion

1 Incidents of land invasion

- (1) The Municipality will ensure that all developments are in accordance with its spatial development framework and take necessary steps to prevent land invasion, implement measures to monitor and control all informal settlements within its area of jurisdiction;
- (2) The Municipality acting within the frameworks of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 and any applicable legislation, will visit the informal settlement concerned and notify the residents by means of a written notice within a period of 48 hours after being aware of the incident of land invasion;
- (3) The written notice contemplated in subsection (2) must-
- (a) notify the relevant residents of their illegal occupation status;
 - (b) request the relevant residents to vacate the site concerned and remove any building materials and other person properties;
- (4) The Municipality will take such necessary as may be deemed appropriate to prevent recurrence of any incident of land invasion or illegal land occupation;

Part K: General Matters

2 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 44 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.

3 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 land use applications, 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.

4 First transfer

(1) Where an owner of land to which a land development and land use 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 44, 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 44, 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.

5 Certification by Municipality

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

(2) The Municipality may not issue a certificate to transfer a land unit in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—

- (a) a certificate of a conveyancer confirming that funds due by the transferor in respect of land, have been paid;
- (b) proof of payment of any contravention penalty or proof of compliance with a directive contemplated in Chapter 9;
- (c) proof that the land use and buildings constructed on the land unit comply with the requirements of the land use scheme;
- (d) proof that all common property including private roads and private places originating from the subdivision, has been transferred; and
- (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with.

- (3) Certification fee will be charged by the municipality in accordance to the approved tariffs of that particular financial year.

6 National and provincial interest

- (1) In terms of section 45 of the Act an applicant shall refer any application which affects national or provincial interest respectively to the Minister and Council for comments, which comments are to be provided within 21 days as prescribed in subsection 45(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 45(5) to 45(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 Council, if such an application in their opinion affects national or provincial interest and the provisions of subsections 45(5) to 45(7) of the Act apply with the necessary changes.
- (4) Subsections (1) to (3) shall be read with subsection 33(1) of the Act in that the national and or provincial departments becomes parties to the application that affects national or provincial interest, but the Municipality remains the decision maker of first instance

CHAPTER 6

GENERAL APPLICATION PROCEDURES

7 Applicability of the Chapter

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

8 Procedures for making application

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

9 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 applicable;
 - (e) a written motivation for the application based on the criteria for consideration of the application;
 - (f) a copy of the Surveyor-General's diagram of the subject property or if it does not exist, an extract from relevant general plan;

- (g) a locality plan and site development plan, when required, or a plan showing the proposal in its cadastral context;
- (h) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following:
 - (i) the location of the proposed land units;
 - (ii) the proposed zonings in respect of the proposed land units;
 - (iii) all existing structures on the property and abutting properties;
 - (iv) the public places and the land needed for public purposes;
 - (v) the existing access points;
 - (vi) all servitudes;
 - (vii) contours with at least a one meter interval or such other interval as may be approved by the Municipality;
 - (viii) the street furniture;
 - (ix) the light, electrical and telephone poles;
 - (x) the electrical transformers and mini substations;
 - (xi) the storm water channels and catch pits;
 - (xii) the sewerage lines and connection points;
 - (xiii) any significant natural features; and
 - (xiv) the scale and all distances and areas.
- (i) any other plans, diagrams, documents or information that the Municipality may require;
- (j) the proof of payment of application fees;
- (k) the proof of advertisements and notices (Special Consent, Rezoning, and township establishment).
- (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 conveyancer's certificate indicating that no restrictive condition in respect of the application is contained in such title deeds.; and
- (m) in the case of a land development on communal land application referred to in section 47, 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.

10 Application fees

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

11 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 77.

12 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 working days of receipt of the application or the further period as may be agreed upon, failing which it is regarded that there is no outstanding information or documents; and
- (c) if the application is complete, notify the applicant in writing that the application is complete within 30 working days of receipt of the application.

13 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.

14 Confirmation of complete application

- (1) The Municipality must notify the applicant in writing that the application is complete within 30 days of receipt of the 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 81 applies to the further submission of information that may be required.

15 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.

16 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.

17 Notification of application in media

- (1) The Municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications:
- (a) an application for a rezoning or a rezoning on the initiative of the Municipality;
 - (b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in its municipal spatial development framework;
 - (d) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (e) if the Municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
 - (f) the closure of a public place;
 - (g) an application in respect of a restrictive condition;

- (h) the establishment of a township or the extension of the boundaries of a township
 - (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 newspapers with a general circulation in the area concerned in at least two of the official languages of the Province most spoken in the area concerned; or
 - (b) if there is no newspaper with a general circulation in the area, posting a copy of the notice of application, for at least the duration of the notice period, on the land concerned and on any other notice board as may be determined by the Municipality.

18 Serving of notices

- (1) Notice of an application contemplated in section 85(1) and subsection (2) must be served—
- (a) in accordance with section 115 of the Municipal Systems Act;
 - (b) in at least two of the official languages of the Province most spoken in the area concerned; 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 85 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 57 and 60, respectively;
 - (c) a land use application for consolidation contemplated in section 63; or
 - (d) the imposition, amendment or waiver of a condition.
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law.
- (4) The Municipality may require notice of its intention to consider all other applications not listed in subsection (2) to be given in terms of section 88.
- (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.

19 Content of notice

When notice of an application must be given in terms of section 85 or served in terms of section 92, 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 staff member of the Municipality with legal understanding will assist that person to transcribe that person's objections, comments or representations.

20 Additional methods of public notice

(1) If the Municipality considers notice in accordance with sections 85 or 86 to be ineffective or the Municipality decides to give notice of any application in terms of this By-law, the Municipality may on its own initiative or on request require an applicant to follow one or more of the following methods to give additional public notice of an application:

- (a) to display a notice contemplated in section 85 of a size of at least 60 cm by 42 cm 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.
- (b) to convene a meeting for the purpose of informing the affected members of the public of the application;
- (c) to broadcast information regarding the application on a local radio station in a specified language;

- (d) to hold an open day or public meeting to notify and inform the affected members of the public of the application;
- (e) to publish the application on the Municipality's website for the duration of the period that the public may comment on the application; or
- (f) 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.

21 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.

22 Requirements for objections, comments or representations

(1) A person may, in response to a notice received in terms of sections 85, 86 or 88, 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.

23 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 substantial, 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.

24 Further public notice

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

25 Cost of notice

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

26 Applicant's right to reply

- (1) 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.
- (2) The applicant may before the expiry of the 30 day period referred to in subsection (1), apply to the Municipality for an extension of the period with a further period of 14 days to lodge a written reply.
- (3) 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.
- (4) 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.
- (5) If the applicant does not provide the information within the timeframes contemplated in subsection (4), section 81(2) to (5) with the necessary changes, applies.

27 Written assessment of application

- (1) An employee authorised by the Municipality must in writing assess an application in accordance with section 44 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.

28 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.

29 Failure to act within time period

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 this 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.

30 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 95.
- (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.

31 Determination of application

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

- (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
- (b) on the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any development charges;
- (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial 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;

32 Notification of decision

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

33 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.

34 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.

35 Withdrawal of approval

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

36 Procedure to withdraw an approval

- (1) The Municipality may withdraw an approval granted—
 - (a) after consideration of the representations made in terms of section 103(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 103(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.

37 Exemptions to facilitate expedited procedures

The Municipality may in writing -

- (a) exempt a development from compliance with the provisions of this By-law to reduce the financial or administrative burden of—
 - (i) integrated application processes as contemplated in section 84;
 - (ii) the provision of housing with the assistance of a state subsidy; or
 - (iii) incremental upgrading of existing settlements;
- (c) 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

38 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 and land use 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 108 provides otherwise.

39 Installation of engineering services

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

40 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 this 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 this 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.

41 Abandonment or lapsing of land development and land use application

(1) Where a land development or land use 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 108 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

Part B: Development Charges

42 Payment of development charge

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

- (a) the engineering services contemplated in this Chapter where it will be necessary to enhance or improves such services as a result of the commencement of the amendment scheme; and
- (b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.

(2) If a land development application is approved by the Municipal Planning Tribunal subject to, amongst others, the payment of a development charge or an amendment scheme comes into operation, the applicant or owner of the land to which the scheme relates, must, subject to section 111, 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 contemplated in section 118 of the Municipal System Act is furnished in respect of the land;
- (b) a building plan is approved in respect of:
 - (i) the proposed alteration of or addition to an existing building on the land;
 - (ii) the erection of a new building on the land, where that building plan, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation;

- (a) the land is used in a manner or for a purpose which, were it not for the commencement of the amendment scheme, would have been in conflict with the land use scheme in operation.

43 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 108.

44 Payment of development charge in instalments

The Municipality may -

- (a) in the circumstances contemplated in subparagraph (b) or (c), allow payment of the development charge contemplated in section 110 in instalments over a period not exceeding three months;
- (b) in any case, allow payment of the development charge contemplated in section 110 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.

45 Refund of development charge

No development charge paid to the Municipality in terms of section 110 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 109 the Municipality may, on such terms and conditions as it may determine, authorise the refund of development charges or any portion thereof.

46 General matters relating to contribution charges

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

CHAPTER 8
APPEAL PROCEDURES

PART A: MANAGEMENT OF AN APPEAL AUTHORITY

47 Presiding officer of appeal authority

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

48 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 subsections (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.

49 Registrar of appeal authority

(1) The municipal manager of a municipality is the registrar of the appeal authority.

(2) Notwithstanding the provisions of sub regulation (1), a municipal council may appoint a person or designate an official in its employ, to act as registrar of the appeal authority and if it so appoints or designates a person or an official, that person or official has delegated authority as contemplated in section 56 of the Act.

(3) Whenever by reason of absence or incapacity any registrar is unable to carry out the functions of his or her office, or if his or her office becomes vacant, the municipal council may, after consultation with the presiding officer of the appeal authority, authorise any other competent official in the public service to act in the place of the absent or incapacitated registrar during such absence or incapacity or to act in the vacant office until the vacancy is filled.

(4) Any person appointed under subsection (2) or authorised under subsection (3) may hold more than one office simultaneously.

50 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 B: APPEAL PROCESS**51 Commencing of appeal**

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

52 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.

53 Notice to oppose an appeal

A notice to oppose an appeal 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; and
- (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute;
- (e) a clear statement of relief sought on appeal.

54 Screening of appeal

- (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:
 - (a) It complies with the form referred to in section 127;
 - (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 referred to in section 127, 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 C: PARTIES TO AN APPEAL

55 Parties to appeal

- (1) The parties to an appeal before an appeal authority are:
 - (a) the appellant who has lodged the appeal with the appeal authority;
 - (b) the Municipal Planning Tribunal that or the official authorised by the municipality as contemplated in section 35(2) of the Act who made the decision;
 - (c) if the Minister or MEC intervenes in the proceeding under regulation 9, the Minister or the MEC, as the case may be; and
 - (d) 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.

56 Intervention by Minister or MEC

- (1) The Minister or the MEC may, on behalf of the national or provincial sphere of government, intervene in a proceeding before the appeal authority and must request to the appeal authority in writing to be added as a party to the appeal.
- (2) The appeal authority may after due consideration of the request contemplated in sub regulation (1), in its own discretion, make the Minister or the MEC a party to the appeal.
- (3) Where the Minister or the MEC intervenes under sub regulation (1) in an appeal proceeding, the Minister or the MEC may authorise the payment to a party to the proceeding by the department concerned of such costs as he or she considers were reasonably incurred by that party in relation to the proceeding as a result of that intervention.

57 Intervention by interested person

- (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) of the Act may, at any time during the proceedings, petition the appeal authority in writing on the form approved by Council to be granted intervener status on the grounds that his or her rights may have been affected by the decision of the Municipal Planning Tribunal or official referred to in section 34(2) of the Act and might therefore be affected by the judgement of the appeal authority.
- (2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –
 - (a) does not collude with any of the appellants; and
 - (b) is willing to deal with or act in regard to the appeal as the appeal authority may direct.
- (3) The registrar must determine whether the requirements of this regulation have been complied with and must thereafter transmit a copy of the form to the parties of the appeal.
- (4) The presiding officer of the appeal authority must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer is final and must be communicated to the petitioner and the parties by the registrar.
- (5) The presiding officer may, in his or her discretion or on request of one of the parties to the appeal, require security for that party's costs of appeal from the petitioner, in the form and manner determined by him or her, by delivering a notice setting forth the grounds on which the security is claimed and the amount demanded.
- (6) If one of the parties request security for costs and only the amount of security is contested, the registrar must determine the amount to be given and his or her decision is final.
- (7) If the person from whom security is demanded contests his or her liability to give security or if he or she fails or refuses to furnish security in the amount demanded or the amount fixed by the registrar within ten days of the demand or the registrar's decision, the other party may apply to the appeal authority for an order that such security be given and that the proceedings be stayed until such order is complied with.
- (8) The appeal authority may, if security is not given within the time determined in the order, dismiss any petition for intervener status.
- (9) An "interested person" for the purpose of this Part means a person who -
 - (a) does not have a direct or indirect pecuniary or proprietary interest in the land affected by the decision of the Municipal Planning Tribunal or Authorised Official referred to in section 34(2) of the Act and might therefore be affected by the judgement of the appeal authority; and

- (b) who submitted written comments or made oral representations during the decision-making process of the Municipal Planning Tribunal or Authorised Official referred to in paragraph (a).

PART D: JURISDICTION OF APPEAL AUTHORITY

58 Jurisdiction of appeal authority

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

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

59 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.

60 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.

61 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.

62 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.

63 Opportunity to make submissions concerning evidence

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

PART E: HEARINGS OF APPEAL AUTHORITY

64 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 five 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.

65 Hearing date

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

66 Adjournment

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

67 Urgency and condonation

- (1) The registrar may –
 - (1) 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;
 - (2) on good cause shown, condone any failure by any party to an appeal to comply with these Regulations or any directions given in terms hereof, if he or she is of the opinion that such failure has not unduly prejudiced any other person;
- (2) Every application for condonation made in terms of this section must be –
 - (1) served on the registrar;
 - (2) accompanied by a memorandum setting forth the reasons for the failure concerned; and
 - (3) 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.

68 Withdrawal of appeal

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

PART F: ORAL HEARING PROCEDURE**69 Location of oral hearing**

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

70 Presentation of each party's case

- (1) Each party has the right to present evidence and make arguments in support of that party's case.
- (2) The appellant will have the opportunity to present evidence and make arguments first, followed by the Municipal Planning Tribunal or the Authorised Official.

71 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.

72 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.

73 Recording

Hearings of the appeal authority must be recorded.

74 Oaths

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

75 Additional documentation

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

PART G: WRITTEN HEARING PROCEDURE**76 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.

77 Presentation of each party's case in written hearing

- (1) Each party must be provided an opportunity to provide written submissions to support their case.
- (2) The appellant will be given seven days to provide a written submission.

- (3) Upon receipt of the appellant's submission within the timelines, the appeal authority must forward the appellant's submission to the Municipal Planning Tribunal or the Authorised Official.
- (4) The Municipal Planning Tribunal or the Authorised Official has seven days in which to provide a submission in response.
- (5) If no submission is received by a party in the time established in the submissions schedule, it will be deemed that the party declined the opportunity to provide a submission.

78 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.

79 Adjudication of written submissions

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

PART H: DECISION OF APPEAL AUTHORITY

80 Further information or advice

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.

81 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.

82 Notification of decision

The registrar must notify the parties of the decision of the appeal authority in terms of regulation 34 of the Act, together with the reasons therefor within seven days after the appeal authority handed down its decision.

83 Directives to municipality

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

PART I: GENERAL**84 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****85 Enforcement**

The Municipality must comply and enforce compliance with—

- (a) the provisions of this By-law;
- (b) the provisions of a land use scheme;
- (c) conditions imposed in terms of this By-law or other legislation read together with section 32 of the Act; and
- (d) title deed conditions.

86 Offences and penalties

- (1) Any person who—
 - (a) contravenes or fails to comply with section 58 of the Act and subsection (2);
 - (b) fails to comply with a compliance notice issued in terms of section 155;
 - (c) utilises land in a manner other than prescribed by the land use scheme of the Municipality;
 - (d) upon registration of the first land unit arising from a subdivision, fails to transfer all common property, including private roads and private places originating from the subdivision, to the owners' association;
 - (e) supplies particulars, information or answers in an application or in an appeal to a decision on a land development and land use application, knowing it to be false, incorrect or misleading or not believing them to be correct;
 - (f) falsely professes to be an authorised employee or the interpreter or assistant of an authorised employee; or
 - (g) hinders or interferes an authorised employee in the exercise of any power or the performance of any duty of that employee, is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.
- (2) An owner who permits land to be used in a manner set out in subsection (2)(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.

87 Serving of compliance notice

(1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence contemplated in terms of section 154.

(2) A compliance notice must direct the occupier and owner to cease the unlawful land use or construction activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to—

(a) demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the Municipal Manager; or

(b) submit an application in terms of this By-law within 30 days of the service of the compliance notice and pay the contravention penalty.

(3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).

(4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.

(5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorised work.

(6) A person who received a compliance notice in terms of this section may lodge representations to the Municipality within 30 days of receipt of the compliance notice.

88 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 154 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 155 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 154;
- (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 157.

89 Objections to compliance notice

- (1) Any person or owner who receives a compliance notice in terms of section 147 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.

90 Failure to comply with compliance notice

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

- (a) lay a criminal charge against the person;
- (b) apply to the High Court for an order 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

91 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.

92 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 155 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.

93 Power of entry for enforcement purposes

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

94 Power and functions of authorised employee

- (1) In ascertaining compliance with this By-law as contemplated in section 161, 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.

95 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 154 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 154 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 154 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.

96 Regard to decency and order

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

97 Court order

- (1) Whether or not a Municipality has instituted proceedings against a person for an offence contemplated in section 161, 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**

98 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.

99 Determination of zoning

- (1) Notwithstanding the provisions of section 166(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 85.
- (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

100 Delegations

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

101 Repeal of by-laws

The provisions of any other by-law relating to Spatial Planning and Land Use Management by the Municipality are hereby repealed insofar as they relate to matters provided for in this by-law; provided that such provisions shall be deemed not to have been repealed in respect of any such by-law which has not been repealed and which is not repugnant to this by-law on the basis as determined by the relevant by-laws.

170 Fees payable

1. Any fee payable to the Municipality in terms of this By-Law is determined annually in terms of section 24(2) of the Municipal Finance Management Act, 2003 read with sections 74 and 75A of the Municipal Systems Act and forms part of the By-Law to constitute the Tariff Structure of the Municipality.
 - (a) Where in terms of this By-law, it is required from the applicant to pay an application fee; such application fee shall be determined by the Municipality and shall be payable by the applicant prior to or simultaneously with the submission of an application;
 - (b) 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 legislation dealing with land development;
 - (c) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application;
 - (d) Fees for the different application processes 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);
 - (e) 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 legislation 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;
 - (f) 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); determine criteria for purposes of the exemption of fees.

171 Naming and Numbering of Streets

- (1) If a street is created as a result of the approval of an application, the Municipality must approve the naming of the street and the applicant must allocate a street number for each land unit located along the street concerned at his own cost;
- (2) The proposed name of the street and numbers must be submitted as part of the application for subdivision;

- (3) In considering the naming of a street, the Municipality must take into account the relevant policies relating to street naming and numbering;
- (4) The applicant must erect signs displaying the street name according to the Municipality's standards;
- (5) No person may alter or amend a street name approved as contemplated in subsection (1) without the approval of the Municipality;
- (6) No person may display a name of a street unless the name is approved by the Municipality;
- (7) A person who alters or amends or displays a street name without the Municipality's approval is guilty of an offence and upon conviction is liable to the penalties contemplated in section 154 above.

172 Undeveloped land parcels/Vacant land

- (1) Where land remain undeveloped whether following the approval of an application or the 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 108 shall lapses and if the applicant had installed any engineering services before the lapsing of the application, the provisions of section 109 shall apply;
 - (a) the Municipality may require the submission of a development plan for consideration and impose conditions deemed appropriate for the use of the land concerned;
 - (b) the vacant land must at all times be kept clean by the land owner;
 - (c) if the Municipality incur the costs in cleaning the vacant land, such costs will be recovered from the registered land owner through the billing system-municipal of rates and taxes.
 - (d) If the township is proclaimed, development must take place within 12 months; and upon change of ownership of the property (land), development has to take place within 6 months, otherwise penalties will be imposed.
 - (e) The registered land owner must ensure that the property is secured at all times in order to avoid land invasion. Should any activity relating to land invasion take place, the registered land owner will be responsible for all cost to be incurred.

173 Short title and commencement

This By-law is called Modimolle- Mookgophong Municipal Spatial Planning and Land Use By-law for Modimolle- Mookgophong Local Municipality 2019 and shall come to force and effect upon publication in the *Government gazette*.

SCHEDULE 1

INVITATION TO NOMINATE A PERSON TO BE APPOINTED AS A MEMBER TO THE MODIMOLLE-MOOKGOPHONG MUNICIPAL PLANNING TRIBUNAL

In terms of the Spatial Planning and Land Use Management Act, 16 of 2013, the Modimolle- Mookgophong 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 Modimolle- Mookgophong 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 Modimolle- Mookgophong Municipality. Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Modimolle- Mookgophong Municipal Spatial Planning and Land Use Management Bylaw 2019, 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

For Attention: _____

For Enquiries: _____

Tel _____

* I, *(full names of nominee)*, ID No *(of nominee)*, hereby declare that – Modimolle- Mookgophong Municipal Spatial Planning and Land Use Management Bylaw 2019:

(a) I am available to serve on Modimolle- Mookgophong 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 Modimolle- Mookgophong 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 Modimolle- Mookgophong Municipal Planning Tribunal and I authorise the Modimolle- Mookgophong Local Municipality to verify any record in relation to such disqualification or requirement.

