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**CONTENTS • INHOUD**

No.

Page  
No.    Gazette  
      No.

**GENERAL NOTICE**

526 Spatial Planning and Land Use Management Act (16/2013): Draft regulations: For public comments ..... 3    37797

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# GENERAL NOTICE

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## NOTICE 526 OF 2014

### DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

#### SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 16 OF 2013

#### DRAFT REGULATIONS IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 16 OF 2013

The Minister of Rural Development and Land Reform hereby publishes the draft regulations made in terms of section 54 (1) read with section 54 (2) (b) of the Spatial Planning and Land Use Management Act, 16 of 2013, for public comments as set out in the Schedule.

Interested persons and organisations may submit their comments on the draft regulations in writing on or before the 04 September 2014 to:

**The Director-General  
c/o Sunday Ogunronbi**

Department of Rural Development and Land Reform  
Room 605  
224 Helen Joseph Street  
Capitol Towers  
Pretoria

Or per fax to (012) 323 6419 & 0866928882

Private Bag X833  
Pretoria  
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or

**Email: [spluma@ruraldevelopment.gov.za](mailto:spluma@ruraldevelopment.gov.za); [sogunronbi@ruraldevelopment.gov.za](mailto:sogunronbi@ruraldevelopment.gov.za);**

Kindly provide the name, address, telephone, fax numbers and email address of the person or organisation submitting the comments.

**DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**

No. ...

2014

**REGULATIONS IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT  
ACT, 16 OF 2013**

The Minister of Rural Development and Land Reform has under section 54 of the Spatial Planning and Land Use Management Act, 16 of 2013, made the regulations set out in the Schedule.

**SCHEDULE****ARRANGEMENT OF REGULATIONS****CHAPTER 1****INTRODUCTORY PROVISIONS**

Regulations

1. Definitions
2. Electronic submissions

**CHAPTER 2****APPLICATION OF REGULATIONS AND CONFLICT MANAGEMENT**

## Part A: Introduction

3. Applicability

Part B: Relationship Between Spatial Planning and Land Use Management Laws and Other Instruments and Policies

4. Spatial planning and land use management laws

Part C: Principles to Resolve and Prevent Conflicts or Inconsistencies

5. Principles of dispute prevention and resolution

Part D: Institutional Framework for Conflict Management

6. Dispute settlement manager
7. Panel of recognised facilitators
8. Legal indemnification

Part E: Procedures to Resolve and Prevent Conflicts or Inconsistencies which may Emerge from Spatial Plans, Spatial Development Frameworks and Policies of Different Spheres of Government

9. Notice of apparent conflict or inconsistency
10. Notice of dispute
11. Mediation
12. Arbitration
13. Cost of mediation and arbitration proceedings
14. Instruction of arbitrator

Part F: Provincial Dispute Resolution Measures

15. Negotiation, mediation and arbitration
16. Conflict between district and local municipalities

**CHAPTER 3  
MINISTERIAL POLICIES, DIRECTIVES AND GUIDELINES AND OTHER OBLIGATIONS**

17. Ministerial Guidelines
18. Ministerial Directions Regarding Spatial Development Frameworks

**CHAPTER 4  
LAND USE MANAGEMENT**

Part A: Council Resolution

19. Resolution to prepare a land use scheme
20. Minimum content of resolution
21. Advertisement of resolution

Part B: Preparation of Land Use Scheme

22. Preparation of land use scheme

Part C: Content of Land Use Scheme

23. Incorporation of environmental requirements into land use scheme
24. Incorporation of agricultural land
25. Alignment with integrated transport plans
26. Consideration of infrastructure requirements
27. Land use scheme regulations
28. Land use scheme map
29. Land use scheme register

Part D: Public Participation Process

30. Notice of draft land use scheme
31. Objections and representations
32. Consideration of objections and representations

Part E: Adoption and Publication of Land Use Scheme

33. Adoption of land use scheme
34. Publication of land use scheme

Part F: Compliance and Enforcement

35. Appointment of inspector
36. Compliance notice
37. Objection to notice of compliance
38. Compliance certificate
39. Reporting by inspector

**CHAPTER 5  
JOINT MUNICIPAL PLANNING TRIBUNAL**

40. Role of district municipality
41. Decision of municipality
42. Agreement to establish joint Municipal Planning Tribunal
43. Composition of joint Municipal Planning Tribunals
44. Application of provisions of Act to joint Municipal Planning Tribunal
45. Status of decision joint Municipal Planning Tribunal
46. Powers and duties of joint Municipal Planning Tribunal
47. Termination of joint Municipal Planning Tribunal
48. Appeal against a decision of joint Municipal Planning Tribunal
49. Appointment of members of appeal tribunal
50. Support by district municipality

51. Application of Chapter 7 of Regulations

## **CHAPTER 6 LAND DEVELOPMENT APPLICATIONS**

### Part A: Categories of Applications

52. Categories of applications
53. Hearing of applications by tribunal and land development officer

### Part B: Administration of Land Development Applications

54. Land development officer
55. Tribunal
56. Nomination procedure
57. Disclosure of interest
58. Legal indemnification
59. Chairperson of tribunal
60. Land development management administrator
61. Powers and duties of administrator
62. Land development management registrar
63. Powers and duties of registrar
64. Office hours and address of office of administrator
65. Filing of documents
66. Service of documents and proof of service
67. Witness fees
68. Electronic land use management system
69. Record of land development applications

### Part C: Application Process

70. Submission of application
71. Fees and documents to accompany application
72. Simultaneous submission of applications
73. Screening of application
74. Registration of application
75. Notice of category 1 land development application
76. Notice of a category 2 land development or land use application
77. Objections
78. Comments pursuant to circulation
79. Amendments to application prior to referral
80. Referral of application by administrator

### Part D: Decision of Land Development Applications

81. Decision and determination by land development officer
82. Procedure of tribunal
83. Consolidation and separation of applications
84. Continuation of application by new applicant
85. Power of tribunal to conduct site inspection
86. Decisions of tribunal
87. Conditions determined by tribunal
88. Non-compliance with conditions determined by tribunal
89. Approval of land development application that requires amendment of land use scheme
90. Approval of land development application on land where no town planning or land use scheme applies
91. Notification by administrator of decision of tribunal
92. Amendment of approval
93. Withdrawal of application
94. Effective date of decision by tribunal or land development officer

**Part E: Townships and General Plans**

95. Establishment of township, extension of boundaries of township and amendment of General Plan

**Part F: Land Use Management in Areas under Traditional Leadership**

96. Allocation of land rights  
97. Land development on land in traditional area  
98. Land development application by member of traditional community

**CHAPTER 7  
APPEALS****Part A: Management of an Appeal Authority**

99. Presiding officer of appeal authority  
100. Bias and disclosure of interest  
101. Registrar of appeal authority  
102. Powers and duties of registrar

**Part B: Appeal Process**

103. Commencing of appeal  
104. Notice of appeal  
105. Notice to oppose an appeal  
106. Screening of appeal

**Part C: Parties to an Appeal**

107. Parties to appeal  
108. Intervention by Minister or MEC  
109. Intervention by interested person

**Part D: Jurisdiction of Appeal Authority**

110. Jurisdiction of appeal authority  
111. Appeal hearing by appeal authority  
112. Oral hearing by appeal authority  
113. Circumstances in which oral hearing may be dispensed with  
114. Representation before appeal authority  
115. Opportunity to make submissions concerning evidence

**Part E: Hearings of Appeal Authority**

116. Notification of date, time and place of hearing  
117. Hearing date  
118. Adjournment  
119. Urgency and condonation  
120. Withdrawal of appeal

**Part F: Oral Hearing Procedure**

121. Location of oral hearing  
122. Presentation of each party's case  
123. Witnesses  
124. Proceeding in absence of party  
125. Recording  
126. Oaths  
127. Additional documentation

**Part G: Written Hearing Procedure**

128. Commencement of written hearing

- 129. Presentation of each party's case in a written hearing
- 130. Extension of time
- 131. Adjudication of written submissions

Part H: Decision of Appeal Authority

- 132. Further information or advice
- 133. Decision of appeal authority
- 134. Notification of decision
- 135. Directives to municipality

Part I: General

- 136. Expenditure

## CHAPTER 8 GENERAL PROVISIONS

### Part A: Strategic Infrastructure Development

- 137. Strategic integrated project
- 138. Functions related to institutional requirements
- 139. Functions related to spatial planning
- 140. Functions related to review of land use scheme
- 141. Application for approval of land development application due to strategic integrated project

### Part B: Exemptions

- 142. Request for exemption in writing
- 143. Deciding of request for exemption
- 144. Procedures related to withdrawal of exemption
- 145. Short title and date of commencement

- ANNEXURE A: APPLICATION AND NOMINATION FORM TO SERVE AS A RECOGNISED FACILITATOR ON THE PANEL OF FACILITATORS
- ANNEXURE B: UNIFORM ZONING CATEGORIES FOR LAND USE SCHEMES
- ANNEXURE C: NOTICE OF OBJECTION OR OF REPRESENTATION TO A DRAFT LAND USE SCHEME
- ANNEXURE D: CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL
- ANNEXURE E: DISCLOSURE OF CONFLICT OF INTEREST OF MEMBER OF MUNICIPAL PLANNING TRIBUNAL
- ANNEXURE F: LAND DEVELOPMENT APPLICATION
- ANNEXURE G: REGISTRATION OF LAND DEVELOPMENT APPLICATION IN THE LAND DEVELOPMENT APPLICATION REGISTER
- ANNEXURE H: NOTIFICATION OF SUBMISSION OF A CATEGORY 1 LAND DEVELOPMENT APPLICATION
- ANNEXURE I: NOTIFICATION OF SUBMISSION OF A CATEGORY 2 LAND DEVELOPMENT APPLICATION
- ANNEXURE J: FORM OF OBJECTION OR REPRESENTATION
- ANNEXURE K: NOTIFICATION OF PLACE, DATE AND TIME OF HEARING OF THE MUNICIPAL PLANNING TRIBUNAL
- ANNEXURE L: SUBPOENA TO PROVIDE INFORMATION TO THE MUNICIPAL PLANNING TRIBUNAL
- ANNEXURE M: NOTICE OF APPEAL
- ANNEXURE N: APPLICATION FOR CONDONATION FOR LATE FILING OF APPEAL, URGENCY OR OTHER FAILURE TO COMPLY WITH REGULATIONS
- ANNEXURE O: SUBPOENA OF WITNESS
- ANNEXURE P: PETITION TO THE APPEAL AUTHORITY TO BE GRANTED INTERVENER STATUS

## CHAPTER 1 INTRODUCTORY PROVISIONS

### Definitions

1. In these Regulations, any word or expression defined in the Act has the same meaning in these Regulations, unless the context indicates otherwise, and -

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

**“adjoining owner”** means the owner of the land that is contiguous to the land area in any application including land that is only separated by a road or public space from such land area;

**“administrator”** means the land development management administrator designated or appointed by a municipal council in terms of Chapter 6 of these Regulations

**“applicant”** means a person referred to in section 45(1) of the Act;

**“conditions of establishment”** means conditions imposed on a developer in the process of deciding a land development;

**“consent”** 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;

**“days”** has the meaning assigned in terms of the Interpretation Act, 33 of 1957 as reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday”.

**“Department”** refers to the Department of Rural Development and Land Reform

**“diagram”** means a diagram as defined in section 49 of the Land Survey Act, 9 of 1927;

**“district municipality”** means the district municipality as defined in the Municipal Structures Act, 117 of 1998;

**“land development application”** means one of the following applications submitted to a municipality with the intention to obtain approval for land development –

- (a) rezoning;
- (b) consent uses and departures;
- (c) temporary uses;
- (d) the subdivision or consolidation of land;
- (e) the alteration, suspension or deletion of restrictions in relation to land;
- (f) the establishment of a township;
- (g) the extension of the boundaries of a township;
- (h) the amendment or cancellation of a general plan; and
- (i) any other development on land;

**“land development officer”** means the official authorised by the municipality as contemplated in section 35(2) of the Act to consider and determine certain categories of land development applications identified in regulation 52;

**“land use management system”** means a system through which a municipality establishes, to undertake land use management in its jurisdiction and includes; the planning tools, technology, protocols and tax system to ensure the smooth operation of the municipalities town planning department;

**“layout plan”** means a plan showing the relative locations of erven, public places, or roads, on land intended for development, subdivision or consolidation, and the purposes for which the erven are intended to be used;

**“municipality”** means a local municipality as defined in the Municipal Structures Act, 117 of 1998;

**“Minister”** means the Minister of Rural Development and Land Reform;

**“municipal manager”** means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 117 of 1998;

**“municipal service provider”** means a person or entity that may be owned by the municipality or not, that provides a municipal service on behalf of and per signed service level agreement with the municipality to a community;

**“notice”** means a written method, including electronic means, by which a person communicates a matter that is dealt with in the Act or these Regulations to interested and affected parties;

**“notify”** means one or more methods that a person communicates a matter to interested and affected parties;

**“register”** means a collection of documents kept and maintained by a municipality, either electronically or in hard copies, in connection with all land development rights and applications;

**“registrar”** means –

- (a) the land development management registrar designated or appointed by a municipal council in terms of regulation 40 or 62 ; or
- (b) the registrar of the appeal authority designated or appointed by a municipal council in terms of regulation 101 of the Regulations;

**“Regulations”** mean these Regulations and includes the Annexures attached hereto or referred to herein;

**“service provider”** means a person or entity that provides a service on behalf of, and per signed agreement, with an organ of state;

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

“**temporary use**” means a land use right granted on a temporary basis in terms of an approved Land Use Scheme;

“**tribunal**” means the Municipal Planning Tribunal as contemplated in Chapter 6 of the Act.

“**zoning**” means the zone applicable to a portion of land in terms of the land use scheme, together with any development conditions.

### **Electronic submissions**

2. (1) Where within these Regulations—
- (a) a person is required to—
    - (i) send a document, a copy of a document or any notice to another person,
    - (ii) notify another person of any matter; and
  - (b) that other person has an address for the purposes of electronic communications;

the document, copy, notice or notification may be sent or made by way of electronic communications.

(2) Where within these Regulations a person may make representations on any matter or document, those representations may be made—

- (a) in writing, or
  - (b) by way of electronic communications
- (3) Where—
- (a) an electronic communication is used as mentioned in paragraphs (1) and (2), and
  - (b) the communication is received by the recipient outside the recipient’s office hours, it is to be taken to have been received on the next working day, and in this regulation “working day” means a day which is not a Saturday, Sunday, or other public holiday in South Africa.

## **CHAPTER 2**

### **APPLICATION OF REGULATIONS AND CONFLICT MANAGEMENT**

#### **Part A: Introduction**

#### **Applicability**

3. The purpose of this Chapter is to –
- (a) Identify the manner of reconciling conflicts among pieces of legislation, spatial development frameworks, land use schemes, spatial plans and policies;
  - (b) determine dispute prevention and resolution procedures in the event of –
    - (i) a conflict or inconsistency which may emerge from spatial plans, spatial development frameworks and policies of different spheres of government; and
    - (ii) a conflict or inconsistency between a spatial plan, framework and policies relating to land use of any other organ of state;

- (c) determine dispute prevention and resolution procedures that must apply in a province which has not provided for dispute resolution measures in its spatial planning and land use management legislation as contemplated in the Act.

**Part B: Relationship Between Spatial Planning and Land Use Management Laws and  
Other Instruments and Policies**

**Spatial planning and land use management laws**

- 4. (1) The Act, these Regulations, a provincial spatial planning and land use management Act and regulations and land use management by-laws of a municipality are deemed to be original legislation and –
  - (a) in the event of a conflict between the Act and these Regulations, the provisions of the Act will take precedence;
  - (b) in the event of a conflict between a provincial spatial planning and land use management Act and regulations issued in terms thereof, the provisions of that act will take precedence;
  - (c) in the event of a conflict between the Act and a provincial spatial planning and land use management Act, the provisions of the Act will take precedence with the exception of provisions which regulate provincial planning or matters which are identified in Schedule 1 of the Act in which case the provisions of the provincial spatial planning and land use management act will take precedence;
  - (d) in the event of a conflict between these Regulations and provincial spatial planning and land use management regulations issued under a provincial spatial planning and land use management Act, the provisions of these Regulations will take precedence with the exception of provisions which regulate provincial planning or matters which are identified in Schedule 1 to the Act in which case the provisions of the provincial spatial planning and land use management act will take precedence;
  - (e) in the event of a conflict between the Act, these Regulations, a provincial spatial planning and land use management Act, regulations issued in terms thereof and the provisions of a municipal by-law, the provisions of the municipal by-law will take precedence provided that the provisions of the by-law give effect to the spirit and purport of the suites of legislation referred to in this subparagraph.
- (2) In the event of a non-alignment of a provincial spatial development framework with policies of national government, the Premier must take the necessary steps to revise the provincial spatial development framework to ensure that the provincial spatial development framework is aligned and if the alignment is not achieved the Minister may declare a dispute and the provisions of Part C will apply to such a dispute.

