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MIDVAAL LOCAL MUNICIPALITY

MIDVAAL LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW

PREAMBLE

WHEREAS section 156(1)(a) and (b) of the Constitution, 1996 (Act 108 of 1996) confers on municipalities the executive authority and the right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution and any other matter assigned to municipalities by National or Provincial legislation; and

WHEREAS the Constitution authorizes and empowers municipalities to administer the local government matters listed in Part B of Schedules 4 and 5, which include hoardings and the display of advertisements in public places and any other matter assigned to it by national or provincial legislation, by making and administering By-laws for the effective administration of these matters;

WHEREAS Part B of Schedule 4 to the Constitution lists "municipal planning" as a local government matter; and

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

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

WHEREAS Parliament has enacted the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), which *inter alia* sets out development principles which apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land.

BE IT THEREFORE ENACTED by the Municipal Council of the Midvaal Local Municipality as follows: -

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CHAPTER 1

DEFINITIONS, INTERPRETATION AND APPLICATION

1. Definitions and Interpretations

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

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

"adopt" and "approved", in relation to a spatial development framework, land use scheme, policy or strategy, means the approval thereof by the executive authority and shall have corresponding meanings;

"agent" means a person authorized in terms of a power of attorney by the owner of land to make an application;

"Appeal Authority" means the Executive Authority as contemplated in section 70(1)

"authorized employee / official" means a municipal employee who is authorised in terms of delegated or sub-delegated authority by the Municipality to exercise a power or perform a duty in terms of this By-law or to inspect land and buildings in order to enforce compliance with this By-law, the land use scheme and Deed of Title;

"building" includes any structure of any nature whatsoever as envisaged in section 1 of the National Building Regulations and Building Standards Act;

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

"comments" refer to comments submitted by the public, municipal departments and other organs of state and service providers on a land development application, appeal, and includes objections, representations and petitions;

"consolidation" in relation to land means the joining of two or more adjacent land units into a single registered land unit through the registration thereof in the deeds registry, but excludes the consolidation of farm portions for purposes of this by-law read with the Land Survey Act;

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act 106 of 1996);

"Council" means the Midvaal Municipal Council which is the legislative authority of the Municipality;

"day" means a calendar day, and when any number of days is prescribed in terms of this By-law for the doing of any act, it must be calculated by excluding the first day and including the last day, provided that, if the last day falls on a Sunday, Saturday or public

holiday, the number of days must be calculated by excluding the first day and also the Sunday, Saturday or public holiday and if the date on which any notice must appear in any media or *Provincial Gazette* such notice may not appear on a Sunday, Saturday or public holiday and shall for purposes of calculation be excluded.

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

"development principles" means the principles as set out in Chapter 2, and more specifically, section 7 of the Spatial Planning and Land Use Management Act, 2013;

"engineering services" means a system for the provision of water, electricity, renewable energy equipment, gas, roads, storm water drainage and collection and removal of solid waste and/or sewerage, solid waste sites required for the purpose of land development;

"engineering services agreement" means the agreement envisaged in section 67(2) of this By-law;

"erf" means land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township which is not intended for a public place, whether or not such township has been recognized, approved or established as such in terms of this By-law or any repealed law. Any reference to erf or rural land refers to the Land Survey Act, 1997, (Act No 8 of 1997);

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

"external engineering service" means an engineering service that may be situated outside the boundaries of a land area referred to in a land development application and that is necessary to serve the use and development of the land area and is either a link engineering service or a bulk engineering service;

"Housing Development Schemes for Retired Persons Act" means the Housing Development Schemes for Retired Persons Act, 1988 (Act 65 of 1988);

"internal engineering service" means an engineering service situated within the boundaries of a land development area required for the use and development of the land.

"land" means any erf, agricultural holding, sectional title land or farm portion and includes any improvement on land and any interest in land;

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

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

"land use scheme" means the Municipality's land use scheme approved and adopted in terms of section 24(1) of the Spatial Planning and Land Use Management Act, 2013 and section 19 of this By-law and it includes any other town planning scheme that might still

be in operation within the Municipality's jurisdiction until replaced by a single land use scheme.

"Law enforcement officer" have a corresponding meaning and means a person designated or appointed as an inspector in terms section 32 of the Act and/or a development compliance officer appointed in terms of section 75 of this By-law or any other relevant law pertaining to the inspection of land and or buildings in order to enforce compliance with this By-law, land use conditions or Land Use Scheme or any other law under the jurisdiction of the Municipality;

"link engineering service" means an external engineering service required to connect an internal engineering service to a bulk engineering service and includes the land required for the link engineering service;

"Municipal Manager" means the municipal manager of the Midvaal Local Municipality;

"Municipality" means the municipality of Midvaal Local Municipality established by Establishment Notice 6765 of 1 October 2000 issued in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and any employee of the Municipality or an employee acting in terms of delegated or sub-delegated authority of the Municipality and where in the context so requires includes-

(a) The Council;

(b) Another political structure or a political office bearer of the Municipality authorised and delegated to perform or exercise a power in terms of this By-law;

(c) The Appeal Authority authorised or delegated to perform a function or exercise a power in terms of Spatial Planning and Land Use Management Act,2013 and this By-law;

(d) The municipal manager; and

(e) An authorised employee.

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

"Municipal Planning Regulations" means the Local Government: Municipal Planning and Performance Management Regulations, 2001;

"Municipal Planning Tribunal" means the Municipal Planning Tribunal established in terms of section 35(1) of Spatial Planning and Land Use Management Act, 2013 read with section 23(1) of this By-law;

"municipal spatial development framework" means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act and Chapter 4 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

"Municipal Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

"National Building Regulations and Building Standards Act" means the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"Newspaper" means a newspaper registered in terms of the Newspaper Registrations Act, Act 98 of 1992, as amended.

"non-conforming use" means an existing land use that was lawful in terms of a previous town planning scheme or approval granted by an authority that does not comply with the land use scheme in force;

"occasional use" means a right to use land for a purpose granted on a temporary basis for a specific occasion or event;

"overlay zone" means a category of zoning that applies to land or a land unit or parcel in addition to the base zoning and that-

(a) stipulates additional development parameters or use rights that may be more or less restrictive than the base zoning; and

(b) May include provisions and development parameters relating to-

(i) primary or consent uses;

(ii) base zoning;

(iii) subdivision or sub-divisional areas;

(iv) development incentives;

(v) density limitations;

(vi) urban form or urban renewal or other related planning parameters;

(vii) heritage and/or environmental protection;

(viii) management of the urban edge;

(ix) any other purpose as set out in the zoning scheme.

"owners' association" means an owners' association established in terms of section 57 and includes a body corporate created in terms of the Sectional Titles Act, 1986 (Act 95 of 1986);

"owner of land" means the person registered in a deeds registry as the owner of land or beneficial owner in law and includes any organ of state and the Municipality itself, a person acting as the duly authorised agent of the owner of the land concerned, a person to whom the land concerned has been made available for development in writing by any owner of land or such person's duly authorised agent or a service provider responsible for the provision of infrastructure, utilities or other related services.

"panhandle" for purposes of section 52(3) of this By-law shall mean a portion of land which is either part of the subdivided portion or is notarially tied thereto, and is at least 3 metres and at most 8 metres wide and is used as access to a public street;

"public facilities" means amenities that are—

(a) intended for the use of the general public;

(b) used to offer a service or for recreation; and

(c) ordinarily owned by the state or a municipality;

"public place" means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use and benefit of the general public and is owned by or vests with the Municipality, and includes a public open space and a servitude for any similar purposes in favour of the general public as contemplated in the Spatial Planning and Land Use Management Act, 2013 and section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

"Registrar" means the Registrar of Deeds as defined in section 102 of the Deeds Registries Act; Act 47 of 1937, as amended.