(d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Modimolle- Mookgophong Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

CLOSING DATE: _____

Signature of Nominee

Full Names of Nominee

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

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

SCHEDULE 2

CALL FOR NOMINATIONS FOR PERSONS TO BE APPOINTED AS MEMBERS TO THE MODIMOLLE- MOOKGOPHONG MUNICIPAL PLANNING TRIBUNAL

CLOSING DATE: (.....)

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

Nominees must be persons registered with the professional bodies contemplated in section 33(1)(b) – (f) of the Municipal Spatial Planning and Land Use Management Bylaw 2019 , 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
For Attention: _____

For Enquiries: _____

Tel _____

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

- (a) I am available to serve on Modimolle- Mookgophong 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 Modimolle- Mookgophong 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 Modimolle- Mookgophong Municipal Planning Tribunal and I authorise the Modimolle- Mookgophong Local Municipality to verify any record in relation to such disqualification or requirement;
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the Modimolle- Mookgophong Municipal Planning Tribunal.

No nominations submitted after the closing date will be considered.

Signature of Nominee

Full Names of Nominee

SCHEDULE 3
DECLARATION/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 Modimolle- Mookgophong Municipal Planning Tribunal; or
- (c) I have the following interests which may conflict or potentially conflict with the interests of the Modimolle- Mookgophong Municipal Planning Tribunal:

CONFLICTING INTERESTS

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

1. NON-EXECUTIVE DIRECTORSHIP	
Name of Company	Period
1.	
2.	
3.	
4.	
5.	

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

3. CRIMINAL RECORD	
Type of Offence	Dates/Term of Sentence
1.	
2.	
3.	
4.	

(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 Modimolle- Mookgophong Municipal Spatial Planning and Land Use Management Bylaw 2019 enacted by the Modimolle- Mookgophong Local Municipality;

(l) I have not been found guilty of misconduct, incapacity or incompetence; or

(m) I have not failed to comply with the provisions of the Spatial Planning and Land Use Management Act, 2013 or provincial legislation or the Modimolle- Mookgophong Municipal Spatial Planning and Land Use Management By law 2019 enacted by the Modimolle- Mookgophong Local Municipality.

Signature of Nominee: _____

Full Names: _____

SWORN to and SIGNED before me at _____ on this _____ day of _____.

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

 COMMISSIONER OF OATHS

FULL NAMES: _____

DESIGNATION: _____

ADDRESS: _____

SCHEDULE 4

CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

I, the undersigned (Full names) _____ Identity
 Number: _____ Residing at:

_____ do hereby declare that I will uphold the Code of Conduct of the Modimolle- Mookgophong 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 5**OWNERS' ASSOCIATIONS****General**

1. The Municipality may, when approving an application for a subdivision of land impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
2. An owners' association that comes into being by virtue of sub-item 1 is a juristic person and must have a constitution.
3. The constitution of an owners' association must be approved by the Municipality before the transfer of the first land unit and must provide for—
 - (a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (c) the regulation of at least one yearly meeting with its members;
 - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
 - (e) the ownership by the owners' association of private open spaces, private roads and other services arising out of the subdivision;
 - (f) enforcement of conditions of approval or management plans;
 - (g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;
 - (h) the implementation and enforcement by the owners' association of the provisions of the constitution.
4. The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
5. The constitution of an owners' association may be amended when necessary provided that an amendment that affects the Municipality or a provision referred to in sub-item 3 is approved by the Municipality.
6. An owners' association which comes into being by virtue of sub-item 1 -
 - (a) has as its members all the owners of land units originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
 - (b) is upon registration of the first land unit, automatically constituted.
7. The design guidelines contemplated in sub-item 3(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.
8. If an owners' association fails to meet any of its obligations contemplated in sub-item 3 and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in sub-item 6(a), the amount of any expenditure incurred by it in respect of those actions.
9. The amount of any expenditure so recovered is, for the purposes of sub-item 8, considered to be expenditure incurred by the owners' association.

Owners' association ceases to function

10. If an owners' association ceases to function or carry out its obligations, the Municipality may—
 - (a) take steps to instruct the association to hold a meeting and to reconstitute itself;

(b) subject to the amendment of the conditions of approval remove the obligation to establish an owners' association;
or

(c) subject to amendment of title conditions pertaining to the owners' association remove any obligations in respect of an owners' association.

11. In determining which option to follow, the Municipality must have regard to—

(a) the purpose of the owners' association;

(b) who will take over the maintenance of infrastructure which the owners' association is responsible for, if at all; and

(c) the impact of the dissolution of the owners' association on the members and the community concerned.

SCHEDULE 6**Additional requirements for Subdivision**

An application to subdivide land must, in addition to the information required on section 77, be accompanied by the following:

(1) The motivation as stated on Section 77(e) must at least contain the following information:

(a) The application must take into consideration the Municipality Spatial Development Framework, Local Spatial Development Framework and other Municipal policies;

(b) The need and desirability of the proposed subdivision;

(c) The character of the other uses in the area;

(d) A justification on the suitability of land for subdivision;

(e) The impact of proposed subdivision locally;

(f) The density of the proposed development;

(g) A true north;

(h) The delineation of the proposed subdivided portions must be accurately drawn to a scale-

↳ not smaller than 1:500 for erven smaller than 2 000m²;

↳ not smaller than 1: 1 000 for erven from 2 000m² to 3 000m²;

↳ not smaller than 1: 1 500 for erven larger than 3 000m² but smaller than 10 000m²

(i) a legend which identifies each proposed subdivided portion by means of a figure;

(j) the scale to which the sketch plan is drawn;

(k) the number of the erf/erven to be subdivided and of each adjoining erf and if an adjoining erf/erven is not situated within the same township as the erf/erven to be subdivided, the name of that other township;

(l) the situation of each building on the erf to be subdivided and the approximate distance between the street boundary and every other boundary of the erf and the nearest wall of the building on the erf to be subdivided;

(m) where the erf/land to be subdivided is situated in an area which is subject to flooding, the 1:50 years and 1:100 years flood line on the proposed subdivided portions.

SCHEDULE 7**Additional requirements for the establishment of a township and extension of the boundaries of a township**

An application for the establishment of a township and extension of the boundaries of a township must, in addition to the information required on section 77 of this Bylaw, be accompanied by the following:

(1) a written motivation/memorandum as stated on section 77(e) must contain at least the following information:

(a) The development intentions of the Municipality on the application property; as contained in the Spatial Development Framework and other Municipal policies;

(b) Compliance with applicable norms and standards as set out in National and Provincial legislation;

(c) The existing land use rights on the property;

(d) The need and desirability of the proposed township/land development;

(e) Any environmental implications of the proposed development;

(f) Comments from the Department of Limpopo Economic Development, Environment and Tourism or its successor as whether an application must be made for an environmental authorisation in terms of the National Environmental Management Act (Act 107 of 1998);

(g) The density of the proposed development;

(h) The area and dimensions of each erf/erven in the proposed township;

(i) The layout of roads having regard to their function and relationship to the existing roads;

(j) The provision and location of public open space and other community facilities;

(k) Reasons for provision certain numbers of communities facilities;

(l) Any phased development

(2) A certified copy of title deed or any proof of ownership of every application property;

(3) A copy of the diagram of every application property or, where such diagram is not available, an extract from relevant general plan;

(4) A locality plan on an appropriate scale;

(5) A layout plan on a scale of 1: 500, 1: 1000, 1: 1500 or 1: 2500, containing, as a minimum, the information prescribed in Schedule 9;

(6) Draft conditions of establishment for the proposed township;

(7) A zoning or land use rights certificate of application property;

(8) A land use rights Schedule;

(9) An engineering geological investigation and report compiled by a suitably qualified professional;

(10) Bondholder consent;

(11) Confirmation whether or not a mining or prospecting right or permit over the land is held or is being applied for in terms of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 and 2002);

(12) Other limited real rights on the property;

(13) Confirmation and details of any land claims on the property;

(14) A conveyancer's certificate;

(15) A land surveyor Report;

(16) In case of the extension of the boundaries of a township, the consent from the Surveyor-General to the proposed extension of boundaries

SCHEDULE 8**Additional requirements relating to applications for the amendment of an approved township/land development, division or phasing of a township and alteration, amendment or cancellation of the general plan**

An application for the amendment of an approved township/land development, division or phasing of a township and alteration, amendment or cancellation of the general plan must, in addition to the information required on section 77, be accompanied by the following:

- (1) a motivation memorandum explaining and motivating the application;
- (2) a certified copy of the title deed of every application property;
- (3) a copy of relevant general plan, if applicable;
- (4) a copy of approved conditions of establishment of the existing township;
- (5) draft conditions of establishment for the proposed amended township, as applicable;
- (6) a zoning or land use rights certificate indicating current rights and indication of proposed rights for the application properties;
- (7) a locality plan on an appropriate scale;
- (8) a layout plan on a scale of 1: 500, 1: 1000, 1: 1500 or 1: 2500, showing the proposed amendment or alteration;
and
- (9) a bondholder's written consent.

SCHEDULE 9**Layout plan**

- (1) A layout plan for a proposed township shall at minimum contain/show the following information:
- (a) Contour lines, the values of which shall be based on the date/datum plane of National geodetic bench marks based on sea-level as datum plane;
 - (b) The accuracy of the contour lines shall be such that when they are compared with the results of a selective test survey, not more than 5% of the interpolated heights of the testing points shall differ by more than half of the contour line interval, and not more than 1% of the testing points shall show a greater difference than the relative contour interval;
 - (c) The contour intervals shall be determined as follows:
 - (i) Meter intervals where the average gradient is 1 in 20 or less;
 - (ii) Meter intervals where the average gradient is greater than 1 in 20 but less than 1 in 5; and
 - (iii) 5 meter intervals where the average gradient is 1 in 5 and greater;
 - (d) Existing building in the proposed township;
 - (e) Streets, squares and open space in the proposed township;
 - (f) The widths and proposed names of streets in the proposed township;
 - (g) All adjoining existing and adjoining proposed streets and roads with their names;
 - (h) All adjoining erven in existing townships or proposed townships in respect of which applications have been submitted;
 - (i) All adjoining informal erven;
 - (j) Watercourses, railways lines, pipelines, power lines, existing public roads and all servitudes in or abutting the proposed township;
 - (k) The sites in the proposed township proposed to be reserved for specific purposes;
 - (l) The boundaries of the proposed township and the name of the Municipality;
 - (m) A land use table indicating total number of erven in the proposed township, the number of erven for specific purpose and their numbers, the total length of the streets within in the proposed township and the area of the erven and streets as a percentage of the total area of the township;
 - (n) The ruling size of the erven;
 - (o) The minimum and maximum gradient of the streets;
 - (p) Environmentally sensitive areas;
 - (q) A locality plan accurately drawn to a scale of not less than 1: 50000 or such other scale which the Municipality may approve, indicating-
 - (i) The situation of the proposed township on the land, farm or agricultural holding;
 - (ii) The routes giving access to the nearest main road and the road networks in the vicinity of the township;
 - (iii) The boundaries of the land, farm portion or agricultural holding on which the township is to be established;
 - (iv) The situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 kilometres of the boundaries of the township;

- (v) The boundaries of a demarcated noise zone, if applicable;
- (vi) A bar scale, in respect of the locality plan;
- (vii) The true north;
- (r) The erven in the proposed township accurately drawn to a scale of 1: 1000, 1: 1250, 1: 1500, 1: 2000, 1: 2500 or 1: 5000 and numbered consecutively in each block;
- (s) In an enclosure, the name of the persons responsible for the contour surveys, a reference to the datum plane on which the contour values are based and a certification as to the accuracy of the contour lines;
- (t) If the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings;
- (u) Each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and where an alteration in the route of such servitude is contemplated, the proposed route;
- (v) Grid co-ordinates and a reference to the geodetic system used;
- (w) If the land in the proposed township is subject to flooding, the 1:50 years and 1:100 years floodline;
- (x) The results of the engineering geological investigation, indicated as zones;
- (y) In an enclosure, the name of the person responsible for the design of the layout plan;
- (z) In an enclosure, the name of the person responsible for the floodline determination and the floodline appearing on the layout plan certified as correct by such person; and
- (aa) In an enclosure, the name of the person responsible for the engineering geological investigation and the geological zones appearing on the layout plan certified as correct by such person.

SCHEDULE 10

OBJECTION AND/OR REPRESENTATIONS ON AN APPLICATION OF LAND USE OR LAND DEVELOPMENT IN TERMS SECTION 90 OF THE MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

Date of objection or representation: _____

Municipality Application Reference Number: _____ (*application reference number as on the notice*)

Name/s: _____

Surname: _____

Company/Institution _____

Address:

Tel/Mobile: _____

Facsimile: _____

Email: _____

I/We (person or objector making a representation)

_____, the undersigned, (on behalf of and duly authorised by...):

_____ hereby (object to/make the following representation on) the application for (repeat type of application as on the notice):

_____ on (specify subject property as in the notice):

_____ situated on (name of township, farm, etc.):

The reason(s) for my/our objection(s)/representation(s) are as follows: (provide a clear description of the objection or representation, sufficiently detailed):

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

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

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

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

.....

Signature

SCHEDULE 11

NOTICE OF APPEAL/PETITION IN TERMS SECTION 120 OF THE MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

Date of appeal/petition: _____

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

Name/s: _____

Surname: _____

Institution _____

Address: _____

Tel/Mobile: _____

Facsimile: _____

Email: _____

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

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

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

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

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

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

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

.....

Signature

SCHEDULE 12

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

APPLICATION FORM FOR AMENDMENT OF LAND USE SCHEME OR REZONING IN TERMS OF SECTION 54(1) OF THE MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

1. AUTHORISED AGENT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

Registration number (SACPLAN): _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address: _____
 _____ Postal Code: _____

Postal Address: _____
 _____ Postal Code: _____

3. PROPERTY INFORMATION

Registered owner: _____

Street Address: _____

Postal Address: _____
 _____ Postal Code _____

Township: _____ Erf number: _____

Property Size (in m²): _____

Current/existing		Proposed	
Zoning		Zoning	
Land Use		Land Use	
Height		Height	
Density		Density	
Coverage		Coverage	
FAR		FAR	
Parking		Parking	
Building line(s)		Building line(s)	

Amendment Scheme: _____

Title Deed No.: _____ Bond (Yes/No): _____

If Yes specify Bond Account No.: _____

Bondholder's Consent: _____

Restrictive Title Deed Condition paragraph No.: _____

4. REQUIRED DOCUMENTS:

Please mark with an x			
Application fee		Zoning map	
Covering letter		Land Use Map	
Application Form		Map 3 and scheme clauses	
Locality plan		Mineral Rights Holder's Consent (if applicable)	
Motivational memorandum		Affidavit (on expiry date of the advertisement)	
Company resolution (if applicable)		Site Notices/Placards	
Power of Attorney		Provincial Gazette Advertisements	
Title deed		Newspaper advertisements	
Bondholder's consent (if registered against the property)			

Signature of Applicant: _____ Date: _____

SCHEDULE 13

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

APPLICATION FORM FOR REMOVAL, AMENDMENT OR SUSPENSION OF RESTRICTIVE OR OBSOLETE CONDITION, SERVITUDE OR RESERVATION REGISTERED AGAINST THE TITLE OF THE LAND IN TERMS OF SECTION 55(2) OF THE MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

1. AUTHORISED AGENT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

Registration number (SACPLAN): _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address: _____

_____ Postal Code: _____

Postal Address: _____

_____ Postal Code: _____

2. PROPERTY INFORMATION

Registered owner: _____

Street Address: _____

Postal Address: _____

_____ Postal Code _____

Township: _____ Erf number: _____

Property Size (in m²): _____

Current/existing		Proposed	
Zoning		Zoning	
Land Use		Land Use	
Height		Height	
Density		Density	
Coverage		Coverage	
FAR		FAR	

Amendment Scheme: _____

Title Deed No.: _____ Bond (Yes/No): _____

If "Yes" specify Bond Account No.: _____

Bondholder's consent: _____

Restrictive Title Deed Condition paragraph No.: _____

3. REMOVAL/AMENDMENT OR SUSPENSION OF A RESTRICTIVE OR OBSOLETE CONDITION, SERVITUDE OR RESERVATION REGISTERED AGAINST THE TITLE OF THE LAND

Removal of condition(s): _____

Amendment of restrictive condition(s): _____

Suspension of a restrictive condition(s): _____

Reason for removal/amendment or suspension:

Is the property(ies) is/are situated in a conservation area or has/have been included in a register of properties worthy of conservation:(Yes/no) _____

If Yes, specify _____

Does the property have any endangered plant or animal species which will be affected by the change? (Yes/No) If Yes, specify:

4. REQUIRED DOCUMENTS:

Please mark with an x			
Application fee		Zoning map	

Covering letter		Land Use Map	
Application Form		Map 3 and scheme clauses	
Motivational memorandum		Mineral Rights Holder's Consent (if applicable)	
Company resolution (if applicable)		Affidavit (on expiry date of the advertisement)	
Power of Attorney		Site Notices/Placards	
Title deed		Provincial Gazette Advertisements	
Bondholder's consent (if registered against the property)		Newspaper advertisements	
Locality plan			

Signature of Applicant: _____ Date: _____

SCHEDULE 14

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

APPLICATION FORM FOR SUBDIVISION IN TERMS OF SECTION 57(2) OF THE MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

1. AUTHORISED AGENT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

Registration number (SACPLAN): _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address: _____

_____ Postal Code: _____

Postal Address: _____

_____ Postal Code: _____

2. PROPERTY INFORMATION

Registered owner: _____

Street Address: _____

Postal Address: _____

_____ Postal Code _____

Township: _____ Erf number: _____

Property Size (in m²): _____

Current Land Use: _____

Current Zoning (Scheme): _____

Title Deed No.: _____ Bond (Yes/No): _____

If Yes in 3.8 specify Bond Account No.: _____

Bondholder's Consent: _____

Restrictive Title Deed Condition paragraph No.: _____

Size of the proposed division:

Portion No:	Panhandle/Servitude Area:	Total Area:
Total Area:		

3. REQUIRED DOCUMENTS:

Please mark with an x			
Application fee	<input type="checkbox"/>	Title deed	<input type="checkbox"/>
Covering letter	<input type="checkbox"/>	Bondholder's consent (if registered against the property)	<input type="checkbox"/>
Application Form	<input type="checkbox"/>	Locality plan	<input type="checkbox"/>
Motivational memorandum	<input type="checkbox"/>	Subdivision Sketch Diagram (plan)	<input type="checkbox"/>
Company resolution (if applicable)	<input type="checkbox"/>		
Power of Attorney	<input type="checkbox"/>		

Signature of Applicant: _____ Date: _____

SCHEDULE 15

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

**APPLICATION FORM FOR CONSOLIDATION IN TERMS OF SECTION 63 OF THE MODIMOLLE-
MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019**

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

1. AUTHORISED AGENT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

Registration number (SACPLAN): _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address:

_____ Postal Code: _____

Postal Address:

_____ Postal Code: _____

2. PROPERTY INFORMATION

Registered owner: _____

Street Address: _____

Postal Address:

_____ Postal Code _____

Township: _____ Erf number: _____

Property Size (in m²): _____

Current Land Use: _____

Current Zoning (Scheme): _____

Title Deed No.: _____ Bond (Yes/No): _____

If Yes, specify Bond Account No.: _____

Bondholder's Consent: _____

Restrictive Title Deed Condition paragraph No.: _____

Size of the proposed division:

Portion No:	Panhandle/Servitude Area:	Total Area:
Total Area:		

3. REQUIRED DOCUMENTS:

Please mark with an x			
Application fee	<input type="checkbox"/>	Title deed	<input type="checkbox"/>
Covering letter	<input type="checkbox"/>	Bondholder's consent (if registered against the property)	<input type="checkbox"/>
Application Form	<input type="checkbox"/>	Locality plan	<input type="checkbox"/>
Motivational memorandum	<input type="checkbox"/>	Consolidation Sketch Diagram (plan)	<input type="checkbox"/>
Company resolution (if applicable)	<input type="checkbox"/>		
Power of Attorney	<input type="checkbox"/>		

Signature of Applicant: _____ Date: _____

SCHEDULE 16

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

APPLICATION FOR SPECIAL CONSENT IN TERMS SECTION 66 (1) OF MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

1. AUTHORISED AGENT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

Registration number (SACPLAN): _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address: _____

_____ Postal Code: _____

Postal Address:

_____ Postal Code: _____

2. PROPERTY INFORMATION

Registered owner: _____

Street Address: _____

Postal Address: _____

_____ Postal Code _____

Township: _____ Erf number: _____

Property Size (in m²): _____

Current/existing	
Zoning	
Land Use	
Height	
Density	

Coverage	
FAR	

- Title Deed No.: _____ Bond (Yes/No): _____
- If Yes, specify Bond Account No.: _____
- Bondholder's Consent: _____
- Restrictive Title Deed Condition paragraph No and condition:

- Existing number of dwelling units on the property (where applicable): _____

- Other land use rights or special exemption granted on the property:

_____ and please provide the date of approval, reference number etc. (A copy of the letter of approval can be attached if available):

- Are the rights mentioned above still being executed? _____

- Is the property classified by the National Monuments Council as a heritage and/or memorable place?