- (3) In the event of a non-alignment of a provincial spatial development framework with the plans, policies and development strategies of other provincial departments the Premier must take the necessary steps to revise the provincial spatial development framework and the plans, policies and development strategies of the relevant provincial departments to ensure that they are aligned using the process referred to in Part D.
- (4) In the event of a non-alignment of a provincial spatial development framework with the plans, policies and development strategies of a municipality, the Premier must take the necessary steps to revise the provincial spatial development framework and the plans, policies and development strategies of the relevant municipality to ensure alignment.

### **Part C: Principles to Resolve and Prevent Conflicts or Inconsistencies**

#### **Principles of dispute prevention and resolution**

5. If the Department, a provincial department or a municipality is of the opinion that there is conflict or inconsistency between a spatial plan, spatial development framework or policy, the Department, provincial department and municipality must actively seek to achieve the objectives of the Intergovernmental Relations Framework Act by -
  - (a) establishing prevention strategies in the development phases of the spatial plan, spatial development framework or policy in an attempt to avoid an intergovernmental disputes, including the designation of an official in the employ of the organs of state as a dispute settlement manager;
  - (b) developing prevention strategies to be used in anticipation of disputes developing;
  - (c) attempting to contain, settle and resolve a dispute once it has arisen;
  - (d) using exiting administrative and political processes to resolve a dispute and not resorting to a court of law;
  - (e) where the dispute arises over a miscommunication or differing interpretations of the suites of legislation, correcting the communiqué or developing a mutually acceptable common interpretation;
  - (f) taking steps to avoid the escalation of disputes and to de-escalate disputes that have arisen;
  - (g) dealing with the dispute efficiently and effectively;
  - (h) isolating the dispute from other administrative, financial, planning or implementation activities in which the parties are involved together;
  - (i) maintaining good institutional relations with each other;
  - (j) using low resource dispute resolution methods such as direct negotiations with the other party; and

- (k) focussing on the interests and needs of the public who benefit from the spatial planning system of the republic rather than the rights and obligations of the parties in managing the dispute; and
- (l) making use of objective criteria and independent assessments to evaluate possible outcomes.

#### **Part D: Institutional Framework for Conflict Management**

##### **Dispute settlement manager**

6. (1) The Department, a provincial department or a municipality must designate an official in its employ as a dispute settlement manager.
- (2) The dispute settlement manager may, in addition to his or her office as dispute settlement manager, hold another office in the Department, a provincial department or a municipality.
- (3) The functions of the dispute settlement manager are to –
- (a) act on behalf of the Department, provincial department or municipality to prevent and avoid a dispute;
  - (b) ensure compliance by the Department, provincial department or municipality with the provisions of this Chapter;
  - (c) develop a conflict management policy for the Department, provincial department or municipality;
  - (d) take steps to ensure early intervention in disputes once they arise;
  - (e) make decisions, in consultation with other dispute settlement managers, on the feasibility of a parallel process of dispute resolution operating at the same time;
  - (f) involve senior managers employed by the Department, relevant provincial department or municipality in the dispute resolution process where their involvement may be necessary;
  - (g) advise and monitor representatives of the Department, relevant provincial department or municipality in their conduct of a dispute resolution process;
  - (h) analyse and keep records of dispute resolution processes that the Department, relevant provincial department or municipality has been involved in;
  - (i) at all stages of the dispute management process, consider the use of low resource dispute resolution methods such as direct negotiations with the other party.

##### **Panel of recognised facilitators**

7. (1) The Minister may establish a panel of recognised facilitators to resolve any disputes which may be lodged by an organ of state contemplated in this Chapter.
- (2) The panel of facilitators must be representative of the three spheres of government.

- (3) Any person who wants to be a recognised facilitator or any organ of state nominating an official in its employ as a recognised facilitator must apply to the Minister on the form referred to in Annexure A.
- (4) A person must have knowledge and experience of spatial planning, land use management and land development or the law related thereto or such other knowledge or experience as determined by the Minister or have experience as a mediator or arbitrator in order to qualify for appointment to the panel of recognised facilitators.
- (5) The Minister must, from the applications and nominations received in terms of subregulation (3), appoint those applicants and nominees who qualify as facilitators in the manner and on the conditions determined by him or her.
- (6) The Minister must appoint one of the panel members as chairperson of the panel of facilitators in the manner and on the conditions determined by him or her.
- (7) If a dispute is lodged by an organ of state as contemplated in this Chapter, the chairperson of the panel of facilitators must designate from the panel of facilitators –
  - (a) one panel member as mediator of the dispute;
  - (b) one panel member as arbitrator of the dispute; and
  - (c) one or more panel members to serve as technical assessors to the mediator and arbitrator.

#### **Legal indemnification**

8. Whenever a claim is made or legal proceedings are instituted against any panel member for any act or omission by a panel member in the performance of his or her duties or the exercise of his or her powers the Minister must indemnify the member in respect of such claim or proceedings and –
  - (a) provide for the legal representation of such member at the cost of the municipality or undertake to pay his or her taxed party-and-party costs; and
  - (b) settle the claim and pay any amount due in terms of such settlement; or
  - (c) pay any award made by a court against him.

#### **Part E: Procedures to Resolve and Prevent Conflicts or Inconsistencies which may Emerge from Spatial Plans, Spatial Development Frameworks and Policies of Different Spheres of Government**

##### **Notice of apparent conflict or inconsistency**

9. (1) If there is an apparent conflict or inconsistency which emerges from a spatial plan, spatial development framework and policies of different spheres of government or an apparent conflict or inconsistency between a spatial plan, framework and policies relating to land use of any other organ of state, the dispute settlement manager of the disputant organ of state who claims such conflict or inconsistency must, within 21 days from the date on which the dispute settlement manager became or was made aware of the apparent conflict or inconsistency, provide written notice to this

effect in writing to the respondent organ of state that is the author and is responsible for the implementation of the spatial plan, spatial development framework or policy that is the subject matter of the apparent conflict or inconsistency.

- (2) The notice of apparent conflict or inconsistency must –
  - (a) identify the policy or legal instruments that forms the subject matter of the apparent conflict or inconsistency;
  - (b) identify the apparent conflict or inconsistency in the applicable policy or legal instruments;
  - (c) include the grounds for the opinion of the dispute settlement manager that there is an apparent conflict or inconsistency;
  - (d) the foreseen or anticipated result, damage or inconvenience to the municipality or department, should the spatial plan, spatial development framework and policies be implemented, not repealed or not aligned; and
  - (e) request a settlement meeting with the respondent organ of state.
- (3) The disputant organ of state and respondent organ of state must meet within 14 days after receipt by the respondent organ of state of the notice of apparent conflict or inconsistency and endeavour in good faith to resolve the apparent conflict or inconsistency by informal negotiation.

#### **Notice of dispute**

10. (1) Conflict or inconsistency through negotiation, the dispute settlement manager of the disputant organ of state must declare a dispute in writing within 21 days from the date of the negotiation referred to in regulation 9(3) by lodging a notice of dispute with the Minister and the respondent organ of state.
- (2) The notice of dispute must at least provide the following –
  - (a) the apparent conflict or inconsistency in the applicable policy or legal instruments;
  - (b) the date and the outcome of the negotiations referred to in regulation 9(3);
  - (c) any other steps which may have been taken to resolve the conflict and the reasons for failure, if any;
  - (d) the grounds for the dispute, including the foreseen or anticipated result, damage or inconvenience to the municipality or department, should the spatial plan, spatial development framework and policies be implemented, not repealed or not aligned;
  - (e) any material issues not in dispute; and
  - (f) the remedy or relief that is sought
- (3) The Minister must request the dispute settlement manager of the respondent organ of state, to provide him or her with a written response on the dispute within 21 days of receipt of the request, or such longer period as the Minister may, on request from the respondent organ of state, grant extension for.

**Mediation**

11. (1) Within seven days of receipt of the response from the respondent organ of state referred to in regulation 10(3), the Minister must refer the dispute to the chairperson of the panel of facilitators who must appoint both a mediator and an arbitrator and such assessors as he or she may deem necessary to mediate the dispute and arbitrate the dispute, if necessary.
- (2) The assessors must have expertise in areas of town planning, development planning, housing, public administration, municipal infrastructure provision, property economics or planning law in order to advise the mediator or arbitrator on the matter
- (3) The mediation must commence no later than 14 days after receipt by the Minister of the response referred to in regulation 10(3).
- (4) The mediation must be conducted according to the directions of the chairperson and the disputant organ of state and respondent organ of state must respond to all reasonable directions and requests of the mediator in attempting to resolve the dispute.
- (5) If the mediation has not resolved the dispute within 30 days from the date of commencement of the mediation, the mediator must refer the dispute to the arbitrator appointed by the chairperson in terms of subregulation (1).

**Arbitration**

12. (1) Within seven days of receipt of the referral by the mediator as contemplated in regulation 11(4), the arbitrator and such assessors as appointed by the chairperson commence with arbitration proceedings.
- (2) The arbitration proceedings must be conducted according to the directions of the chairperson of the panel of facilitators.
- (3) The arbitrator may conduct whatever studies or inquiries he or she deems necessary to reach a decision on the dispute and may request an assessor to advise him or her on the matter.
- (4) If the mediator uses one or more assessor to advise him or her on the dispute, the arbitrator must request the chairperson to appoint another assessor to advise him or her.
- (5) After having considered all the relevant submissions, documentation, material and advise from the assessors, the arbitrator must, within 30 days after the commencement of the arbitration proceedings –
- (a) instruct the disputant organ of state or respondent organ of state or both organs of state, in writing, to adjust or amend its spatial plan, spatial development framework or policy accordingly; and
- (b) indicate that he or she does not believe there are merits to the dispute and not give any instruction for action or amendment.

- (6) Notwithstanding a decision of an arbitrator as contemplated in subregulation (5)(b), the disputant organ of state or respondent organ of state may amend a spatial plan, spatial development framework or policy that has been the subject matter of the dispute.

#### **Cost of mediation and arbitration proceedings**

13. The costs of the mediation and arbitration must be shared equally by the Minister, the disputant organ of state and the respondent organ of state unless otherwise directed by the mediator or arbitrator.

#### **Instruction of arbitrator**

14. After having received an instruction to adjust or amend request for an amendment of a spatial plan, spatial development framework or policy, the dispute resolution manager of that organ of state must ensure that –
- (a) the adjustment and amendments are effected as instructed within 21 days after having received the instruction; and
  - (b) provide evidence of such adjustment or amendment to the Minister and the opposing organ of state.

### **Part F: Provincial Dispute Resolution Measures**

#### **Negotiation, mediation and arbitration**

15. If a provincial spatial planning and land use management Act does not provide for dispute resolution measures as contemplated in Schedule 1 of the Act, the provision of Part D applies with the necessary changes and reference to the Minister must be interpreted as a reference to the MEC responsible for the administration of the relevant provincial spatial planning and land use management Act.

#### **Conflict between district and local municipalities**

16. (1) If a dispute arises between a district municipality and a constituent local municipality the parties may use the process contemplated in section 86 of the Municipal Structures Act, 117 of 1998 to resolve the dispute.
- (2) The MEC referred to in section 86 of the Municipal Structures Act, 1998 may request assistance from the Minister or the MEC responsible for the administration of the relevant provincial spatial planning and land use management Act in resolving the dispute.

### **CHAPTER 3**

#### **MINISTERIAL POLICIES, DIRECTIVES AND GUIDELINES AND OTHER OBLIGATIONS**

#### **Ministerial Guidelines**

17. (1) The Minister may, at any time, issue guidelines to municipalities regarding any of their functions under this Act and municipalities must have regard to those

- guidelines in the performance of their functions.
- (2) Without prejudice to the generality of subregulation (1) and for the purposes of that sub regulation a municipality in having regard to the guidelines issued by the Minister under that subregulation, must—
    - (a) consider the policies and objectives of the Minister contained in the guidelines when preparing and making a spatial development framework or land use scheme, and
    - (b) append a statement to the draft spatial development framework and land use scheme and the final spatial development framework and land use scheme which must include the information referred to in subregulation 3.
  - (3) The statement which the municipality must append to the draft spatial development framework and land use scheme and the final spatial development framework and land use scheme under subregulation 2 must include in formation which demonstrates—
    - (a) how the municipality has implemented the policies and objectives of the Minister contained in the guidelines when considering their application to the area or part of the area of the draft spatial development framework and land use scheme and the final spatial development framework and land use scheme, or
    - (b) if applicable, that the municipality has formed the opinion that it is not possible, because of the nature and characteristics of the area or part of the area of the spatial development framework and land use scheme, to implement certain policies and objectives of the Minister contained in the guidelines when considering the application of those policies in the area or part of the area of the draft spatial development framework and land use scheme or the final spatial development framework and land use scheme and must give reasons for the forming of the opinion and why the policies and objectives of the Minister have not been so implemented.
  - (4) Where applicable, a Province must have regard to any guidelines issued to municipalities under subregulation (1) in the performance of its functions.
  - (5) The Minister may revoke or amend guidelines issued under this regulation.
  - (6) The Minister must publish in the *Gazette* a notice of any guidelines and of any amendment or revocation of those guidelines issued under this regulation.

#### **Ministerial directions regarding Spatial Development Frameworks**

18. (1) Where the Minister is of the option that –
  - (a) a municipality, in making a spatial development framework, an amendment of a spatial development framework, has ignored, or has not taken sufficient account of submissions or observations made by the Minister to the municipality.

- (b) in the case of a plan, the plan fails to set out an overall strategy for the proper planning and sustainable development of the area, or
  - (c) the plan is not compliance with the requirements of the Act;  
the Minister may in accordance with this regulation, for stated reasons, direct a municipality to take such specified measures as he or she may require relation to that plan.
- (2) Where the Minister issues a direction under this regulation the municipality must comply with that direction and the Municipality may not exercise a power or perform a function conferred on them by this Act in a manner that contravenes the direction so issued.
- (3) Before the Minister issues a direction under this regulation, the Minister must issue a notice in writing to a municipality no later than 4 weeks after a plan is made.
- (4) The notice referred to in subregulation (3) must, for stated reasons, inform the municipality of—
  - (a) the forming of the opinion referred to in subregulation (1),
  - (b) the intention of the Minister to issue a direction, a draft of which must be contained in the notice, to the municipality to take certain measures specified in the notice in order to ensure that the plan is in compliance with the requirements of the Act and, in the case of a plan, sets out an overall strategy for the proper planning and sustainable development of the area,
  - (c) those parts of the plan that by virtue of the issuing of the notice under this subregulation must be taken not to have come in to effect, been made or amended under subregulation (6).
- (5) The Minister must furnish a copy of the notice referred to in subregulation (3) to the municipal manager and Mayor of the municipality, where there is a regional spatial development framework in force for the area of the municipality, to the Premier of the province concerned and, where relevant, to the any relevant or affected organ of state.
- (6) No later than 2 weeks after receipt of the notice issued by the Minister under subregulation (3), the municipal manager of the municipality must publish notice of the draft direction in at least one newspaper circulating in the area of the spatial development framework and land use scheme or local area plan, as the case may be, which must state—
  - (a) the reasons for the draft direction,
  - (b) that a copy of the draft direction may be inspected at such place or places as are specified in the notice during such period as may be so stated which period may not exceed 2 weeks from date of publication; and
  - (c) that written submissions or observations in respect of the draft direction may be made to the municipality during such period and must be taken in to consideration by the Minister before he or she directs the municipality

pursuant to this regulation.