"restrictive condition" means any condition registered against the title deed of land restricting the use, development or subdivision of land concerned;

"Schedule" means the schedules to this By-law which form part of this By-law;

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

"site development plan" means a scaled and dimensioned plan that shows details of the proposed land development, including, but not limited to the site layout, positioning of buildings and structures, property access, building designs, parking, internal services, servitudes and landscaping;

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

"Spatial Planning and Land Use Management Act, 2013" means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

"Spatial Planning and Land Use Management Act Regulations" means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 made under the Spatial Planning and Land Use Management Act published under Notice R 239/2015 in *Government Gazette* 38594 of 23 March 2015;

"this By-law" means the Midvaal Local Municipality Spatial Planning and Land Use Management By-law;

"township" includes -

(a) a group of pieces of land, or of sub-divisions of a piece of land, which are combined with public places and are used mainly for residential, business, commercial, industrial or other similar purposes, or are intended to be so used;

(b) any combination of such groups which is suitable for registration in one register;

(c) any area of land registered or recognized at the commencement of the Deeds Registries Act in a deeds registry as a township if a general plan thereof is filed in that deeds registry or in the office of the surveyor-general concerned; and

(d) any township established, approved, proclaimed or otherwise recognized as such under any law.

"Tribunal" means the Municipal Planning Tribunal established in terms of section 23 of this by-law.

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

2. Application of this By-Law

(1) The provisions of this By-law are consistent with the provisions of Spatial Planning and Land Use Management Act, 2013;

(2) This By-law applies to all land and development applications situated within the Midvaal Local Municipality municipal area.

(3) No person may use or develop land unless the use or land development is permitted in terms of the Municipality's land use scheme or an approval in terms of this By-law.

(4) This By-law bind every owner of land and any successor in title of such land and every user of land, including the state and any organ of state.

(5) In the event of any conflict between the Spatial Planning and Land Use Management Act, 2013 and its Regulations, any Provincial Act dealing with spatial planning and land use management and any regulations issued in terms thereof, the provisions of this By-law that give effect to municipal planning as a local government matter as per Part B of Schedule 4 of the Constitution, will apply.

3. Alignment of Authorisations

(1) Where a land development application requiring authorisation in terms of this By-Law is also regulated in terms of another law, whether National or Provincial in terms of its functional area as per the Constitution, the Municipality may exercise its powers under this By-law jointly with such other organ of state by issuing-

(a) separate authorisations; or

(b) an integrated authorisation.

(2) An integrated authorisation envisaged in subsection (1) above may only be issued if-

(a) the relevant provisions of all applicable legislation have been complied with; and

(b) the integrated authorisation specifies the-

(i) provisions in terms of which it has been issued; and

(ii) relevant authorities that have issued it.

4. Types of applications that requires approval

(1) Land development applications that may be submitted in terms of this By-law includes the following: -

(a) a consent-use application as provided for in the Municipal land use scheme or any other town planning scheme that might still be in operation;

(b) a building line relaxation application as provided for in the Municipal land use scheme or any other town planning scheme that might still be in operation;

(c) an amendment of a provision of the Municipal land use scheme or any other town planning scheme which might still be applicable relating to land (rezoning) application;

(d) a township establishment application;

(e) a subdivision and/or consolidation of an erf/erven in an approved township or the subdivision of any other land application;

(f) a division of an approved township application;

(g) an extension of boundaries of an approved township;

(h) an amendment or cancellation either wholly or in part of a general plan of an approved township;

(i) a removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of land application, including a consent application if required by a condition of title registered against the title deed of land;

(j) permanent closure of a public place application;

(k) excision of agricultural land from agricultural holdings; and

(l) any other application as provided for in this By-law.

5. Provisions and principles which shall guide and inform all land development applications

(1) All land development applications in terms of this By-law must give effect to the development principles as set out in section 7(1) Chapter 2 of the Spatial Planning and Land Use Management Act.

(2) All land development applications in terms of this By-law shall be guided and informed by any spatial development framework prepared in terms of legislative requirements and municipal spatial development framework as adopted and approved in terms of section 20 of the Spatial Planning and Land Use Management Act and section 6 of this By-law.

(3) Al land development applications in terms of this By-law must inter alia address need, reasonableness, desirability and public interest.

(4) All land development applications in terms of this By-law shall have as its main purpose the co-ordinated and harmonious development of the area to which the application relates in such a way as will most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of such specific area as well as efficiency and economy in the process of such development.

CHAPTER 2

SPATIAL PLANNING

6. Municipal spatial development framework

(1) The Municipality must by notice in the Provincial Gazette adopt and approve a municipal spatial development framework for the municipality.

(a) The Municipality's spatial development framework must be prepared as part of the Municipality's integrated development plan process in terms of Chapter 5 of the Municipal Systems Act and the Municipal Planning Regulations issued in terms thereof.

(b) Notwithstanding the provisions of the Municipal Systems Act and its Regulations, before the Municipality adopts its municipal spatial development framework for purposes of this section, including any amendments thereto, the Municipality must-

(i) give notice of the proposed municipal spatial development framework in the Provincial Gazette and in the media;

(ii) invite the public to submit written representations in respect of the proposed municipal spatial development framework to the Municipality within 60 days after the publication of the notice envisaged in terms of Chapters 4 and 5 of the Local Government: Municipal Systems Act 2000, Act 32 of 200; and

(iii) consider all representations received in respect of the proposed municipal spatial development framework.

(2) The Council must by notice in the Provincial Gazette adopt a municipal spatial development framework for the municipal area.

7. Content of municipal spatial development framework

(1) The Municipality must prepare a spatial development framework that -

(a) give effect to the development principles and applicable norms and standards as set out in Chapter 2 of the Spatial Planning and Land Use Management Act 2013;

(b) include a written and spatial representation of a five-year spatial development plan for the spatial form of the Municipality;

(c) include a longer-term spatial development vision statement for the Municipality's area of jurisdiction which indicates a desired spatial growth and development pattern for the next 10 to 20 years;

(d) identify current and future significant structuring and restructuring elements of the spatial form of the Municipality, including development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated;

(e) include population growth estimates for the next five years;

(f) include estimates of the demand for housing units across different socio-economic categories and the planned location and density of future housing developments;

(g) include estimates of economic activity and employment trends and locations in the Municipality's area of jurisdiction for the next five years;

(h) identify, quantify and provide location requirements of engineering infrastructure and services provision for existing and future development needs for the next five years;

(i) identify the designated areas where a national, provincial or local inclusionary housing policy may be applicable;

(j) include a strategic assessment of the environmental pressures and opportunities within the Municipality's area of jurisdiction, including the spatial location of environmental sensitivities and high potential agricultural land;

(k) identify the designation of areas in the Municipality where incremental upgrading approaches to development and regulation will be applicable;

(l) identify the designation of areas in which-

(i) more detailed local plans must be developed; and

(ii) shortened land use development procedures may be applicable and land use schemes may be so amended;

(m) provide the spatial expression of the coordinated alignment and integration of sectoral policies of all Municipality Departments;

(n) determine a capital expenditure framework for the municipality's development programmes, depicted spatially;

(o) determine the purpose, desired impact and structure of the land use management scheme to apply in that Municipality area; and

(p) include an implementation plan comprising of-

(i) sectoral requirements, including budgets and resources for implementation;

(ii) necessary amendments to a land use scheme;

(iii) specification of institutional arrangements necessary for implementation;

(iv) specification of implementation targets, including dates and monitoring indicators; and

(v) specification, where necessary, of any arrangements for partnerships in the implementation process.

8. Legal effect of municipal spatial development framework

(1) The Municipality or any other authority required or mandated to make a land development decision in terms of this By-law or any other applicable legislation relating to land development, may not make a decision which is inconsistent with its municipal spatial development framework.

(2) The Municipality or any other authority required or mandated to make a land development decision in terms of this By-law or any other applicable legislation relating to land development, may only depart from the provisions of its municipal spatial development framework where merit and site-specific circumstances warrant or justify such departure.

(3) Where a conflict exists between the Municipality's municipal spatial development framework and the National spatial development framework and/or a Regional spatial development framework and/or a Provincial spatial development framework, the provisions of the Municipality's municipal spatial development framework shall prevail as a result of its executive authority to do "municipal planning" in terms of section 156 read with Schedule 4 Part B of the Constitution.

9. Local Spatial Development Frameworks

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

(2) The purpose of a local spatial development framework in a specific geographical area is to:

(a) provide detailed spatial planning guidelines;

(b) provide more detail in respect of a proposal provided for in the municipal spatial development framework;

(c) meet specific land use planning needs and priorities;

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

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

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

(g) identify a funding source and budget for prioritized projects.