- Is the building on the property older than 50 years? _____

3. PROPOSED CONSENT USE

4. REQUIRED DOCUMENTS:

Please mark with an x			
Application fee		Zoning map	
Covering letter		Land Use Map	
Application Form		Locality plan	
Motivational memorandum		Affidavit (on expiry date of the advertisement)	
Company resolution (if applicable)		Site Notices/Placards	
Power of Attorney		Provincial Gazette Advertisements	
Title deed		Newspaper advertisements	
Bondholder's consent (if registered against the property)			

Signature of Applicant: _____ Date: _____

SCHEDULE 17

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

**APPLICATION FOR BUILDING LINE RELAXATION IN TERMS OF SECTION 66 (2) of MODIMOLLE-
MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019**

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

2. APPLICANT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address:

_____ Postal Code: _____

Postal Address:

_____ Postal Code: _____

2. PROPERTY INFORMATION

• Registered owner: _____

• Street Address: _____

• Postal Address: _____
_____ Postal Code _____

• Township: _____ Erf number: _____

• Property Size (in m²): _____

Current/existing	
Zoning	
Land Use	
Height	
Density	

Coverage	
FAR	

- Title Deed No.: _____
- Bond (Yes/No): _____, If Yes specify Bond Account No: _____
- Bondholder's name: _____
- Restrictive Title Deed Condition paragraph No.: _____
- Is the property classified by the National Monuments Council as a heritage and/or memorable place? _____
- Is the building on the property older than 50 years _____

5. PROPOSED BUILDING LINE RELAXATION

5.1 Relaxation of building line:

- Distance in meters of the proposed building(s) or structure (s) from erf boundaries where the building line (s) will be encroached: _____
- Which side of the property to be relaxed:

Mark with an X	
Rear	
Street Frontage	
Sides (<i>Specify which side</i>)	

- Give detailed reasons why building(s) or structure (s) cannot be erected outside the building line:

6. REQUIRED DOCUMENTS:

Please mark with an x	
Application fee	
Covering letter	
Application form	
Title deed	
Power of Attorney (if applicable)	
Company resolution (if applicable)	
Zoning Certificate	
Site Development Plan	
Neighbours' Consent	

Signature of Applicant: _____ Date: _____

SCHEDULE 18

**MODIMOLLE- MOOKGOPHONG MUNICIPALITY
DEVELOPMENT PLANNING DIRECTORATE
SPATIAL PLANNING AND LAND USE MANAGEMENT DIVISION**

**APPLICATION FOR TEMPORARY CONSENT IN TERMS OF SECTION 68 MODIMOLLE- MOOKGOPHONG OF
MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019**

Please ensure that all sections of this form are completed, all requested information and attachments are provided and labelled accordingly. Should any information as required be missing or incomplete, this may result in the rejection of the application

3. APPLICANT DETAILS

Company: _____

Surname: _____

Full names: _____ Initials: _____

E-mail address: _____

Telephone number: _____

Cellular Phone number: _____

Fax number: _____

Physical Address:

_____ Postal Code: _____

Postal Address:

_____ Postal Code: _____

2. PROPERTY INFORMATION

• Registered owner: _____

• Street Address:

• Postal Address:

_____ Postal Code _____

• Township: _____ Erf number: _____

• Property Size (in m²): _____

Current/existing	
Zoning	
Land Use	
Height	
Density	
Coverage	
FAR	

- Title Deed No.: _____
- Bond (Yes/No): _____, If Yes specify Bond Account No: _____
- Bondholder's name: _____
- Restrictive Title Deed Condition paragraph No.: _____
- Is the property classified by the National Monuments Council as a heritage and/or memorable place? _____
- Is the building on the property older than 50 years _____

7. PROPOSED TEMPORARY CONSENT USE

8. REQUIRED DOCUMENTS:

Please mark with an x	
Application fee	
Covering letter	
Application form	
Title deed	
Power of Attorney (if applicable)	
Company resolution (if applicable)	
Zoning Certificate	
Site Development Plan	
Neighbours' Consent	

Signature of Applicant: _____ Date: _____

SCHEDULE 19

EXAMPLE OF A POWER OF ATTORNEY

I/We _____ of _____ identity number/s _____, the undersigned, hereby nominate, constitute and appoint-

_____ (name of person and surname) of _____ (company name if any), identity number _____ with the power of substitution to be my/our legal agent(s) in my/our name, place and steed to apply for-

_____ (type of application and property description) at _____ (name of the local authority/municipality) and in general to do everything to effect the application and to do whatever I/we would do if I/we were present in person and acting in the matter; and I/we hereby ratify, allow and confirm, promise and agree to ratify, allow and confirm everything and anything my/our agent(s) may do or may permit to be done legally in terms of this power of attorney.

Signed at _____ on this _____ day of _____ 20____ in the presence of the undersigned witnesses:

AS WITNESSES:

- 1. _____
- 2. _____

Registered owner(s): _____

SCHEDULE 20

EXAMPLE OF ADVERTISEMENT NOTICE

AMENDMENT OF LAND USE SCHEME OR REZONING IN TERMS OF SECTION 54(1) OF THE MODIMOLLE-MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

AMENDMENT SCHEME NUMBER: _____

Notice is hereby given that I, _____ (full names and surname), being the *owner/authorised agent of the owner of *erf/erven/portion(s)/holding(s)/stand(s) _____ (complete the description of the property as set out in the Deed of Transfer or Deed of Grant) in terms of Section 62(1) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019 for the amendment of the Modimolle- Mookgophong Town Planning Scheme, 2005 by the rezoning of the property(ies) described above, from _____ (specify the current use zone) to _____ (specify the proposed use zone).

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

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

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

Telephone number: _____

Dates of the notice: _____

SCHEDULE 21

EXAMPLE OF ADVERTISEMENT NOTICE

APPLICATION FOR CONSENT IN TERMS OF SECTION 66 OF MODIMOLLE- MOOKGOPHONG MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2019

CONSENT NUMBER _____ OF 20 _____

Notice is hereby given that I, _____ (full names and surname), being the *owner/authorised agent of the owner of *erf/erven/portion(s)/holding(s)/stand(s) _____ (complete the description of the property as set out in the Deed of Transfer or Deed of Grant) in terms of Section _____ of the Municipal Spatial Planning and Land Use Management By-Law 2017 read together with Clause ____ of the Modimolle- Mookgophong Town Planning Scheme, 2005, have applied to the Modimolle- Mookgophong Municipality for _____ (describe) on *erf/portion/stand _____ situated at _____ (street name and number, township name, farm portion * whichever applicable).

Particulars relating to the application will lie for inspection during normal office hours at the office of the Executive Manager Development Planning Directorate _____ for a period of 28 (twenty-eight) days from _____ (the date of the first publication of this notice).

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

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

Telephone number: _____

Dates of the notice: _____

Note: the application must be submitted to the Municipality a day before the first advert is published on the local newspaper.

SCHEDULE 22

EXAMPLE OF AFFIDAVIT/AFFIRMATION

I, the undersigned _____ (full names and surname), of identity number _____ hereby make oath/affirm that the required notice as prescribed in the of the Modimolle- Mookgophong Municipal Spatial Planning and Land Use Management Bylaw 2019 on erf/portion/stand _____ (detailed property description) was displayed and maintained in a conspicuous and easily accessible place, for a period of 30 days the first day the advertisements were advertised in local newspaper, viz from _____ to _____

Signed _____ (signature of applicant)

on _____ day of _____ 20_____

at _____ (place)

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

COMMISSIONER OF OATHS: _____

DATE: _____

STAMP



Note:

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

SCHEDULE 23

ADVERTISEMENT REQUIREMENT: Minimum notification procedures in terms of Section 85 of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By law 2019

Application	PROCEDURES				
	Local Newspaper	Provincial Gazette	Notice on the site and Photos	Adjacent properties owners notification	Person to submit application
Township Establishment in terms of Section 48(1) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019	Yes ↳ once per week for two consecutive weeks; ↳ at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)	Yes ↳ once per week for two consecutive weeks; ↳ at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)	Yes for a period of 30 days. The notice shall not be less than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half-postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.	Yes Directly adjacent and diagonal	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Amendment of land use scheme or rezoning in terms Of Section 54(1) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019	Yes ↳ once per week for two consecutive weeks; ↳ at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)	Yes ↳ once per week for two consecutive weeks; ↳ at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)	Yes (for a period of 30 days. The notice shall not be less than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half-postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.	Yes, directly adjacent and diagonal	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Removal, amendment or suspension of a restrictive or	Yes ↳ once per week for two	Yes ↳ once per week for two	Yes (for a period of 30 days. The notice shall not be less than 60 cm by 42	No	An owner/authorised agent. Note: this application could

<p>obsolete condition, servitude or reservation registered against the Deeds of the land in terms of Section 55(2) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019</p>	<p>↪ consecutive weeks; at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)</p>	<p>↪ consecutive weeks; at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)</p>	<p>cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half-postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.</p>		<p>be a complex process and any deviation from the requirements as set out in the By-law and any additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.</p>
<p>Subdivision in terms of Section 57(2) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019</p>	<p>No</p>	<p>No</p>	<p>Yes for a period of 30 days. The notice shall not be less than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half-postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.</p>	<p>Yes</p>	<p>An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant or Survey consultant. In case of a town planning consultant, the plan/sketch or diagram should be drawn by a survey consultant.</p>
<p>Consolidation in terms of Section 63(1) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2018</p>	<p>No</p>	<p>No</p>	<p>Yes (for a period of 30 days. The notice shall not be less than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two</p>	<p>Yes</p>	<p>An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and any</p>

			legible photos of the required notice, not smaller than half-postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.		other additional requirements by the Municipality may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant or Survey consultant. In case of a town planning consultant, the plan/sketch or diagram should be drawn by a survey consultant.
Consent use in terms of Section 66(1) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019	Yes ☞ once per week for two consecutive weeks; ☞ at least two of the official languages of the Province most spoken in the area concerned (English and any other official language)	No	Yes For a period of 30 days. The notice shall not be less than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. The applicant must also submit two legible photos of the required notice, not smaller than half-postcard size. One close-up photo of the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.	Yes	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and land use scheme may lead to a delay or even the rejection of the application, an applicant/owner is advised in his or her own interest to appoint a town planning consultant.
Consent use in terms of Section 66(1) of the Modimolle-Mookgophong Municipal Spatial Planning and Land Use Management By-Law 2019	Yes ☞ once per week for two consecutive weeks; ☞ at least two of the official languages of the Province most spoken in the area concerned (English	No	Yes For a period of 30 days. The notice shall not be less than 60 cm by 42 cm in size and letter shall not be less than 6mm in height. It must be two official languages. The applicant must also submit two legible photos of the required notice, not smaller than half-postcard size. One close-up photo of	Yes	An owner/authorised agent. Note: this application could be a complex process and any deviation from the requirements as set out in the By-law and land use scheme may lead to a delay or even the rejection of the application, an applicant/owner is advised in his

	and any other official language		the notice clearly showing the wording and one from the distance across the road to show the visibility of the notice.		or her own interest to appoint a town planning consultant.
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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 81 OF 2019

GENERAL NOTICE: POLOKWANE/PERSKEBULT AMENDMENT SCHEME 165

NOTICE OF REZONING APPLICATION IN TERMS OF SECTION 61 OF THE POLOKWANE MUNICIPAL PLANNING BY-LAW, 2017 ON THE REMAINDER OF ERF 2971 PIETERBURG EXTENSION 11

I, Douw Gerbrand Steyn, of Van Rensburg & Steyn Land Surveyors, being the authorized agent of the registered owner of the Remainder of Erf 2971 Pietersburg Extension 11 hereby give notice in terms of Section 95(1)(a) of the Polokwane Municipal Planning By-law 2017, that I have applied to Polokwane Municipality in terms of Section 61 of the Polokwane Municipal Planning By-law for the amendment of the town planning scheme known as the Polokwane/Perskebult Town Planning Scheme, 2016 for the rezoning from Residential 1 to Special for a Tea Garden and Beauty Salon of the Remainder of Erf 2971 Pietersburg Extension 11, situated in No. 113 Kleinenberg Street, Polokwane.

Particulars of the application will lie for inspection during normal office hours at the office of the Manager, Spatial Planning and Land Use Management, at Polokwane Municipality, Second Floor, West Wing, Civic Centre, Cnr of Landdros Mare and Bodenstein Streets, Polokwane, 0699 for a period of 28 days from the 24th of May 2019.

Objections to or representation in respect of the application must be lodge with or made in writing to the Manager, Spatial Planning and Land Use Management, at the above address or at P.O. Box 111 Polokwane, 0700 within a period of 28 days from the 24th of May 2019.

Address of agent: Van Rensburg & Steyn Land Surveyors, P.O. Box 333, Polokwane, 0700.

CONTINUES ON PAGE 130 - PART 2

LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

**Provincial Gazette • Provinsiale Koerant • Gazete ya Xifundzankulu
Kuranta ya Profense • Gazethe ya Vundu**

*(Registered as a newspaper) • (As 'n nuusblad geregistreer) • (Yi rhijistariwile tanihi Nyuziphepha)
(E ngwadisits'we bjalo ka Kuranta) • (Yo redzhistariwa sa Nyusiphepha)*

Vol. 26

POLOKWANE,
31 MAY 2019
31 MEI 2019
31 MUDYAXIHI 2019
31 MEI 2019
31 SHUNDUNTHULE 2019

No. 3003

PROVINSIALE KENNISGEWING 81 VAN 2019**ALGEMENE KENNISGEWING: POLOKWANE/PERSKEBULT WYSIGINGSKEMA
165****KENNISGEWING VAN HERSONERINGS AANSOEK INGEVOLGE ARTIKEL 61
VAN DIE POLOKWANE MUNISIPALE BEPLANNINGS BY-WET, 2017 VAN DIE
REstant VAN ERF 2971 PIETERSBURG UITBREIDING 11**

Ek, Douw Gerbrand Steyn van Van Rensburg en Steyn Landmeters, synde die gemagtigde agent van die geregistreerde eienaars van die Restant van Erf 2971 Pietersburg Uitbreiding 11 gee hiermee kennis ingevolge Artikel 95(1)(a) van die Polokwane Munisipale Beplannings By-wet, 2017, dat ek aansoek gedoen het in terme Artikel 61 van die Polokwane Munisipale Beplannings By-wet, 2017 vir die wysiging van die Dorpsbeplanningskema bekend as die Polokwane/Perskebult Dorpsbeplanning Skema, 2016 vir die hersonering vanaf Residensieël 1 na Spesiaal vir 'n Tee Tuin en Skoonheids Salon, van die Restant van Erf 2971 Pietersburg Uitbreiding 11 geleë te Kleinenbergstraat no. 113, Polokwane.

Besonderhede van die aansoek lê ter insae gedurende gewone kantoor ure by die kantoor van die Bestuurder, Ruimtelike Beplanning en Grondgebruikbeheer, Tweede Vloer, Wesvleuel, Burgersentrum, H/v Landdros Mare en Bodenstein Straat, Polokwane, 0699 vir 'n tydperk van 28 dae vanaf 24ste Mei 2019.

Besware teen of verhoë ten opsigte van die aansoek moet binne 'n tydperk van 28 dae vanaf die 24ste Mei 2019 skriftelik by of tot die Bestuurder, Ruimtelike Beplanning en Grondgebruikbeheer by bovermelde adres of by Posbus 111, Polokwane, 0700 ingedien of gerig word.

Adres van agent, Van Rensburg & Steyn Landmeters, Posbus 333, Polokwane, 0700.

24-31

PROVINCIAL NOTICE 82 OF 2019**AMENDMENT OF POLOKWANE/PERSKEBULT TOWNPLANNING SCHEME, 2016 (AMENDMENT SCHEME 180)**

We, New Vision Town Planners and Developers being the authorized agent of the owners of Portion 1 of Erf 730, Pietersburg, situated at No. 40, Jorrisen Street, hereby give notice in terms of section 95 (1)(a) of the Polokwane Municipal Planning By-law, 2017, that we have applied to the Polokwane Municipality for a two fold application consisting of the following the amendment of the Polokwane/Perskebult Town Planning Scheme, 2016, by rezoning the abovementioned property from "Residential 1" to "Institution" for Medical Consulting Rooms in terms of Section 61 of the Polokwane Municipal Planning By-law, 2017,

Particulars of the application will lie for inspection during normal office hours at the office of the Town Planners, Second Floor, West Wing, Civic Centre, Landdros Maré Street, Polokwane for a period of 28 days from 24 May 2019 to 31 May 2019. Objections to or representations in respect of the applications must be lodged with or made in writing within a period of 28 days from from 24 May 2019 to 31 May 2019 to the Manager : Spatial Planning and Land Use Management at the above address or at P.O. Box 111, Polokwane, 0700.

Address of Agent: New Vision Developers & Developers, No. 29 Totius Street, Ivy Park, Polokwane, 0699

24-31

PROVINSIALE KENNISGEWING 82 VAN 2019**WYSIGING VAN POLOKWANE / PERSKEBULT DORPSBEPLANNINGSKEMA, 2016 (WYSIGINGSKEMA 180)**

Ons, New Vision Stadsbeplanners en Ontwikkelaars, synde die gemagtigde agent van die eienaars van Gedeelte 1 van Erf 730, Pietersburg, gelee te Jorrisenstraat No. 40, gee hiermee ingevolge artikel 95 (1) (a) van die Polokwane Munisipale Beplanningsverordening, 2017, kennis dat ons by die Polokwane Munisipaliteit aansoek gedoen het vir n tweevoue aansoek, bestaande uit die volgende wysiging van die Polokwane / Perskebult Dorpsbeplanningskema, 2016, deur die hersonering van bogenoemde eiendom vanaf "Residensieel 1" na "Inrigting "vir Mediese Konsultasiekamers in terme van Artikel 61 van die Polokwane Munisipale Beplanningsverordening, 2017,

Besonderhede van die aansoek le ter insae gedurende gewone kantoorure by die kantoor van die Stadsbeplanners, Tweede Verdieping, Wesvleuel, Burgersentrum, Landdros Marestraat, Polokwane, vir n tydperk van 28 dae vanaf 24 Mei 2019 tot 31 Mei 2019. Besware of vertoe ten opsigte van die aansoeke moet binne 'n tydperk van 28 dae vanaf 24 Mei 2019 tot 31 Mei 2019 skriftelik by of tot die Bestuurder: Ruimtelike Beplanning en Grondgebruiksbestuur, by bovermelde adres of by Posbus Box 111, Polokwane, 0700.

Adres van Agent: Nuwe Visie Ontwikkelaars en Ontwikkelaars, Totiusstraat 29, Ivy Park, Polokwane, 0699

24-31

PROVINCIAL NOTICE 84 OF 2019**LIMPOPO GAMBLING BOARD****ACT 3 OF 2013****APPLICATION FOR RELOCATION OF BOOKMAKER SITE LICENCE**

Notice is hereby given that VBetSA Limpopo (Pty) Ltd, intends submitting an application for relocation of a Bookmaker Site Licence, in terms of Section 38 of the Limpopo Gambling Act 3 of 2013, on 06-06-2019.

The purpose of the application is to obtain permission to relocate and operate the Bookmaker Site Licence from location:

Mokopane to Shop 34, Mahwelereng Mall, Erf 44, Dudu Madisha Drive, Mahwelereng, Limpopo.

If successful the duration of the licence is in perpetuity, subject to continuous suitability.

The application will be open for public inspections for 30 days at the office of the Limpopo Gambling Board at 08 Hans van Rensburg Street, Polokwane, Limpopo Province, South Africa, from 06-06-2019.

Attention is drawn to the provisions of section 26(6) of the Limpopo Gambling Act 3 of 2013 which makes provision for lodging of written representations and objections in respect of this application. A person lodging written representation should indicate whether or not they wish to make oral representations when the application is heard. Such objections should be lodged with the Chief Executive Officer of the Limpopo Gambling Board, 8 Hans van Rensburg Street, Polokwane, or Private Bag X9520, Polokwane 0700, within 30 days from 06-06-2019.

PROVINCIAL NOTICE 85 OF 2019**MAKHADO MUNICIPALITY****MAKHADO AMENDMENT SCHEME 214**

Notice is hereby given in terms of the Spatial Planning and Land Use Management Act, 2013 and the Makhado Municipality Spatial Planning, and Land Use Management By-Law, 2016, that the Makhado Municipality has approved the amendment of the Makhado Land Use Scheme, 2009, by rezoning of Portion 4 of Erf 739 Louis Trichardt Township from "Residential 1" to "Residential 2" for the purpose of dwelling units.