- (7) No later than 4 weeks after the expiry of the period referred to in subregulation (6)(b), the municipal manager must prepare a report on any submissions or observations received under subregulation (7)(c) which must be furnished to the Minister and the municipal council.
- (8) The report referred to in subregulation (6) must —
- (a) summarise the views of any person who made submissions or observations to the municipality,
  - (b) summarise the views of and recommendations, if any, made by the municipal council,
  - (c) summarise the views of and recommendations, if any, made by the Province,
  - (d) make recommendations in relation to the best manner in which to give effect to the draft direction.
- (9) The municipal council may make a submission to the Minister in relation to the notice issued by him or her under subregulation (3) at any time up to the expiry of the period of time referred to in subregulation (6)(b).
- (10) The Minister must consider the report furnished under subregulation (7) and any submissions made to him or her under subregulation (9) and -
- (a) where he or she believes that no material amendment to the draft direction is required, or that further investigation is not necessary in order to clarify any aspect of the report or submissions, he or she may decide, no later than 3 weeks after the date of receipt of the report under subregulation (8), for stated reasons—
    - (i) to issue the direction referred to in subregulation (4)(b) with or without minor amendments, or
    - (ii) not to issue the direction referred to in subregulation (4)( b), or
  - (b) where he or she believes that—
    - (i) a material amendment to the draft direction may be required,
    - (ii) further investigation is necessary in order to clarify any aspect of the report furnished under subregulation (8) or submissions made under subregulation (9), or
    - (iii) it is necessary for any other reason,he or she may, for stated reasons, appoint an inspector no later than 3 weeks after the date of receipt of the report under subregulation (7).
- (11) The inspector appointed under subregulation (10)( b) must be a person who, in the opinion of the Minister, has satisfactory experience and competence to perform the functions required of him or her pursuant to this regulation and must be independent in the performance of his or her functions.
- (12) The inspector appointed under subregulation (10)( b) having regard to the stated reasons for his or her appointment—

- (a) must review the draft direction, the report furnished under subregulation (8) and submissions made under subregulation (9),
  - (b) must consult with the municipal manager and municipal council,
  - (c) may consult with the provincial government and persons who made submissions under subregulation (6)(c), and
  - (d) must no later than 3 weeks after he or she was appointed, furnish a report containing recommendations to the Minister .
- (13) Copies of the report of the inspector referred to in subregulation (12)(d) must be furnished as quickly as possible by the Minister to the municipal manager and municipal council, the provincial government and persons who made submissions under subregulation (6)(c).
- (14) The persons who have been furnished with the report of the inspector referred to in subregulation (12)(d) may make a submission to the Minister in relation to any matter referred to in the report no later than 10 days after the receipt by them of the report.
- (15) No later than 3 weeks or as soon as may be during such period extending that 3 week period as the Minister may direct, after receipt of the report of the inspector referred to in subregulation (12)(d), or any submissions made to him or her under subregulation (14), the Minister, having considered the report, recommendations or submissions, as the case may be, must decide for stated reasons—
- (a) to issue the direction referred to in subregulation (4)(b),
  - (b) not to issue the direction referred to in subregulation (4)(b), or
  - (c) to issue the direction referred to in subregulation (4)( b), which has been amended by the Minister to take account of any of the matters referred to in subparagraphs (i) or (ii) as the Minister considers appropriate:
    - (i) recommendations contained in the report of the inspector referred to in subregulation (12)(d); or
    - (ii) any submissions made pursuant to subregulation (14).
- (16) The direction issued by the Minister under subregulation (15) is deemed to have immediate effect and its terms are considered to be incorporated in to the plan, or, if appropriate, to constitute the plan.
- (17) The Minister must give notice of such a direction issued under subregulation (15) in the *Government Gazette*.
- (18) As soon as may be after a direction is issued to a municipality under subregulation (15), the municipality must make the direction so issued available for inspection by members of the public, during office hours of the municipality, at the offices of the municipality, and may also make the direction available by placing it on the municipality's website or otherwise in electronic form.

## CHAPTER 4 LAND USE MANAGEMENT

### Part A: Council Resolution

#### **Resolution to prepare a land use scheme**

19. Before a municipality commences with the preparation of its land use scheme, the municipal council must, after consultation with all the traditional authorities in its area of jurisdiction, make a resolution to prepare a land use scheme for its entire area as required by section 24 of the Act.

#### **Minimum content of resolution**

20. The resolution referred to in regulation 19 must, amongst others, set out -
- (a) the objectives and desired outcomes of the land use scheme;
  - (b) the existing town planning schemes applicable in its area of jurisdiction, if any;
  - (c) the approach and process that will be followed in the preparation of the land use scheme, including the development and adoption of other spatial plans;
  - (d) the commitment to the public participation process and in particular where the draft land use scheme will be made available for inspection by members of the public, the communication protocol that will be followed to inform the members of the public of the process and the identification of stakeholders;
  - (e) the department or unit in the municipality who will be responsible for the preparation of the land use scheme;
  - (f) the programme for the preparation of the land use scheme; and
  - (g) the available budget for the preparation of the land use scheme.

#### **Advertisement of resolution**

21. The municipal council must, as soon as is practicable but no later than 21 days after the resolution was taken, publish a notice in the Provincial Gazette and a newspaper circulated in its area of jurisdiction, that a resolution was taken by it to commence with the preparation of the land use scheme.

### Part B: Preparation of Land Use Scheme

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

22. (1) Before drafting a land use scheme the municipality must undertake such surveys, data collection and analysis as are necessary to prepare a land use scheme that is compliant with the Act.
- (2) The preparation of a land use scheme must take into account -
- (a) the provisions of the integrated development plan of the municipality prepared in terms of the Municipal Systems Act;

- (b) the municipal spatial development framework of the municipality;
  - (c) any spatial plans adopted by the municipal council;
  - (d) any existing town planning scheme or zoning scheme that applies in the area of jurisdiction of the municipality;
  - (e) aerial photography;
  - (f) title deeds;
  - (g) cadastral and jurisdictional boundaries;
  - (h) different forms of land tenure and their spatial distribution;
  - (i) defined urban areas and settlements;
  - (j) geology, soil, topography and slope analysis;
  - (k) current land use and building use;
  - (l) existing levels of services, current demand and capacity levels as well as costs and thresholds for the expansion of these
  - (m) demographics and population projections
  - (n) requirements for social facilities
  - (o) development opportunities and constraints
  - (p) transportation planning requirements (corridors, nodes, modal transfer points, non-motorized transport, ingress and egress requirements, car free areas, parking standards)
  - (q) economic development (strategic investment areas, areas where economic growth should be discouraged, spatial implications of LED strategies)
  - (r) urban edge or urban growth boundary delineation
  - (s) environmental elements referred to in regulation 23.
- (3) When preparing a land use scheme, the municipality must make use of the zones referred to in Annexure B.
- (4) If the municipality has a geographic information system, the land use system must utilise the information and must be incorporated therein.

### **Part C: Content of Land Use Scheme**

#### **Incorporation of environmental requirements into land use scheme**

23. (1) A municipality must develop an environmental database which documents –
- (a) the environmental factors that impact on the management of environmental resources;
  - (b) where development is prohibited in terms of environmental laws.
- (2) The environmental database must be used by the municipality to identify the environmental requirements that must be incorporated into the land use scheme.
- (3) In developing the database referred to in subregulation (1), the municipality must take into account, if applicable in its area of jurisdiction, the following -
- (a) 1:50 year and 1:100 year flood lines;
  - (b) catchment areas

- (c) an environmental management framework, environmental management plan and an environmental services plan developed in terms of the National Environmental Management Act;
- (d) the national biodiversity framework, bioregional plan, biodiversity management plan and the provincial list of threatened ecosystems and species developed in terms of the Biodiversity Act;
- (e) register of protected areas, provincial protected areas, nature reserves, world heritage sites, protected forest areas and mountain catchment areas developed or declared in terms of the Protected Areas Act;
- (f) air quality ...in terms of the Air Quality Act, 39 of 2004;
- (g) climate change;
- (h) catchment management strategy and sustainable utilization of water plans developed in terms of the National Water Act;
- (i) core conservation or ecosystems providing a full complement of ecological services;
- (j) links between core areas and ecosystems providing a partial complement of ecological services;
- (k) isolated portions of the open space system which are not linked to the other areas, but which provide important stepping-stones in the overall ecosystem;
- (l) areas where urban agriculture may or may not occur;
- (m) areas where the harvesting of indigenous vegetation may or may not occur;
- (n) important view sheds or vistas;
- (o) coastal management requirements; and
- (p) any other element that a municipality may identify in an environmental management plan such as a site of ecological significance.

#### **Incorporation of agricultural land**

24. (1) A municipality must develop a policy on the protection of valuable or high potential agricultural land in its area of jurisdiction and must, after such surveys, data collection and analysis as may be necessary, identify areas that have agricultural potential.
- (2) The areas that have agricultural potential must be incorporated into the land use scheme by using, amongst others, the guidelines contained in the policy on the protection of valuable or high potential agricultural land used.
- (3) The provisions of the Agricultural Land Act, 70 of 1970 pertaining to the inclusion of agricultural land into a land use scheme must be complied with.

#### **Alignment with integrated transport plans**

25. (1) Transport planning must be so carried out so as to cover both public and private transport and all the modes of land transport relevant in the area concerned, and must focus on the most effective and economic way of moving from one point to another in the system.

- (2) The land use scheme must reflect the integrated transport plans developed by the municipality in terms of the National Land Transport Act, 5 of 2009.

#### **Consideration of infrastructure requirements**

26. (1) The land use scheme must take account of the infrastructure that is available or can be made available within the financial resources of the municipality to support the development implied by the zoning.
- (2) The municipality must endeavour to align its infrastructure planning in the land use scheme with any strategic integrated project designated for implementation or implemented in terms of the Infrastructure Development Act, 2014 in accordance with Part A of Chapter 8.

#### **Land use scheme regulations**

27. The municipality must develop scheme regulations which must at least deal with the following –
- (a) preliminary provisions that sets out the land use scheme title, responsible authority for implementing the land use scheme, definitions used in the land use scheme, the land use scheme area, contents, purpose, aims and relationship to other schemes and laws and conflict of laws;
  - (b) the planning framework which sets out the relationship between the land use scheme and the spatial development framework and the procedures for preparing and adopting the land use scheme;
  - (c) general provisions for all zones;
  - (d) the zones which apply in the land use scheme area and the uses which may require approval or may be prohibited;
  - (e) the planning requirements which may apply to a particular use or development in a zone;
  - (f) special provisions which apply to heritage places and areas, provisions which may apply in addition to the zone requirements and generally concerns landscape, environmental, built form and land and site management issues;
  - (g) circumstances under which approval is required for the development of land is distinct from the use of land;
  - (h) the procedure for applying for planning approval including both the use and development of land;
  - (i) procedure for dealing with applications for planning approval and the matters to be taken into account;
  - (j) general provisions for the administration and enforcement of the land use scheme; and
  - (k) miscellaneous provisions that the municipality considers necessary.

**Land use scheme map**

28. (1) The scheme map must be prepared at an appropriate scale and contain at least -
- (a) its area of jurisdiction to which the land use scheme applies;
  - (b) the different zones required to accommodate various categories of buildings and land uses;
  - (c) a suitable colour notation;
  - (d) areas of land to be set aside for future development in the short- and medium-term, together with the proposed zoning;
  - (e) additional maps or overlays that may be necessary to reflect intensity of development and other development controls;
  - (f) a reference numbering system that links all maps and overlays;
  - (g) scale;
  - (h) north point;
  - (i) title block;
  - (j) the municipality name; and
  - (k) date of plan.
- (2) A municipality may separate the information onto more than one map.

**Land use scheme register**

29. (1) The scheme register of the municipality is a register of amendments to the land use scheme as contemplated in section 31 of the Act.
- (2) The record that must be maintained by the administrator in terms of regulation 74 is the scheme register.

**Part D: Public Participation Process****Notice of draft land use scheme**

30. (1) After a draft land use scheme has been prepared, a municipality must give notice of the draft land use scheme in a manner that will ensure that all stakeholders will have the opportunity to view and comment on the scheme which includes:
- (2) The notice set out in subregulation (1) must contain at least the following information:
- (a) The purpose of the land use scheme;
  - (b) the places where the land use scheme can be viewed by the public;
  - (c) the timeframes for the submission of objections or representations, which may not be less than 60 days, from the first date of publication of the notice, to submit objections and representations to the municipality.
  - (d) contact details of officials responsible for the preparation of the land use scheme at the municipality;
  - (e) details of where to submit objections and representations.

**Objections and representations**

31. (1) Any person intending to object to a draft land use scheme or to make representations thereon must do so in writing by submitting a notice of objection or of representation, in the format as prescribed in Annexure C, in the manner provided for in the notice referred to in regulation 30.
- (2) The objection or representation must contain:
- (a) The full names, identity or registration numbers, postal and physical address of the person so objecting or making representations as the case may be;
  - (b) a statement of the parts of the land use scheme objected to or in respect of which representations are made and the grounds therefor with sufficient detail to enable the municipal manager to understand the nature thereof.
- (3) The municipal manager may, on receipt of a notice of objection or representation, in writing delivered to the objector or person making the representation, request further elaboration in respect thereof and such request must be responded to within not more than 30 days of the serving of such request.
- (4) If no response is received by the municipal manager to a request made in terms of subregulation (3) the municipal manager may proceed with a consideration only of the original documents delivered to it.

**Consideration of objections and representations**

32. (1) If an objection is lodged or a representation made with regard to a draft land use scheme, the municipal manager –
- (a) must duly consider that objection or representation; and
  - (b) may hold a public hearing to which all persons or organisations who submitted objections and representations must be invited.
- (2) Notice of the public hearing must be delivered to interested and affected parties at least 30 days before the date of the hearing.
- (3) The municipal manager must make a decision on the adoption of a land use scheme, within 60 days after –
- (a) the closing date for the submission of objections and representations; or
  - (b) the hearing.

**Part E: Adoption and Publication of Land Use Scheme****Adoption of land use scheme**

33. (1) After having given due regard to all the objections received and representations made in terms of regulation 31 and after having amended the draft land use scheme where considered relevant, the municipal council must, by resolution, approve and adopt the land use scheme.
- (2) Notice of the decision of the municipality on the adoption of a land use scheme –

- (a) must be served on all persons, groups of stakeholders or organisations who submitted objections or representations but in the case of an objection or representation received on behalf of a group of stakeholders, the notice must be served on the person indicated as the contact person in the objection or representation;
  - (b) must be submitted to the Minister and the MEC responsible for spatial planning and land use management in the province where the municipality is located.
- (3) Any person requesting the reasons for the decisions by the municipality in the preparation and amendment or non-amendment of the draft scheme must do so in writing within 90 days of being informed of such decision, and the municipality must provide such reasons within 90 days of the date of the request.

#### **Publication of land use scheme**

34. Notice of the adoption of the land use scheme must be published in the Provincial Gazette on the date on which the scheme will come into effect;

### **Part F: Compliance and Enforcement**

#### **Appointment of inspector**

35. (1) Where the municipality designates or appoints an Inspector to investigate non-compliance with a land use scheme in terms of section 32(3) of the Act, it must follow approved municipal procedures.
- (2) In addition to the powers and duties referred to in section 32(4) of the Act, an inspector must -
- (a) initiate an investigation into non-compliance with the land use scheme;
  - (b) liaise with community structures regarding illegal land uses;
  - (c) receive complaints from residents;
  - (d) acknowledge receipt of complaints from residents within seven days of receipt;
  - (e) investigate all circumstances of non-compliance with the land use scheme;
  - (f) examine each complaint thoroughly within a period of 30 days of receipt of the complaint;
  - (g) inform complainants of the outcome of the investigation within 7 days after finalisation of the investigation;
  - (h) refer findings of non-compliance to the executive authority; and
  - (i) maintain a record of all situations of non-compliance.

#### **Compliance notice**

36. (1) An inspector who is of the opinion that any provision of the land use scheme has not been complied with, may, subject to subregulation (2), issue a notice of non-compliance in the form determined by the municipality, to the owner of the relevant land or premises.

- (2) A notice of non-compliance contemplated in subsection (1) must -
- (a) refer to the provision that has allegedly not been complied with;
  - (b) contain the details of the nature and extent of the alleged non-compliance;
  - (c) identify the steps that the owner is required to take in order to comply;
  - (d) inform the owner that he or she has 21 days within which to object to the notice of compliance;
  - (e) inform the owner that he or she has 30 days from the date of the notice to comply with the requirements; and
  - (f) contain the penalty, if any, that may be imposed in terms of the land use scheme in the event of non-compliance with those steps.
- (3) A copy of the notice of compliance must be submitted to the administrator.

#### **Objection to notice of compliance**

37. (1) Any person issued with a notice of compliance may object to it by making representations to the municipality within -
- (a) 21 days of receipt of that notice; or
  - (b) such longer period as may be allowed by the municipality on good cause shown.
- (2) After considering any representations by the objector and any other relevant information, the municipality may confirm, modify or cancel any notice of compliance or any part of such notice.
- (3) If the municipality confirms or modifies the notice or any part of the notice, the objector must comply with that notice, within the time period specified in that notice.

#### **Compliance certificate**

38. An inspector who is satisfied that the owner or person apparently in control of any land or premises has satisfied the terms of a notice of compliance may issue a compliance certificate, in the manner and format determined by the municipality, to indicate that compliance.

#### **Reporting by inspector**

39. An inspector must submit a report to the municipality -
- (a) providing information on matters to be taken into account in respect of an notice of compliance and certificates of compliance issued by that inspector;
  - (b) on any failure by a owner to discharge an obligation or condition of the approval granted by a municipal planning tribunal or official designated in terms of section n35(2) of the Act;
  - (c) the alterations that were effected to the use of the land without approval of the municipality or effected contrary to the conditions of approval;
  - (d) on any other matter which an inspector considers necessary to bring to the attention of the municipality.