10. Compilation, Amendment or Review of Local Spatial Development Frameworks

(1) If the Municipality compile, amend or review a local spatial development framework, Section 6 will apply *mutatis mutandis*.

11. Status of Local Spatial Development Frameworks

(1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in Section 6(2).

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

12. Local Area Plans (Precinct Plan)

(1) When the Municipality intends to develop a local area plan it must—

(a) In drafting that local area plan make it consistent with the purpose of a municipal spatial development framework;

(b) incorporate the provisions of the local area plan that are consistent with that purpose in a municipal spatial development framework.

(2) The Municipality must ensure that public participation is under taken in accordance with the provisions of Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), prior to the approval of a local area plan

(3) The Municipality must repeal existing local area plans, not in line with the municipal spatial development framework, by virtue of a formal Council resolution before it adopts a municipal spatial development framework contemplated in section 6 (1).

13. Compilation, Review or Amendment of Municipal Spatial Development Framework

(1) When the Council compiles, reviews or amends its municipal spatial development framework in accordance with the Municipal Systems Act and the Spatial Planning and Land Use Management Act, the Council must—

(a) establish an intergovernmental steering committee to compile or amend its municipal spatial development framework; or

(b) refer its draft municipal spatial development framework or draft amendment of its municipal spatial development framework to National and Provincial Departments and adjacent municipalities for comment, in accordance with Section 7(e)(ii) of the Spatial Planning and Land Use Management Act, 2013.

(2) The Municipality must—

(a) publish a notice in English in a newspaper circulating in the area concerned of—

(i) the intention to compile, review or amend the municipal spatial development framework; and

(ii) the process it will follow, in accordance with section 28(3) and 29 of the Municipal Systems Act;

(b) in writing inform the National and Provincial Departments and adjacent municipalities of—

(i) the intention to compile, review or amend the municipal spatial development framework;

(ii) its decision in terms of subsection (1)(a) or (1)(b) ; and

(iii) the process it will follow to compile, review or amend the municipal spatial development framework, including the process for public participation, including the process contemplated in subsection (2)(a)(ii); and

(iv) registered relevant stakeholders, who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process contemplated in subsection (2)(a)(ii).

14. Establishment of Project Committee

(1) The Municipality must establish a project committee to compile, review or amend its municipal spatial development framework.

(2) The project committee must at least consist of—

(a) the Municipal Manager or a municipal employee designated by the municipal manager; and

(b) municipal employees appointed by the Municipal Manger from at least the following municipal departments:

(i) the integrated development planning office;

(ii) the planning department;

(iii) the engineering department;

(iv) the local economic development department; and

(v) the housing department; and

(vi) any other department deemed necessary.

15. Establishment of Intergovernmental Steering Committee

(1) If the Council establishes an intergovernmental steering committee, the Municipality must, in writing, invite written nominations for representatives to serve on the intergovernmental steering committee from the following persons or organs of state: —

(a) the delegated party of the national and provincial government department responsible for land use planning;

(b) the delegated party of the provincial government department responsible for environmental affairs;

(c) the delegated party of the provincial government department responsible for agriculture;

(d) relevant organs of state; and

(e) any other department deemed necessary by the municipality.

16. Procedure with Intergovernmental Steering Committee

(1) If the Council establishes an intergovernmental steering committee, the project committee must compile a draft status quo document setting out an assessment of the existing levels of development and development challenges in the municipal area, and must submit it to the intergovernmental steering committee for comments.

(2) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the status quo document and submit it to the Council for adoption.

(3) After finalising the status quo report the project committee must compile a first draft of the municipal spatial development framework or first draft amendment of the municipal

spatial development framework and submit it to the intergovernmental steering committee for comments.

(4) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the first draft of the municipal spatial development framework or first draft amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comments in accordance with the process adopted in terms of section 28 and 29 of the Municipal Systems Act.

(5) After consideration of the comments and representations of the intergovernmental steering committee, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment of the municipal spatial development framework and submit it to the intergovernmental steering committee for comment.

(6) After consideration of the comments of the intergovernmental steering committee contemplated in subsection (5), the project committee must complete the final draft of the municipal spatial development framework or final draft amendment of the municipal spatial development framework and submit it to the Council for adoption.

(7) If the final municipal spatial development framework or final amendment of the municipal spatial development framework contemplated in subsection (6) is materially different to what was published in terms of subsection (4), the Municipality must in accordance with subsections (4), (5) and (6) read with the necessary changes, follow a further consultation and public participation process before the municipal spatial development framework or amendment of the municipal spatial development framework is adopted by the Council.

(8) The Council or the project committee may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the spatial development framework request comments from the intergovernmental steering committee.

(9) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision give notice thereof in the media and the Provincial Gazette.

17. Procedure without Intergovernmental Steering Committee

(1) If the Council does not establish an intergovernmental steering committee to compile or amend its municipal spatial development framework, the project committee must—

(a) compile a draft status quo document setting out an assessment of the existing levels of development and development challenges in the municipal area and submit it to the Council for adoption;

(b) after adoption of the status quo document, compile a draft municipal spatial development framework or draft amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment;

(c) after approval of the draft municipal spatial development framework or draft amendment of the municipal spatial development framework for publication contemplated in sub-section (b), submit the draft municipal spatial development framework or draft amendment of the municipal spatial development framework to the MEC for comment in; and

(d) after consideration of the comments received from the public and the MEC, submit a final municipal spatial development framework or final amendment of the municipal spatial development framework, with any further amendments, to the Council for adoption.

(2) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must within 21 days of its decision give notice thereof in the media and the Provincial Gazette.

18. Functions and Duties of Project Committee

(1) The members of the project committee must, in accordance with the directions of [the executive authority/executive mayor/committee of councillors]—

(a) compile a municipal spatial development framework or draft an amendment of the municipal spatial development framework for adoption by the Council;

(b) provide technical knowledge and expertise to the Council;

(c) monitor progress and ensure that the compilation of the municipal spatial development framework or drafting of the amendment of the municipal spatial development framework is progressing according to the approved process contemplated in section this chapter;

(d) guide the public participation process and ensure that the registered affected parties remain informed;

(e) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment of the municipal spatial development framework based on the consideration of the comments received during the process of drafting thereof;

(f) oversee the drafting of a report setting out the response of the Municipality to the provincial comments issued;

(g) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and other organs of state as contemplated in section 24(1) of the Municipal Systems Act;

(h) facilitate the integration of other sector plans into the municipal spatial development framework;

(i) if the Municipality decides to establish an intergovernmental steering committee—

(i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and

(ii) ensure the flow of information between the project committee and the intergovernmental steering committee.

(2) The members of the intergovernmental steering committee must—

(a) provide the intergovernmental steering committee with the following:

(i) technical knowledge and expertise;

(ii) input on outstanding information that is required to draft the municipal spatial development framework or an amendment thereof;

(iii) information on the locality of projects and budgetary allocations; and

(iv) written comments.

(b) communicate to the intergovernmental steering committee any current or planned projects that have an influence on the municipal area; and

(c) provide the project committee with written comments.

CHAPTER 3

LAND USE SCHEME

19. Land Use Scheme

(1) The Municipality shall adopt and approve, after public consultation, a single land use scheme for its entire area as prescribed.

(2) A land use scheme adopted in terms of subsection (1) above must-

(a) include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme;

(b) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;

(c) include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use scheme;

(d) include provisions to promote the inclusion of affordable housing in residential land development;

(e) include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies;

(f) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and

(g) give effect to municipal spatial development frameworks and integrated development plans.

(3) The land use scheme may include provisions relating to-

(a) the use and development of land only with the written consent of the Municipality;

(b) specific requirements regarding any special zones identified to address the development priorities of the Municipality; and

(c) the variation of conditions of a land use scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.

20. Purpose and Content of Land Use Scheme

(1) The land use scheme adopted and approved in terms of section 19 above must give effect to and be consistent with the Municipality's municipal spatial development framework and determine the use and development of land within the Municipality's area of jurisdiction in order to promote-

(a) economic growth;

(b) social inclusion;

(c) efficient land development; and

(d) minimal impact on public health, the environment and natural resources.

(2) The land use scheme must include-

(a) scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone;

(b) a map indicating the zoning of the municipal area into land use zones; and

(c) a register of all amendments to such land use scheme.