The Map 3's and scheme clauses of the amendment scheme are filed with the Municipal Manager of Makhado municipality and sre open for inspection during normal office hours. This amendment is known as Makhado Amendment scheme 214 and shall come into operation on the date of publication of this notice

NF Tshivhengwa
Municipal Manager

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 60 OF 2019**AMENDMENT OF LAND USE SCHEME OR REZONING IN TERMS OF SECTION 54(1) AND REMOVAL OF RESTRICTIVE CONDITIONS IN TERMS OF SECTION 55(2) OF THE LEPHALALE MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017****AMENDMENT SCHEME NUMBER: 7**

Notice is hereby given that I, **Dries de Ridder** Town and Regional Planner, being the authorised agent of the owner of **Erf 79 Ellisras Extension 1 Township**, in terms of Section 54(1) and Section 55(2) of the Lephale Municipal Spatial Planning and Land Use Management By-Law, 2017 have applied for the amendment of the Lephale Land Use Scheme, 2017, by the rezoning of the property described above, situated at 46 Ellis Street, Ellisras from **Residential 1, one dwelling unit per erf to Residential 2, one dwelling unit per 250m²**, the removal of restrictive condition 3.(a), (b) and (d) of Title Deed **T52924/04 and Subdivision**. Particulars relating to the application will lie for inspection during normal office hours at the office of the Executive Manager, Development Planning Directorate, Lephale Civic Centre, Cnr Joe Slovo and Douwater Road, Onverwacht, for a period of 30 days from **24 May 2019**. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager, Lephale Municipality, Private Bag X136, Lephale, 0555, within a period of 30 days from **24 May 2019**. Postal address of applicant: Dries de Ridder Town and Regional Planner, 5A Herman Street, Ellisras, 0555. PO Box 5635, Onverwacht, 0557. Telephone Number: 014 763 4184. **Dates of the notices: 24 and 31 May 2019**

24-31

PLAASLIKE OWERHEID KENNISGEWING 60 VAN 2019**WYSIGING VAN GRONDGEBRUIKSKEMA OF HERSONERING IN TERME VAN ARTIKEL 54(1) EN OPHEFFING VAN BEPERKENDE VOORWAARDES IN TERME VAN ARTIKEL 55(2) VAN DIE LEPHALALE MUNISIPALE RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUUR VERORDENING, 2017****WYSIGINGSKEMA NOMMER: 7**

Kennis geskied hiermee dat ek, **Dries de Ridder** Stads- en Streeksbeplanner, synde die gemagtigde agent van die eienaar van **Erf 79 Ellisras Uitbreiding 1 Dorpsgebied**, ingevolge Artikel 54(1) en Artikel 55(2) van die Lephale Munisipale Ruimtelike Beplanning en Grondgebruikbestuur Verordening, 2017, aansoek gedoen het vir die wysiging van die Lephale Grondgebruikskema, 2017, deur die hersonering van die bogenoemde eiendom, geleë te Ellisstraat 46, Ellisras van **Residensieel 1, een wooneenheid per erf na Residensieel 2, een wooneenheid per 250m², die opheffing van beperkende voorwaarde 3.(a), (b) en (d) in die Akte van Transport T52924/04 en onderverdeling**. Besonderhede aangaande hierdie aansoek lê ter insae gedurende normale kantoorure by die kantoor van die Uitvoerende Bestuurder, Direkoraat Ontwikkeling Beplanning, Lephale Burgersentrum, h/v Joe Slovo en Douwaterstraat, Onverwacht, vir 'n periode van 30 dae vanaf **24 Mei 2019**. Besware teen of voorleggings ten opsigte van die aansoek moet geopper word by of op skrif gestel en gerig word aan die Munisipale Bestuurder, Lephale Munisipaliteit, Privaatsak X136, Lephale, 0555, binne 'n periode van 30 dae vanaf **24 Mei 2019**. Posadres van aansoeker: Dries de Ridder Stads- en Streeksbeplanner, Herman Straat 5A, Ellisras, 0555. Posbus 5635, Onverwacht, 0557. Telefoon Nommer: 014 763 4184. **Datums van plasing: 24 en 31 Mei 2019.**

24-31

LOCAL AUTHORITY NOTICE 61 OF 2019**MAKHADO LOCAL MUNICIPALITY NOTICE
AMENDMENT SCHEME NO 332**

We, Aaron Development Specialist Pty Ltd, being the duly authorized agent by the owner of Portion 1 of Erf 990 Louis Trichardt Township hereby give notice in terms of the provision of Spatial Planning and Land Use Management Act, 2013 (Act No.16 of 2016) read together with Section 63 and Section 85 of Makhado Municipality Spatial Planning, Land Development and Land Use Management By-Law,2016 and Clause 22 of Makhado Land-Use Scheme 2009, that we have lodged the applications to Makhado Local Municipality of simultaneously rezone subject property from "Residential 1" to "Residential 2" and to relaxed density from 20 units to 45 units per hectare for the purpose of compact dwelling units. Particulars of the application will lie for inspection during normal office hours at the Town Planning Office: Makhado Local Municipality, at 83 Krogh Street, Louis Trichardt, Limpopo, 0920 for 28 days from the first date of this notice (24 May 2019) objections and or comments or representations in respect of the application must be lodged with or made in writing to the municipal manager of Makhado Local Municipality at this address or private bag X2596, Louis Trichardt, 0920 within 28 days from the date of publication. Address of the agent: Aaron Development Specialists (Pty) Ltd; P.O Box 500 Vuwani 0950; makaulule@gmail.com; Cell: 071 368 2492.

24-31

**NDIVHADZO YA MASIPALA WA MAKHADO
AMENDMENT SCHEME NO: 332**

Aaron Development Specialist Pty Ltd, vhaimeleli vho tendelwaho vha Portion 1 of Erf 990 Louis Trichardt Township uya nga Spatial Planning and Land Use Management Act, 2013 (Act No.16 of 2013) ro anganyela na Section 63 and Section 85 of Makhado Municipality Spatial Planning, Land Development and Land Use Management By-Law,2016 na Clause 22 ya Makhado Land-Use Scheme 2009, uri ro ita khumbelo kha Maisipala wapo wa Makhado malugana na u shandukisa kushumisele kwa ndaka/mavu ubva khakushumisele kwa "Residential 1" uya "Residential 2" na u engedza density ubva kha 20 units uya kha 45 units per hectare. Zwidombedzwa zwa khumbelo iyi zwidovha zwihone malugana nau tolwa musi vha tshi toda u bvisa vhuphiwa havho nga tshifhinga tsha mushumo tsha Masipala wa Makhado, kha Town Planning Office: 83 Krogh Street, Louis Trichardt, Limpopo, 0920 husa athu fhela maduvha a 28 ubva nga duvha la u thoma la ndivhadzo iyi (24 Shudunthule 2019). Nnyi na nnyi ane a sa tendelane na khumbelo idzi kana ane a toda u pfukisa vhuphiwa, utea u tou swikisa nga uto nwalela kha muhulwane wa Masipala kha address itevhelaho Private Bag X 2596 Makhado, 0920, husa athu fhira maduvha a 28 ubva nga duvha la u thoma la ndivhadzo iyi. Address ya vhaimeleli: Aaron Development Specialists (Pty) Ltd; P.O Box 500 Vuwani 0950; makaulule@gmail.com Cell: 071 368 2492.

24-31

LOCAL AUTHORITY NOTICE 63 OF 2019**PUBLIC NOTICE CALLING FOR INSPECTION OF THE 1ST SUPPLEMENTARY VALUATION ROLL FOR 2018/2019**

Notice is hereby given in terms of Section 49(1) (a) of the Local Government Municipal Property Rates Act, 2004 (Act No. 6 of 2004), hereinafter referred to as the "Act", that the 1st Supplementary Valuation Roll for the financial year 2018/2019 in terms of Section 78 of the Act is open for public inspection at the Municipal Library, 64 Springbok Street, Hoedspruit, 1380, during normal office hours (08H00 to 16H00) or on Municipal Website (www.maruleng.gov.za) for a period of 32 days starting from the 2nd May 2019 until the 14th June 2019.

An invitation is hereby made in terms of Section 50 (1) of the Act that any owner of property (indicated below) or other person who so desires should lodge an objection on the official prescribed application form with the Municipal Manager in respect of any matter reflected in, or omitted from the 1st Supplementary Valuation Roll 2018/2019 within the abovementioned period.

Attention is specifically drawn to the fact that an objection must be in relation to a specific individual property and not against the valuation as such, objection will not be considered if not furnished on the prescribed form on or before the closing date.

The form for the lodging of an objection is obtainable at the Municipal Library at 64 Springbok Street, Hoedspruit, 1380 or on Municipal Website (www.maruleng.gov.za). The completed and signed form must be put in a sealed envelope marked "1st Supplementary Valuation Roll 2018/2019," and be posted to The Municipal Manager, P.O. Box 627, Hoedspruit, 1380 or hand delivered to the address indicated above for the attention of The Municipal Manager.

For enquiries contact Kedibone Sithole, Senior Municipal Valuer-Professional Associated Valuer, or Phahlane Molebogeng, Municipal Valuation Office, Department of Spatial Planning and Economic Development) on 015 793 2409 or sitholek@maruleng.gov.za 1st Supplementary Valuation Roll 2018/2019 affects the following properties i.e.:-

- 1) Incorrectly omitted from the valuation roll;
- 2) Included in a municipality after the last general valuation;
- 3) Subdivided or consolidated after the last general valuation;
- 4) Of which the market value has substantially increased or decreased for any reason after the last valuation roll;
- 5) Substantially incorrectly valued during the last general valuation;
- 6) That must be revalued for any other exceptional reasons;
- 7) Of which the category has changed
- 8) The value of which was incorrectly recorded in the valuation roll as a result of a clerical or typing error

M C MACHUBENI
ACTING MUNICIPAL MANAGER

LOCAL AUTHORITY NOTICE 64 OF 2019**THULAMELA LOCAL MUNICIPALITY
AMENDMENT SCHEME NO: 130**

It is hereby notified that an application has been lodged by Contemporary Town Planning Consultants (Pty) Ltd. in terms of the Spatial Planning and Land Use Management Act, 16 of 2013 read together with Section 62(1) of the Thulamela Spatial Planning and Land use Management By-law 2015, for the rezoning of Erf 797 Thohoyandou-C Ext.3 from "Residential 1" to "Residential 2" for the purpose of residential building.

Particulars of the application will lie for inspection during normal office hours at Senior Manager: Planning and Economic Development, Thulamela Local Municipality, First Floor, Thohoyandou for a period of 30 days from 31 May 2019. Objections in respect of the application must be made in writing to the Municipal Manager, Thulamela Local Municipality, P.O Box 5066, Thohoyandou, 0950 within a period of 30 days from 31 May 2019. **Address of Agent: Contemporary Town Planning Consultants (Pty) Ltd. P.O Box 596, Letaba, 0870.Tel: 082 751 5959. Fax: 086 601 2041**

31-7

**THULAMELA LOCAL MUNICIPALITY
AMENDMENT SCHEME NO: 130**

Vha khou divhadziwa uri huna khumbelo yo itiwaho nga Contemporary Town Planning Consultants (Pty) Ltd. uya nga ha mulayo wa Spatial Planning and Land Use Management Act, 16 of 2013 khathihi na khethekanyo 62(1) ya Thulamela Spatial Planning and Land Use Management By-Law 2015, ya u shandukisa kushumisele kwa mavu a divheaho sa Erf 797 Thohoyandou-C Ext.3, u bva kha "Residential 1" uya kha "Residential 2" zwi tshi itelwa fhethu ha u dzula vhatu vho vhalaho.

Zwidodombedzwa zwa khumbelo iyi na manwalwa a yelanaho nayo zwi wanala ofisini ya Minidzhere Muhulwane wa kudzudzanyele kwa mvelephanda, kha luta lwa u thoma, Masipala wa Thulamela, Thohoyandou. Manwalo ayo a do wanala lwa tshifhinga tshi edanaho maduvha a furaru(30) u bva nga 31 Shundunthule 2019. Vhane vha vha na mbilahelo malugana na iyi khumbelo vha nwalela Mulanguli wa Masipala wa Thulamela kha diresi itevhelaho: P.O Box 5066, Thohoyandou, 0950. Mbilahelo dzi do tangedziwa lwa maduvha a furaru (30) u bva nga dzi 31 Shundunthule 2019. **Diresi ya dzhendedzi: Contemporary Town Planning Consultants (Pty) Ltd. P.O Box 596, Letaba, 0870.Tel: 082 751 5959. Fax: 086 601 2041**

31-7

LOCAL AUTHORITY NOTICE 65 OF 2019**THULAMELA MUNICIPALITY
EXTENSION OF PUBLIC NOTICE OF GENERAL VALUATION ROLL**

Thulamela Municipality is hereby in terms of section 49 of Municipal Property Rates Act inviting you to come and inspect the supplementary Valuation Roll. The inspection will be for a period of 21 days starting from the 24th May 2019. The roll will be available at Mutale and Thohoyandou Municipal offices (Office No. 40 and 117) during office hours.

If you wish to lodge an objection in respect of any matter in or omitted from the roll to do so in writing to the Municipal Manager within the stated period.

Municipal Manager
Mr. HE Maluleke

LOCAL AUTHORITY NOTICE 66 OF 2019**AMENDMENT OF LAND USE SCHEME OR REZONING IN TERMS OF SECTION 54(1) AND REMOVAL OF RESTRICTIVE CONDITIONS IN TERMS OF SECTION 55(2) OF THE LEPHALALE MUNICIPAL SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW, 2017****AMENDMENT SCHEME NUMBER: 9**

Notice is hereby given that I, **Dries de Ridder** Town and Regional Planner, being the authorised agent of the owner of **Erf 2280 Ellisras Extension 16 Township**, in terms of Section 54(1) and Section 55(2) of the Lephale Municipal Spatial Planning and Land Use Management By-Law, 2017 have applied for the amendment of the Lephale Land Use Scheme, 2017, by the rezoning of the property described above, situated at 17 Ouhout Street, Onverwacht from **Residential 1, one dwelling unit per erf to Residential 2, one dwelling unit per 250m² and the removal of restrictive condition 16, 17 and 18 of Title Deed T64484/08**. Particulars relating to the application will lie for inspection during normal office hours at the office of the Executive Manager, Development Planning Directorate, Lephale Civic Centre, Cnr Joe Slovo and Douwater Road, Onverwacht, for a period of 30 days from **31 May 2019**. Objections to or representations in respect of the application must be lodged with or made in writing to the Municipal Manager, Lephale Municipality, Private Bag X136, Lephale, 0555, within a period of 30 days from **31 May 2019**. Postal address of applicant: Dries de Ridder Town and Regional Planner, 5A Herman Street, Ellisras, 0555. PO Box 5635, Onverwacht, 0557. Telephone Number: 014 763 4184. **Dates of the notices: 31 May and 7 June 2019**

31-07

PLAASLIKE OWERHEID KENNISGEWING 66 VAN 2019**WYSIGING VAN GRONDGEBRUIKSKEMA OF HERSONERING IN TERME VAN ARTIKEL 54(1) EN OPHEFFING VAN BEPERKENDE VOORWAARDES IN TERME VAN ARTIKEL 55(2) VAN DIE LEPHALALE MUNISIPALE RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUUR VERORDENING, 2017****WYSIGINGSKEMA NOMMER: 9**

Kennis geskied hiermee dat ek, **Dries de Ridder** Stads- en Streeksbeplanner, synde die gemagtigde agent van die eienaar van **Erf 2280 Ellisras Uitbreiding 16 Dorpsgebied**, ingevolge Artikel 54(1) en Artikel 55(2) van die Lephale Munisipale Ruimtelike Beplanning en Grondgebruikbestuur Verordening, 2017, aansoek gedoen het vir die wysiging van die Lephale Grondgebruikskema, 2017, deur die hersonering van die bogenoemde eiendom, geleë te Ouhoutstraat 17, Onverwacht van **Residensieel 1, een wooneenheid per erf na Residensieel 2, een wooneenheid per 250m² en die opheffing van beperkende voorwaarde 16, 17 en 18 in die Akte van Transport T64484/08**. Besonderhede aangaande hierdie aansoek lê ter insae gedurende normale kantoorure by die kantoor van die Uitvoerende Bestuurder, Direktoraat Ontwikkeling Beplanning, Lephale Burgersentrum, h/v Joe Slovo en Douwaterstraat, Onverwacht, vir 'n periode van 30 dae vanaf **31 Mei 2019**. Besware teen of voorleggings ten opsigte van die aansoek moet geopper word by of op skrif gestel en gerig word aan die Munisipale Bestuurder, Lephale Munisipaliteit, Privaatsak X136, Lephale, 0555, binne 'n periode van 30 dae vanaf **31 Mei 2019**. Posadres van aansoeker: Dries de Ridder Stads- en Streeksbeplanner, Herman Straat 5A, Ellisras, 0555. Posbus 5635, Onverwacht, 0557. Telefoon Nommer: 014 763 4184. **Datums van plasings: 31 Mei en 7 Junie 2019**

31-07

LOCAL AUTHORITY NOTICE 67 OF 2019



RULES OF ORDER BY-LAW

**For Municipal Council & Council
Committees**

***RULES OF ORDER BY-LAW REGULATING THE
CONDUCT OF MEETINGS OF THE MUNICIPAL
COUNCIL
AND OTHER COUNCIL COMMITTEES
OF
POLOKWANE MUNICIPALITY***

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POLOKWANE LOCAL MUNICIPALITY

RULES OF ORDER BY-LAW

(For Municipal Council and Council Committees)

DOCUMENT

To give effect to the implementation of the Rules of Order By-Law for Council and Council Committees and to provide for matters incidental thereto.

OBJECTIVE

To provide for the general conduct in Municipal Council and Council Committee meetings, as well as the order, voting procedures and reports to and reporting in such meetings.

PREAMBLE

WHEREAS the Local Government Municipal Structures Act, Act 117 of 1998 and the Local Government Municipal systems Act, Act 32 of 2000 in Schedules 5 and 1 respectively in the CODE OF CONDUCT FOR COUNCILLORS, prescribe certain minimum conduct for Councillors and Traditional Leaders *inter alia* participating in Municipal Council and Council Committee Meetings;

AND WHEREAS Chapters 3 & 4 of the Local Government Municipal Structures Act 117 of 1998 outlines the structures and functions of Municipal Councils as well as Internal Structures and Functionaries;

BE IT THEREFORE ENACTED by the Council of Polokwane Municipality under the powers conferred to it by Section 156(2) of the Constitution of the Republic of South Africa, 1996, read with Section 12 of the Local Government Municipal Systems Act 32/2000, as follows:-

1. **DEFINITIONS**

In these Rules, unless inconsistent with the context –

“Caucus” means short adjournment of the meeting to allow for a political party for a discussion as requested by a party whip during a Council meeting;

“Chief Whip of the Council” means a full-time councillor appointed in terms of the Public Office Bearers’ Act (20 of 1998), read in conjunction with the Municipal Structures Act

“Code of Conduct” means the code of conduct for Councillors set out in the Structures Act and Systems Act respectively.

“Committees” means the committees established in terms of section 79 and 80 of the Municipal Structures Act or any other statutory committee;

“Constitution” means the Constitution of the Republic of South Africa, 1996 as amended

“Council” means the local municipal council of Polokwane comprising the full compliment represented/reflective of all political parties within it;

“Councillor” or “Member” means an elected councillor or member of the Council.

“day” means working days only.

“Ethics Committee” means the Council Committee established in terms of Item 14(1)(b) of Schedule 1 of the Local Government Systems Act 32/2000.

“Immunity” means to be exempt from an obligation or penalty and for purposes of these Rules shall refer to the protection enjoyed by members in respect of freedom of speech during Council meetings and Council Committee meetings.

“Mayoral Committee” means a Mayoral Committee established in terms of Section 60 of Chapter 4 Part 2 of the Municipal Structures Act.

“MEC” means the member of the Executive Council responsible for Local Government in the Province of Limpopo.

“Meeting” means a meeting of the Council or a Council Committee.

“Member” or “Councillor” means an elected councillor or member of the Council or a Council Committee.

“MFMA” means the Municipal Finance Management Act 56 of 2003.

“Motion” means a motion (formal proposal) introduced (put to the Council) in writing and which requires a response in the form of a written report with a recommendation and further includes a motion under section 40 or 58 of the Structures Act.

“Municipal Manager” means a person appointed in terms of Section 82 of the Structures Act.

“Officer” means a municipal official.

“Ordinary Meeting” means a meeting that is not a Special Meeting or an Urgent meeting.

“Party” means a party referred to in the Structures Act.

“Point of Order” means the pointing out of a deviation from the matter under discussion, or the pointing out of anything contrary to the rules contained in these Rules or any law.

“Question” means a written question put to the Council which requires a written answer.

“Quorum” means a majority of 50 percent plus one of the members
“(these) Rules” means the Rules of Order By-Law Document for Municipal Council and Council Committees.

“Special Meeting of the Council” means a meeting contemplated in terms of section 29(1) & 29(3) of the Structures Act and may be called by the Speaker in his or her discretion, bar for the first meeting after a general municipal election. Timeframes for the calling of such a Special Meeting are not required to fall within those set for ordinary meetings;

“Speaker” means the member elected as Chairperson of the Council in terms of section 36 of the Structures Act or any member elected as acting Speaker of the Council, and includes any chairperson of a Council Committee.

“Structures Act” means the Local Government Municipal Structures Act, 117 of 1998.

“Systems Act” means the Local Government: Municipal Systems Act, 32 of 2000.

“Traditional Dress” for purposes of these Rules means traditional attire relating to or following tradition. More specifically this may refer to distinctive shirts (the Madiba-shirt) worn with long trousers, Shweshwe-type dresses with traditional head coverings (“doek”), sari’s and any other traditional garments worn as formal clothing and which does not detract from the dignity of the gathering. Ordinary working clothes shall not be construed to be traditional dress.

“Urgent Meeting of the Council” means a meeting required to deal with a matter which, if not dealt with as soon as practical possible, will or may cause substantial harm or detriment to the Municipality, any person, any property or cultural or economic interest of any person and includes an Urgent Meeting in the event of a local disaster to deal with any such matter in relation to or prescribed in the Disaster Management Act, Act no 57 of 2002.