## CHAPTER 5 JOINT MUNICIPAL PLANNING TRIBUNAL

### Role of district municipality

40. (1) A district municipality must, as soon as practicable after commencement of these Regulations, in writing, request all of the municipalities located in its area of jurisdiction to indicate whether they have decided to establish a municipal planning tribunal or a joint Municipal Planning Tribunal in agreement with one or all of the other municipalities.
- (2) If more than one municipality indicates to the district municipality that it has decided to establish a joint Municipal Planning Tribunal, the district municipality must draft an agreement for the establishment of a joint Municipal Planning Tribunal and facilitate the signing of that agreement by the participating municipalities.
- (3) If a joint Municipal Planning Tribunal is established in the area of jurisdiction of a district municipality, the district municipality must –
- (a) establish a list of service providers from which the participating municipalities may appoint members contemplated in regulation 43(1)(b) to serve on the joint Municipal Planning Tribunal;
  - (b) remunerate the service providers appointed by the participating municipalities;
  - (c) provide the necessary administrative support to the joint Municipal Planning Tribunal;
  - (d) designate an official in its employ to act as land development management administrator of the joint Municipal Planning Tribunal; and
  - (e) designate an official in its employ to act as land development management registrar of the joint Municipal Planning Tribunal.

### Decision of municipality

41. A municipality may decide to establish a joint Municipal Planning Tribunal contemplated in section 34 of the Act if that municipality –
- (a) does not receive sufficient land development applications on an annual basis to justify the establishment of a Municipal Planning Tribunal;
  - (b) does not have sufficient resources to justify the establishment of a Municipal Planning Tribunal; or
  - (c) believes that it is the most effective and efficient means of deciding land development applications in its area of jurisdiction.

**Agreement to establish joint Municipal Planning Tribunal**

42. (1) An agreement to establish a joint Municipal Planning Tribunal must describe the rights, obligations and responsibilities of the participating municipalities and must provide for -
- (a) the name and demarcation code of each of the participating municipalities;
  - (b) the budgetary, funding and administrative arrangements for the joint Municipal Planning Tribunal;
  - (c) the number and manner of appointment of officials representing each of the participating municipalities to the joint Municipal Planning Tribunal, the filling of vacancies and the replacement and recall of the officials;
  - (d) the terms and conditions of appointment of the officials referred to in paragraph (c);
  - (e) the appointment of a chairperson;
  - (f) the delegation of powers and duties to the joint Municipal Planning Tribunal;
  - (g) the acquisition of infrastructure, goods, services, supplies or equipment by the joint Municipal Planning Tribunal, or the transfer of infrastructure, goods, services, supplies or equipment to the joint Municipal Planning Tribunal;
  - (h) the appointment of staff by the joint Municipal Planning Tribunal, or the transfer or secondment of staff to the joint Municipal Planning Tribunal in accordance with applicable labour legislation;
  - (i) the terms and conditions on which any acquisition, transfer, appointment or secondment is made;
  - (j) the appointment of a nominee to inspect, at any time during normal business hours, the records, operations and facilities of the joint Municipal Planning Tribunal on behalf of the participating municipalities;
  - (k) determine the conditions for, and consequences of the withdrawal from the agreement of a participating municipality;
  - (l) determine the conditions for, and consequences of, the termination of the agreement, including -
    - (i) the method and schedule for winding-up the operations of the joint Municipal Planning Tribunal; and
    - (ii) the allocation among the participating municipalities of any assets and liabilities;
  - (m) the establishment of an appeal tribunal to hear appeals on decisions of the joint Municipal Planning Tribunal; and
  - (n) any other matter relating to the proper functioning of the joint Municipal Planning Tribunal.

- (2) Each municipality must, within 30 days after signing of the agreement contemplated in this regulation, delegate the necessary powers and duties to the joint Municipal Planning Tribunal.
- (3) Each municipality must, within 30 days after the delegation of its powers and duties to the joint Municipal Planning Tribunal, publish the agreement as contemplated in section 34(3) of the Act.

#### **Composition of joint Municipal Planning Tribunals**

43. (1) A joint 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 joint Municipal Planning Tribunal.
- (2) No municipal councillor of a participating municipality may be appointed as a member of a joint Municipal Planning Tribunal.

#### **Application of provisions of Act to joint Municipal Planning Tribunal**

44. Sections 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48 of the Act and Chapter 6 of the Regulations apply, with the necessary changes, to a joint Municipal Planning Tribunal.

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

45. 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.

#### **Powers and duties of joint Municipal Planning Tribunal**

46. A joint Municipal Planning Tribunal –
  - (a) may, in terms of the delegation in the agreement contemplated in regulation 42, exercise any of the powers a Municipal Planning Tribunal may exercise in terms of the Act and any limitations, qualifications and directives set out in the in the Act or the agreement contemplated in regulation 2;
  - (b) must, in terms of the delegation in the agreement contemplated in regulation 42, perform all the duties a Municipal Planning Tribunal must perform in terms of the Act subject to any limitations, qualifications and directives set out in the Act or the agreement contemplated in regulation 42;
  - (c) is accountable to the participating municipalities;
  - (d) must submit a monthly report on its activities and performance to the participating municipalities; and

- (e) must comply with the provisions of the Act.

#### **Termination of joint Municipal Planning Tribunal**

47. A joint Municipal Planning Tribunal terminates –

- (a) automatically when there is only one remaining participating municipality;
- (b) by written agreement among all of the participating municipalities; or
- (c) upon the fulfilment of any condition for termination contained in the agreement.

#### **Appeal against a decision of joint Municipal Planning Tribunal**

48. A person whose rights are affected by a decision taken by a joint Municipal Planning Tribunal may appeal against that decision to an appeal tribunal established by the participating municipalities in terms of this Chapter.

#### **Appointment of members of appeal tribunal**

49. (1) Within 30 days after informing the district municipality of its decision to establish a joint Municipal Planning Tribunal, every participating municipality must identify four persons to be considered for appointment as members of the appeal tribunal and must submit the list to the district municipality.
- (2) The district municipality may, in addition to the persons identified by the participating municipalities, identify such other persons as it considers appropriate for appointment as members of the appeal tribunal.
  - (3) The Department may establish a database of persons as it considers appropriate for appointment as members of an appeal tribunal.
  - (4) The district municipality must publish the list of names identified as contemplated in subregulations (1), (2) and (3) in the Provincial Gazette.
  - (5) The participating municipalities must, from the persons identified in this regulation, appoint a chief presiding officer who will, for each appeal lodged, designate persons referred to in subregulation (4) to serve on the appeal tribunal for that particular appeal.
  - (6) At any meeting of the appeal tribunal where an appeal is heard, no fewer than three members must be designated by the chief presiding officer and such members constitute a quorum.
  - (7) No Member of Parliament, the Provincial Legislator or a House of Traditional Leaders, or a councillor of a participating municipality may be appointed as a member of the appeal tribunal.
  - (8) The list of names submitted by a participating municipality for membership of the appeal tribunal must be made up of the following –
    - (a) a person in the employ of the participating municipality or other organ of state;
    - (b) a registered planner;

- (c) a practising registered engineer; and
  - (d) a practising advocate or attorney.
- (9) No member of the appeal tribunal may hear an appeal serving before the appeal tribunal if that member is in the employ of the municipality within whose municipal area the land forming the subject matter of the appeal is located.
- (10) No member of the joint Municipal Planning Tribunal may serve on the appeal tribunal.
- (11) If a person referred to in subregulation (9) or (10) is a member of the appeal tribunal hearing the appeal, his or her membership renders the decision of the appeal tribunal on that matter void.

#### **Support by district municipality**

50. The district municipality must –

- (a) designate an official in the employ of the district municipality as the registrar of the appeal authority;
- (b) provide the necessary administrative support to the appeal tribunal;
- (c) provide the office where the appeal tribunal will be situated.

#### **Application of Chapter 7 of Regulations**

51. The provisions of Chapter 7 of the Regulations apply with the necessary changes to every appeal lodged in terms of regulation 48.

### **CHAPTER 6**

#### **LAND DEVELOPMENT APPLICATIONS**

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

#### **Categories of applications**

52. (1) A municipality must, in compliance with section 35(3) of the Act, categorise applications as Category 1 and Category 2 land development applications.
- (2) in the case of a municipality that has not categorised its land development applications in terms of section 35(3) of the Act, Category 1 Land Development Applications are -
- (a) the establishment of a township or the extension of the boundaries of a township;
  - (b) the amendment of an existing scheme or land use scheme by the rezoning of land;
  - (c) subject to subregulation (3)(e), the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
  - (d) the amendment or cancellation in whole or in part of a general plan of a township;

- (e) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
  - (f) permanent closure of any public place;
  - (g) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
  - (h) any consent or approval provided for in any law referred to in subregulation (4).
- (3) In case of a Municipality that has not categorised its land development applications in terms of section 35(3) of the Act, Category 2 Land Use Applications are:
- (a) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;
  - (b) the consolidation of any land;
  - (c) the simultaneous subdivision, under circumstances contemplated in subparagraph (a) and consolidation of land;
  - (d) the consent of the municipality for any land use purpose or departure or deviation in terms of a land use scheme or existing scheme which does not constitute a land development application;
  - (e) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation.
- (4) A consent or approval referred to in subregulation 2(c) only applies in respect of a condition imposed in terms of:
- (a) The Agricultural Holdings (Transvaal) Registration Act, 22 of 1919;
  - (b) The Removal of Restrictions Act, Act 84 of 1967 or a provincial Act with similar provisions;
  - (c) The Less Formal Township Establishment Act, Act 113 of 1991;
  - (d) The Black Communities Development Act, Act 4 of 1984;
  - (e) Physical Planning Act, Act 125 of 1991;
  - (f) The Development Facilitation Act, 67 of 1995
  - (g) Any applicable town planning and townships ordinance not yet repealed;

#### **Hearing of applications by tribunal and land development officer**

53. (1) All category 1 land development applications and all opposed category 2 land development applications must be referred to the tribunal.
- (2) All category 2 land development applications that are not opposed must be considered and determined by the land development officer.

**Part B: Administration of Land Development Applications****Land development officer**

54. (1) A municipal council may designate an official in the full-time service of the municipality to act as land development officer of the municipality as contemplated in section 35(2).
- (2) A land development officer is not prohibited from serving on the tribunal as a tribunal member.
- (3) The land development officer, in the execution of his or her duties, is assisted by the administrator and such other officials as designated or appointed by the municipality.

**Tribunal**

55. (1) A municipal council must designate those officials in the full-time service of the municipality with the necessary qualification, skill and knowledge of spatial planning, land use management and land development and other any other official who may have the necessary expertise to facilitate the efficient and effective functioning of the tribunal, to serve as members of the tribunal.
- (2) In its designation the municipal council must stipulate the term of office of the official concerned and the designated official may only serve as member of the tribunal for as long as he or she is in the full-time employ of the municipality.
- (3) If the designated official resigns from the municipality, the person appointed by the municipality to his or her vacant office does not serve ex officio as a member for the remaining period of office of the member who resigned, but must be designated by the municipal council as a member for a new terms of office.
- (4) A designated official 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 tribunal.
- (5) The municipal council must appoint persons who comply with the criteria determined in section 36(1)(b) of the Act after the completion of the nomination procedure referred to in regulation 56.
- (6) A person appointed by the municipal council as a member of the tribunal –
- (a) is not an employee on the staff establishment of that municipality;
  - (b) performs the specific tasks allocated by the chairperson of the tribunal to him or her at a hearing of the tribunal;
  - (c) sits at such hearings of the tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the tribunal;
  - (d) is entitled to an seating and travel allowance for each hearing of the tribunal that he or she sits at as determined by the chairperson of the tribunal;

- (e) 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.
- (7) The seating allowance is subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Services.
- (8) Members of the tribunal, whether designated or appointed, must adhere to the code of conduct for members referred to in Annexure D and non-compliance thereof is grounds for or a disciplinary hearing by the municipality if the member is designated or removal from office of a member appointed in terms of this regulation.

### **Nomination procedure**

56. (1) The municipal council must, at least 90 days before the expiry of every term of office of the members of the tribunal, invite applications or nominations for persons to be appointed to the ensuing term of office of the tribunal by an advertisement in a leading newspaper in the area of jurisdiction of the municipality.
- (2) The invitation for applications or nominations referred to in subregulation (1) must provide for the applications or nominations to be submitted within 30 days from the date of the invitation or the date of publication of the advertisement.
- (3) Any application or nomination made pursuant to an advertisement in terms of subregulation (1) must be made in the form determined by the municipal council and accompanied by-
- (a) the personal details of the applicant or nominee;
  - (b) particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 36(1)(b) of the Act;
  - (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
  - (d) a sworn declaration by the applicant or nominee that he or she is not disqualified in terms of section 38 of the Act;
  - (e) a disclosure of the information contemplated in section 38(3) and (4); and
  - (f) permission by the applicant or nominee to verify the information provided by him or her.
- (4) The municipal council must, within 30 days from the expiry date specified in the notice and the advertisement, evaluate the applications and nominations received by him or her and appoint the members of the tribunal for the ensuing term of office of the tribunal.
- (5) When evaluating the nominations the municipal council must take into consideration-
- (a) the applicant's or nominee's knowledge and experience of the matters referred to in section 36(1)(b);

- (b) the need for appointing persons disadvantaged by unfair discrimination;
  - (c) the need to ensure that the tribunal is composed of persons covering a broad range of appropriate experience and expertise; and
  - (d) the powers and duties of the tribunal.
- (6) If insufficient, unsuitable or no applications and nominations are received within the period specified in the invitations or the notice the municipal council may appoint to the tribunal the required number of persons who, but for the fact that they did not apply or were not nominated in terms of the procedure contemplated in this section, qualify to be appointed in terms of these Regulations.
- (7) The municipal manager must, as soon as practicable after the appointment of the members of the tribunal, in addition to the requirement of section 37(4) of the Act, publish by notice in the *Provincial Gazette*-
- (a) the name of every person appointed;
  - (b) the date from which the appointment takes effect; and
  - (c) the term of office of the member.

#### **Disclosure of interest**

57. (1) For the purpose of section 38(4) of the Act, "pecuniary interest" does not include -
- (a) the employee benefits or travel and seating allowance of the member;
  - (b) an indirect interest held in any fund or investment;
  - (c) an interest arising out of an arms-length commercial transaction in respect of a lease, a sale of property or the granting of the option to purchase where the lessor, seller is the member of the tribunal;
- (2) For the purpose of section 38(4) of the Act, "family member" means a spouse, mother, father, brother, sister and any children of the member.
- (3) For the purpose of subregulation "spouse" means a member's -
- (a) partner in a marriage;
  - (b) partner in a customary union according to indigenous law;
  - (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union.
- (4) If, at any stage during the course of any proceedings before the tribunal, it appears that any tribunal member has or may have an interest which may cause a conflict of interest -
- (a) that member must forthwith fully disclose the nature of his or her interest on the form referred to in Annexure E and leave the meeting so as to enable the remaining tribunal members to discuss the matter and determine whether that tribunal member is precluded from participating in that meeting by reason of a conflict of interest; and

- (b) the disclosure of interest by that member and the decision taken by the remaining tribunal members regarding the matter, must be recorded in the minutes of the meeting in question.
- (5) If any tribunal member fails to disclose any interest as required by subregulation (4) or, subject to the provisions of that subregulation, if he or she is present at the venue where a meeting of the tribunal is held or in any manner whatsoever participates in the proceedings of the tribunal, the relevant proceedings of the tribunal will be null and void.

### **Legal indemnification**

- 58.** Whenever a claim is made or legal proceedings are instituted against any member of the tribunal arising out of any act done or any omission by a member in the performance of his or her duties or the exercise of his or her powers the municipality must -
- (a) in the case of a civil claim or civil proceedings, if it is of the opinion that the member acted or omitted to act in good faith without negligence, indemnify the member in respect of such claim or proceedings and –
    - (i) provide for the legal representation of such member at the cost of the municipality or undertake to pay his or her taxed party-and-party costs; and
    - (ii) settle the claim and pay any amount due in terms of such settlement; or
    - (iii) pay any award made by a court against him;
  - (b) in the case of criminal proceedings, if it is of the opinion that the member acted in good faith and without negligence, indemnify him or her in respect of his or her legal costs therein or provide for his or her legal representation at the cost of the municipality; and
  - (c) in the case of criminal proceedings, if it is of the opinion that it is in its interest to do so, indemnify the member in respect of his or her legal costs therein or provide for his or her legal representation at the cost of the municipality, provided that the municipality may refuse to act in accordance with the foregoing provisions or may terminate any steps already taken by it and recover from the member any costs incurred by it on his or her behalf if the member –
    - (i) has made an admission or statement which the municipality considers to be prejudicial to a successful defense;
    - (ii) has made any offer of payment or settlement;
    - (iii) declines to accept the services of a legal representative nominated by the municipality;
    - (iv) fails or refuses to furnish information the municipality may require or furnishes false and misleading information;
    - (v) fails or refuses to cooperate with the municipality or to render assistance required by the municipality.