21. Legal effect of land use scheme

(1) An adopted and approved land use scheme-

(a) has the force of law and all land owners and users of land, including the Municipality, state-owned enterprises and organs of state within the Municipality's area of jurisdiction are bound by the provisions of such a land use scheme;

(b) replaces all existing schemes within the Municipality's area of jurisdiction to which the land use scheme applies; and

(c) provides for land use and development rights.

(2) Land may be used only for the purposes permitted-

(a) by a land use scheme; or

(b) by a town planning scheme, until such scheme is replaced by a land use scheme.

(3) The Municipality has a duty to enforce the provisions of its land use scheme / town-planning scheme, until such scheme is replaced by a land use scheme, and any use of land which is deemed contrary to such land use scheme shall constitute a criminal offence.

(4) A land use scheme developed and approved in terms of section 19 above must address conflict between the land use scheme adopted and the one it intends to repeal or replace.

22. Municipality amend its Land Use Scheme

(1) The Municipality may amend its land use scheme by the rezoning any land necessary if the amendment-

(a) is in the public interest;

(b) achieve the developmental goals and objectives;

(c) to advance, or is in the interest of, a disadvantaged community; and

(d) in order to further the vision and development goals and objectives of the Municipality as set out in its Integrated Development Plan and Municipal Spatial Development Framework.

(2) Where the Municipality intends to amend its land use scheme a land development application process must be followed which include a public participation process to ensure all affected parties have the opportunity to make representations on, object to and appeal the decision.

CHAPTER 4

MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIAL

23. Establishment of Municipal Planning Tribunal

(1) The Municipality shall in order to determine land development applications within its area of jurisdiction: -

(a) establish a Municipal Planning Tribunal;

24. Municipal Planning Decision-Making Structures

(1) Applications are decided by—

(a) an authorized employee / official who has been authorized by the Municipality to consider and determine the applications per the Municipality's approved system of delegations as adopted by the Midvaal Council;

(b) the Municipal Planning Tribunal shall decide on applications referred to it as per the Municipal Planning Tribunal's approved terms of reference and delegated authority as delegated to it by the Municipality.

(c) the Appeal Authority where an appeal has been lodged against a decision of the Municipal Planning Tribunal and or authorised employee / official.

25. Composition of Municipal Planning Tribunal for the Municipal Area

(1) A Municipal Planning Tribunal established in terms of subsection 23(1) must consist of the following members:

(a) officials in the full-time service of the Municipality, appointed by the Municipality; and

at the sole discretion of the Municipality it may also include-

(b) persons appointed by the Municipality who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law relating thereto.

(2) Municipal Councillors shall not be members of a Municipal Planning Tribunal.

(3) A Municipal Planning Tribunal must consist of at least 5 (five) members or more as the Municipality deems necessary.

(4) At least three (3) members of the Municipal Planning Tribunal must be present at a meeting to form a quorum to hear, consider and decide a matter which comes before it.

(5) The Municipality must designate a member of the Municipal Planning Tribunal as chairperson.

(6) The terms and conditions of service for members of the Municipal Planning Tribunal as envisaged in subsection (1)(a) and (1)(b) above shall be as per Schedule 1 of the Spatial Planning and Land Use Management Act Regulations.

(7) The members of the Municipal Planning Tribunal must also adhere to and will be required to sign a code of conduct as approved by the Municipality, which will be substantially in accordance with Schedule 3 of the Spatial Planning and Land Use Management Act Regulations.

(8) The members of the Municipal Planning Tribunal will also be subject to disqualification from membership as set out in Section 38 of the Spatial Planning and Land Use Management Act.

(9) Should the municipality, in its sole discretion, decide to appoint members to the Municipal Planning Tribunal as envisaged in subsection (1)(b)above, it shall comply with the call for nomination procedures as set out in the Spatial Planning and Land Use Management Act Regulations.

(10) The members of the Municipal Planning Tribunal referred to in subsection (1)(b) may be appointed only after the Municipality, by notice in the *Provincial Gazette* and in other media that the Municipality considers appropriate, has invited interested parties to submit within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed.

26. Meetings of Municipal Planning Tribunal for the Municipal Area

(1) The Municipal Planning Tribunal contemplated in Section 23(1)(a)must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—

(a) the convening of meetings;

(b) preparation and distribution of agendas

(c) the procedure at meetings including: -

(i) formal meeting procedures;

(ii) apologies;

(iii) attendance,

(iv) the frequency of meetings and

(v) the recording of meetings.

(2) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of the Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his deliberative vote as a member of the Municipal Planning Tribunal.

(3) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the rules of the Municipal Planning Tribunal.

27. Administrator for the Municipal Planning Tribunal for Municipal Area

(1) The Municipal Manager must appoint an employee as the Administrator and other staff for the Municipal Planning Tribunal in terms of the Systems Act.

(2) The Administrator must—

(a) liaise with the relevant Municipal Planning Tribunal members and the parties in relation to any application or other proceedings filed with the Municipal Planning Tribunal;

(b) maintain a diary of hearings of the Municipal Planning Tribunal;

(c) allocate meeting dates for and application numbers to applications;

(d) arrange the attendance of meetings by members of the Municipal Planning Tribunal;

(e) arrange venues for Municipal Planning Tribunal meetings;

(f) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;

(g) ensure the efficient administration of the proceedings of the Municipal Planning Tribunal in accordance with the directions of the chairperson of the Municipal Planning Tribunal;

(h) arrange the affairs of the Municipal Planning Tribunal so as to ensure that time is available to liaise with other authorities regarding the alignment of integrated applications and authorisations;

(i) notify parties of decisions and procedural directives given by the Municipal Planning Tribunal;

(j) keep a record of all applications submitted to the Municipal Planning Tribunal and the outcome of each, including—

(i) decisions of the Municipal Planning Tribunal;

(ii) on-site inspections and any matter recorded as a result thereof;

(iii) reasons for decisions; and

(iv) proceedings of the Municipal Planning Tribunal; and

(v) keep records by any means as the Municipal Planning Tribunal may deem expedient.

28. Functioning of Municipal Planning Tribunal for Municipal Area

(1) The meetings of the Municipal Planning Tribunal contemplated in section 23(1)(a) must be held at the times and places as the chairperson may determine.

(2) The meetings of the Municipal Planning Tribunal must be held at least once per month if there are any applications to consider.

29. Powers and functions of a Municipal Planning Tribunal

(1) A Municipal Planning Tribunal may-

(a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;

(b) in approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions;

(c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law, Spatial Planning and Land Use Management Act 2013 and/or any Provincial legislation;

(d) conduct any necessary investigation;

(e) give directions relevant to its functions to any person in the service of the Municipality; or

(f) decide any question concerning its own jurisdiction.

(2) A Municipal Planning Tribunal must keep a record of all its proceedings and decisions.

(3) A Municipal Planning Tribunal must provide reasons for any of its decisions made on a land development application, and such reasons will be provided by the Municipal Planning Tribunal's Chairperson in writing within 14 days from date of decision.

30. Classification of applications to be determined by the Municipal Planning Tribunal

(1) Subject to section 32(2), the Municipal Planning Tribunal shall decide any application submitted in terms of this By-law, municipal land use scheme or any other applicable law relating to land development that are an:-

(a) opposed land development application;

(b) application that falls outside the ambits of the municipal spatial development framework;

(c) application that falls outside any policy, procedure, standard, requirement and guideline used or implemented by the municipality; and

(d) application that was adversely commented on.

31. Authorised official

(1) As envisaged in terms of section 35(2) of the Spatial Planning and Land Use Management Act 2013 the Municipality may authorise an official in terms of a proper delegated power to decide certain land development applications.

(2) The authorisation in terms of subsection (1) above may include the power to sub-delegate such authorisation to any suitably qualified official(s) in the employ of the Municipality and under the control of the authorised official.

(3) An authorised official may-

(a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;

(b) where a land development application is refused by an authorised official the application shall be referred to the municipal planning tribunal.

(c) in approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions;

(d) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law, Spatial Planning and Land Use Management Act 2013 and/or any Provincial legislation;

(e) conduct any necessary investigation;

(f) give directions relevant to its functions to any person in the service of the Municipality; or

(g) decide any question concerning its own jurisdiction.