“(in) writing” or “written” shall mean in written format that can be captured in the official record system, and shall include hand written and typed letters in hard copy or electronic format and all other electronic communications such as electronic-mail, WhatsApp messages, and sms-messages.

- 1.1 Wherever these Rules refer to Council meetings, the same Rule shall apply to Portfolio and other Council Committees in which instance “the Speaker” shall be substituted with “the designated Chairperson or Member of the Mayoral Committee (MMC).

2. APPLICATION

- 2.1 The rules contained in these Rules apply to all Council, Portfolio and other Council Committee meetings.
- 2.2 Except where it is clearly inappropriate, a rule applying to councillors in any proceedings, also apply to a non-councillor who takes part in those proceedings with the approval of the Speaker.
- 2.3 These Rules remain in force until amended or rescinded by Council.
- 2.4 Any word or phrase in these Rules, other than a word or phrase defined in subsection 1, shall unless the context clearly indicates otherwise, bear the meaning of that word or phrase in the Structures Act or the Systems Act.
- 2.5 A word indicating the singular will include the plural.
- 2.6 Where these Rules refer to a Council meeting, it shall also include all Portfolio and other Council committee meetings insofar as the rule is applicable to such other meetings.

3. SUPPLEMENTATION

- 3.1 The Speaker may give a ruling in respect of the application or interpretation of these Rules and other procedural matters, including any eventuality for which these Rules does not provide and once he/she has given his/her reasons such ruling becomes final and binding and no further discussion shall be allowed on the ruling.
- 3.2 The ruling of the Speaker given under 3.1 is final and shall be entered in the minutes.

- 3.3 All rulings of the Speaker shall be contained in a separate document known as “The Speaker’s Rulings Book”, which document shall be updated and made available electronically to all members prior to each scheduled Council Meeting. Where a member requires a hard copy of the Speaker’s Rulings Book, such request has to be made in writing to the office of the Speaker.

4. THE SPEAKER

4.1 THE ROLE OF THE SPEAKER

- 4.1.1 The Speaker chairs all Council meetings and perform the function determined in Section 37 of the Local Government Municipal Structures Act, 117/1998, and as provided for in these Rules.
- 4.1.2 In the event that the Speaker is for any reason not available to chair a meeting, an acting Speaker must be elected from among the councillors present.
- 4.1.3 The Speaker:
- i. In consultation with the Mayoral Committee and Municipal Manager prepares the agenda for Council meetings;
 - ii. Maintains order during meetings;
 - iii. Ensures that meetings of the Council and Council Committees are conducted in accordance with these Rules;
 - iv. Ensures that members of the public attending any meetings of the municipal council conduct themselves in an orderly manner and obey any rulings made by the Speaker;
 - v. The Speaker may, at any time during a meeting, if he/she deems it necessary for the maintenance of order, direct an officer to remove or cause the removal of any person(s), including a member(s), from the meeting place, or order that the public gallery be vacated.
 - vi. Ensures compliance with the Code of Conduct for Councillors by Councillors and members;

- vii. Ensures that Councillors and members conduct themselves in a dignified and orderly manner;
- viii. Ensures that any person refusing to comply with his/her ruling leaves the meeting place immediately when ordered to do so;
- ix. Ensures that each Party Whip or Chief Whip is responsible for maintaining discipline of his/her party's members during the Council's meeting. Failure by any such Party Whip to take appropriate action may be dealt with in terms of RULE 10.13 hereof.

4.1.4 The ruling of the Speaker in regard to the application of this Chapter and any other procedural matters is final and binding.

4.2 PRECEDENCE OF SPEAKER DURING MEETINGS

- 4.2.1 A member may only address the Council when allowed thereto by the Speaker.
- 4.2.2 A member addressing the Council shall do so by addressing the Speaker.
- 4.2.3 A member must immediately stop speaking and sit down when a point of order is raised or where instructed thereto by the Speaker, until such time that the member is allowed by the Speaker to continue his/her address.
- 4.2.4 A member must not interrupt the Speaker and must immediately stop speaking when the Speaker speaks or when the Speaker instructs the member to stop addressing the Council.
- 4.2.5 The Speaker must disallow any address to the Council which is a repetition of what has already been said, whether such repetition is done by a speaking councillor on the floor or any previous speaker (councillor), which is not relevant to the matter before the Council.

- 4.2.6 The Speaker must call the attention of the member to irrelevant, tedious repetition, unbecoming language or any breach of order on the part of a members, and shall direct such member, if speaking, to discontinue his/her speech until the member has come to order. Such directions shall be regarded as a warning. Upon 2 warnings and a final warning during the deliberations of a Council meeting, the Speaker may decide to take disciplinary action against such member in terms of the Code of Conduct for Councillors.
- 4.2.7 The Speaker shall direct a member to apologise or withdraw an allegation if it is unbecoming or injures or impairs the dignity, or honour of a member or officer of the Council.
- 4.2.8 The Speaker must allow a matter before the Council to be debated and issues relevant to the matter, to be raised, in a manner inclusive of allowing a variety of arguments and viewpoints.
- 4.2.9 The Speaker must, after a matter before the Council has been debated and views aired to the extent that the Speaker deems expedient, and consensus cannot be reached on a decision on the matter, put the matter to the vote in the prescribed manner.

5 COUNCILLORS

5.1. ATTENDANCE AT MEETINGS

- 5.1.1 Every member attending a meeting of Council must sign his or her name in the attendance register kept for such purpose.
- 5.1.2 A member must attend each meeting except when leave of absence is granted in terms of RULE 5.2; or the member is required to withdraw in terms of law.
- 5.1.3 A member who arrives at a meeting 30 minutes after the starting time of such a meeting, without the necessary leave to do so, shall be barred from attending that meeting. Subsequently his or her name shall also be marked as absent without leave on the attendance register.

5.2. LEAVE OF ABSENCE

- 5.2.1 A member who wishes to absent himself or herself from a meeting must before so absenting himself or herself, obtain written leave of absence from the Speaker, 24 hours prior to such a meeting, provided that the Speaker, on good cause, may grant leave of absence (after the meeting and ensure that such authority is reported to the next Council meeting) to a member who has been prevented by special circumstances from obtaining leave of absence from the Council within the required 24 hours timeframe. This same Rule shall apply to Portfolio and other Council Committees, where leave of absence has to be obtained from the designated chairperson or Member of the Mayoral Committee (MMC).
- 5.2.2 In the event of the member having to leave during the meeting due to some urgent matter, e.g. death of someone or some other incident, the member is to personally advise the Chief Whip of Council before leaving and submit an application for leave to the Speaker within 14 days after the event.

5.2.3 The Speaker of the Council may only consider applications for leave of absence which are in writing with the exception of incidents or urgent matters which are dealt with as set out in RULE 5.2.2 above. Applications for leave of absence which are not in writing may not be considered.

5.2.4 Notwithstanding RULE 5.2.1 above, applications for leave of absence from a meeting are deemed to have been granted if:

- i. the Council or Mayor delegated the relevant member to act elsewhere on behalf of the Council in a matter; or
- ii. If the Council or Mayor requests the member to leave the relevant meeting in circumstances envisaged in Item 3(b) of Schedule 1 to the Systems Act, or the member recuses himself or herself.

5.3. NON-ATTENDANCE OF MEETING

5.3.1 A member who without leave absents himself or herself from a meeting or who fails to be in attendance at the start of the meeting or fails to remain in attendance at such a meeting is in breach of these Rules and subject to disciplinary action.

5.3.2 A member who is absent from three or more scheduled consecutive meetings which he or she is required to attend in terms of these Rules, shall be dealt with as stipulated under RULE 10.13 of these Rules.

5.4 RELEVANCE

A member who speaks shall direct his/her speech strictly to the matter under discussion or to an explanation or point of order, and no discussion shall be permitted which anticipate any matter on the agenda or in respect of any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of inquiry, whether instituted in terms of legislation or not, is pending, provided that such matter may be considered with the permission of Council.

5.5 MISCONDUCT

5.5.1 A member committing any of the following is guilty of misconduct and liable to be dealt with as provided for under RULE 10.13:-

- (i) Contravenes the terms and conditions of these Rules;
- (ii) Behaves in an inappropriate and improper manner;
- (iii) Obstructs the business of meeting;
- (iv) Challenges the ruling of the Speaker on any point of order or ruling under these Rules;
- (v) Declines to withdraw any expression when required to do so by the Speaker;
- (vi) Indulges in tedious repetition or unbecoming language; or
- (vii) In any manner whatsoever commits a breach of these Rules;

5.6 REMOVAL OR EXCLUSION OF COUNCILLOR

- (i) If a member refuses to comply with a direction in terms of these Rules, the Speaker may direct an officer to remove the member or to cause his/her removal and to take steps to prevent his/her return to the meeting, provided that the Speaker may, in his/her sole discretion, permit the return of the member to the meeting on the submission by the said member to the Speaker of a written expression of regret. Such expression of regret must be part of the minutes of the meeting.

- (ii) The Speaker may exclude from the meetings of the Council, a member who wilfully obstructs the business of any meeting, for such a period as may be determined under RULE 10.13.
- (iii) A proposal to exclude any person may be moved at any stage of the meeting.

5.7 DRESS CODE COUNCIL MEETINGS

5.7.1 A member must when attending a meeting of the Council or a Council Committee, be dressed in such a manner as not to detract from the dignity of the meeting or the Council as a whole.

5.7.2 Members of the Council must be presentable while attending all forms of formal and official meetings.

5.7.3 Without detracting from the generality of RULES 5.7.1 and 5.7.2, the following dress requirements must be observed by members, when attending Council meetings:

- (i) Traditional dress;
- (ii) A jacket and long pants is compulsory for male Councillors not wearing traditional dress;
- (iii) A male member must not wear a hat, cap or safety hard-hat inside the Council Chamber or place of meeting, nor may any female member wear a safety hard-hat inside the Council Chamber.
- (iv) A member must not wear a shirt, blouse, jacket or other clothing on which appear a logo, words or picture of any kind, including politically orientated logos, words or pictures.
- (v) Formal shoes shall be the only footwear allowed inside the Council Chamber. (Sneakers or takkies and steel-tipped safety boots shall under no circumstances be allowed in the Council Chamber.)

6. MEETINGS

6.1 CONVENING MEETINGS URGENT & SPECIAL MEETINGS

- 6.1.1 Council must meet at least quarterly in accordance with legislative prescriptions and the approved Corporate Calendar.
- 6.1.2 The Speaker determines the date, time and venue of meetings of the Council, and must ensure that such meetings take place at least quarterly.
- 6.1.3 The Municipal Manager must, at the direction of the Speaker, give notice in writing to each Member of every meeting decided upon in terms of RULE 6.1.2.
- 6.1.4 Such a notice of the place and time of every ordinary meeting and the agenda of the meeting must be served on every Member at least 72 hours or 3 (three) working days before the meeting.
- 6.1.5 The notice must be served electronically and/or by posting in the pigeon-holes allocated to Members.
- 6.1.6 The Municipal Manager must, in consultation with the Speaker, give notice to the public at least 7 (seven) days in advance of the day, time and venue of every Council meeting, save when the Council meets to consider Documents or the approval of the annual budget, in which event the Municipal Manager must give at least 5 (five) working days' notice of the meeting.
- 6.1.7 Notice of Council meetings must be made public through the local media and/or any other available public notification system. Notices must also be posted on official notice boards on all municipal premises.

6.1.8 When the Council meets as a legislative body to consider By-Laws, the Municipal Manager must give 7 working days' notice of this meeting to all members of the Council.

6.1.9 Should circumstances warrant, the Speaker may direct that the Council may meet at a place other than the Council Chamber.

6.2 URGENT & SPECIAL MEETINGS

6.2.1 A Special Meeting or an Urgent Meeting may take place simultaneous with an Ordinary Meeting.

6.2.2. The Speaker determines whether any meeting is urgent or not.

6.2.3. In the case of any urgent meeting, the notice period of such meeting must be at least 24 hours prior to the meeting, and the notice shall include detailed information on the urgent nature of the meeting.

6.2.4. The Speaker may at any time convene a special meeting of the Council on a date, time and venue determined by him/her.

6.2.5. The Speaker must, if the majority of the councillors of the Council request him or her in writing to convene a special council meeting:-

- i. convene such a special council meeting on a date set within 24 hours of the request to do so and at a time and venue determined by him or her;
- ii. Supply a copy of the request to the Municipal Manager.

6.2.6. As soon as the Speaker has determined the date, time and venue of a special meeting, he or she must inform the Municipal Manager thereof.

6.2.7. A request to call a special meeting must set out the matter to be dealt with at that special meeting. No business other than that specified in the

notice convening a special council meeting or set out in the request referred to in RULE 6.2.5 may be dealt with at a special council meeting.

- 6.2.8. Should the Speaker fail to convene a special meeting in terms of RULE 6.2.5, the Municipal Manager must convene the meeting at the date set out in the request and at a time and venue determined by him or her.

6.3 COMMENCEMENT AND CLOSURE OF MEETINGS

- 6.3.1 The Speaker must take the chair precisely at the time for which the meeting is convened.
- 6.3.2 A meeting shall be deemed closed once it has been declared as such by the Speaker.

6.4 QUORUMS

- 6.4.1 A majority of the members constitutes a quorum.
- 6.4.2 Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the Speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- 6.4.3 Whenever the Speaker is not present and there is no quorum, the start of the meeting must be delayed for no more than 30 minutes and if there is no quorum at the end of that period, no meeting shall take place and the Municipal Manager must record the names of the members present.
- 6.4.4 Whenever during a meeting there is no quorum, the Speaker must suspend the proceedings until a quorum is again present, provided that if after 10 minutes there is still no quorum the Speaker must adjourn the meeting.

6.4.5 Whenever a meeting is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.

6.4.6 The Speaker must report the names of the absentee members to the Ethics Committee established in terms of these Rules for the purposes of an investigation into a breach of these Rules.

6.5. ORDER OF BUSINESS

6.5.1 The business of meetings will appear in the following order on the agenda:

- i. Opening and welcome;
- ii. Election of acting Speaker, if necessary, shall be chaired by the Municipal Manager;
- iii. Application for leave of absence;
- iv. Proposals for condolences or congratulations by the Speaker;
- v. Proposals for condolences or congratulations by other members;
- vi. Official announcements;
- vii. Confirmation of minutes of previous meeting;
- viii. Questions of which prior notice has been given;
- ix. Consideration of the Agenda (reports);
- x. Motions or proposals deferred from previous meetings;
- xi. New Motions as per RULE 8;
- xii. Petitions; and
- xiii. Closure.

6.5.2 The Speaker may of own volition change the order of the business appearing on the agenda.

6.5.3 Except as otherwise provided in these Rules, no matter not specified in the agenda of a meeting of the Council shall be transacted at such meeting.

6.5.4 A member who wishes to have the order of business on the agenda changed must approach the Speaker prior to the meeting, stating his/her reason for such a request, which request shall be considered by the Speaker in his/her discretion.

6.6 MAYORAL ADDRESS

Should the Executive Mayor wishes to introduce a matter to Council it shall be done in accordance with RULE 8.

6.7 MINUTES

6.7.1 The Municipal Manager must ensure that minutes of the proceedings of Council meetings must be made available in electronic as well as printed format in such a manner so that it can and be confirmed by the Council and signed by the Speaker at the same meeting of which it serves as a record. This includes decisions of the Council held in closed meeting, which must be recorded as such.

6.7.2 The minutes shall be taken as read, for the purpose of confirmation, if a copy thereof was sent to each member within a reasonable period before the next meeting.

6.7.3 No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.

6.7.4 The Municipal Manager must ensure that the names of members attending any meeting, of those members who are absent, as well as the names of those who have been granted leave of absence, are recorded in the minutes.

6.7.5 The Municipal Manager must ensure that the names of members who requested that their dissent, abstention or support be recorded during voting are recorded in the minutes.

6.7.6 For administrative reference purposes, audio recordings of all meetings of the Council must be kept for a period of 5 years.

6.8 REPORTS

The Council may not take any decision on any matter tabled before it, unless sufficient information relating to the matter on which a decision is to be taken is brought before the Council in a written report.

6.9 AGENDA

6.9.1 Subject to RULES 6.9.3, 6.9.4 and RULE 6.5.2, all meetings must be conducted according to the order in which the matters appear on the agenda before a Council, and the Speaker shall permit debate on the matters, which are contained in the agenda.

6.9.2 The agenda is considered a report of the Mayor and shall contain the following matters:-

- i. Recommendations to Council (where the Mayor has no delegated authority);
- ii. A schedule of decisions by the Mayor under his/her delegated or statutory authority;
- iii. A schedule of decisions by the Mayoral Committee in terms of Section 60 of the Structures Act 117/1998.

6.9.3 The Municipal Manager may direct that any matter be entered into the confidential part of the Council's agenda. Such matter must not be disclosed to any person other than those who receive it in their official capacity, and such matter must be debated in a closed meeting of the Council.

6.9.4 The Speaker may, after considering suitable motivation, direct that a matter be moved between the confidential and open agendas.

6.10 OPPOSED AND UNOPPOSED MATTERSi. Opposed Matters

An item on the agenda shall be deemed to be an opposed matter if a member signifies his/her intention to discuss such item immediately after the Speaker has intimated to the meeting that such item is open for discussion, provided that no item shall be deemed to be opposed by reason only of the questions being asked in connection therewith.

ii. Unopposed Matters

Whenever Council is called upon to consider a matter before it and there is no opposition from any member, a unanimous vote will be recorded in the minutes.

6.11 AMENDMENTS TO RECOMMENDATIONS

6.11.1 An amendment which is moved:

- i. Must be relevant to the recommendation, motion or proposal on which it is moved;
- ii. Shall be reduced to writing, signed by the mover and seconder, and handed to the Speaker;
- iii. May only be moved by a member while he is speaking on a recommendation, motion or proposal under debate.

6.11.2 A member who has moved an amendment may speak thereon for not more than 2 minutes, but the seconder shall not be allowed to speak thereon, and there shall be no right to reply.

6.11.3 More than one amendment may be moved on a recommendation, motion or proposal, and subject to RULE 6.11.9, all amendments which have been moved shall be put to the vote at the close of the debate upon such recommendation, motion or proposal.

- 6.11.4 If the Mayor or member or the mover of the original motion wishes to address the Council on any amendment moved to such recommendation, motion or proposal he / she may only do so during his/her reply.
- 6.11.5 The debate shall close when the Mayor or his/her nominee has replied thereto.
- 6.11.6 If more than one amendment to a recommendation, motion or proposal has been moved, such amendments must be put to the vote in the order in which they were moved.
- 6.11.7 Each amendment to a recommendation, motion or proposal must be clearly stated to the meeting by the Speaker before it is put to the vote.
- 6.11.8 If an amendment is carried, the amended recommendation, motion or proposal shall take the place of the original recommendation, motion or proposal in respect of which only further proposed amendments shall be put to the vote, provided that the Speaker may, if he is of the opinion that an amendment which has been carried renders another amendment unnecessary or pointless, rule that such other amendment need not be put, after which the latter amendment shall lapse.

6.12 REVIEW OF COUNCIL'S RESOLUTION

- 6.12.1 A request by a member for the review of a resolution in terms of section 59(3) of the Municipal Systems Act may be submitted during the course of a meeting, and the request must state the reasons for the review.
- 6.12.2 A request contemplated in RULE 6.12.1, except for a request submitted in writing by at least one quarter of the members.
- 6.12.3 If a request in terms of RULE 6.12.2 has been carried, or if a request has been submitted in writing by at least one quarter of the members, the council must-

- (a) Refer the matter to the Executive Mayor or Oversight Committee reporting directly to the Council, for the submission of a report to the Mayoral Committee or relevant committee; or
- (b) Summarily confirm or revoke the resolution.

6.13 CLOSED SESSIONS

6.13.1 Whenever a matter, which is not to be disclosed to the public is provisionally placed on a part of the agenda, the Speaker, when such a matter is to be considered, must:

- (a) Direct all members of the public to leave the venue of the meeting, and
- (b) Direct the members to consider whether it would be reasonable for any or all of the items on such part of the agenda to be considered without the presence of the public, with due regard to section 160(7) of the Constitution which requires that the public and media may only be excluded from being present at a meeting when it is reasonable to do so, having regard to the nature of the business being transacted.

6.13.2 The motivation for the exclusion of the public must be recorded in the minutes in full.

6.13.3 Any items, from which the public will not be excluded, shall be considered directly after the procedure as set out in RULE 6.13.1.

7. DEBATE

7.1. RULES OF DEBATE

7.1.1 MEMBER ADDRESSES THE SPEAKER

A Councillor/member or other person who speaks at a meeting must address the Speaker.

7.1.2 ORDER OF PRIORITY

When a Councillor/member or other person wishes to address the Council, he or she must first have the permission of the Speaker.

7.1.3 RELEVANCE

- i. A Councillor who speaks must direct his/her speech strictly to the subject or matter under discussion or to an explanation or to a point of order.
- ii. No discussion shall be permitted-
 - (a) Which will anticipate any matter on the agenda; or
 - (b) On any matter in respect of which a decision by a judicial or quasi-judicial body or commission of enquiry is pending.

7.1.4 RIGHT TO SPEAK

- i. A Councillor/member may only speak once-
 - (a) To the matter before the Council;
 - (b) To any motion before the Council;
 - (c) To any amendments to the matter (motion) before the Council;
 - (d) To a matter (motion) or an amendment proposed or to be proposed by himself or herself;
 - (e) To a point of order or question of privilege; unless authorized by the Speaker or as provided for in terms of these Rules.
- ii. The mover of an original motion may speak to the motion and reply, but in replying he or she shall strictly confine himself or herself to answering previous speakers and shall not introduce any new matter to the debate.