**Chairperson of tribunal**

59. (1) The chairperson of the tribunal must direct the work of the tribunal and the registry, represent the tribunal in all administrative matters and preside at the meetings of the tribunal.
- (2) The chairperson, in the execution of his or her management duties of the tribunal, is assisted by the registrar and administrator.

**Land development management administrator**

60. A municipal council may designate an official in its employ or appoint a person to act as land development management administrator of the municipality 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.

**Powers and duties of administrator**

61. (1) The general duties and functions of an administrator include the following -
- (a) accepting, filing and maintaining records of all land development applications to the municipality, and documents in support of or in response to such applications as contemplated in regulation 70;
  - (b) obtaining dates for hearing from the tribunal registrar for the applicant or any other person entitled to bring an application before the tribunal in terms of the Act;
  - (c) assisting applicants to determine the persons, including the identity and offices of persons in the employ of a provincial government or local government body, on whom an application should be served;
  - (d) giving directions from time to time as to the manner of service of documents in circumstances not provided for in these Regulations;
  - (e) providing the applicant with all the comments, objections or representations received;
  - (f) informing parties of orders and directives given by the tribunal, on the basis of information provided to him or her by the tribunal registrar;
  - (g) attending tribunal hearings and generally providing documents and information to the registrar or any member of the tribunal;
  - (h) investigating and reporting on and generally assisting the tribunal in relation to proceedings relating to non-statutory land development processes;
  - (i) submitting to the tribunal an application to be substituted as administrator in relation to any land development application where his or her employer, being the municipality is the applicant or an objector to an application and the circumstances are such that, in the opinion of the administrator, he or she is not in a position to provide the tribunal with an objective support;

- (j) generally liaising with applicants and other parties to ensure the efficiency of the land development application process.
- (2) The registrar may give the administrator directions regarding the exercise of his or her powers under this Chapter.
- (3) The administrator must give written notice to the registrar of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

#### **Land development management registrar**

62. (1) A municipal council may designate an official in its employ or appoint a person to act as land development management registrar of the municipality 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.
- (2) 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 chairperson of the tribunal, 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.
- (3) Any person appointed under subregulation (1) or authorised under subregulation (2) may hold more than one office simultaneously.

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

63. (1) The registrar is responsible for managing the administrative affairs of the tribunal 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 tribunal.
- (2) The duties of the registrar include –
- (a) liaising generally with the administrator and the parties in relation to any application or other proceedings filed with the administrator;
  - (b) maintaining a diary of hearings of the tribunal, allocating hearing dates and application numbers to applications, arranging the attendance of hearings by tribunal members, arranging venues for tribunal hearings and generally administering the proceedings of the tribunal and performing administrative functions in connection with such proceedings or the efficient functioning of the tribunal, in accordance with the directions of the chairperson of the tribunal;
  - (c) determining, in consultation with the chairperson of the tribunal, of his or her own accord or on good cause shown and at the request of an applicant or administrator to do so, the order of preference to be given to matters awaiting

consideration by the tribunal, in order to ensure that priority is given to matters

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- (i) which affect a substantial number of persons or the public at large; or
  - (ii) which affect persons with particularly pressing needs; and
- (d) arranging the affairs of the tribunal so as to ensure that time is available to deal with matters contemplated in paragraph (c) or other urgent applications.
- (3) The chairperson of the tribunal 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 chairperson of all direct or indirect pecuniary interest that he or she has or acquires in any business or legal person carrying on a business.

#### **Office hours and address of office of administrator**

64. (1) The office of the administrator must be open for the filing of documents from 08:00 to 13:00 and from 14:00 to 16:00 every day other than a Saturday, Sunday or a public holiday.
- (2) Despite subregulation (1), when a different direction as to day and time is given by the chairperson of the tribunal, the administrator must accept the document in accordance with such direction.
- (3) The address of the office of the administrator, registrar and tribunal is the address of the municipality.

#### **Filing of documents**

65. (1) A document must be filed during office hours with the administrator by -
- (a) submitting the document at the office of the administrator;
  - (b) sending the document by registered post;
  - (c) faxing the document to the facsimile number of the office of the administrator;
- or
- (d) submitting it in electronic format to the office of the administrator in accordance with the requirements of the electronic land use management system of the municipality, if applicable.
- (2) The administrator must, upon receipt of a document filed by any of the means referred to in subregulation (1), issue an acknowledgement of receipt.
- (3) A document is deemed to have been filed with the administrator on the date of acknowledgement of receipt.
- (4) The tribunal may make an order—
- (a) condoning the manner in which any filing or other action under this regulation was actually performed; or
  - (b) requiring the person concerned to take steps to remedy any defect in filing or any other action.

**Service of documents and proof of service**

66. (1) Where service of any document or process is required on any particular person, it may be served as follows:
- (a) By handing a copy of the document to that person;
  - (b) by leaving a copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time of delivery;
  - (c) by leaving a copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority over the said person;
  - (d) where the person has chosen an address for service, by leaving a copy of the document at that address;
  - (e) by handing a copy of the document to any representative authorised in writing to accept service on behalf of such person;
  - (f) by sending a copy of the document by registered post to the last-known postal address of the person;
  - (g) in the case of a partnership, firm or association—
    - (i) by leaving a copy of the document at the place of business of such partnership, firm or association with the person who, at the time of service, is apparently in charge of the premises and apparently at least 16 years old; or,
    - (ii) if such partnership, firm or association does not have a place of business, by serving a copy of the document on a partner, the owner of the firm or the chairperson or secretary of the managing or other controlling body of such association, in any manner set out in this regulation;
  - (h) in the case of a company or other juristic person, by handing a copy of the document to a responsible employee of the company or other juristic person at its registered office or principal place of business within the Republic or its main place of business in the magisterial district in which the land which is the subject to the application is situated, or, if there is no employee willing to accept service, by affixing a copy of the document to the main door of the office or place of business;
  - (j) in the case of a local government body, by handing a copy of the document to the chief executive officer, town clerk, deputy town clerk, assistant town clerk or any person acting on behalf of any of those officers;
  - (k) in the case of any other statutory body, by handing a copy of the document to the person authorised by its enabling law or constitution to defend or oppose proceedings on its behalf or to any other person authorised to act on its behalf; or

- (l) by any other means directed by the administrator or authorised by the tribunal.
- (2) If the administrator is satisfied that service cannot conveniently or expeditiously be effected in any of the methods set out in subregulation (1), he or she may direct that service be effected in any other manner which may include transmission in electronic format.
- (3) Unless otherwise directed by the administrator, service must be effected between 8:00 and 4:00 on any day other than a Sunday or public holiday.
- (4) Proof of service must be filed with the administrator within seven days of service being effected and may include —
- (a) a signed acknowledgement of receipt by the person on whom the document was served;
- (b) an affidavit by the person who effected service; or
- (c) in the case of service by registered post, by producing the certificate which was issued by the Post Office when the document was posted and an affidavit that the letter posted contained the document concerned.
- (5) If the tribunal is not satisfied that service has taken place in accordance with this regulation, it may—
- (a) make an order condoning the manner in which service was actually effected; or
- (b) direct the person who was required to effect service to take such steps as it deems fit to remedy the original defect.
- (6) For the purposes of this regulation, when a building other than a hotel, boarding-house, hostel or similar place of residence is occupied by more than one person or family, “place of residence” or “place of business” means that portion of the building which is occupied by the said person.
- (7) Where the method referred to in subregulation (1)(f) is used, service will be deemed effected on the seventh day following the day on which the document was posted.

#### **Witness fees**

67. A witness subpoenaed to give evidence before the tribunal is entitled to such fees and costs as are specified in the tariff of allowances payable to witnesses in civil cases prescribed under section 51 of the Magistrates’ Court Act, 32 of 1944 and section 42 of the Supreme Court Act, 50 of 1959.

#### **Electronic land use management system**

68. (1) If a municipality develops or obtains an electronic land use management system, a land development application, any notification, but not a notice required in terms of regulation 73 or 74, and a record may be submitted and kept in electronic format and the provisions of the Electronic Communications and Transactions Act, 25 of 2002 apply to such application, notification and record.

- (2) An application that is submitted electronically must contain an electronic signature as contemplated in the Electronic Communications and Transactions Act, 2002.

#### **Record of land development applications**

69. (1) A record of all land development applications must be kept and maintained by the municipality in terms of section 31 of the Act and may be in written or electronic format.
- (2) The record must reflect –
- (a) the number of applications received in total;
  - (b) the number of applications received per category referred to in regulation 52;
  - (c) the type of applications received;
  - (d) applications referred to officials in terms of section 35(2) of the Act;
  - (e) applications referred to the tribunal in terms of section 40 of the Act;
  - (f) applications subject to an appeal; and
  - (g) the outcome of each application and appeal.

### **Part C: Application Process**

#### **Submission of application**

70. An applicant must, as contemplated in regulation 64(1), file the land development application in writing in the form referred to in Annexure F and pay the application fees determined by the municipality for the relevant category of application.

#### **Fees and documents to accompany application**

71. A land development application must be accompanied by –
- (a) proof of payment of the fees determined by the municipality for the relevant category of application;
  - (b) a written motivation by the applicant in support of the land development application, setting out -
    - (i) all relevant information pertaining to the land portion;
    - (ii) the nature and extent of the proposed development;
    - (iii) the spatial, physical and environmental context of the land portion;
    - (iv) the impact of the proposed land development on adjoining properties and land developments;
    - (v) the impact of the proposed development on public transport systems and municipal infrastructure services;
    - (vi) in the case of a rezoning, consent-use and township establishment application –
      - (aa) the need and desirability of the land development application;
      - (bb) any applicable national, provincial and municipal policies, by-laws or spatial development frameworks that have an impact on the proposed land development, and the degree to which the

- proposed land development complies with such policies, by-laws or spatial development frameworks; and
- (cc) the anticipated role of the proposed development in achieving specific municipal target; and
- (vii) any other information that, in the opinion of the applicant, may be relevant to the application;
- (c) proof of registered ownership or the right in land held;
- (d) consent of the bondholder;
- (e) written consent of the registered owner of the land, if the applicant is not the owner of the land;
- (f) copies of the layout plan;
- (g) proposed development conditions in the case of an application for a rezoning or consent-use;
- (h) proposed conditions of establishment in the case of a township establishment application;
- (i) any other plans, diagrams, documents, studies or information that the municipality may require or that are deemed necessary to enable –
- (i) the public to effectively assess the application and formulate objections or representations; and
- (ii) the municipality to make an informed decision on the application.

#### **Simultaneous submission of applications**

72. (1) Where an application or authorisation is required in terms of any other legislation for a land development as contemplated in sections 30 and 33(2) of the Act –
- (a) the applicant must indicate which other related applications are being submitted and to which authorities;
- (b) copies of all the documentation submitted for any such related applications must accompany the land development application;
- (c) the municipality must liaise with all the authorities responsible for applications and authorisations in terms of any other legislation in order to align the procedures involved in processing the various applications, and to determine time-frames within which the different applications must be completed in terms of section 30(1)(a) of the Act, or to issue an integrated authorisation in terms of section 30(1)(b) of the Act.
- (2) The municipality may permit different land development applications prescribed under the Act to be submitted as one integrated land development application but such an integrated application must –
- (a) be considered in accordance with the provisions of section 42 of the Act;
- (b) not circumvent or impede the right of interested and affected parties to object to or make representations on the land development application; and

- (c) satisfy all the relevant legal requirements of the applicable laws.
- (3) Where one integrated land development application contemplated in terms of subregulation (2) is submitted, the application fee must be prescribed by the municipality.

### **Screening of application**

- 73.** (1) When the administrator receives a land development application he or she must screen such land development application to determine whether:
- (a) It complies with the form referred to in Annexure F;
  - (b) it is accompanied by all of the documents and information required in terms of regulation 71
  - (c) it is accompanied by proof of payment of the application fees determined by the municipality for the relevant category of application; and,
  - (d) the application is complete.
- (2) If a land development application does not comply with the form specified in Annexure F, is incomplete or not accompanied by the documentation and information required in terms of regulation 71, the administrator must notify the applicant thereof within seven days of the date of receipt of the application, indicating what information is missing and require that information to be provided and returned to the administrator by the applicant within 14 days.
- (3) If the completed land development application is not completed as requested by the administrator and returned to the administrator within the specified time period, the application will be considered abandoned and the administrator must notify the applicant accordingly.
- (4) If a land development application complies with the form specified in Annexure F and is complete and accompanied by the documentation and information required in terms of regulation 71, the administrator must issue an advisory of commencement of process of that land development application within seven days of receipt of the application.

### **Registration of application**

- 74.** (1) After screening the land development application, ensuring that it is complete and issuing an advisory of commencement of process, the administrator must register that land development application within seven days of the date of issuing the advisory of commencement of process.
- (2) The registration of a land development application must be recorded in the land development application register in the form referred to in Annexure G and the administrator must, within 14 days of the date of registration –
- (a) notify the applicant of the registration; and
  - (b) circulate the land development application for comment to –
    - (i) each relevant municipal department or municipal service provider; and

- (ii) the applicable organs of state.

#### **Notice of category 1 land development application**

75. (1) An applicant must give notice of a category 1 development application in the form set out in Annexure H within 14 days of the date upon which the administrator notified the applicant that the application has been registered by the municipality in the manner required in this regulation.
- (2) An applicant must -
- (a) publish the notice once in the *Provincial Gazette*;
  - (b) publish the notice once in two newspapers circulating in the area of the application;
  - (c) serve a copy of the notice on every adjoining owner;
  - (d) post a copy of the notice on every street boundary of the land area which is the subject of the application and this notice must be maintained for the entire notice period;
  - (e) serve a copy of the notice on any person or body, other than an adjoining owner, with a pecuniary or proprietary interest in the matter.
- (3) The applicant must submit the following evidence of compliance with the requirements for public notification referred to in subregulation (2) to the administrator within 30 days of publication of the first notice -
- (a) a copy of the publication of the notice in the *Provincial Gazette*;
  - (b) a copy of each of the publications of the notice in the newspapers contemplated in subregulation (2)(b);
  - (c) copy of the record of the registered posting or delivery of the notice to adjoining owners;
  - (d) photographs and an affidavit certifying that the notice was posted on all street boundaries of the land and maintained for the entire notice period;
  - (e) copy of the record of the registered posting or delivery of the notice to any person or body, other than an adjoining owner, with a pecuniary or proprietary interest in the matter.

#### **Notice of a category 2 land development or land use application**

76. (1) An applicant must give notice of a category 2 development application in the form set out in Annexure I within 14 days of the date upon which the administrator notified the applicant that the application has been registered by the municipality in the manner required in this regulation.
- (2) An applicant must -
- (a) post and maintain a copy of the notice on every street boundary of the land area which is the subject of the application for a period of 14 days.
  - (b) serve a copy of the notice on every adjoining owner.

- (3) The applicant must submit the following evidence of compliance with the requirements for public notification referred to in subregulation (2) to the administrator within 30 days of posting of the first notice -
- (a) photographs and an affidavit certifying that the notice was posted on all street boundaries of the land and maintained for 14 days after such posting;
  - (b) a copy of the record of the registered posting or delivery of the notice to adjoining owners;

### **Objections**

77. (1) Any interested person who wishes to object to or make representations in respect of a land development application must submit such objection or representation in the form referred to in Annexure J to the administrator not later than 30 days after the first date of service of the notice contemplated in regulation 75 or 76.
- (2) Any objection or representation must state:
- (a) the name of the interested person concerned;
  - (b) the address at which the interested person concerned will accept notice or service of any documents;
  - (c) the interest of the interested person in the matter;
  - (d) the reasons for the objections or representations.
- (3) The reasons for any objections or representations referred to in subregulation (2)(d) must be set out in sufficient detail in order to -
- (a) indicate the facts and circumstances that explain the objections or representations;
  - (b) demonstrate any undesirable effects that the application will have on the development of the area and public interest in which the application is situated;
  - (c) demonstrate any aspects of the application that are not considered consistent with municipal development policy; and
  - (d) enable the applicant to reply to the objections and representations.
- (4) The administrator must provide copies of the objections and comments to the applicant within seven days after the period for lodging objections or representations has lapsed.
- (5) An applicant has a maximum of 30 days to submit comments on the objections to the municipality.
- (6) The applicant may lodge a written waiver on the right to reply with the municipality within 30 days of being provided with comments or objections.

**Comments pursuant to circulation**

78. (1) The municipal department, municipal service provider and organs of state contemplated in regulation 74(2) must submit their comments to the administrator within 60 days of the date of issuing the circular.
- (2) The comments must, where applicable, include:
- (a) any requirements or conditions of the municipal department, municipal service provider or organ of state concerned in any approval of the land development application.
  - (b) any reason why, in its opinion, the land development application should not be approved and such representations will then constitute an objection;
  - (c) where applicable, a statement of the external engineering services which will be required in any approval of the land development application;
  - (d) where applicable, the amounts of any services contributions required in any approval of the application.