(4) An authorised official must keep a record of all its proceedings and decisions.

(5) An authorised official must provide reasons for any of its decisions made on a land development application.

32. Classification of applications to be decided by the authorised official

(1) The authorised official may only decide unopposed land development applications submitted in terms of this By-law, or the municipal land use scheme or any other applicable law relating to land development which application complies with the provisions of Section 5 above.

(2) Notwithstanding subsection (1) above, such authorised official will have the discretion to forward any application referred to him/her to the Municipal Planning Tribunal for a decision.

(3) An authorised official shall also decide applications envisaged in Section 92 of this By-law.

CHAPTER 5

DEVELOPMENT MANAGEMENT

33. Non-conforming uses

(1) A non-conforming use provides that land that is being used unlawfully in terms of an existing zoning for a purpose that does not comply with a current zoning may continue to be used for that purpose when the new zoning or land use scheme comes into operation.

(2) A non-conforming use does not constitute an offence in terms of this By-law.

(3) A non-conforming use may continue as long as it remains otherwise lawful, subject to the following:

(a) if the non-conforming use ceases for any reason for a period of more than twenty-four consecutive months, any subsequent use of the property must conform to the requirements of this By-law, with or without temporary uses;

(b) an appropriate land development application contemplated in Section 4 must be made for the alteration or extension of buildings or structures in respect of the non-conforming use;

(c) the owner bears the onus of proving that the non-conforming use right exists; and

(d) the land use right is limited to the area of the building or land on which the proven land use right is in existence.

(4) Subject to subsection (3)(a) and (3)(b), if an existing building, which constitutes a non-conforming use, is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the Municipality may grant permission for the reconstruction of such building subject to conditions.

34. Continuation of application after change of ownership

(1) If land that is the subject of an application is transferred to a new owner, the new owner may continue with the application as the successor in title to the previous owner and the new owner is regarded as the applicant for the purposes of this By-law, provided that the following is submitted to the municipality:

(a) proof of change of ownership; and

(b) an amended power of attorney, if an agent was appointed to make the application.

(2) The new owner must advise the Municipality in writing no later than 30 days from date of registration of the property of the continuation of the application.

35. Rezoning of land by the municipality

(1) The Municipality may, on its own initiative, rezone land of which it is not the owner to—

(a) provide a public service or to provide a public recreational space; or

(b) substitute a zoning or part thereof for a zoning in terms of which the land is not necessarily zoned in accordance with the use thereof or existing use rights.

(2) The Municipality may, on its own initiative or on application, create an overlay zone for land.

(3) The provisions of Section 28 of the Spatial Planning and Land Use Management Act shall apply.

CHAPTER 6

APPLICATION PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS

Part 1

Consent use and building line relaxation

36. Consent use application

(1) An agent/owner of land may submit a consent use application in terms of this By-law and as provided for in the municipal land use scheme / an existing town planning scheme to use the land or any building on the land for a particular purpose as a secondary right as set out in the said Town planning Scheme or Land Use Scheme.

(2) A consent use application as envisaged in subsection (1) above shall comply with the following procedures:

(a) The agent/owner of land shall at his own expense give notice once of the intended application in a newspaper circulating the area and obtain the comments from the surrounding land owners. Such notice shall be in English;

(b) Such notice shall be displayed on the land from the same date as the submission date of the application to the Municipality;

(c) Such notice shall be in the format as outlined in Schedule 3 of this By-law;

(d) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;

(e) Such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of submission of the application to the Municipality;

(f) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;

(g) Such notice shall reflect the date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(h) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (2)(g) above in writing by registered post, by hand, by

facsimile or by e-mail within a period of 28 days from date of first displaying the notice on the land under consideration; and

(3) Proof of compliance with subsection (2) above in the form of a written affidavit shall be submitted to the Municipality prior to the application being considered.

(4) The Municipality shall forward all comments, objections and representation to the applicant within 7 days after the time period to submit any comments, objections or representations has expired.

(5) Where objections, comments and/or representations have been received as a result of subsection (2) above, the applicant may respond in writing thereto to the Municipality within 21 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for determination.

(6) No decision on the application shall be taken unless due regard has been given to each objection, comment and representation lodged timeously.

(7) Subject to section 32(2), in the instance of an unopposed application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the time period mentioned in subsection (2)(h) above.

(8) Such consent use application may be refused or it may be approved subject to any conditions it may deem fit and it may include a condition that-

(a) the consent shall lapse if the use of the land or building concerned is not commenced with within the period stated in the condition;

(b) the consent shall lapse if it is discontinued for a period stated in the condition;

(c) the consent shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;

(d) the consent may be withdrawn by the Municipality if there has been non-compliance with any of the conditions of approval or because of change of circumstances;

(e) a contribution be paid to the Municipality in respect of engineering services where it will be necessary to enhance or improve such services as a result of the consent granted; and

(f) an amount of money be paid to the Municipality in respect of open spaces or parks where the granting of the consent will bring about a higher residential density.

(9) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(10) The Municipality shall keep a proper record of each consent use application granted.

(11) The contribution and amount of money envisaged in subsection (8)(e) and (8)(f) above shall become due and payable within 30 days from the date of the notice referred to in subsection (9)

37. Building line relaxation application

(1) Any building line restriction imposed on land in terms of the Municipality's land use scheme or any other scheme that may still be applicable to the land under consideration, may be relaxed in terms of an application submitted by an agent/owner of land in terms of this By-law.

(2) A building line relaxation application as envisaged in subsection (1) above shall comply with the following procedures:

(a) A letter, accompanied by a proposed building plan, shall be dispatched in writing and by registered post, by hand or by any other means available to any adjoining owners whom, at the discretion of the Municipality, may possibly be adversely affected by the relaxation of the applicable building line restriction setting out the following:

(i) Full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application with specific emphasis on which building lines (side/rear or street) are being applied for;

(ii) The date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and

(iii) That any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (2)(a)(iii)(a)(ii) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 14 days from date of receipt of the letter.

(b) Proof of compliance with subsection (2)(a) above should be accompanied by a written affidavit must be submitted to the Municipality prior to consideration of the application.

(3) The Municipality shall forward all comments, objections and representation to the applicant within 7 days after the time period to submit any comments, objections or representations has expired.

(4) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(iii) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for determination.

(5) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.

(6) Subject to section 32, in the instance of an unopposed application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days after the date of expiry of the time period mentioned in subsection (2)(a)(iii) above.

(7) Such building line relaxation may be refused or approved subject to any condition the Municipality may deem fit.

(8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(9) The Municipality shall keep a proper record of each building line relaxation application granted.

(10) No building plans may be approved in terms of the National Building Regulations and Building Standards Act showing a proposed building within a building line restriction area without the approval of such building line relaxation application as envisaged in subsection (1) above.

Part 2

Amendment of Land Use Scheme (Rezoning) and matters related thereto

38. Amendment of land use scheme application

(1) An agent/owner of land who wishes to have a provision of the Municipality's land use scheme or any provision of any other scheme, which may still be applicable to the land under consideration amended, may lodge an application in terms of this By-law to the Municipality for consideration in terms of Schedule 3

(2) An application for the amendment of a provision of the Municipality's land use scheme or any other scheme that may still be applicable to the land under consideration as envisaged in subsection (1) above shall comply with the following procedures:

(a) Notice of the application shall be given once by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the Municipality in English;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;

(c) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;

(d) Such notice shall further reflect the date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (2)(a) above.

(f) A notice that contains the same detail as envisaged in subsections (2)(b) – (2)(e) above shall be displayed on the land under consideration in English;

(g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (2)(a) above;

(h) Such notice shall be in the format as determined by the as per Schedule 3 of the By-law;

(i) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place; and

(j) Such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of publication of the notice mentioned in subsection (2)(a) above.

(3) Proof of compliance with subsection (2) above must be submitted to the Municipality should be accompanied by a written affidavit prior to the consideration of the application.

(4) Simultaneously to the actions in sub section (1) above, the agent/owner of land shall submit a copy of such application to:

(a) any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;

(b) any neighbouring municipality who may have an interest in the application; and

(c) any other stakeholder, Municipal Department, Provincial Department, National Department, Municipal Entity or any other interested party who may, in the discretion of the Municipality, have an interest in the application. (Include this paragraph under section 37)

(5) The interested parties mentioned in subsection (4)(a) to (4)(c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the Municipality in writing within 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.