- iii. The right of reply shall not extend to the mover of an amendment which, having been carried, has become the substantive motion.

7.1.5 LENGTH OF SPEECHES

- i. Except with the consent of the Speaker no councillor may speak for more than 3 (three) minutes on any subject (or matter).
- ii. The mover of an original motion or of any amendment may however speak for a period not exceeding 6 (six) minutes on such motion or amendment.
- iii. A digital clock with a stopwatch-timer and alarm shall be employed by the Speaker at all times in the council chamber for purposes of time management of members' speeches.

7.2 ORDER OF DEBATE

When a motion is under debate at any meeting of the Council no further motion shall be received except the following:

7.2.1 That the motion be amended

- i. Every amendment shall be relevant to the motion on which it is moved.
- ii. An amendment shall, if required by the Speaker, be in writing, signed by the mover and handed to the Speaker.
- iii. An amendment shall be read before being moved.
- iv. An amendment shall not be discussed or put to the Council until it has been seconded.
- v. If there are more than one amendment to a motion the amendment last proposed shall be put to the vote first and if carried the matter shall be resolved accordingly.

- vi. If the amendment last proposed is rejected the amendment proposed immediately prior to the last amendment shall be put to the vote.
- vii. No further amendment shall be moved to a motion or amendment after the Speaker has commenced to take the vote upon such motion or amendment.

7.2.2 That the consideration of the matter be postponed

- i. A Councillor may at the conclusion of a speech move that the consideration of the matter be postponed to a fixed or undetermined date.
- ii. Such motion must be seconded but need not be in writing, provided that the seconder shall not be permitted to speak. The mover shall be permitted to speak to the motion of a period not exceeding 3 (three) minutes and the seconder shall not speak except for seconding the motion.
- iii. Upon such motion being made the mover of the matter under debate may (without prejudice to his or her ultimate right of reply if the motion that the matter be postponed be not carried) be heard in reply before 3 (three) minutes, after which the motion shall be put without further debate
- iv. If the motion is carried, the matter shall be placed first on the agenda of matters to be considered at the meeting to which it has been postponed, provided that RULES 7.2.1(i) and 7.2.1(ii) shall not apply to such matter.

7.2.3 That the public and the media be excluded

7.2.4 That the public and media be re-admitted

7.2.5 That the Council adjourn

- i. A Councillor who has not already participated in the debate on the matter then before the meeting may at any time except during the course of a speech by another member or while a vote is being taken move “that the Council do now adjourn to another date”.
- ii. Such motion must be seconded.
- iii. The mover shall be permitted to speak to the motion for a period not exceeding 3 (three) minutes but the seconder shall not speak except for seconding the motion.
- iv. If the motion is carried the Council shall forthwith adjourn, provided that the Speaker may direct that the meeting proceed first to dispose of business other than opposed business.
- v. If the motion is not carried the Speaker shall not accept another such motion until the period of half an hour has elapsed.
- vi. Save as is provided in RULE 7.2.5(iii) no discussion on such motion shall be permitted, except that a member who has first indicated as such, may speak in opposition of the motion for not more than 3 (three) minutes.
- vii. No amendment to such motion may be moved except in relation to the period of adjournment.
- viii. If a motion to adjourn a meeting has been carried during a debate and prior to the conclusion thereof then upon consideration of the matter, the member who moved the adjournment shall be entitled to speak first.
- ix. No business shall be transacted at an adjourned meeting except such as was set out in the agenda for the adjourned meeting.

7.2.6 That the Council adjourn for a specified time

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- (i) A Councillor may except during the course of a speech by another member or while a vote is being taken move “that the Council adjourn for a specified time, up to one hour”.
 - (ii) Such motion need not be in writing.
 - (iii) If the motion is carried the Council shall forthwith adjourn for the specified time.
 - (iv) The Speaker may limit the number of such motions.

7.2.7 That the debate be adjourned

- (i) A Councillor who has not yet participated in a debate may at the conclusion of any speech move that the debate be adjourned.
- (ii) Such motion must be seconded but need not be in writing.
- (iii) The mover of such motion may speak to it for 3 (three) minutes, but the seconder may not speak beyond formally seconding it.
- (iv) Save as is provided in RULE 7.2.7(iii) no discussion may be permitted on such motion except in relation to the period of adjournment and that the member who first rises in his place for that purpose may speak in opposition thereto for 3 (three) minutes.
- (v) If such motion is carried, the meeting proceeds to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, is resumed at the next meeting.
- (vi) On the resumption of the adjourned debate the member who moved the adjournment is entitled to speak first.
- (vii) If the motion is not carried the Speaker shall not accept another such motion until half an hour has elapsed.

- (viii) A Councillor may not move or second more than one motion for the adjournment of the debate during the course of that debate.

7.2.8 That the matter be put to the vote

- (i) A Councillor who has not yet participated in a debate on a matter may during such debate, at the conclusion of any speech, move that the matter be now put to the vote.
- (ii) Subject to the provisions of RULE 7.2.8(iii), no motion put in terms of RULE 7.2.8(i) shall be open to discussion.
- (iii) The mover of a matter under discussion may, when a motion has been put in terms of RULE 7.2.8(i) speak on such motion for not more than 5 (five) minutes, whereupon the said motion shall be put to the vote without any further discussion.

7.2.9 Removal of the matter from the agenda

- (i) A Councillor who has not yet participated in the debate on a matter may during such debate, at the conclusion of any speech, move that the matter be removed from the agenda.
- (ii) No motion put in terms of RULE 7.2.9(i) shall be open to discussion.
- (iii) The mover of a matter under discussion may when a motion has been put in terms of RULE 7.2.9(i) speak on such motion for not more than 3 (three) minutes, whereupon the said motion shall be put to the vote without any further discussion.
- (iv) If such a motion is carried, the matter under discussion shall not be further pursued.

8. MOTIONS & QUESTIONS

8.1 MOTIONS AND WRITTEN QUESTIONS

- 8.1.1 Subject to the provisions of any other law:

- (i) Every notice of motion shall be in writing in the form of a draft proposal and similarly all questions shall be in writing and shall be submitted to the Speaker and such notice shall be signed by the member submitting it and by the member seconding it;
- (ii) Subject further to RULE 8.1.5 below, no question or notice of a motion shall appear on an agenda, unless it is received at least 10 working days prior to such meeting; and
- (iii) Should the member who submitted a motion not be present at the meeting when such motion is being debated, the motion may be moved by the caucus leader.

8.1.2 The Speaker shall acknowledge receipt in writing of all motions and questions received and shall allocate a number to each individual motion or question received, which number together with a brief description of the motion or question shall be recorded in a register created specifically for this purpose (One register for motions and another for questions).

8.1.3 Every motion and question shall deal with a matter in respect of which the Council has jurisdiction.

8.1.4 A member submitting a motion or question shall introduce such motion and shall have the right of reply thereto.

8.1.5 The Municipal Manager must when he/she receives a motion or question from the Speaker, without delay submit the motion or question to the relevant directorate for a written report with recommendations in the event of a motion or a written answer to a question, where after the report or answer shall be introduced in council via the relevant Portfolio Committee which is legally competent to deal with the subject of the motion or question.

8.1.6 When a member introduces a motion in terms of this Rule:

- (i) Which is intended to rescind or amend a resolution passed by the Council taken within the preceding 3 months or;

- (ii) Which has the same purport as a motion which was not supported within the preceding 3 months; such motion shall not be entertained.

8.1.7 Reports and investigations:

- i. A question shall not be asked seeking information in relation to an investigation that is underway, other than to determine the status of that investigation i.e. initiated, ongoing, close to completion or completed.
- ii. A question shall not be asked regarding the contents of any report resulting from a confidential or forensic investigation unless the disclosure of information necessary to answer such question is in accordance with the policy regarding the release of information contained in such a report.
- iii. A question shall not be asked in relation to matters that are legally privileged, that are the subject of ongoing legal proceedings or that are confidential, or if the disclosure of information necessary to answer such a question would result in the breach of the rights of, or a duty owed to, a third party.
- iv. No questions regarding matters on the confidential agenda will be permitted.

8.1.8 There shall be a Question and Notice of Motion Record book, to be kept by the Speaker in which shall be recorded:

- i. All Question(s) and Motions submitted by members during the month reflecting the date on which they were submitted to the Speaker, as well as the date on which they were transmitted to the relevant office to answer the question or attend to the motion;
- ii. Questions and motions referred back and the reasons for their rejection;
- iii. Answers given to the questions and reports generated in relation to motions.

8.1.9 When dealing with motions and questions:

- (i) The motion or questions shall be read out together with the number thereof and the name of the mover or questioner;

- (ii) The Speaker shall ascertain which motions are unopposed and these shall be passed without debate, followed by answers to questions and thereafter the Speaker shall call the opposed motions in their order on the agenda.

8.1.10 The Speaker may disallow a motion or proposal which:

- (i) May lead to the discussion of a matter already dealt with in the agenda, or which has no bearing on the administration of, or conditions in the Municipality; or
- (ii) Advances arguments, expresses an opinion or contains unnecessary, incriminating, disparaging or improper suggestions, or in respect of which:
 - a. The Council has no jurisdiction;
 - b. A decision by a judicial or quasi-judicial body is pending; or
 - c. Which has not been duly seconded; or
 - d. If passed, would be contrary to the provisions of these Rules, or of any other law or which Council is not financially or legally competent to approve provided that if such motion or proposal, in the opinion of the Council, justifies further investigation it shall be referred to the relevant Committee.

8.1.11 Motion of Course

In addition to those provided for elsewhere in these Rules, the following shall be regarded as Motions of Course:-

- i. That precedence be given to the consideration of any particular item appearing on the agenda;
- ii. That any report referred to on the agenda be noted, adopted, acted upon or referred back;
- iii. That any document before the Council be acted upon in the manner specified in the motion;
- iv. That action be taken in regard to any item submitted for consideration in the manner specified in the motion.

8.2 POINTS OF ORDER AND POINTS OF CLARITY

8.2.1 Points of Order

For the purpose of this RULE:

- i. a point of order means any deviation of, or anything contrary to these Rules;
- ii. A point of order may be raised at any stage of the meeting proceedings, by addressing the words: “*On a point of Order*” to the Speaker;
- iii. The member raising a point of order must state the particular Rule, By-law or any other law that is alleged to have been breached or deviated from;
- iv. Any point of order shall not constitute a speech and therefore not affect the right of any member to speak on a particular item, provided that a member who addresses the Speaker on a point of order shall not be permitted to address the Speaker for longer than 1 minute on such point of order;
- v. Any member, whether he/she addressed the Council on the matter under debate or not, may raise his/her hand to a point of order;
- vi. A member contemplated in RULE 8.2.1(iv), shall be entitled to be heard forthwith, and the member speaking at the time shall remain silent and be seated, until a ruling has been made by the Speaker;
- vii. The ruling of the Speaker on a point of order shall be final and shall not be open to discussion.

8.2.2 Points of Clarity/Explanation

For the purpose of this RULE:

- i. A point of clarity means the explanation of some material part of a member’s speech which has not been understood or which contains

incorrect assertions during the course of the debate but not once the debate has closed;

- ii. Any point of clarity shall not constitute a speech and therefore not affect the right of any member to speak on a particular item, provided that a member who addresses the Speaker on a point of clarity shall not be permitted to address the Speaker for longer than 1 minute on such point of clarity;
- iii. Any member, whether he/she addressed the Council on the matter under debate or not, may rise/raise his/her hand on a point of clarity at the end of the debate;
- iv. A member contemplated in RULE 8.2.2(iii), shall be entitled to be heard forthwith, and the member speaking at the time shall remain silent and be seated until a ruling has been made by the Speaker;
- v. The ruling of the Speaker on the admissibility of a point of clarity shall be final and shall not be open to discussion.

8.3. RE-INTRODUCTION OF MOTION OR QUESTION

No motion which has been rejected by the Council and no question asked in terms of the rules in these Rules, and dealt with at any meeting may again be moved or asked within a period of 3 (three) months of such meeting except with the consent of the Speaker.

8.4. WITHDRAWAL OF MOTION, AMENDMENT OR QUESTION

- 8.4.1 A motion or amendment may without debate and with the permission of the seconder and Council, be withdrawn by the mover.
- 8.4.2 A Councillor may not speak on such motion or amendment after the Council has agreed to the withdrawal of such motion.

8.4.3 A question may be withdrawn by a Councillor intending to put it.

9. DECISION MAKING

9.1 LEGAL AND FINANCIAL CONSTRAINTS

The Council may only take such decisions as it is legally and financially competent to do and all reports submitted in an agenda or made orally must make reference to legal and financial implications.

9.2 DECISIONS AND VOTING

9.2.1 Subject to the provisions of RULE 9.2.2 all decisions must be taken by a majority vote of the members present at any meeting of the Council.

9.2.2 Before any vote is taken on any matter before the Council, the Speaker shall cause the bells to be rung for a period of 1 minute, after which all doors leading to the Council Chamber shall be closed and no Councillor or any other person shall be allowed to enter or leave the Council Chamber, and all Councillors must be seated while voting is in progress.

9.2.3 The following matters are determined by a decision taken by the majority of the members of the Council:

- i. The passing of By-laws;
- ii. The approval of budgets;
- iii. The imposition of rates and other taxes;
- iv. Levies and duties;
- v. The raising of loans.

9.2.4 If the Speaker asks the meeting whether it is in agreement with the recommendation, and the recommendation is not opposed by any member present, the recommendation is adopted.

9.2.5 Where there is opposition to any proposal to be decided, voting must be by a show of hands or by means of an electronic voting system when available, unless otherwise resolved.

- 9.2.6 Only the number of members, and not the names of members voting for or against an item, is to be recorded in the minutes.
- 9.2.7 A member may abstain from voting without leaving the meeting place.
- 9.2.8 Any member may request that his dissent, abstention or support be recorded in the minutes of that meeting.
- 9.2.9 The Speaker must announce the decision of the Council taken in terms of RULE 9.2.4 or 9.2.5.
- 9.2.10 Should there be an equality of votes on any matter other than those listed in RULE 9.2.1 to 9.2.5, the Speaker must exercise a casting vote in addition to his vote as a Speaker.

9.3. **MANNER OF VOTING**

- 9.3.1 The Speaker must put every opposed motion to the vote by calling upon the members to indicate by a show of hands unless otherwise prescribed by law, whether they are for such motion or against it, whereupon he or she must declare the result of such vote.
- 9.3.2 Upon the Speaker's declaration of the result of a vote, a member may demand for his or her vote to be recorded against the decision concerned and the Municipal Manager shall ensure that such vote is recorded in the minutes.
- 9.3.3 If there is an equality of votes in respect of a motion on which voting takes place in accordance with RULE 9.3.1 the Speaker must exercise his/her casting vote, in addition to his/her deliberative vote, provided that the Speaker may not exercise a casting vote in terms of any matter set out in **section 160(2)** of the Constitution, 1996.

9.3.4 In accordance with the Constitution, 1996, a supporting vote of a majority of the members is necessary to decide on -

- (i) The passing of Documents;
- (ii) The approval of the budget;
- (iii) The imposition of rates and other taxes, levies and duties;
- (iv) The raising of loans.

9.3.5 In accordance with the Municipal Structures Act, 117/1998 a supporting vote of at least two-thirds of the members is necessary to adopt a decision to dissolve the Council.

9.3.6 As per the Municipal Finance Management Act, 56/2003 the Supply Chain Management Policy of a Municipality or Municipal Entity must, irrespective of the procurement process followed, state that the municipality or municipal entity may not make any award to a person-

- (i) Who is a government employee;
- (iii) If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (iii) Who is an advisor or consultant contracted with the municipality or municipal entity.

9.3.7 Where a member, duly seconded, proposes voting by a closed ballot, the Speaker shall rule on the proposal, whereafter voting shall take place. The Municipal Manager shall conduct the process of voting by closed ballot and attend to counting of votes.

9.4 VOTING PROCEDURE

9.4.1 Every recommendation, motion or proposal shall be submitted to the Council by the Speaker or Chairperson of the Committee as the case may be, who shall call upon the members to indicate by a show of hands whether they are for or against such recommendation, motion or

proposal and the Speaker or Chairperson shall thereupon declare the result of the voting.

- 9.4.2 After the Speaker or Chairperson has declared the result of the voting in terms of RULE 9.4.1, a member may demand that his or her vote be recorded against the decision.

10. GENERAL PROVISIONS

10.1 PUBLIC ACCESS TO COUNCIL MEETINGS

The Speaker must take reasonable steps to regulate public access to, and public conduct at meetings.

10.2. EXCLUSION OF THE PUBLIC AND MEDIA FROM MEETINGS

10.2.1 The public, including media, may be excluded from the meetings:-

- (i) Where so directed by the Speaker in terms of RULE 6.13 of these Rules.
- (ii) Where so decided by Council in terms of RULE 7.2.3 of this section.

10.2.2 If such motion is seconded, it shall be put to the vote forthwith without discussion.

10.2.3 If, after due consideration by Council of the reasons stated, such motion is carried, the Council Chamber or place of meeting shall be cleared of all members of the public, including the media.

10.3. RE-ADMISSION OF PUBLIC AND MEDIA TO MEETINGS

10.3.1 A member may during the course of the meeting from which the public and the media were excluded, move "that the meeting again be opened" and state the reasons for such motion.

10.3.2 If such motion is seconded it shall be put to the vote forthwith without discussion.

10.3.3 If, after due consideration by Council of the reasons stated, such motion is carried, members of the public including the media will be re-admitted to the Council Chamber or place of meeting.

10.4. INVITATION TO NON-MEMBER

The Speaker may invite a person who is not a member to address the Council or attend a meeting to state his or her views on a matter before the Council.

10.5. DEPUTATIONS

10.5.1 A deputation seeking an interview with the Council must give the Municipal Manager 6 (six) working days' written notice of this intention and furnish details of the representations to be made and the source of the deputation.

10.5.2 The Municipal Manager must submit a notice in terms of RULE 10.5.1 together with his or her comments and recommendations, to the Speaker who may decide to grant or refuse an interview.

10.5.3 If permission is granted in terms of RULE 10.5.2 the Municipal Manager may set conditions for such deputations.

10.6 STATE OF THE CITY ADDRESS

10.6.1 The Speaker may call a meeting of the Council, to be held at the beginning of each calendar year, for the Executive Mayor to deliver an address on the State of the City.

10.6.2 After the Executive Mayor's address on the State of the City has been delivered, the Speaker must place it on the agenda of the next ordinary Council meeting for debate.

10.7 PRIVILEGE AND IMMUNITY OF COUNCILLORS DURING MEETINGS

Subject to the provisions contained in these Rules, there must be freedom of speech and debate in the Council and its Committees.

10.8 ADJOURNMENT TO CAUCUS

The Speaker or Chairperson of the Committee, as the case may be, should if requested by Party Whips, adjourn a meeting in order to afford members the opportunity to caucus, provided that the Whip who requested the caucus should first address the Council or committee before any further discussion take place.

10.9 AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

10.9.1 The notes to the annual financial statements of a municipality or municipal entity must disclose particulars of any award (the amount of which is stipulated in terms of national legislation) to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including

–

- (a) The name of that person;
- (b) The capacity in which that person is in the service of the state;
and
- (c) The amount of the award.

10.10. DISORDERLY CONDUCT OF A COUNCILLOR OR ANY OTHER PERSON IN A COUNCIL OR COMMITTEE MEETING AND THE DUTY OF THE SPEAKER OR CHAIRPERSON

- 10.10.1 Notwithstanding and in addition to the provisions contained in these Rules, if at any meeting of the council or a committee of council a councillor or any other person present, conducts himself or herself in an improper fashion, behaves in an unseemly manner or persistently obstructs business to be carried out or challenges the ruling of the Speaker or chairperson on any point of order or declines to withdraw an expression when required to do so by the Speaker or chairperson or indulges in tedious repetition or unbecoming language or commits any breach of these rules, the Speaker or chairperson shall direct such councillor or attendee to conduct himself or herself properly and, if speaking, to discontinue his/her speech and resume his/her seat, if he/she is standing.
- 10.10.2 In the event of persistent disregard of the directions of the Speaker or chairperson, the Speaker or chairperson shall direct such councillor or person to retire from the venue where the meeting is being held for the remainder of the meeting, and shall, if necessary, cause him/her to be ejected there from.
- 10.10.3 The Speaker or a chairperson may exclude from a meeting, for such period of time during the meeting as he/she may deem fit, any member or person who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the Speaker or chairperson, provided that a formal process will be initiated after the conclusion of the meeting.
- i. Where a councillor or person refuses to retire or in the event of more than one councillor or person having to be ejected from the

meeting, and such councillor/s or person/s refuse/s to leave the meeting, the Speaker shall request the assistance of the Community Safety Officers in attendance at the meeting to facilitate the removal of such councillor/s or person/s from the chamber. If this cannot be done orderly, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councillors or persons to retire or to be ejected from the venue of the meeting.

- ii. If, at the resumption of proceedings, the councillor/s or person/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation. The Speaker or chairperson may rule that after the second adjournment the meeting will re-convened at another venue and any councillor/s or persons ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue.
- iii. The Senior Community Safety Officer in charge of security of the council will ensure that such councillor/s do/es not enter such an alternative venue.

10.11. MISCONDUCT OF NON-COUNCILLOR AND MEMBERS OF THE PUBLIC

If a non-member and member of the public misconducts himself or herself, behaves in an unseemly, manner or obstructs the business of any meeting, the Speaker may order his or her removal from the Council Chamber or place of meeting.