**Amendments to application prior to referral**

79. (1) Prior to the referral of the land development application by the administrator to the land development officer or the tribunal, it may be amended by the applicant at any time –
- (a) at the applicant's own initiative; or
  - (b) at the request of the municipality.
- (2) A municipality must give notice of the amendment to all municipal departments, service providers and organs of state that commented on the application, and give them no less than 14 days to provide additional or new comments.
- (3) An applicant must again give notice of the application in the manner prescribed in regulation 75 and 76, if notice has already been given, if the amendment materially affects the application.

**Referral of application by administrator**

80. The administrator must, within seven days of expiry of period permitted for comment as contemplated in regulation 77(5) and (6), if the land development application is -
- (a) a category 1 land development application, and no objection or representation is lodged as contemplated in regulation 77, submit the duly completed application, together with all supporting documents, objections, representations, and comments to the registrar of the tribunal;
  - (b) a category 1 or category 2 land development application and an objection or representation is lodged as contemplated in regulation 77, submit the duly completed application, together with all supporting documents, objections, representations, and comments to the registrar of the tribunal; or

- (c) a category 2 land development application and no objection or representation is lodged as contemplated in regulation 77, submit the duly completed application, together with all supporting documents and comments to the land development officer for consideration and determination.

#### **Part D: Decision of Land Development Applications**

##### **Decision and determination by land development officer**

81. (1) Within 60 days of the date on which the administrator submits the duly completed application, together with all supporting documents and comments as contemplated in regulation 80(c), the land development officer must consider and make a determination on the land development application.
- (2) The land development officer may exercise all the powers and functions referred to in section 35(4) of the Act and the provisions contained in this part relating to a tribunal apply with the necessary changes, when considering and making a determination on a land development application.

##### **Procedure of tribunal**

82. (1) Within seven days of the date on which the registrar receives a notification from the administrator as contemplated in regulation 80(a) or (b), the registrar must determine the date, place and time of the tribunal hearing and inform the administrator thereof.
- (2) Within seven days of being informed of the date, place and time of the tribunal hearing by the registrar, the administrator must notify the applicant and all other persons who made submissions or objections, of the date, place and time of the tribunal hearing in the form referred to in Annexure K.
- (3) The tribunal hearing must take place no sooner than 60 days and no later than 90 days after the date of expiry of the period permitted for comment as contemplated in regulation 77.
- (4) The notice of the tribunal hearing contemplated in subregulation (2) must –
- (i) specify the place, date and time of the hearing;
  - (ii) state the purpose of the hearing; and
  - (iii) inform parties of their rights –
    - (aa) to be present or represented; and
    - (bb) to state their case or lead evidence in support of their case.
- (5) The applicant and every person who intends appearing at the tribunal hearing must, in writing, inform the administrator of his or her intention to do so 14 days prior to the date of the hearing.
- (6) The applicant or any other person entitled to attend the hearing of the tribunal may be permitted to call one or more expert witnesses, provided notice of such calling and a summary of the evidence of the expert was given to the administrator 28 days prior to the hearing.

- (7) The applicant or any other person entitled to attend the hearing of the tribunal must receive notice of the expert evidence at least 21 days before the date of the hearing.
- (8) The applicant and every person who intends appearing at the tribunal hearing must attend either personally or through his or her duly authorised representative.
- (9) Any person entitled to attend the hearing of the tribunal has a right to attend the hearing or to be represented at the hearing, and to, personally, or through their representative –
  - (a) state their case;
  - (b) call witnesses to testify and to present other evidence to support their case;
  - (c) cross-examine any person called as a witness by any opposite party;
  - (d) have access to documents produced in evidence; and
  - (e) address the tribunal on the merits of the application.
- (10) (a) A tribunal may subpoena a person to provide it with information that it deems necessary to take a decision on a land development application.
  - (b) Where a subpoena is issued or information is required, the subpoena must, as far as is practicable, be in the form referred to in Annexure L.
  - (c) The subpoena must set out in clear terms –
    - (i) the full names of the person from whom the information is required;
    - (ii) the information that is required; and
    - (iii) the book, document, item or thing to be produced.
  - (d) The subpoena must be served on the person concerned personally, or on his, her or their nominated agent, at least 28 days before the date of the hearing of the tribunal.
- (11) The presiding officer chairing the hearing may give any directions to the applicant and any other person in respect of the matters mentioned in these Regulations to ensure that the tribunal proceedings are concluded expeditiously.
- (12) A tribunal may act in accordance with subregulation (11) after –
  - (a) receipt of the documents referred to in subregulation (11)(b);
  - (b) determining and reaching a decision on any issues relating to *locus standi*, representation and availability of witnesses and parties; and
  - (c) determining whether the provisions of the Act have been complied with.
- (13) Any agreements reached or decisions taken at a tribunal hearing must be recorded by the administrator and signed by all the persons attending the hearing.

### **Consolidation and separation of applications**

- 83.** The tribunal may of its own accord, or on application by any party, on notice to every other party, make an order—
- (a) that applications pending before it in separate proceedings be consolidated, where it deems such consolidation to be expedient and just; or

- (b) that different components of an application, or different applications brought simultaneously in respect of the same land development or different land developments, be dealt with separately or at separate hearings of the tribunal.

#### **Continuation of application by new applicant**

- 84.** (1) If—
- (a) the ownership of land in respect of which an application has been made, has changed;
  - (b) the land concerned has been made available to a person or body other than the one to whom the land was originally made available; or
  - (c) a person other than the original applicant has become the agent of the owner; and the new owner, consent holder or agent notifies the administrator in writing that he or she wishes to continue with the application, the administrator may, if the application has not lapsed, approve the continuation of the application by such new person on any condition he or she may deem expedient.
- (2) An applicant who continues with an application in terms of subregulation (1) is, for the purposes of these Regulations, deemed to be the applicant who originally made the application.

#### **Power of tribunal to conduct site inspection**

- 85.** (1) If, at a hearing of the tribunal it decides to conduct a site inspection, the hearing must be postponed.
- (2) Within seven days after the hearing where the decision to hold a site inspection was made, the administrator must notify all parties of the date and time of such site inspection.
  - (3) A site inspection must be held within 14 days of the decision to hold a site inspection.
  - (4) Within seven days after the site inspection, the hearing of the tribunal must reconvene.

#### **Decisions of tribunal**

- 86.** (1) A tribunal must consider and decide a land development application in accordance with section 42 of the Act and the Promotion of Administrative Justice Act, 2000.
- (2) In addition to the factors listed in section 42(1) of the Act, the tribunal may have regard to such additional factors as —
- (a) environmental concerns;
  - (b) heritage and cultural factors;
  - (c) mining impacts;
  - (d) traffic impacts;
  - (e) issues of urgency; and
  - (f) any other matter the tribunal may deem necessary to consider.

- (3) The tribunal may, within 30 days of the last day of the tribunal having heard a land development application –
- (a) approve the application in whole or in part, subject to such conditions as it may deem appropriate;
  - (b) refuse the application; or
  - (c) postpone its decision on the application –
    - (i) giving reasons for the postponement; and
    - (ii) such postponement must not exceed 30 days from the date on which the postponement was indicated,
- and give the reasons for the decision.
- (4) If a tribunal postpones its decision on the application, it must within 7 days after the last day of the postponement, issue its decision on the application together with the reasons therefor.

#### **Conditions determined by tribunal**

87. (1) The tribunal may approve a land development application in accordance with regulation 86(3)(a) subject to, amongst others, the following conditions relating to –
- (a) the extent of the applicant's obligation to provide engineering services;
  - (b) the provision of municipal roads, parks or other open spaces;
  - (c) the creation of a servitude in favour of the subdivided erven or consolidated erf or against the subdivided erven or consolidated erf in favour of another erf;
  - (d) the reservation of land for government purposes, including educational or health facilities, sports and recreational purposes or community facilities;
  - (e) the maximum or minimum sizes of erven;
  - (f) the regulation of buildings, with particular reference to –
    - (i) the maximum or minimum number of buildings which may be built;
    - (ii) the maximum or minimum size of buildings;
    - (iii) the location of buildings; and
    - (iv) restrictions on building materials;
  - (a) the alteration, suspension or deletion of restrictions relating to the land that prohibits the subdivision or consolidation of the land;
  - (b) the amendment of the municipality's scheme;
  - (c) any amount or contribution payable in respect of any development resulting from or required for the effectuation of the land development rights; and
  - (d) a duty to furnish the municipality with a guarantee issued by a financial institution or other guarantor acceptable to it, within a period specified in the condition for an amount sufficient to cover the costs of –
    - (i) fulfilling the obligations of the applicant to provide engineering services; and
    - (ii) complying with any other condition of approval.

- (2) If the tribunal conditionally approves a land development application it may stipulate the period within which the applicant is expected to comply with the condition stipulated by the tribunal.

**Non-compliance with conditions determined by tribunal**

88. (1) If a tribunal approves an application subject to compliance with certain conditions, the applicant must comply with those conditions within –
- (a) a period of five years calculated from the date referred to in regulation 91(1);
  - or
  - (b) the period determined by the tribunal as contemplated in regulation 87(2).
- (2) If the applicant does not comply with the conditions stipulated by the tribunal within the period referred to in subregulation (1), the decision of the tribunal will be deemed to have been a refusal of the application and all conditional rights which may have been vested by the conditional approval is revoked and the applicant does not have a right to remuneration for the loss of such conditional rights.

**Approval of land development application that requires amendment of land use scheme**

89. If an approval of a land development application by the tribunal will result in an amendment of the land use scheme of the municipality, the administrator must inform the municipal council thereof together with the reasons for the decision and ensure that the amendment to the land use scheme is effected in accordance with the provisions of these Regulations.

**Approval of land development application on land where no town planning or land use scheme applies**

90. (1) If a person intends to change the use of land located in an area where no town planning scheme or land use scheme applies as contemplated in section 26(3) that person must submit a land development application in accordance with the provisions of this Act.
- (2) Any land use scheme that is approved and adopted subsequent to an approval by the tribunal of an application contemplated in subregulation (1) must give effect to the decision of the tribunal.

**Notification by administrator of decision of tribunal**

91. (1) Within 21 days of the decision of the tribunal, the administrator must notify the following persons and provide reasons for its decision –
- (a) the applicant;
  - (b) every objector and every other person who submitted written objections, comments or representations on the application; and

- (c) if the application has been approved, the Registrar of Deeds, the Surveyor-General and the municipal council and, if the land development application required joint authorisations, any other applicable organ of state.
- (2) Where a development application is approved, the administrator must, within 7 days after the date of expiry of the right to appeal the decision of the tribunal in terms of Chapter 7 of these Regulations, take the necessary steps to have the approval published in the *Provincial Gazette*.

#### **Amendment of approval**

92. (1) A tribunal may on its own initiative or on application amend or waive a condition imposed by it in terms of regulation 86(3)(a).
- (2) The applicant may, after the approval of the application apply to the tribunal for the amendment or waiver of any condition determined by it.
  - (3) An application for the amendment or waiver of a condition may be made without notice to any person.
  - (4) If -
    - (a) the amendments applied for are, in the opinion of the chairperson of the tribunal, not material and do not constitute a substantially new application, the tribunal may approve the application for amendment or deletion in whole or in part or postpone its decision thereon;
    - (b) the amendments or waiver applied for are in the opinion of the chairperson of the tribunal material or constitute a substantially new application, the tribunal may direct the applicant as to the extent to which the provisions of regulations 75 and 76 regarding the giving of notice by the applicant to interested parties are to be complied with.
  - (5) Any application for amendment or waiver may be approved subject to such conditions, as the tribunal may deem appropriate.

#### **Withdrawal of application**

93. (1) An applicant may, at any time before the approval or refusal of the application, by notice to the administrator and every other party, withdraw the application and provide reasons for such withdrawal.
- (2) The tribunal may, in the event of such withdrawal, make an order as to costs.

#### **Effective date of decision by tribunal or land development officer**

94. A decision of the tribunal or the land development officer does not come into effect until—
- (a) the period of 21 days within which an appeal may be lodged, has expired and no appeal has been lodged; or
  - (b) if an appeal has been lodged, the matter has been decided by the appeal authority.

**PART E: TOWNSHIPS AND GENERAL PLANS****Establishment of township, extension of boundaries of township and amendment of General Plan**

95. (1) A township must be established or the boundaries of a township must be extended on any farm portion where the land concerned is to be used, developed or subdivided for any purpose other than agricultural, open space or nature conservation purposes as defined in the applicable land use scheme.
- (2) The subdivision of an erf shown on a General Plan is deemed not to be the establishment of a township.
- (3) An application for the amendment or the partial or total cancellation of a General Plan of a township:
- (a) may only be made by or on behalf of a person or persons who is or are the owner or owners of all the erven affected by such amendment or cancellation;
  - (b) must, if such cancellation or amendment will lead to the closure of any public place, be accompanied by proof that the provisions of the applicable provisions of this Chapter have been complied with or that steps to effect such closure, have been initiated.
  - (c) may only be approved if it is desirable to do so in the interest of the development of a township, or in the public interest, where approval may be granted either unconditionally or subject to conditions.
- (4) If the approval of a Category 1 land development application includes the establishment of a township, the extension of the boundaries of a township, the cancellation or partial cancellation or the amendment of General Plan, the General Plan, diagrams and any other plans and documents required by the Surveyor General must be submitted to the Surveyor General for approval or amendment within 24 months of the date of publication of the notice of approval of the relevant application.
- (5) After the approval of a General Plan and/or diagrams of a township or the extension of the boundaries of a township by the Surveyor General, the Applicant must, within 12 months of the date of such approval, lodge such plan and/or diagrams together with any other documents required with the Registrar of Deeds.
- (6) Where any General Plan, diagram or document submitted to the Surveyor General or Registrar of Deeds contains any errors or omissions, such errors or omissions must be rectified by the applicant.
- (7) Before the General Plan and/or diagrams of a township are lodged with the Registrar of Deeds in terms of subregulation (5) the applicant may apply to the municipality for a township to be divided into two or more phases and on approval thereof all applicable provisions must apply, with the necessary changes, to the divided townships as if each was separately created.

- (8) Where a township is approved on two or more contiguous farm portions, or necessitates the subdivision and/or of a farm portion, the consolidation and/or subdivision of such farm portions must be deemed to be approved in the approval of the township.
- (9) The first registration of any erf in a township or an erf in the extension of the boundaries of a township or any subdivided portion of land in a Deeds registry must not take place:
  - (a) before a certificate by the municipality has been issued to the Registrar of Deeds to the effect that:
    - (i) the relevant development contributions have been paid by the applicant; and
    - (ii) the services and amenities which have to be provided in connection with the township are available; and
    - (iii) any prescribed conditions to be met prior to the transfer of land have been complied with; and
  - (b) prior to or simultaneously with the transfer of any land required for parks, parking, open space or inclusionary housing.
- (10) Any land transferred to the municipality in terms of subregulation (9)(b) may not be sold or alienated by the Municipality, except to another sphere of government, within a period of 10 years of such transfer except with the written consent of the Premier.
- (11) Ownership of roads in an approved township which are to be municipal roads must vest in the Municipality from the date of the first registration in the Deeds Registry of any erf in the township.
- (12) On the approval of a Category 1 application and compliance with all prescribed conditions and if no appeal has been lodged, the municipality must publish a notice in the *Provincial Gazette* of the approval.
- (13) The applicable database and register contemplated in these Regulations must be updated accordingly.
- (14) The approval of a Category 1 application comes into effect on the date of the publication of the notice in subregulation (12).
- (15) After publication of a notice of the removal, amendment or suspension of a restrictive condition, servitude or reservation the Registrar of Deeds must record such removal, amendment or suspension in accordance with the Deeds Registries Act, 47 of 1937.
- (16) The Registrar of Deeds must notify the municipality of any registration referred to in subregulation (15).

## **Part F: Land Use Management in Areas under Traditional Leadership**

### **Allocation of land rights**

96. (1) A traditional authority may conclude a service level agreement with the municipality in whose municipal area that traditional authority is located as contemplated in the Traditional Leadership and Governance Framework Act, 41 of 2003 or any of the applicable provincial Acts providing for traditional leadership and governance in terms of which the traditional authority performs the land use management powers and duties of a municipality as contemplated in the Act on behalf of the municipality in the traditional area concerned.
- (2) If a traditional authority concludes a service level agreement with the municipality as contemplated in subregulation (1), that traditional authority must undertake land use management in its traditional area in accordance with provisions of that service level agreement and all the provisions in this Chapter that apply to a municipality applies, with the necessary changes, to the traditional authority.
- (3) If a traditional authority does not conclude a service level agreement with the municipality as contemplated in subregulation (1) that traditional authority is responsible for providing proof of the allocation of land rights in terms of the customary law applicable in that traditional area to the applicant of a land development application in order for that applicant to submit it in accordance with the provisions of these Regulations.