(6) The Municipality shall forward a copy of each objection, comment and representation received in terms of the notices envisaged in subsections (2)(a), (2)(f) and from the interested parties in terms of subsection (4) above in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for determination.

(7) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(8) Subject to section 32(2), in the instance of an unopposed application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days after the date of expiry of the time periods mentioned in subsections (2)(e) and (5) above.

(9) An applicant may at any stage prior to a decision been taken on the application, amend or withdraw his application provided that with an amendment, the amendment is not regarded in the opinion of the Municipality as being material which would warrant re-compliance with subsections (2) and (4) above.

39. Decision and post-decision procedures – Amendment of Land Use Scheme

(1) An application for the amendment of a provision of the Municipality's land use scheme or any other scheme that may still be applicable to the land under consideration as envisaged in section 38(1) above may be approved subject to any condition the Municipality deems fit or it may be refused.

(2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.

(3) The Municipality shall keep a proper record of each application granted under subsection (1) above.

(4) Where the Municipality has approved an application as envisaged under section 38(1) read with subsection (1) above and after the expiry of the time period envisaged in section 71(1) of this By-law, and after all conditions of approval have been met to the satisfaction of the local authority, the agent/owner of land shall with the written consent of the local authority forthwith give notice thereof in the Provincial Gazette and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be deemed to be an approved scheme which is an amendment scheme.

(5) The owner/agent shall provide the local authority with a certified and legible copy of published notice as indicated in (4) above.

(6) Prior to the notice being published as envisaged in subsection (4) above, the applicant may abandon the approval by giving written notice to the Municipality.

(7) The Municipality shall cause a copy of every approved scheme as envisaged in subsection (4) above to lie for inspection at all reasonable times at its office.

(8) An approved scheme as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.

(9) The Municipality shall observe and enforce the provisions of the scheme from the date of it coming into operation and any person who contravenes a provision of an approved scheme shall be guilty of an offence.

40. Correction of errors or omissions

(1) Where the Municipality is of the opinion that any error or omission in an approved scheme relating to land situated within its area of jurisdiction may be corrected without the necessity of following the provisions of sections 38 and 39 above again, it may correct such error or omission by notice in the *Provincial Gazette*.

41. Prohibition of a further application in certain circumstances

(1) Where the Municipality has approved an application envisaged in section 39(1) above, no person shall in respect of the land to which the amendment scheme relates apply for

a further amendment in terms of section 38(1) within a period of 24 months from the date of coming into operation of the scheme.

(2) Notwithstanding subsection (1) above, the Municipality may, upon written application, grant consent that, due to an acceptable change of circumstances, a further amendment application as envisaged in section 38(1) above may be submitted.

(3) Within a period of 30 days from date of receipt of the change of circumstances application envisaged in subsection (2) above, the Municipality shall consider the application and notify the applicant of its decision.

42. Contributions to be paid in respect of external engineering services and Open Spaces or Parks

(1) Where an amendment scheme which is an approved scheme came into operation in terms of section 39(8) above, the Municipality may within a period of 30 days from the date of commencement of the scheme, by registered letter and/or by hand and/or by any other means available direct the agent/owner of land to which the scheme relates to pay a contribution to it in respect of the provision of:

(a) the engineering services envisaged in section 67(1) of this By-law where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme;

(b) open spaces or parks where the commencement of the amendment scheme will bring about a higher residential density.

(2) The letter envisaged in subsection (1) above shall state the following:

(a) the amount of the contribution payable;

(b) particulars of the manner in which the amount of the contribution was determined; and

(c) the purpose for which the contribution is required.

(3) An agent/owner of land who:

(a) wishes to avoid the payment of a contribution envisaged in subsection (1) above may request the Municipality to repeal the amendment scheme concerned;

(b) wishes to avoid payment of or wishes to reduce the amount of a contribution envisaged in subsection (1) above,

(c) may in terms of section 38(1) above apply for the further amendment of the land use scheme concerned, within a period of 60 days from the date of the letter envisaged in subsection (1) above.

(4) On receipt of a request as envisaged in subsection (3)(a) above the Municipality shall grant or refuse the request and, if granted, give notice thereof in the Provincial Gazette.

(5) Where the Municipality has given notice of such repeal in terms of subsection (4) above, the obligation to pay any contribution envisaged in subsection (1) above shall lapse from the date of the notice envisaged in subsection (4) above and any contribution already paid shall be refunded.

(6) The contribution levied under subsection (1) above shall become due and payable within 30 days of the expiry of the 60-day time period envisaged in subsection (3) above.

(7) No building plans in respect of the approved scheme shall be approved in terms of the National Building Regulations and Building Standards Act unless the contribution levied under subsection (1) above has been settled in full.

(8) The Municipality may consider a request, on good cause shown, that:

(a) the contribution levied under subsection (1) above be paid over a specific period of time not exceeding three (3) years in instalments;

(b) that a prospective new purchaser be liable for the contribution in terms of an agreement/undertaking after transfer; or

(c) that payment of the contribution be postponed for a period not exceeding three years where security or a guarantee for the contribution has been provided to the satisfaction of the Municipality.

(9) In exercising any of the powers under subsections (8)(a) to (8)(c) above, the Municipality may impose any condition it may deem fit including a condition regarding interest.

43. Lapsing of rezoning and extension of validity periods

(1) Subject to section 39(1), a rezoning approval lapses after a period of three years, or a shorter period as the municipality may determine, from the date that the approval comes into operation if, within that three-year period or shorter period—

(a) the land use is not used in accordance with the approval; or

(b) the following requirements have not been met:

(i) the approval by the Municipality of a building plan envisaged for the use of the approved use right; and

(ii) commencement of the construction of the building contemplated in subsection (i).

(2) An applicant may apply for the extension of the three (3) year period to the Municipality for the extension of the period referred to in subsection (1) to a maximum of an additional two years by submitting a motivation and good reason.

(3) The Municipality may grant or refuse the application.

Part 3

Township establishment, division/phasing of an approved township, extension of boundaries of an approved township and matters related thereto

44. Township establishment application

(1) An agent/owner of land who wishes to establish a township on its land, which falls within the jurisdiction of the Municipality, may submit an application to the Municipality in writing as prescribed in Schedule 3 of the By-law.

(2) A township must be established 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 or where the application will result in a substantial upgrade of any external engineering services relevant to the application.

(3) An application for the establishment of a township as envisaged in subsection (1) above shall comply with the following procedures:

(a) Notice of the application shall be given once a week for two consecutive weeks by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the Municipality in English;

(b) A letter shall be dispatched in writing by registered post, by hand or by any other means available to any adjoining owners whom, at the discretion of the Municipality, may possibly be adversely affected by the application

(c) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme will be applicable;

(d) Such notice shall reflect full details of the application including, but not limited to, the street address, the proposed name of the township, a clear property description of the land concerned and the nature and general purpose of the application;

(e) Such notice shall further reflect the date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(f) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 days from the date of the first publication of the notice as envisaged in subsection (3)(a) above.

(g) A notice that contains the same detail as envisaged in subsections (3)(b) to (3)(e) above shall be displayed on the land under consideration in English;

(h) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (3)(a) above;

(i) Such notice shall be in the format as determined by the Municipality listed in Schedule 3;

(j) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or an adjacent public place; and

(k) Such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of publication of the notice mentioned in subsection (2)(a) above.

(4) Proof of compliance with subsection (3) above must be submitted to the Municipality and shall be accompanied by a form of a written affidavit prior to the consideration of the application.

(5) Simultaneously to the actions in subsection (1) above, the agent/owner of land shall submit a copy of such application to:

(a) any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;

(b) any neighbouring municipality who may have an interest in the application; and

(c) any other stakeholder, Municipal Department, Provincial Department, National Department, Municipal Entity or any other interested party who may, in the discretion of the Municipality, have an interest in the application.

(6) The interested parties mentioned in subsection (5)(a) to (5)(c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the Municipality in writing within 60 days of date of receipt of the application, failing which, it shall be deemed that such interested party has no objection, comment or representation to make.