10.12 MUNICIPAL COMMUNITY SAFETY OFFICIALS TO BE IN ATTENDANCE AT COUNCIL MEETINGS

- 10.12.1 The Manager in the Office of the Speaker shall ensure that attendance of Municipal Community Safety Officials shall be arranged for all Council Meetings.
- 10.12.2 The attendance of Municipal Community Safety Officials shall be arranged and confirmed at least 48 (forty eight) hours prior to any Council Meeting.
- 10.12.3 The Manager Community Safety shall ensure, that the necessary arrangements are made with the South African Police Services to be on standby on dates and during the sitting of Council meetings.

10.13 BREACH OF THESE RULES

- 10.13.1 Any contravention or breach of these Rules or the Code of Conduct for Councillors contained in the Municipal Systems Act, must be investigated by the Ethics Committee in accordance with item 14 of Schedule 1 of the Municipal Systems Act, and the sanctions referred to in item 14 of Schedule 1 of the Municipal Systems Act apply if a member is found guilty of contravening these Rules or the Code of Conduct for Councillors.

10.14 INTERPRETATION

- 10.14.1 Any member may request that the ruling of the Speaker/Chairperson regarding the interpretation of the Rules of Order By-Law Document be recorded in the minutes and a register of such rulings shall be kept by the Municipal Manager.
- 10.14.2 The Chairperson shall sign the entry of each ruling given by him or her in the register referred to in RULE 10.14.1.

- 10.14.3 A member who has made a request in terms of RULE 10.14.1, may verbally during that meeting or within five (5) days thereof in writing, require the Municipal Manager to submit the matter to the Mayoral Committee, in which event the Mayoral Committee shall consider the ruling and report thereon to the Council.
- 10.14.4 The Council may, on the recommendation of the Mayoral Committee, direct that the ruling of the Speaker/Chairperson be amended or substituted.

10.15. REVISION AND AMENDMENT

These Rules may be reviewed annually or as regularly as deemed appropriate and amendments to these Rules are subject to the conditions and procedures stipulated for adoption of by-laws by a municipal council, as provided for in terms of the Local Government Municipal Systems Act 32/2000.

10.16. SHORT TITLE AND COMMENCEMENT

- 10.16.1 These Rules will be known as the Rules of Order By-Law for Municipal Council and Council Committees, and takes effect on date of promulgation thereof in the Provincial Gazette of Limpopo.

ANNEXURE 1
THE PROCEDURE TO BE FOLLOWED IN ELECTING THE SPEAKER
INCLUDING NOMINATION FORM

PROCEDURE TO BE FOLLOWED IN TERMS OF SCHEDULE 3 OF THE STRUCTURES ACT:-

1. The Municipal Manager presides over the election of a Speaker.
2. The Municipal Manager announces that a new Speaker has to be elected. (Where the election is due to vacation of the position of Speaker, the Municipal Manager shall announce it accordingly.)
3. The Municipal Manager calls for nominations.
4. On receipt of the nomination form, the Municipal Manager states that a nomination has been received for the Councillor nominated on the nomination form, also indicating that the nomination form has been signed by two members of the Municipal Council and whether the nominated Councillor accepts the nomination or not.
5. The Councillor elect is announced as Speaker by the Municipal Manager.
6. Following congratulating the newly elected Speaker, the Municipal Manager requests him/her to take the Speaker's seat and preside over the meeting.

NOMINATION FOR ELECTION OF SPEAKER

I, Clr _____ [Signature: _____]

herewith nominate Clr _____ as Speaker of the
Council of Polokwane Municipality.

Seconded by Clr _____ [Signature: _____]

I, Clr _____ [Signature: _____]

herewith accept the nomination of Speaker of the Council of Polokwane
Municipality.

Date _____

LOCAL AUTHORITY NOTICE 68 OF 2019**NOTICE OF APPLICATION FOR AMENDMENT OF THE LAND USE MANAGEMENT SCHEME IN TERMS OF SECTION 52 (1) (b) OF MARULENG SPATIAL PLANNING & LAND USE MANAGEMENT BY-LAW OF 2016 READ TOGETHER WITH THE PROVISION OF SPATIAL PLANNING AND LAND USE MANAGEMENT ACT 2013 (ACT 16 OF 2013)****MARULENG AMENDMENT SCHEME 174**

We, Kago-Boswa Consulting Spatial Planners, being the authorised agent of the owner of the property mentioned below, hereby give notice in terms of Section 52 (1)(b) of Maruleng Spatial Planning and Land Use Management By-law of 2016, that we have applied to Maruleng Municipality for the amendment of Maruleng Land Use Management Scheme 2008, by the rezoning of:

- Erf 372 Hoedspruit Extension 6, situated in Hoedspruit, from 'Rural Residential' to 'Special' for a guesthouse/ lodge (Amendment Scheme 174, Annexure 189).

Particulars of the applications will lie for inspection during office hours at the Municipal Library, 64 Springbok Street, Hoedspruit, for a period of 30 days from 31 May 2019. Objections to or representations in respect of the applications must be lodged with or in writing to the Municipal Manager at this address P.O. Box 627, Hoedspruit, 1380, within a period of 30 days from the from 31 May 2019.

Address of the Agent: Kago-Boswa Consulting Spatial Planners, P. O. Box 14098, Flamwood Walk, 2535 (Cell: 0827780429, email: kagoboswa@gmail.com)

PLAASLIKE OWERHEID KENNISGEWING 68 VAN 2019**KENNISGEWING VAN AANSOEK VIR WYSIGING VAN GRONDGEBRUIKSKEMA INGEVOLGE ARTIKEL 52 (1) (b) VAN DIE MARULENG RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUUR VAN 2016 SAAMGELEES MET DIE VERSKAFFING VAN RUIMTELIKE BEPLANNING EN GRONDGEBRUIKBESTUUR WET 2013 (WET 16 VAN 2013)****MARULENG WYSIGINGSKEMA 174**

Ons, Kago-Boswa Consulting Spatial Planners, synde die gematigde agent van die eienaar van die eiendom hieronder genome, gee hiermee ingevolge Artikel 52 (1) (b) van die Maruleng Ruimtelike Beplanning en Grondgebruikbestuur Verordening Van 2016, kennis dat ons by die Maruleng Munisipaliteit aansoek gedoen het om die wysiging van die Maruleng Grondgebruikskema 2008, deur die hersonering van:

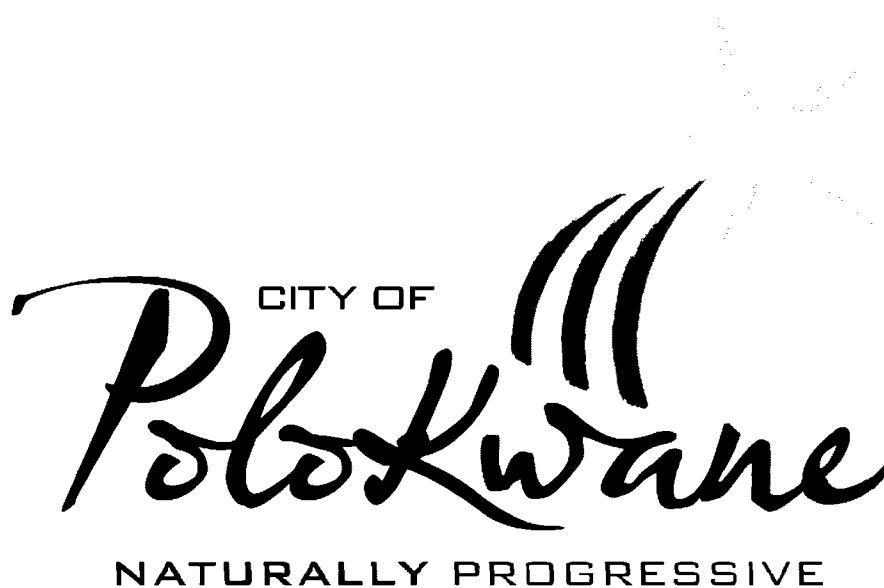
- Erf 372 Hoedspruit Uitbreiding 6, geleë in Hoedspruit, van 'Landelike Residensiël' na 'Spesiaal' vir gastehuis/ lodge (Wysigingskema 174, Bylae 189).

Besonderhede van die aansoeke lê ter insae gedurende gewone kantoor ure by die Munisipaliteit Biblioteek, 64 Springbokstraat, Hoedspruit, vir 'n tydperk van 30 dae vanaf from 31 Mei 2019. Besware teen of verhoë ten opsigte van die aansoeke moet binne 'n tydperk van die 30 dae vanaf from 31 Mei 2019 skriftelik by of tot die Munisipale Bestuurder by Posbus 627, Hoedspruit, 1380, ingedien of gerig word.

Adres van Agent: Kago-Boswa Consulting Spatial Planners, Posbus 14098, Flamwood Walk, 2535 (Sel: 0827780429, e-pos: kagoboswa@gmail.com)

LOCAL AUTHORITY NOTICE 69 OF 2019

FINAL AMENDED VERSION Oct. 2017



POLOKWANE LOCAL MUNICIPALITY
WASTE MANAGEMENT BY-LAW

POLOKWANE LOCAL MUNICIPALITY**WASTE MANAGEMENT BY-LAW****INDEX****PREAMBLE****CHAPTER 1: DEFINITIONS****CHAPTER 2: REMOVAL OF WASTE**

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POLOKWANE LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAW

To provide for the regulation of waste management functions, including the prevention, minimization, generation, collection, cleaning and disposal of waste within the area of jurisdiction of the City of Polokwane; and to provide for matters related thereto

WHEREAS section 156(2) of the Constitution provides that a Municipality may make and administer by-laws for the effective administration of the matter which it has the right to administer;

AND WHEREAS section 9(3)(a)-(d) of the National Environmental Management: Waste Act, Act 59 of 2008 provides for the management of waste by local authorities;

NOW BE IT ENACTED by the Council of the Polokwane Local Municipality, as follows:-

CHAPTER 1

DEFINITIONS

In this By-law, unless the context indicates otherwise-

“**Act**” refers to the National Environmental Management: Waste Act, 2008

“**bin liner**” means a plastic bag as prescribed by the municipality which may be placed inside a container with a conserving capacity not exceeding 0,1m³.

“**builders waste**” includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition.

“**bulky waste**” means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door service provided by the council or service provider and may require a specialised removal service which shall include but is not limited to 6m³ and 9m³ skip containers.

“business waste” means refuse generated on any premises which can readily be removed by means of and without damaging the bin liner, including garden refuse but excluding builders waste, bulky waste, domestic waste or objectionable waste.

“by-law” means legislation passed by the Municipality’s Council which is binding on persons who resides within, visiting the area of authority of the municipality or using municipal services.

“container” means a refuse container as prescribed and approved by the Municipality and which may be supplied by the Municipality at a prescribed tariff or at a ruling price or at hiring charges. Container includes bin liners for collection of waste and has a corresponding meaning with “receptacle” in this by-law.

“domestic waste” means refuse which is normally generated on the premises of private dwelling houses which are used solely for residential purposes, and which can readily be removed by means of and without damaging the bin liner, excluding garden refuse.

“erf” means portion of land or property in 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 recognised, approved or established as such in terms of the Ordinance 15/1986, any other law or any repealed law.

“garden waste” means organic waste which emanates from gardening or landscaping activities at residential, business or industrial premises including but not limited to grass cuttings, leaves, branches, and includes any biodegradable material and excludes waste products of animal origin and bulky waste.

“Health Care Risk Waste”(HCRW) means waste capable of producing any disease and includes, but is not limited to the following:

- a) Laboratory waste;
- b) Pathological waste;
- c) Isolation waste;
- d) Genotoxic waste;

- e) Infectious liquids and infectious waste;
- f) Sharps waste;
- g) Chemical waste; and
- h) Pharmaceutical waste.

“industrial waste” means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste.

“IWMP” means Integrated Waste Management Plan.

“litter” means waste, excluding hazardous waste, arising from activities in public areas that has not been deposited of in a public litter container.

“municipality” means City of Polokwane or Polokwane Local Municipality as established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

“Municipal Systems Act or Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

“nuisance” means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering.

“objectionable waste” means waste which is toxic, dangerous, injurious or harmful or which may pollute the environment or which results from a manufacturing process or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the Municipality’s drainage by-law may not be discharged into a drain or sewer.

“occupier(s)” in relation to any premises, means any person who is in actual occupation of such premises and if no person is in actual occupation thereof, any person who, whether as owner, lessee, licensee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purposes of such street trader's business and also includes a body corporate as defined in the Sectional Titles Act, 1971.

“owner” means the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof, who is over 18 years of age, and any person who obtains a benefit from the premises or is entitled thereto.

“person” means anyone who imports, generates, stores, accumulates, transports, processes, or exports waste or transport waste.

“PPC” means personal protective clothing.

“premises” means the same as “erf”.

“public place” means land intended for use by members of the public as undeveloped land, a park, garden, conservation area, a playground, a square or recreation ground.

“receptacle” means an approved container having a capacity for temporary storage of waste in terms of these by-laws and includes bin liners used for collection of waste. Receptacle in these by-laws has a corresponding meaning with “container”.

“recycle” means a process where waste is reclaimed for further use which process involves the separation of waste from a waste stream for further use and the processing of that separated material as a product or raw material.

“recycler” shall mean a person who performs the activity of recycling on an informal sector level largely to the extent of collecting, recovering, transporting, accumulating, storing, and trading in recyclable waste and who do not require a licence under the Act for conducting waste management activities;

“service provider” means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Municipality and includes the service provider's employees, heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee, agent or representative of the service provider.

“tariff” means the prescribed charge determined by the Municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of this by-law.

“transfer station” is an approved waste disposal facility for waste generated in the municipal area where residents can dispose of waste excluding objectionable waste.

“waste” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for (the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sector, but—
 - (i) a by-product is not considered waste; and
 - (ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste;

“waste collector” shall mean an operator who performs the activity of waste management as a formal commercial activity for which a licence is required under the Act but excludes informal sector recyclers.

“waste collection service” refer to **“waste management activity”**;

"waste management activity" means any activity listed in Schedule 1 or 40 published by notice in the Gazette under section 19 of the Act, and includes—

- (a) the importation and exportation of waste;
- (b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;
- (c) the accumulation and storage of waste;
- (d) the collection and handling of waste;
- (e) the reduction, re-use, recycling and recovery of waste;
- (f) the trading in waste
- (g) the transportation of waste;
- (h) the transfer of waste
- (i) the treatment of waste ; and
- (j) the disposal of waste

And which requires a licence issued in terms of section 49 of the Act.

"Waste Act" means the National Environmental Management Waste Act, No. 59 of 2008.

"WMP" means Waste Management Plan

CHAPTER 2

REMOVAL OF WASTE

2.1 Municipal Service

- (a) The Municipality renders a service for the collection and removal of waste at the tariff as from time to time determined by the Council of the Municipality; provided that the rendering of a particular services and the number of removals per week is subject to the approval of the Municipality's Council.

- (b) The owner or occupier of a premises on which waste is generated, shall subject to the provisions of 2.1(a) and 2.3(a), avail himself/herself of the Municipal service for the collection and removal of waste.
- (c) The owner of the premises on which the waste is generated, shall be liable to the Municipality for the payment of the tariff charges in respect of any service rendered by the Municipality for the collection and removal of such waste.
- (d) Indigent persons who in terms of the Municipality's Tariff Policy qualify as such, and who are registered as indigent will receive a free rebated waste collection service for residential waste once a week from the Municipality. All the other provisions of these by-laws shall apply to indigent persons.

2.2 Notice to be given to Municipality

- (a) The occupier of premises, or if there is more than one occupant, the owner of such premises, shall within seven (7) days after the commencement of the generation of waste on such premises, notify the Municipality:-
 - (i) that the premises are being occupied;
 - (ii) whether building waste, bulky waste, business waste or domestic waste or medical risk waste or objectionable waste is being generated on the premises;
 - (iii) regarding the estimated volume of such waste being generated;
 - (iv) regarding the proposed method and frequency of removal of the waste being generated.
- (b) The owner or occupier of premises on which waste is generated shall in a manner determined by the Municipality, furnish the Municipality with all the particulars required by the Municipality in regard to the composition of the waste.

2.3 Provision of containers

- (a) The Municipality shall determine the type and number of containers required on premises.

- (b) The owner of the premises shall be responsible for the supply of the pre-determined number and type of containers, where required by the Municipality.
- (c) Where containers are supplied by the Municipality, it shall be done subject to ruling prices or at a hiring tariff as determined by the Council of the Municipality.
- (d) Where a container is supplied at a hiring tariff by the Municipality, such container shall remain the property of the Municipality and the owner of the premises shall be liable to the Municipality for the loss of or damage to such container.
- (e) Where a container/receptacle is damaged or corroded, the owner or occupier shall arrange for replacement thereof as soon as the damage comes to his/her attention.

2.4 Placing of containers

- (a) The owner or occupier of premises shall provide sufficient space for the storage of the containers on a place on the premises as approved by the Municipality.
- (b) The space provided in terms of sub-clause (a) shall be in such position on the premises as will allow the storage of containers without their being visible from a street or public place, unless otherwise determined by the Municipality.
- (c) All containers with a conserving capacity not exceeding 0,1 m³ shall be equipped with low-density bin liners at least 950 mm x 750 mm and not less than 38 micron thick. Such bin liners shall be supplied by the occupant or owner.

- (d) Bin liners containing waste, properly fastened, shall on the day of removal (as determined by the Municipality) only, be placed outside the fence or boundary of the premises or such other position as determined by the Municipality.
- (e) Should the Municipality so require, the place of collection shall be so located as to permit convenient access to and egress from such place for the Municipality's waste collection vehicles.
- (f) A sufficient area shall be provided to keep a special container for the storage of waste as described in section 2.5(a), apart from the space necessary for the storage of refuse not kept in a special container.
- (g) The Municipality may at its discretion indicate a position from where the refuse may be removed more conveniently.
- (h) Notwithstanding any provision to the contrary, the Municipality may-
 - (i) In the case of buildings erected, or buildings of which the building plans have been approved prior to the coming into operation of these by-laws; and
 - (ii) In the event of the Municipality, in its opinion, being unable to collect and remove waste from the space provided in terms of subsection (a);Having regard to the avoidance of nuisance or the convenience of collection of waste, indicate a position within or outside the premises where the container(s) shall be placed for the collection and removal of such waste and such container(s) shall then be placed in such position at such times and for such periods as the Municipality may prescribe.

2.5 Use and care of containers and bin liners

- (a) Every occupier of premises, or in the case of premises being occupied by more than one occupant, the owner of such premises, shall ensure that all the domestic or business waste generated on the premises is placed and kept in bin liners for removal by the Municipality: And further ensure that-

-
- (i) no hot ash, glass fragments or other business or domestic waste which may cause damage to bin liners or injury to the Municipality's employees while carrying out their duties in terms of these by-laws, is placed in bin liners before he/she has taken the necessary precautions to avoid such damage or injury;
 - (ii) no material, including any liquid which, by reason of its mass or other characteristics is likely to render such bin liners too difficult for the Municipality's employees to handle or carry, is placed in such bin liners.
 - (iii) waste is stored in such a manner that pollution and harm to the environment is prevented;
 - (iv) waste cannot be blown away by wind and that the container/receptacle is covered and closed;
 - (v) measures are in place to prevent tampering by animals of waste awaiting collection or stored in a container/receptacle and bin liner(s);
 - (vi) nuisance such as odour, visual impacts and breeding of vectors do not arise in the storage of waste;
 - (vii) suitable measures are in place to prevent accidental spillage or leakage of waste;
 - (viii) the receptacle is intact and not corroded, torn or in any other way rendered unfit for the safe storage and transportation of the waste.
 - (x) the receptacle is clearly marked for easy identification.
 - (xi) no person advertises on the receptacles.
- (b) The provisions of 2.5(a) shall not prevent an occupier or owner of premises, as the case may be, and who has obtained prior written consent of the Municipality, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other waste material for recycling or, in the case of swill, for consumption.
- (c) No container may be used for a purpose other than that for which it is supplied and no fire shall be lit therein.

- (d) The bin liners containing refuse shall be removed by the Municipality only if such bin liners have been placed at the prescribed places, as provided in section 2.4, and at such intervals as the Municipality may deem necessary.
- (e) The Municipality shall not be liable for the loss of or for any damage to a container or bin liner.
- (f) The occupant of premises shall be responsible for the cleaning and hygiene of the refuse bin(s), receptacles/containers on such premises occupied.
- (g) In cases where an owner or occupier is not available on the day of waste collection, he/she shall make the necessary arrangements to ensure that waste is accessible for removal or collection.

2.6 Collection and Transportation of waste

- (a) The Municipality shall only collect waste -
 - (i) Stored in approved receptacles; and
 - (ii) On scheduled collection dates and time or any other days as deemed suitable by the municipality.
- (b) Businesses shall place their receptacles on the pavement/sidewalk at 09h00 daily and the receptacles have to be returned to a place designated for waste area immediately after being emptied.
- (c) Informal businesses such as street vendors/ car washers shall keep their place of trade free of litter and all waste generated to be placed in refuse receptacles and/or refuse bags.
- (d) Occupiers or owners of stand-alone private dwellings shall place their waste receptacles on the sidewalk or pavement at 07h00 on the scheduled day of collection.
- (e) Residential complexes must place their waste at a designated waste area. Municipal vehicles will only collect waste put on waste designated areas.
- (f) Collection of waste outside the set schedule may be done on request by any person at an additional tariff so determined by the Municipality from time to time.