### **Land development on land in traditional area**

97. (1) No land development on land in a traditional area may be considered and approved by a tribunal unless such land development is –
- (a) first sanctioned by the traditional authority with jurisdiction in the area in which the land development is to be undertaken in accordance with customary law; or
- (b) if the traditional authority of the land in question has a service level agreement with the municipality as contemplated in regulation 96, the land development is approved in accordance with the precinct plan of that traditional authority, the provisions of that service level agreement and the planning and participation procedures of that traditional authority.
- (2) Notwithstanding the requirements of regulations 75 and 76, notice required to be given in the case of land in a traditional area must be given in such manner that will ensure that all members of the traditional community resident in the area in which the land development is to be undertaken may reasonably have notice thereof and in accordance with customary law.
- (3) Despite participation in any customary law forum where notice is given of a land development, any member of the traditional community may object or comment as contemplated in regulations 77 and 78 in regard to any land development

application and may be made in an official language chosen by the person making such comment or objection.

- (4) The failure to afford a person referred to subsections (3) or (4) the opportunity of making a comment or objection in an official language chosen by that person is grounds for setting aside any decision taken by the municipality on the relevant land development application concerned.

#### **Land development application by member of traditional community**

98. (1) The provisions of this Chapter apply to a land development application on land in a traditional area and the applicant must, in addition to the required , submit proof that the land was allocated to him or her by the traditional authority and that the development was approved by the traditional authority.
- (2) Any land development application by a member of a traditional community on land in a traditional area may be made in an official language chosen by the applicant.
- (3) If by reason of illiteracy or lack of technical knowledge a person referred to in subsection (1) is unable to comply strictly with the requirements applicable to the process of receiving, preparing and promoting a land development application in terms of this Act, then the municipality must condone any non-compliance with such requirements consistent with fair and equitable practices,.
- (4) If any person comments or objects to any application made in terms of subsection (1) in a language which the applicant is not familiar with then the municipality must, at its expense, translate such comment or objection into a language that the applicant understands and is familiar with.
- (5) The failure to comply with subsections ((3) or (4) must be grounds for setting aside any decision taken by the municipality on the relevant land development application concerned.

## **CHAPTER 7**

### **APPEALS**

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

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

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

##### **Bias and disclosure of interest**

100. (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 subregulations (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.

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

101. (1) The municipal manager of a municipality is the registrar of the appeal authority.
- (2) Notwithstanding the provisions of subregulation (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.

**Powers and duties of registrar**

102. (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****Commencing of appeal**

103. An appellant must commence an appeal by delivering a Notice of Appeal specified in Annexure M to the registrar of the relevant appeal authority within 21 days as contemplated in section 51 of the Act.

**Notice of appeal**

104. (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.

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

**105.** 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.

### **Screening of appeal**

**106.** (1) When the appeal authority receives a Notice of Appeal, it must screen such Notice to determine whether:

- (a) It complies with the form specified in Annexure M;
  - (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 specified in Annexure M, 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**

#### **Parties to appeal**

107. 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 108, 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.

#### **Intervention by Minister or MEC**

108. (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 subregulation (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 subregulation (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.

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

109. (1) Where an appeal has been lodged by an appellant to the appeal authority, an interested person referred to in section 45(2) may, at any time during the proceedings, petition the appeal authority in writing on the form referred to in Annexure P 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 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 official referred to in paragraph (a).

#### **Part D: Jurisdiction of Appeal Authority**

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

- 110.** (1) An appeal authority may hear an appeal on merit, fact or law.
- (2) The grounds for hearing an appeal on merit are -
- (a) absence of jurisdiction on the part of the municipal planning tribunal or the official authorised in terms of section 35(2) of the Act;

- (b) interest in the cause, bias, malice or corruption on the part of a member of the municipal planning tribunal or the official authorised in terms of section 35(2) of the Act;
- (c) gross irregularity in the proceedings; and
- (d) the admission of inadmissible or incompetent evidence or the rejection of admissible or competent evidence.

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

111. An appeal may be heard by an appeal authority by means of -

- (a) an oral hearing; or
- (b) a written hearing.

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

112. (1) An appeal authority may hold an oral hearing on the written application of a party or on its own initiative 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.

#### **Circumstances in which oral hearing may be dispensed with**

113. The appeal authority may hear the appeal by considering the documents or other material lodged with or provided to the appeal authority and without holding a hearing if -

- (a) it appears to the appeal authority that the issues for determination of the appeal can be adequately determined in the absence of the parties; and
- (b) the parties consent to the appeal being determined without a hearing.

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

114. 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.

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

115. 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**

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

116. (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.

**Hearing date**

117. 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.

**Adjournment**

118. (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.

**Urgency and condonation**

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

**Withdrawal of appeal**

120. 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****Location of oral hearing**

121. 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 official authorised in terms of section 35(2) of the Act whose decision is under appeal.

**Presentation of each party's case**

122. (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 official authorised in terms of section 35(2) of the Act.

**Witnesses**

123. (1) Each party may call witnesses to give evidence before the panel in the form referred to in Annexure O.
- (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.

**Proceeding in absence of party**

124. (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.

**Recording**

125. Hearings of the appeal authority may be recorded.

**Oaths**

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

**Additional documentation**

127. (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****Commencement of written hearing**

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

**Presentation of each party's case in a written hearing**

129. (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 official authorised in terms of section 35(2) of the Act.
- (4) The municipal planning tribunal or the official authorised in terms of section 35(2) of the Act 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.

**Extension of time**

130. (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.

**Adjudication of written submissions**

- 131.** (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****Further information or advice**

- 132.** 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.

**Decision of appeal authority**

- 133.** (1) The appeal authority may confirm, vary or revoke the decision of the municipal planning tribunal or official authorised in terms of section 35(2) 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.

**Notification of decision**

- 134.** The registrar must notify the parties of the decision of the appeal authority in terms of regulation 133, together with the reasons therefor within seven days after the appeal authority handed down its decision.

**Directives to municipality**

- 135.** (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**

##### **Expenditure**

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

### **CHAPTER 8**

#### **GENERAL PROVISIONS**

##### **Part A: Strategic Infrastructure Development**

##### **Strategic integrated project**

137. When a strategic integrated project is designated as such by the Presidential Infrastructure Coordinating Commission in terms of section 7 and published in the *Government Gazette* in terms of section 8 of the Infrastructure Development Act, 2014, all of the municipalities in whose area of jurisdiction that strategic integrated project is located must perform the institutional, spatial planning and land use management functions referred to in this Part.

##### **Functions related to institutional requirements**

138. When a strategic integrated project is designated as referred to in regulation 137, the applicable municipality must –
- (a) designate the mayor or the councillor who will serve as a representative of the executive authority of that municipality at meetings of the forum convened by the SIP Chairperson in terms of section 7(4)(a) of the Infrastructure Development Act, 2014;
  - (b) designate an official in the municipality with the necessary skills and capabilities to properly perform the functions required in terms of the Infrastructure Development Act, 2014 who could be appointed by the Secretariat established in terms of section 9 of the Infrastructure Development Act, 2014, to serve on the applicable steering committee; and
  - (c) delegate the necessary authority to the persons referred to in paragraph (a) and (b) to enable them to properly perform their functions as required under the Infrastructure Development Act, 2014;

##### **Functions related to spatial planning**

139. (1) When a strategic integrated project is designated as referred to in regulation 137, the applicable municipality must –

- (a) as soon as possible after publication in the *Gazette* of the designation of the strategic integrated project as contemplated in section 8(1) of the Infrastructure Development Act, 2104, undertake a review of its municipal spatial development framework to determine if it is in conflict with the applicable strategic integrated project; and
  - (b) if it is in conflict with the strategic integrated project, amend the municipal strategic development framework or commence with the dispute resolution process provided for Chapter 2.
- (2) If the municipality concerned decides to amend its municipal spatial development framework in accordance with the strategic integrated project, it must form part of the integrated development plan of that municipality and is subject to the integrated development planning process of that municipality, including the requirements for public participation.

#### **Functions related to review of land use scheme**

140. When a strategic integrated project is designated as referred to in regulation 137, the applicable municipality must as soon as possible after publication in the *Gazette* of the designation of the strategic integrated project as contemplated in section 8(1) of the Infrastructure Development Act, 2104, assess its land use scheme to determine if the strategic integrated project will require an amendment of the land use scheme, and if so –
- (a) commence with the legislative procedures to amend its land use scheme; or
  - (b) commence with the dispute resolution process provided for Chapter 2 if it is of the opinion that the land use scheme should not be amended as the strategic integrated project would require.

#### **Application for approval of land development application due to strategic integrated project**

141. When a strategic integrated project is designated as referred to in regulation 137, and the result of the implementation of the strategic integrated project requires an application for approval of a land development application, the applicable municipality must expedite the application.

### **Part B: Exemptions**

#### **Request for exemption in writing**

142. (1) As soon as practicable after a province or municipality identifies a piece of land or an area that must be exempt from the provisions of the Act, the province or municipality must, in writing, request the Minister to exempt that piece of land or an area from one or all of the provisions of the Act.
- (2) A request for exemption must contain the following information:

- (a) A cadastral description of the piece of land or area which is to be exempted;
- (b) reasons for the exemption;
- (c) the relevant provisions of the Act that the piece of land or area must be exempted from.

#### **Deciding of request for exemption**

143. (1) Upon receipt of the request for exemption from the province or municipality as contemplated in regulation 142, must –
- (a) if the request is materially incomplete, advise the province or municipality of any further information required before the request will be considered;
  - (b) if the request does not duly identify the piece of land or area, require the province or municipality to more specifically identify the piece of land or area before the request will be considered
- (2) If the province or the municipality does not respond to the Minister within 30 days of receipt of the request for further particulars, the request will be deemed to have been abandoned by the province or the municipality.
- (3) If the province or the municipality responds to the Minister, but does not, to the satisfaction of the Minister, provide sufficient information to enable the Minister to make a decision, the Minister may again request further particulars or clarification and the provisions of subregulation (1) apply to such new request for further particulars or clarification.
- (4) If a request is deemed to have been abandoned in terms of subregulation (2), the Minister may close the file on that request without making a decision contemplated in section 55 of the Act.
- (5) Within 30 days after receiving a request for exemption or receiving adequate information for an exemption the Minister must publish in the *Gazette* a notice of the request for exemption received which notice must –
- (a) identify the piece of land or area for which an exemption is sought;
  - (b) indicate the municipality in whose area of jurisdiction the piece of land or area is located;
  - (c) indicate which organ of state is requesting the exemption;
  - (d) give the reasons for the exemption as stated in the request for exemption; and
  - (e) invite comment on the request for exemption in writing within a period stated in the notice, but the period may not be less than 30 days from the date of publication of the notice.
- (6) In deciding whether a request for exemption is in the public interest as contemplated in section 55 of the Act, the Minister may consider:
- (a) the degree to which the objects of the Act referred to in section 3 of the Act

- will be undermined;
- (b) the degree to which the development principles, norms and standards referred to in Chapter 2 of the Act will be promoted or prejudiced by the exemption;
  - (c) the degree of risk or potential risk posed by the exemption;
  - (d) the impact on existing and surrounding land uses;
  - (e) should the exemption not be granted, the effect would be extremely prejudicial to the interests of the community;
  - (f) if the Minister substitutes alternative provisions as contemplated in section 55(1)(b) of the Act, the capacity of the municipality to administer and implement the substituted provisions and regulate the development on the land; and
  - (g) the inclusion of the piece of land or area in a strategic integrated project designated as such in terms of the Infrastructure Development Act, 2014.
- (7) The Minister must, within 30 days after closing date in the notice referred to in subregulation (5)(e), grant, grant in part, grant subject to conditions, grant for a specific period, substitute alternative provisions consistent with the Act or refuse a request for exemption.
- (8) As soon as practicable after the decision of the Minister, he or she must –
- (a) inform the province or the municipality thereof and give reasons for his or her decision
  - (b) publish a notice of his or her decision in the *Gazette*.
- (9) At any time after refusing to grant an exemption in terms of subregulation (7), the Minister –
- (a) may withdraw his or her notice of refusal to grant the exemption; and
  - (b) if the Minister does withdraw the notice of refusal, he or she must reconsider the request for exemption and the provisions of this part applies with the necessary changes to that request for exemption.

#### **Procedures related to withdrawal of exemption**

- 144.** (1) The Minister may withdraw an exemption granted in terms of section 55 of the Act if –
- (a) the exemption was granted on the basis of false or incorrect information;
  - (b) a condition for the exemption is not fulfilled; or
  - (c) the reason for granting the exemption no longer exists.
- (2) If the Minister is contemplating withdrawing an exemption granted in terms of section 55 of the Act, the Minister must advise the province or the municipality concerned, in writing, of the intention to do so, as well as publishing a notice to that effect in the *Gazette*.

- (3) After considering any submissions or other information received in relation to the proposed withdrawal, the Minister must –
- (a) withdraw the exemption; or
  - (b) confirm the exemption as previously granted, in writing to that province or municipality; or
  - (c) substitute alternative provisions consistent with the Act; and
  - (d) give written reasons for his or her decision; and
  - (e) publish a notice in the *Gazette*.

**Short title and date of commencement**

145. These Regulations is called the Spatial Planning and Land Use Management Regulations, 2014 and comes into operation –

- (a) on the date determined by the Minister by publication of a notice thereof in the *Gazette*;
- (b) on different dates in respect of different provisions of the Regulations determined by the Minister by publication of a notice thereof in the *Gazette*; or
- (c) on different dates in respect of different provinces determined by the Minister by publication of a notice thereof in the *Gazette*.

**ANNEXURE A  
APPLICATION AND NOMINATION FORM TO SERVE AS A RECOGNISED FACILITATOR ON  
THE PANEL OF FACILITATORS**

FULL NAMES OF APPLICANT OR NOMINEE	
NAME OF NOMINATOR IF APPLICABLE	
ID NUMBER OF APPLICANT OR NOMINEE	
POSTAL ADDRESS OF APPLICANT OR NOMINEE	
STREET ADDRESS OF APPLICANT OR NOMINEE	
CONTACT NUMBER OF APPLICANT OR NOMINEE	
E-MAIL ADDRESS OF APPLICANT OR NOMINEE	
HIGHEST QUALIFICATION OF APPLICANT OR NOMINEE	
DATE OBTAINED	
INSTITUTION OBTAINED AT	
NUMBER OF YEARS APPLICABLE EXPERIENCE POST QUALIFICATION	

I believe that I am/We believe that the nominee is best suited and qualified to serve as a recognised facilitator on the Panel of Facilitators (give a clear and succinct summary of the reasons why you should be appointed as a recognised facilitator or why you have nominated the candidate for appointment on the Panel of Facilitators)

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Signature of the applicant or nominator  
nomination

Signature of nominee in the event of  
nomination

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ANNEXURE B**  
**UNIFORM ZONING CATEGORIES FOR LAND USE SCHEMES**

TO BE DEVELOPED

**ANNEXURE B**

**NOTICE OF OBJECTION OR OF REPRESENTATION TO A DRAFT LAND USE SCHEME**

FULL NAMES OF OBJECTOR	
FULL NAMES OF PROXY IF OBJECTOR IS A LEGAL PERSON	
ID NUMBER OR REGISTRATION NUMBER	
POSTAL ADDRESS	
STREET ADDRESS	
DATE	
NAME OF MUNICIPALITY	
NAME OF DRAFT LAND USE SCHEME	
OFFICIAL RESPONSIBLE FOR THE PREPARATION OF THE LAND USE SCHEME	
IF THE OBJECTION RELATES TO A SPECIFIC SITE OR AREA IDENTIFY THE SITE OR AREA	

I/We hereby give notice of our objection/representation to the draft Land Use Scheme published on .....to be known as the .....

The proposed Land Use Scheme - (give a clear and succinct summary of the reasons for the objection to the Land Use Scheme or part of the Land Use Scheme)  
 .....  
 .....  
 .....  
 .....  
 .....

Interest of person making the objection or representation:  
 .....  
 .....  
 .....

Reference to other persons or bodies in the jurisdiction of the municipality who support your position:.....

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I/We hereby request an opportunity to make representations at a public hearing if a public hearing is held

YES	NO

\_\_\_\_\_  
Signature of objector or proxy

\_\_\_\_\_  
Date

## **ANNEXURE D**

### **CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

#### **OBJECTIVES OF THE CODE**

The objectives of this Code are to set forth responsibilities and establish standards of conduct for all members of a Municipal Planning Tribunal.

The unacceptable actions and essential practices set forth by this Code encourage responsible and generally accepted practices and encourage a responsible and ethical approach to planning decisions.

Members of the Municipal Planning Tribunal, because they serve the state, stakeholders and the community at large, assume a position of trust together with ethical obligations. The members are seen as representatives of the municipality, not only in the performance of administrative duties but also in the manner in which they conduct themselves in business dealings of the Municipal Planning Tribunal. Members have a duty to uphold and contribute to the good reputation of the Municipal Planning Tribunal. The duty to uphold the reputation of the Municipal Planning Tribunal is fundamental and underlies the approach to these principles of conduct elaborated under the subheadings below.