(7) The Municipality shall forward a copy of each objection, comment and representation received in terms of the notice envisaged in subsections (3)(a) and from the interested parties in terms of subsection (5) above in respect of the application to the applicant within 14 days from the last day of the notice period and the applicant may respond in writing thereto to the Municipality within 28 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for determination.

(8) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(9) Subject to section 32(2), in the instance of an unopposed application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days after the date of expiry of the time periods mentioned in subsections (3)(e) and (6) above.

(10) Prior to a decision being taken on a township application submitted under this section whether by the Municipal Planning Tribunal or the authorised official, the agent/owner of land may-

(a) of his own accord and with the consent of the Municipality; or

(b) at the request of the Municipality,

(c) amend his application, provided that the amendment is not regarded in the opinion of the Municipality as being material which would warrant re-compliance with subsections (3) and (5) above.

45. Consent to certain contracts and options – Township establishment

(1) After an agent/owner of land has applied in terms of section 44(1) above to establish a township on his land, he may also apply to the Municipality for consent to enter into any contract for the sale, exchange or alienation or disposal in any other matter of an erf in the proposed township or to grant an option to purchase or otherwise acquire an erf in the proposed township.

(2) The Municipality may grant such consent envisaged in subsection (1) above subject to any condition it may deem expedient, which may include a condition that the applicant shall, before entering into such contract or granting such option and within 6 months of granting the consent, furnish to the Municipality a guarantee of such type and for such amount as the Municipality may determine and which is otherwise to its satisfaction that the agent/owner of land will fulfil its duties in respect of the engineering services as envisaged in section 67(1) and if the applicant fails to do so the consent shall lapse.

(3) The Municipality shall notify the applicant of its decision in writing and of any condition imposed.

(4) Where the Municipality has granted such consent as envisaged in subsection (1) above, the contract or option shall contain a clause stating that the township concerned is not an approved township.

(5) Where such contract or option does not contain such clause as envisaged in subsection (4) above, the contract or option shall, at any time before the township is declared an approved township, be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.

(6) Any person who alienates or disposes of an erf and who enters into a contract or grants an option without such clause as envisaged in subsection (4) above shall be guilty of an offence.

46. Decision and post-decision procedures – Township establishment

(1) After the provisions of section 44 have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed, either wholly or in part.

(2) Where the Municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.

(3) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.

(4) After the agent/owner of land has been notified in terms of subsection (3) above that the application has been approved, but before the township is declared an approved township, the Municipality may, in consultation with the agent/owner of land, amend or

delete any condition imposed in terms of subsection (2) above or add any further condition.

(5) After an agent/owner of land has been notified in terms of subsection (3) that the application has been approved, the agent/owner of land shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the agent/owner of land fails to do so the approval will automatically lapse.

(6) An application for an extension of time as envisaged in subsection (5) above shall be made prior to the expiry of the 12-month period stated in that subsection.

(7) Where the agent/owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after hearing the agent/owner of land, that the agent/owner of land has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.

(8) After an agent/owner of land has been notified in terms of subsection (3) above that the application has been approved, the Municipality may-

(a) where the documents envisaged in subsection (5) above have not yet been lodged with the Surveyor-General; or

(b) where the documents envisaged in subsection (5) above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General,

consent to the amendment of such documents unless:

(i) the amendment is, in the Municipality's opinion, so material as to constitute a new application in terms of section 44*(1)* above;

(ii) the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in section 44*(3)* and/or 44*(5)* above.

(9) The agent/owner of land shall lodge with the Municipality, within a period of 3 months from the date upon which the Surveyor-General has approved the plans, diagrams and any other documents envisaged in subsection (5) above, a certified copy or tracing of the general plan of the township and where the agent/owner of land fails to comply within the 3 month period, the Municipality may obtain a certified copy or tracing directly from the Surveyor-General at the agent/owner of land`s costs.

(10) After complying with subsection (5) above, the agent/owner of land shall lodge with the Registrar the plans, diagrams and any other documents as envisaged in subsection (5) above and as approved by the Surveyor-General together with the relevant title deeds for endorsement or registration, as the case may be, within 12 months from the date of approval of such plans, diagrams and any other documents by the Surveyor-General, or within such further period as the Municipality may allow.

(11) The Registrar shall not accept such plans, diagrams or any other documents for endorsement or registration until such time as the Municipality has advised him in writing that the agent/owner of land has complied with such pre-proclamation conditions as the

Municipality may require to be fulfilled before giving notice in terms of subsection (15) declaring that the township is an approved township.

(12) Failure by the applicant to comply with subsection (10) above, the approval will automatically lapse.

(13) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-month period stated in that subsection.

(14) Having endorsed or registered the title deeds envisaged in subsection (10) above, the Registrar shall notify the Municipality thereof without delay and the Registrar shall not register any further transactions in respect of any land situated in the township thereafter until such time as the township is declared an approved township in terms of subsection (15).

(15) After the notice envisaged in subsection (14) above and after compliance with subsections (5), (9),(10) and (11) above, the Municipality or the agent/owner of land shall, by giving notice in the *Provincial Gazette,* declare the township an approved township and it shall in a schedule to such notice set out the conditions on which the township is declared an approved township.

(16) Any external engineering services and / or parks and open spaces contributions (if applicable) required to be paid in respect of the approved township as envisaged in section 68(1) , shall be paid within 6 months from date of the notice envisaged in subsection (15) above or upon the issuing of the certificate envisaged in section 47(1) below, which ever happens first.

(17) Where a township owner is required to transfer land to the Municipality or any other organ of state by virtue of a condition set out in the schedule envisaged in subsection (15) above, the land shall be so transferred at the expense of the township owner within a period of 6 months from date of the publication of the notice envisaged in subsection (15) above or within such further period as the Municipality may allow.

(18) With effect from the date of the approval by the Surveyor-General of the plans and diagrams as envisaged in subsection (5) above, the ownership in any road or public place in a township established in terms of this By-law, unless it is a private township, shall vest in the Municipality.

47. Prohibition of registration of certain deeds of transfer or endorsement on certain title deeds

(1) The Registrar shall not register a deed of transfer by which ownership of an erf in a township is transferred unless the Municipality certifies that-

(a) the township has been declared an approved township in terms of section 46(15) above;

(b) that any condition as set out in the schedule envisaged in subsection 46(15) above has been complied with;

(c) the provisions of section 46(17) above in respect of the transfer of land to the Municipality or any other organ of state (if applicable) have been complied with;

(d) that the Municipality will, within a period of 3 months from the date of such certification, be able to provide the erf with such engineering services as it may deem necessary and that it is prepared to consider an application for the approval of a building plan in respect of the erf in question; and

(e) all outstanding external engineering services contributions and all amounts in lieu of open spaces or parks as envisaged in sections 68(1) and 69(4) in respect of the township has been paid in full.

(2) The Registrar shall not endorse a title deed in terms of section 4C (1)(a) of the Housing Development Schemes for Retired Persons Act unless the certificate envisaged in subsection (1) above has been issued.

48. Failure to comply with requirements of the Municipality

(1) Where an applicant has, for a period of one year from the date he was requested in writing to comply with any requirement of the Municipality in respect of an application envisaged in section 44*(1)* above, failed to comply, the Municipality shall notify the agent/owner of land of such failure and thereupon the application shall automatically lapse.

49. Division/phasing of an approved township

(1) An agent/owner of land who has been notified in terms of section *46(3)* above that his township application has been approved-

(a) may within a period of 6 months from the date of the notice, or such further period as the Municipality may allow;

(b) shall, if directed to do so by the Municipality, within such period as the Municipality may determine,

apply to the Municipality for the division of the approved township into two or more separate townships as outlined in Schedule 3 of this by-law.

(2) On receipt of an application envisaged in subsection (1) above, the Municipality may-

(a) where the documents envisaged in subsection 46*(5)* have not yet been lodged with the Surveyor-General;

(b) where the documents envisaged in subsection 46*(5)* above have been lodged with the Surveyor-General, after consultation with the Surveyor-General,

consent to the division of the township subject to any condition the Municipality may deem expedient.

(3) Where consent has been granted in terms of subsection (2) above, the Municipality shall forthwith notify the applicant in writing thereof and of any condition imposed.