2.7 Rendering of waste collection service by persons/institutions other than the Municipality

- (a) Any person/individual who wishes to render waste collection services within the municipality shall first submit an application in writing indicating the nature of service and the place where the service will be rendered. The applications should be directed to the manager waste management.
- (b) Upon approval of application, the applicant must complete and submit a form attached as **Annexure A**. The form must be accompanied by proof of payment of the applicable registration fee as determined from time to time.
- (c) Registration shall be renewable annually and subject to the approval of the municipality.
- (d) The person or category of transporters referred to in subsection (b) above may be required to furnish the municipality with a report as and when required.
- (e) Any person transporting waste within the jurisdiction of the Municipality must –
 - (i) Ensure that the receptacle or vehicle for conveyance is adequate in size and design for the type of waste transported;
 - (ii) Remove or transport the waste in a manner that would prevent any nuisance or escape of material;
 - (iii) Maintain the receptacle or vehicle for conveyance in a clean, sanitary and tidy condition at all times;
 - (iv) Not permit waste transported to become detached, leak or fall from the receptacle or vehicle transporting it;
 - (v) Ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
 - (vi) Ensure that the vehicle transporting waste is not used for any other purpose whilst transporting waste; and
 - (vii) Apply to the Municipality to register as a transporter of waste in accordance with the requirements set out by the Municipality and adhere to all the conditions attached to the registration.

2.8 Listed Waste Management Activities

- (a) Any person conducting a waste management activity listed in terms of **section 19** of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must prior to commencement of operations notify the Municipality and provide proof of compliance with the requirements of a license issued by the competent authority.

2.9 Prohibition of nuisance

- (a) Any person handling waste within the area of the Municipality, either through storage, collection, transportation, recycling or disposal and any owner/occupier of land or an erf or stand shall:-
- (i) Take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment whilst exercising waste management activities as described;
 - (ii) Take all reasonable measures to remedy any spillages, harm, damage or nuisance referred to in sub-section (i);
 - (iii) At their own cost, clean any waste causing nuisance to any person or to the environment;
- (b) Any person failing to comply with the provisions of this section may be served with a notice of compliance to remedy such a breach; failing compliance with the notice shall result in prosecution.

CHAPTER 3

BULKY GARDEN WASTE

3.1 Removal and disposal of bulky garden waste

- (a) The occupier or, in the case of premises occupied by more than one occupant, the owner of premises on which bulky garden waste is generated, shall ensure that such waste is disposed of within a reasonable time after the generation thereof: Provided that garden waste may be retained on the

premises for the making of compost if it will not cause a nuisance or pose a health risk.

- (b) Subject to the provisions of section 2.1(a), the owner or occupier of a premises may arrange with the municipality for removal of bulky garden waste at a prescribed tariff charge or may contract a garden waste removal service provider.
- (c) Bulky garden waste shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site for such refuse at a prescribed tariff.

3.2 Special Municipal Service

- (a) At the request by the owner or occupier of premises and after payment of the prescribed tariff charge has been made or the necessary permit has been obtained, the Municipality may, subject to the provisions of section 3.1(a) remove garden and bulky waste from premises.
- (b) The Municipality may determine the type and quantity of the containers which shall be used for the storage and removal of such waste.

CHAPTER 4

BUILDERS WASTE

4.1 Responsibility for builders waste

- (a) The owner of premises on which builders waste is generated shall ensure that such waste shall be disposed of in terms of the provisions of subsection 4.2 within the period prescribed for such removal by the Municipality's Building Section, failing which shall result in the said owner forfeiting the builders waste removal or pavement deposit (as determined by the Municipality's Council from time to time) paid at the time of approval of building plans.
- (b) The owner or occupier of premises on which building waste is generated and the person conducting an activity which causes such waste to be generated, must ensure that—
 - (i) Until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated; and

- (ii) The premises on which the building waste is generated does not become unsightly or cause a nuisance or pose a health risk as a result of accumulated building waste;
- (c) When plans are submitted to the Municipality for approval in terms of the National Building Regulations and Building Standards Act, No 107 of 1977, the person submitting same must submit simultaneously therewith an Waste Management Plan to the Municipality setting out what provision is being made for collection and disposal of building and other waste on site as well as the provisions made to store the waste on site or alternatively apply for a permit to store same on Municipal property(pavement).
- (d) Failure to secure the required permit mentioned in sub-section (c) shall be deemed a contravention of this by-law.
- (e) The issuing of an occupancy certificate shall be subject to submission of a building waste disposal certificate certifying that building waste was properly disposed off at a permitted landfill, failing which shall result in the certificate of occupancy being withheld until such time as the required waste disposal certificate is submitted by the owner of the property.
- (f) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste on the sidewalk/pavement for the period of such consent.
- (g) Every receptacle, authorized in terms of subsection (6.4) and used for the removal of building waste, must –
 - (i) Be fitted with reflective red tape; and
 - (ii) If applicable be covered at all times.
- (h) Any person registered with the Municipality as a service provider may operate a builders' waste removal service. Where the Municipality provides such a service, it shall be done at the prescribed tariff charge and the provisions of section 3.2 shall apply *mutatis mutandis*.

4.2 Disposal of builders waste

- (a) Subject to the provisions of subsection (b), all builders waste shall be deposited at the Municipality's waste disposal site.
- (b) For the purpose of re-use, builders waste may, with the written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal site.
- (c) Any consent given in terms of subsection (b) shall be subject to such conditions as the Municipality may deem necessary, provided that in giving or refusing its consent or in laying down conditions, the Municipality shall have regard to the following:-
 - (i) The safety of the public;
 - (ii) The environment of the proposed disposal site;
 - (iii) The suitability of the area including the drainage thereof;
 - (iv) The expected manner and times of depositing of builders waste at the site;
 - (v) The levelling of the site;
 - (vi) The control of dust;
 - (vii) The control of rodents;
 - (viii) Other relevant factors.

CHAPTER 5

SPECIAL INDUSTRIAL WASTE AND HAZARDOUS WASTE

5.1 Notification of generation of special industrial waste / hazardous waste.

- (a) The owner or occupier of premises, on which special industrial waste/ hazardous waste is generated, shall inform the Municipality of the composition thereof, and the quantity generated, how it is stored and how and when it will be removed.
- (b) If so required by the Municipality, the notification referred to in subsection (a) shall be substantiated by an analysis certified by a qualified industrial chemist or a person nominated by the Municipality.

- (c) Subject to the provisions of the Municipal Systems Act, section 101, any person authorised by the Municipality may enter premises at any reasonable time to ascertain whether special industrial waste/ hazardous waste is generated on such premises and may take samples and test any waste found on the premises to ascertain its composition.
- (d) The owner or occupier of premises on which special industrial waste / hazardous waste is generated, shall notify the Municipality of any changes in the composition and the quantity of the objectionable refuse occurring thereafter.

5.2 Storing of special industrial waste / hazardous waste

- (a) The person referred to in section 5.1(a) shall ensure that the special industrial waste / hazardous waste generated on the premises shall be kept and stored thereon in terms of subsection 5.2(b) until it is removed from the premises in terms of section 6.
- (b) Special industrial waste / hazardous waste stored on premises shall be stored in such manner that it does not cause a nuisance or pollute the environment.
- (c) If special industrial waste/ hazardous waste is not stored in terms of subsection 5.2(b) on the premises on which it is generated, the Municipality may order the owner or occupier of the premises to remove such waste within a reasonable time and, if thereafter the waste is not removed within such time, the Municipality may by itself or through a contractor remove it at the expense of the owner or occupier.

5.3 Removal of special industrial waste / hazardous waste

- (a) No person shall remove, transport and dispose of special industrial waste/ hazardous waste from the premises on which it was generated unless such a person has been authorised by the competent authority to do so.
- (b) The Municipality may verify the authorisation/ permit or license with the competent authority in terms of subsection 5.3(a).
- (d) The person referred to in 5.1(a) shall inform the Municipality, at such intervals as the Municipality may determine, having regard to the information to be given to the Municipality in terms of section 5.1(a) of the removal of special

industrial waste / hazardous waste, of the identity of the remover, the date of such removal, the quantity and the composition thereof.

- (e) Any waste generator who generates special industrial waste, hazardous waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility and proof of such activity must be made available.
- (f) Any generator of such waste must submit a copy of the WMP and further provide monthly statistical reporting.
- (g) Any person transporting special industrial waste, hazardous waste must ensure that the facility or place to which such waste is transported is authorized to accept such waste prior to offloading the waste from the vehicle.
- (h) The owner of a facility where special industrial waste / hazardous waste is generated must on a monthly basis report to the Waste Management Officer the amount of waste stored, the amount of waste removed for disposal, and he/she must submit proof of disposal.

CHAPTER 6

SPECIAL EVENTS WASTE

- (a) Any Person who is directly or indirectly involved with the organization, management of a sporting, entertainment, cultural or religious event which is to take place, on private or public property and/or owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including, conference centres, must submit a Waste Management Plan to the Municipality in the standard form **attached as Annexure B**. The said form must be submitted to the municipality five days prior to the proposed event and comply with the terms and conditions set out by the Municipality. The form will include costing information and the organizer will be liable to pay the cost prior to the event if the organiser opts to utilise the municipality as a service provider.

OR

Any Person who generates event waste shall contract with an accredited Service Provider for the collection and disposal of such waste at a licensed waste disposal facility. A proof of service agreement letter must be submitted to the Municipality as part of waste management plan five days prior to the event.

- (b) Should such person fail or neglect to obtain such waste management services prior to the event in question, or fail to provide the Municipality with the waste management plan or should there be waste left at the area where the event has been held or the surrounding area as a result of the event, the Municipality may arrange for the collection, clean-up, recycling and disposal of the event waste, the cost of such services shall be payable by the event organizer by debiting his/her municipal account including a fine as per the Penalty Schedule under this B-Law.

CHAPTER 7

WASTE DISPOSAL AND TRANSFER STATIONS

7.1 Procedure at transfer stations and the landfill site

- (a) Transfer stations are not open for persons running waste management businesses which includes garden services and refuse removal, and is strictly limited to use by members of the public.
- (b) Any person who, for the purpose of disposing of waste, enters a waste disposal site controlled by the Municipality or service provider on behalf of the Municipality shall
- (i) enter the disposal site at an authorised access point only;
 - (ii) give the Municipality or service provider all the particulars required with regard to the composition of the waste; and
 - (iii) follow the instruction given by the Municipality or service provider with regard to the access to the actual disposal point, the place where and the manner in which the waste should be deposited;
 - (iv) adhere to all traffic rules while at the disposal site.
 - (v) wear the required PPC and adhere to all safety rules at the landfill site

- (vi) before leaving the disposal site ensure to pay the applicable tariff in respect of the waste disposed or comply with any prior arrangements made with the Municipality with regards to the payment of the applicable tariff.
- (c) No person shall bring any intoxicating liquor onto a disposal site controlled by the Municipality or its service provider.
- (d) No person shall enter a disposal site controlled by the Municipality or its service provider for any purpose other than the depositing of waste in terms of these by-laws and then only at such times as the Municipality may from time to time determine.
- (e) The municipality or its service provider operating the site may at any time require a vehicle and/or vehicle container to be weighed at the disposal site.
- (f) A person is not allowed to dump any burning materials or chemicals that may pose a fire hazard.
- (g) The municipality or its service provider may refuse to accept any waste at a disposal site if the waste may have a detrimental impact on the environment and the health and wellbeing of people.
- (h) The municipality or its service provider reserves the right to inspect any load arriving at a disposal site for unacceptable materials.
- (i) Inspection of any load may include visual and manual inspection, use of hand held test instruments, and a laboratory analysis of the waste involved.
- (j) When a load is selected for inspection, the vehicle operator shall comply with directions given by the municipality or the its service provider.
- (k) No person may dispose of a waste tyre unless such a waste tyre has been shredded as stipulated in the Waste Tyre Regulation, 2009 (as amended).
- (l) A person who contravenes any of the provisions of subsection (7.1) may be refused entry to or be removed from the disposal site.
- (m) Waste such as tree stumps, tree branches, concrete blocks, rocks and general builders waste shall be reduced to manageable sizes as deemed fit by the municipality prior to disposal thereof at transfer stations and landfill sites.

7.2 Ownership of Waste

- (a) The generator of waste becomes the owner of such waste until the waste has been collected by the Municipality.
- (b) All waste and bin liners removed by the Municipality and all waste on disposal sites controlled by the Municipality shall be the property of the Municipality and no person who is not authorised by the Municipality to do so, shall remove or interfere therewith.
- (c) Only waste generated on premises situated within the municipal boundaries may be deposited on the Municipality's disposal sites: Provided that written permission may be granted by an authorised official of the Municipality in this regard to institutions situated outside the municipal boundaries.

CHAPTER 8

LITTERING, DUMPING AND ANCILLARY MATTERS

8.1 Littering

- (a) No person shall-
 - (i) throw, let fall, deposit or spill any waste into or onto any public place, street, vacant stand, vacant erf, stream or watercourse;
 - (ii) sweep any refuse into a street, gutter or onto a public place;
 - (iii) without written consent of the Municipality, disturb or remove any article or item from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of a receptacle to spill or fall onto the ground around it
 - (iv) attach any marketing material on the municipal bins placed for waste disposal without approval of the municipality
 - (v) allow any person under his/her control to perform any of the acts referred to in sub-paragraphs (i) to (iii).
- (b) For the purpose of this section a person shall be deemed to have allowed the acts referred to in subsection 8.1(a) of persons under his/her control, unless the contrary is proved.

8.2 Dumping

- (a) No person shall, without permission of the Municipality, dump, accumulate, place, deposit, leave, cause or allow waste disposal anywhere in a public place, any drain, watercourse, flood prone areas, tidal or other water source in or in the vicinity of any road, highway, street, lane, public footway, pavement or other open space to which the public has access, or any other private or municipal land.
- (b) The Municipality may at the expense of an owner of land, person in control of land or a person who occupies the land, rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection 8.2(a), alternatively effect the rehabilitation mentioned at the expense of the guilty party referred to in subsection 8.2(a), where such a person has been identified.

8.3 Abandoned items

- (a) Subject to any provisions to the contrary contained in this by-law, no person shall abandon any item or allow any item under his/her control to be abandoned at any place to which it has been brought with the intention of abandoning it there.
- (b) Once it has been established that a person left an item or allowed an item to be left at a place of which he/she is not the owner or occupier, he/she shall be deemed to have contravened the provisions of these by-laws unless and until he/she proves the contrary.
- (c) Any item, other than a vehicle deemed to have been abandoned in terms of section 131 of the National Road Traffic Act, 93/1996, further having regard to such factors as the place where the item is found, the period it has been left abandoned at such place and the nature and conditions of such item, shall reasonably be regarded by the Municipality as having been abandoned and may be removed and disposed of by the Municipality as it may deem fit.

8.4 Liability of responsible person

- (a) Where any item has been removed and disposed of by the Municipality in terms of subsection 8.3(c), the person responsible for having abandoned such

an item shall be liable to the Municipality for payment of the tariff charge in respect of such removal and disposal.

- (b) For purposes of subsection 8.4(a), the responsible person shall be deemed to be:-
- (i) the owner of the item and shall include any person who is entitled to be in possession thereof by virtue of a hire purchase agreement or an agreement of lease at the time when it was abandoned or left in the place from which it was removed, unless he/she can prove that he/she was not concerned with and did not know of the item being abandoned or left in such a place;
 - (ii) any person who has left the item in the or at the place from which it was removed; or
 - (iii) any person who knowingly permitted the item to be left in the place from which it was removed, including but not limited to the owner, occupier or body corporate responsible for the premises on which the item was found.

8.5 Burning of waste

- (a) No person shall-
- (i) Dispose of waste by burning it, either in a public or private place; or
 - (ii) Incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality.

CHAPTER 9

WASTE RECYCLING AND WASTE INFORMATION

9.1 Storage, separation and collection of recyclable domestic waste

- (a) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalized recycling groups must before the undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of

such waste and must notify the Municipality of an intention to undertake such an activity in writing.

- (b) Any person undertaking the activities contemplated in subsection 9.1(a) must adhere to the requirements set out in national or provincial legislation.
- (c) The Municipality may require any person or owner of premises to separate their waste and use various approved receptacles.
- (d) Relevant municipal officials may enter and inspect the facility at any time and the owner must make available all the necessary documents that may be required.
- (e) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

9.2 Registration and provision of waste information

- (a) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (b) The Municipality may, at its own discretion and as reasonably possible, require any person responsible for a waste facility or activity to register as required by the Waste Act.

CHAPTER 10

GENERAL PROVISIONS

10.1 Access to premises

- (a) Where the Municipality provides a waste removal service, the owner or occupier of the premises shall grant the Municipality access to the premises and shall ensure that nothing obstructs, frustrates or hinders the Municipality in rendering the service.
- (b) Where, in the opinion of the Municipality the rendering of a waste collection service to premises may cause damage to any property or injury to any person, the Municipality may, as a condition of rendering such service, require

the owner or occupier of such premises to indemnify the Municipality in writing in respect thereof.

10.2 Frequency of removal and nature of waste

- (a) Notwithstanding any provision to the contrary, the Municipality shall determine the frequency of the removal and the nature of any waste.

10.3 Accumulation of waste

- (a) Where any waste accumulates on any premises so that, in the opinion of the Municipality it must be removed, the Municipality may remove such refuse and the owner or occupier of such premises shall be liable to the Municipality for the payment of the tariff charge for such removal and disposal.

10.4 Spillages

- (a) If there is an emergency such as road accident & spillage requiring the management of Waste, the Municipality will respond to the management including the clearing and cleaning of debris and pollution effects, transporting and disposing of waste at an accredited waste disposal and the owner of the vehicle or premises involved will be liable for all costs incurred.

10.5 Application for the discontinuing of a service

- (a) An application for the discontinuing of a service rendered in terms of these by-laws shall be made in writing or in any other manner as determined by the Municipality, by the owner or occupier of their authorised agent.
- (b) Notwithstanding the provisions of subsection 10.5(a), a service for the removal of domestic or business waste shall not be discontinued unless the Municipality has received a written notification from the owner of a premises that no such waste is generated on the premises or unless it is obvious to the Municipality that no such waste is generated on the premises.

10.6 Rendering of waste collection service by service providers/persons/institutions other than the municipality

- (a) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (b) Subject to the provisions of the Municipal Systems Act 2000 as amended or any other applicable legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under this by-law: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.
- (c) Service providers must provide services in accordance with a service delivery charter which must be drawn up in consultation with the Municipality and which shall-
 - (i) Accord with the provisions of this by-law;
 - (ii) Be accessible to the public;
 - (iii) Establish the conditions and levels of service including collection times; and
 - (iv) Provide for the circumstances in which Municipal services may be limited.
- (d) Service providers rendering services within the jurisdiction of the Municipality must register with the Municipality at a fee as prescribed in the Municipal tariff structure and the registration will be renewed annually.

10.7 Exemptions

- (a) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of this by-law.

The Municipality may –

 - (i) Grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted be stipulated therein;
 - (ii) Alter or cancel any exemption or condition in an exemption; or
 - (iii) Refuse to grant an exemption.

- (b) In order to consider an application in terms of subsection 10.7(a), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (c) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection 10.7(a)(i), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.
- (d) If any condition of an exemption is not complied with, the exemption lapses immediately.

10.8 Charges

- (a) Save where otherwise provided in this by-law, the person to whom a service mentioned in the by-laws has been rendered by the Municipality shall be liable to the Municipality for the payment of the tariff charge in respect of such a service.
- (b) Monthly tariff charges shall be payable until receipt by the Municipality of the notice mentioned in section 10.8 or when it has become obvious to the Municipality that the generation of domestic or business refuse on the premises has ceased.
- (c) For purposes of calculating the monthly tariff charges payable in terms of this by-law, "month" means a calendar month: Provided that a portion of a month shall be regarded as a full month.
- (d) The Municipality shall have the right at any time to levy tariff charges in respect of a service rendered to any premises in terms of this by-law, notwithstanding whether the Municipality has received an application to render such service from the owner or occupier of such premises or not.
- (e) Any person failing to pay the tariff charges levied in respect of services rendered by the Municipality shall be guilty of an offence.
- (f) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying the prescribed tariff for waste management services in accordance with the provisions of the Municipal Indigent Policy.

10.9 Offences and penalties

- (a) Any person who contravenes any provision of these by-laws or fails to comply with any provision of these by-laws shall be guilty of an offence and shall be liable to a fine as listed in the Schedule of Penalties attached as **Annexure C**, and on conviction the contravener shall be liable to imprisonment for a period not exceeding 12 months or to both fine and imprisonment.

10.10 Appeals

Any service provider/persons/institutions wishing to appeal against penalties as contemplated in section 10.9 of these By-Laws must lodge an appeal in writing to the municipal manager either by hand or by registered post within 30 days from the date of the relevant penalty imposed

The appeal must set the circumstances of the appeal and grounds upon which the appellant rely in order to enable the municipal manager to reach a decision

10.11 Repeal of by-law

- (a) The following by-law is herewith repealed: *Refuse (solid waste) and sanitary by-laws published under Administrator's Notice 845 on 25 May 1983.*

10.12 Short title and commencement

- (a) This by-law shall be referred to as the **Polokwane Municipality Waste Management By-law** and shall take effect on the date of publication thereof in the Provincial Gazette.