#### **COMPLIANCE WITH LAWS**

The members of the Municipal Planning Tribunal will make decisions in compliance with the laws of the Republic.

#### **COMPLIANCE WITH CONTRACTUAL OBLIGATIONS**

In addition to laws, the Municipal Planning Tribunal takes seriously its contractual obligations and will adhere to its contractual requirements and, unless they are excused, will fulfil its contractual obligations.

The Municipal Planning Tribunal must endeavour to earn and maintain a reputation for integrity that includes, but is not limited to, compliance with laws and its contractual obligations. Even the appearance of misconduct or impropriety can be very damaging to the Municipal Planning Tribunal. The members of the Municipal Planning Tribunal must strive at all times to maintain the highest standards of quality and integrity. Rules of fairness, honesty and respect for the rights of others will govern their conduct at all times.

This policy requires each member to conduct himself or herself with the utmost honesty, accuracy and fairness when taking decision. Each situation needs to be examined under this standard. No unethical practice can be resorted to on the grounds that it is customary practice outside the Municipal Planning Tribunal or that it serves worthy goals. Expediency should never compromise integrity.

**GENERAL RESPONSIBILITIES**

Ethics and integrity are the responsibility of each member. Therefore, every member acting on behalf of the Municipal Planning Tribunal, is responsible for ethical conduct consistent with this Code.

Any activities undertaken on behalf of the Municipal Planning Tribunal with the national or provincial government, the municipality, parties to an application and the public in general must reflect the highest standards of honesty, integrity and fairness. Each member must be careful to avoid even the appearance of misconduct and impropriety.

**REPORTING OF SUSPECTED VIOLATIONS**

Members should report suspected violations of applicable laws, contractual requirements or this Code through the channels established for this purpose.

Such reports will be confidential. Raising concerns is a service to the Municipal Planning Tribunal and will not jeopardize any person's appointment.

The making of an allegation however, which is found to be without substance and which is knowingly false, vexatious or malicious, may be treated as a breach of this Code.

**CONFLICT OF INTEREST**

Members should be sensitive to situations which could raise questions of potential or apparent conflicts between personal interests and the interests of the Municipal Planning Tribunal and must disclose any such conflict of interest.

**CONFIDENTIAL INFORMATION**

The Municipal Planning Tribunal will during its existence be entrusted with many kinds of confidential, proprietary and private information. It is imperative that no member who has access to this information makes any unauthorised disclosures of the information, either during or after membership.

**GRATUITIES AND GIFTS**

Members of the Municipal Planning Tribunal may not give, offer or promise anything of value to any government official to enhance relations with that official regardless of whether that official is in a position to influence any government decision with respect to the Municipal Planning Tribunal and its activities.

Members of the Municipal Planning Tribunal must not give, offer or promise anything of value to any party to an application for the purpose of improperly obtaining or receiving favourable treatment.

The Municipal Planning Tribunal must establish and maintain reputation for integrity which must not be undercut by any perception that a member might be influenced by bribes, gifts or other benefits. Therefore no member may accept or other benefits or advantages that are offered in connection with their duties, status, power or authority.

Where refusal of a gift is likely to give offence to an extent that could adversely affect the interests of the Municipal Planning Tribunal, the member may accept the gift, but must promptly report it in accordance with the procedures established for this purpose. The gift is regarded as the property of the Municipal Planning Tribunal and must be recorded in a register maintained for this purpose at the offices of the Municipal Planning Tribunal. No member may accept money as a gift.

#### **FINANCIAL RECORDING AND REPORTING**

All the member's accounts, statements, expense reimbursements, time sheets and other documentation must be accurate, clear and complete.

#### **CONSEQUENCE OF NON-OBSERVANCE**

Each member is responsible for ensuring that his or her own conduct and the conduct of anyone reporting to him or her fully comply with this Code and with the policies of the Municipal Planning Tribunal. Non-observance will result in the taking of appropriate disciplinary action up to and including the discharge from employment by the municipality and removal from office. Disciplinary action will be taken in accordance with the procedures established for this purpose by the municipality. Conduct representing a violation of this Code may, in certain circumstances, also subject the individual to civil or criminal charges and penalties.

#### **SIGNATURE OF THE CODE OF CONDUCT**

Each member of the Municipal Planning Tribunal must, upon taking of office, sign this Code: I, as a member, undertake-

- 1 To strictly observe the laws of the Republic applicable to me, and this Code of Conduct laid down in this Annexure
- 2 To avoid conflicts of interest and not to place myself under any financial or other obligation to individuals or organisations that may influence me in the performance of my official duties.
- 3 To, in the making of decisions, make fair choices based on merit and which do not unduly or unjustly favour those with whom I have other ties.
- 4 Not to allow myself to be influenced in the execution of my duties by any consideration other than the legitimate and reasonable interests those I serve.
- 5 To be transparent in my decisions and actions, and to only restrict information when the wider public interest clearly demands and the relevant legislation allows for such restriction.
- 6 To declare any private interests relating to my public duties and to take steps to resolve any conflicts in a way that protects the public interests.
- 7 To administer contracts in an even handed manner.

**MONITORING THE OBSERVANCE OF THE CODE**

Members addressed by this Code should observe this Code and should promote the principles and ethics expressed by this Code, irrespective of other parties' ability to observe the Code.

Independently of any measures taken with respect to the observance of this Code, all relevant legal rules, whether administrative, judicial or common law, dealing with spatial planning and land use management should be strictly applied.

The municipality must monitor the observance of the Code and deal with non-compliance through the statutory mechanisms created by the Act.

**ANNEXURE E**  
**DISCLOSURE OF CONFLICT OF INTEREST OF MEMBER OF MUNICIPAL PLANNING**  
**TRIBUNAL**

I, \_\_\_\_\_ member of the \_\_\_\_\_  
Municipal Planning Tribunal, appointed by the \_\_\_\_\_ Municipal  
Council on \_\_\_\_\_, hereby recuse myself from this meeting of the Municipal Planning  
Tribunal and disclose that I have –

- (a) a direct/indirect\* interest in the spatial planning and land use management sector;  
and
- (b) the interest is of a personal nature; or
- (c) the interest is through my spouse/partner/associate\*,

in \_\_\_\_\_ the  
\_\_\_\_\_ applic  
ation serving before the Municipal Planning Tribunal on \_\_\_\_\_.

The nature and extent of the disclosed interest:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I further declare that my spouse/partner/associate\* holds an office/is employed by\*  
\_\_\_\_\_ which has a direct/indirect\* financial interest in the spatial planning and  
land use management sector.

\_\_\_\_\_  
Signature of member

\* Delete whichever one is not applicable.

**ANNEXURE F**  
**LAND DEVELOPMENT APPLICATION**

TO BE DEVELOPED

**ANNEXURE G**  
**REGISTRATION OF LAND DEVELOPMENT APPLICATION IN THE LAND DEVELOPMENT**  
**APPLICATION REGISTER**

TO BE DEVELOPED

**ANNEXURE H****NOTIFICATION OF SUBMISSION OF A CATEGORY 1 LAND DEVELOPMENT APPLICATION**

I, (insert name of land development applicant) have lodged a land development application (insert the application number allocated to the land development application) in terms of the Spatial Planning and Land Use Management Act, 2013 for the -  
(insert brief description of the application and the erf, site or area concerned and the proposed development, \_\_\_\_\_ if applicable) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The relevant plan(s), document(s) and information are available for inspection at \_\_\_\_\_

for a period of 30 days from \_\_\_\_\_ (insert date of service of this notice on adjoining owners) and any objection or representation pertaining to the land development application must be submitted in writing before the expiry of the 30 day-period to the office of the Land Development Management Administrator during (insert the office hours of the Land Development Management Administrator) at (insert address of the office of the Land Development Management Administrator) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If, after the receipt of any objections or representations, the \_\_\_\_\_ Municipal Planning Tribunal decides to hold a public hearing, the Land Development Management Administrator will inform you of the date, place and time of that hearing, if you have submitted any objections or representations to his/her office.

Please direct any queries to the Land Development Management Administrator.

Name: \_\_\_\_\_

Telephone nr. \_\_\_\_\_

Fax nr. \_\_\_\_\_

e-mail address: \_\_\_\_\_

**ANNEXURE I****NOTIFICATION OF SUBMISSION OF A CATEGORY 2 LAND DEVELOPMENT APPLICATION**

I, (insert name of land development applicant) have lodged a land development application (insert the application number allocated to the land development application) in terms of the Spatial Planning and Land Use Management Act, 2013 for the (insert a brief description of the Category 2 land development application being made and the erf number concerned)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The relevant plan(s), document(s) and information are available for inspection at

\_\_\_\_\_

for a period of 30 days from \_\_\_\_\_ (insert date of service of this notice on adjoining owners) and any objection or representation pertaining to the land development application must be submitted in writing before the expiry of the 30 day-period to the office of the Land Development Management Administrator during (insert the office hours of the Land Development Management Administrator) at (insert address of the office of the Land Development Management Administrator)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If, after the receipt of any objections or representations, the \_\_\_\_\_ Municipal Planning Tribunal decides to hold a public hearing, the Land Development Management Administrator will inform you of the date, place and time of that hearing, if you have submitted any objections or representations to his/her office.

Please direct any queries to the Land Development Management Administrator.

Name: \_\_\_\_\_

Telephone nr. \_\_\_\_\_

Fax nr. \_\_\_\_\_

e-mail address: \_\_\_\_\_

**PLEASE NOTE:**

1. If no objection/representation is received, the land development application will be decided by the land development officer of the municipality.
2. If an objection/representation is received, the land development application will be decided by the \_\_\_\_\_ Municipal Planning Tribunal.

**ANNEXURE J  
FORM OF OBJECTION OR REPRESENTATION**

I, (insert name of objector or person making a representation), of (insert address of the objector or person making the representation)\* hereby formally make an objection/representation to the land development application (insert type and number of land development application) submitted by (insert name of applicant).

My/our interest in the land development application is

\_\_\_\_\_

The reason(s) for my/our objection/representation is/are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* The address must be a street address where documents could be served and not a postal address

**PLEASE NOTE:**

The reason(s) for any objection/representation must be set out in sufficient detail in order to -

1. Indicate the facts and circumstances that explain the objection/representation.
2. Demonstrate any undesirable effect(s) that the application will have on the development of the area and public interest in which the application is situated.
3. Demonstrate any aspects of the application that are considered not consistent with the municipal SDF.
4. Enable the applicant to reply to the objection/representation.

\_\_\_\_\_  
Signature of objector or person making the representation

\_\_\_\_\_  
Date

**ANNEXURE K**  
**NOTIFICATION OF PLACE, DATE AND TIME OF HEARING OF THE MUNICIPAL PLANNING**  
**TRIBUNAL**

\_\_\_\_\_Municipal Planning Tribunal

You submitted an objection/representation to the land development application listed below and it constitutes an objection/representation in terms of the Spatial Planning and Land Use Management Act, 2013. As a result you are invited to appear in person or through a representative before the \_\_\_\_\_Municipal Planning Tribunal on the date mentioned below and to state your case or lead evidence in support of your case.

Registration number of application: \_\_\_\_\_

Category of application: \_\_\_\_\_

Type of application: \_\_\_\_\_

Name of applicant: \_\_\_\_\_

The purpose of the \_\_\_\_\_Municipal Planning Tribunal hearing is to consider the above-mentioned land development application and the hearing will be held:

Place: \_\_\_\_\_

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

Time: \_\_\_\_\_

If you intend appearing at the Municipal Planning Tribunal hearing you must, in writing, inform the Land Development Management Administrator of your intention to do so no less than 14 days prior to the date of the hearing indicated above.

If you intend to call one or more expert witnesses, you must, in writing, inform the Land Development Management Administrator of your intention to do so and provide a summary of the evidence the expert will give at the hearing no less than 28 days prior to the date of the hearing indicated above.

Please direct any queries to the Land Development Management Administrator.

Name: \_\_\_\_\_

Telephone nr. \_\_\_\_\_

Fax nr. \_\_\_\_\_

e-mail address: \_\_\_\_\_

**ANNEXURE L**  
**SUBPOENA TO PROVIDE INFORMATION TO THE MUNICIPAL PLANNING TRIBUNAL**

\_\_\_\_\_ Municipal Planning Tribunal

Full names of person subpoenaed to provide information: \_\_\_\_\_

Address of person subpoenaed to provide information: \_\_\_\_\_

Registration number of application: \_\_\_\_\_

Category of application: \_\_\_\_\_

Type of application: \_\_\_\_\_

Name of applicant: \_\_\_\_\_

TAKE NOTICE that the \_\_\_\_\_ Municipal Planning Tribunal requires you to produce or its inspection the following information and/or documents:

(Describe the information and/or documents required)

\_\_\_\_\_  
 \_\_\_\_\_

The documents are to be submitted to the office of the Land Development Management Administrator on or before (insert date and time) \_\_\_\_\_ at the following address:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Please direct any queries to the Land Development Management Administrator.

Name: \_\_\_\_\_

Telephone nr. \_\_\_\_\_

Fax nr. \_\_\_\_\_

e-mail address: \_\_\_\_\_

\_\_\_\_\_  
**Chairperson: Municipal Planning Tribunal**  
**designated in terms of section 36 of the**  
**Spatial Planning and Land Use Management Act, 2013**



**4. Declaration**

I, \_\_\_\_\_ (full names)  
hereby submit an appeal to the Appeal Authority in terms of section 51 of Act 16 of 2013. I declare that I shall be bound by all the provisions of the Act. I solemnly declare that, to the best of my knowledge and belief, all the information contained herein is true and correct.

\_\_\_\_\_ Appellant

The Respondent must within 5 days after receipt of this notice state whether he or she opposes the appeal or not.  
If the Respondent opposes the appeal the respondent must file within 20 days after notice of appeal, total record of hearing.  
Appellant must within 20 days from receipt of record submit to the Appeal Authority a reply to the respondent's response to the appeal.  
The Appeal Authority must determine a date on which the appeal will be heard and notify Respondent and Appellant within 10 days from receipt of the Appellant's reply.

**5. COMMENTS/REMARKS (including a list of documents attached):**

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



<hr/>	<b>Appellant</b>
-------	------------------

COMMENTS / REMARKS (including a list of documents attached):

..... ..... ..... ..... ..... ..... .....
---

**ANNEXURE O**  
**SUBPOENA OF WITNESS**

In terms of regulation 123 of the Spatial Planning and Land Use Management Regulations, 2014

\_\_\_\_\_  
(Person's Name)

is hereby ordered to

(a) Appear at an appeal hearing on (insert date) at (insert address)

\_\_\_\_\_ in relation to (insert details of appeal)

\_\_\_\_\_ to witness in relation to the appeal referred to above

\_\_\_\_\_  
**Chairperson: Appeal Authority appointed in terms of  
Section 51 of the Spatial Planning and Land Use  
Management Act, 2013**

**ANNEXURE P**

**PETITION TO THE APPEAL AUTHORITY TO BE GRANTED INTERVENER STATUS**

I hereby petition the Appeal Authority to grant me intervener status in terms of regulation 109 of the Spatial Planning and Land Use Regulations, 2014 in the appeal proceedings between the parties

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ pertaining to a decision of the  
\_\_\_\_\_ Municipal Planning Tribunal regarding the following application:

Registration number of application: \_\_\_\_\_

Category of application: \_\_\_\_\_

Type of application: \_\_\_\_\_

Name of applicant: \_\_\_\_\_

Surname \_\_\_\_\_ of \_\_\_\_\_ intervener:

First \_\_\_\_\_ Names

Identity \_\_\_\_\_ /Passport Nr

Residential \_\_\_\_\_ Address

\_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_ Code:

Telephone No \_\_\_\_\_ (W) \_\_\_\_\_

Cellular \_\_\_\_\_ Telephone Nr

Fax Nr \_\_\_\_\_

e-mail \_\_\_\_\_ Address

\_\_\_\_\_

Outline the reasons why you should be granted intervener status:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature of petitioner \_\_\_\_\_

Date \_\_\_\_\_











**NOTICE – CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS**

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

The new numbers are as follows:

- Switchboard : 012 748 6001/6002
- Advertising : 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries : 012 748 6052/6053/6058 [GeneralEnquiries@gpw.gov.za](mailto:GeneralEnquiries@gpw.gov.za)
- Maps : 012 748 6061/6065 [BookShop@gpw.gov.za](mailto:BookShop@gpw.gov.za)
- Debtors : 012 748 6060/6056/6064 [PublicationsDebtors@gpw.gov.za](mailto:PublicationsDebtors@gpw.gov.za)
- Subscription : 012 748 6054/6055/6057 [Subscriptions@gpw.gov.za](mailto:Subscriptions@gpw.gov.za)
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

Please consult our website at [www.gpwonline.co.za](http://www.gpwonline.co.za) for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001

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