(4) The applicant shall within a period of 3 months from the date of the notice envisaged in subsection (3) above, or such further period as the Municipality may allow, submit to the Municipality such plans, diagrams or other documents and furnish to it such information as it may require in respect of each separate township.

(5) On receipt of the documents or information as envisaged in subsection (4) above, the Municipality shall forthwith notify the Surveyor-General and the Registrar in writing of the consent granted in terms of subsection (2) and such notice shall be accompanied by a copy of the plan of each separate township.

(6) The granting of consent in terms of subsection (2) above and the notice envisaged in subsection (3) above shall, in respect of each separate township, be deemed to be the approval of an application as envisaged in section 46*(1)* above and a notice envisaged in section 46*(3)* above.

50. Extension of boundaries of an approved township

(1) An owner of land as envisaged in section 49 of the Deeds Registries Act who wishes to have the boundaries of an approved township extended to include his land may, apply in writing to the Municipality.

(2) The provisions of section 44(3) to 44(10) shall apply mutatis mutandis to an application envisaged in subsection (1) above and any reference to an application to establish a township shall be construed as a reference to an application to extend the boundaries of a township as envisaged in subsection (1) above.

(3) After the provisions of section 44(3) to 44(10) have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed, either wholly or in part.

(4) Where the Municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.

(5) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.

(6) Where the Municipality approves an application envisaged in subsection (1) above, it may-

(a) apply all or any of the conditions set out in the schedule envisaged in section 46(15) on which the township concerned was declared an approved township;

(b) impose a condition that the applicant shall pay to the Municipality an amount of money in respect of the provision of the engineering services envisaged in terms of section 67(1) where it will be necessary to enhance or improve such services as a result of the approval of the application envisaged in subsection (1) above.

(7) Any condition imposed in terms of subsection (4) and (6) above shall be set out in a schedule to the proclamation envisaged in section 49 of the Deeds Registries Act and shall have the same force of law as a condition envisaged in section 46(15).

Part 4

Subdivision and Consolidation of an erf in an approved township and the subdivision and or consolidation of any other land

51. Subdivision and/or consolidation of an erf/erven in an approved township

(1) An agent/owner of land of-

(a) an erf in an approved township who wishes to subdivide such erf;

(b) two or more erven in an approved township who wishes to consolidate such erven,

may apply in writing, simultaneously or separately, as the case may be, to the Municipality as provided for in its land use scheme or any other town planning scheme that may still be applicable lodge an application in terms Schedule 3 with the Municipality setting out the proposed subdivision and/or consolidation.

(2) An application as envisaged in subsection (1) above shall comply with the following procedure:

(a) A letter, accompanied by a plan showing the proposed subdivision and/or consolidation, shall be dispatched in writing and by registered post, by hand or by any other means available, to any adjoining owners whom, at the discretion of the Municipality, may possibly be negatively affected by the application setting out the following:

(i) Full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;

(ii) The date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and

(iii) That any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (2)(a)(ii) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 14 days from date of receipt of the letter.

(b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the Municipality prior to consideration of the application.

(3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(iii) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for determination.

(4) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.

(5) Subject to section 32*(2)*, in the instance of an unopposed application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days after the date of expiry of the time period mentioned in subsection (2)(a)(iii) above.

(6) Such subdivision and/or consolidation application may be refused or approved subject to any condition the Municipality may deem fit. In the case of a consolidation application, if the Municipality fails to approve or refuse such application within 60 days from the date of receipt of the application envisaged in subsection (1) above, the application shall be deemed approved.

(7) With a subdivision application, such condition may include a condition that the owner shall pay to the Municipality an amount of money in respect of the provision of-

(a) the engineering services envisaged in section 68(1) where it will be necessary to enhance or improve the services as a result of the subdivision;

(b) open spaces or parks, and such amount shall be determined by the Municipality in terms of this By-law or approved policy,

provided that in calculating the amount of the contribution to be paid envisaged in subsections (7)(a) and (7)(b) above, a contribution that has been paid or has become due and payable under section 42*(1)* shall be taken into account.

(8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post and/or by hand and/or by any other means available without delay.

(9) The Municipality shall keep a proper record of each subdivision and consolidation application granted.

(10) An application that has been approved in terms of subsection (6) above shall automatically lapse if not registered with the Surveyor-General and the Registrar within 12 months from date of approval or within such further period as the Municipality may allow.

(11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-month period stated in that subsection.

(12) The amount of money envisaged in subsection (7) above shall become due and payable within 30 days from date of registration of the application with the Registrar as envisaged in subsection (10) above.

(13) The owner of land shall within 3 months after the Surveyor General has approved the diagram of the subdivision or the plan for consolidation in terms of the provisions of the Land Survey Act submit two (2) clear legible photocopies of the approved diagram or plan to the Municipality.

52. Cancellation and amendment of conditions/plan, endorsement of certain documents by Registrar and access

(1) The Municipality may, prior to the registration of the subdivision and/or consolidation approval with the Surveyor-General and the Registrar as envisaged in section 51(10) above and in consultation with the applicant,-

(a) cancel the approval of an application submitted in terms of section 51(1) above;

(b) amend or delete any condition imposed in terms of section 51(6) above or add any conditions to those already imposed; and

(c) approve an amendment of the plan setting out the proposed subdivision and/or consolidation.

(2) The Municipality may not approve an application envisaged in section 51(1) above if it will bring about a result which is in conflict with-

(a) any condition set out in the schedule as envisaged in section 46(15) on which the township concerned was declared an approved township;

(b) a condition of title imposed in terms of any law;

(c) a provision of an approved scheme applicable to the erf or erven in question.

(3) The Municipality may not approve an application envisaged in section 51(1) above unless the Municipality is satisfied that each subdivided portion has satisfactory vehicular access to a public street, which access may be provided by means of a panhandle or a servitude.

(4) If access to a public street is to be provided to more than one proposed subdivided portion by means of a single panhandle, the Municipality shall, when it approves the application for the subdivision of the erf concerned, impose a condition that the applicant shall cause a servitude of right of way in favour of each portion, other than the portion of which the panhandle forms part, to be registered over the latter portion.

(5) The agent/owner of land shall, before he submits a deed of transfer or certificate of registered title in respect of the subdivided portion to the Registrar for registration in terms of the Deeds Registries Act have the power of attorney in respect of the transfer or the application for such certificate endorsed by the authorised official of the Municipality to the effect that the owner of land has complied with the conditions imposed in terms of section 51(6) above or that arrangements in respect of such compliance, including the furnishing of guarantees in respect of any condition requiring payment of an amount of money as envisaged in section 51(7) above, have been made to the satisfaction of the Municipality.

53. Subdivision of any other land

(1) An agent/owner of land, excluding land as envisaged in section 51*(1)* above, who wishes to divide such land, may apply in writing to the Municipality and such application shall be as outlined in Schedule 3, of this by-law.

(2) Subject to any other law that may be applicable to such land Section 30 of the Spatial Planning and Land Use Management Act shall apply.

(3) The provisions of section 38*(2)(a)* to (2)(e) and 38*(3)* to 38(9) shall apply *mutatis mutandis* to an application envisaged in subsection (1) above.

(4) Subject to compliance with subsection (3) above, the application envisaged in subsection (1) above may be approved, either wholly or partly, or it may be refused or a decision thereon may be postponed.

(5) Where an application has been approved in terms of subsection (4) above, the Municipality may impose any condition it may deem expedient.

(6) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision and of any condition imposed in terms of subsection (5) above in writing by registered post and/or by hand and/or by any other means available without delay.

(7) When notifying the Registrar in terms of subsection (6) above, the Municipality shall at the same time furnish the Registrar with-

(a) a full description of the land;

(b) the full name of the registered owner of the land; and

(c) the number of the title deed under which the land is held.

(8) After the agent/owner of land has been notified in terms of subsection (6) above that the application has been approved, but before any portion of land is transferred, the Municipality may, in consultation with the agent/owner of land , amend or delete any condition imposed in terms of subsection (5) above or add any further condition.

(9) After an agent/owner of land has been notified in terms of subsection (6) that the application has been approved, the agent/owner of land shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the agent/owner of land fails to do so the approval will automatically lapse.

(10) An application for an extension of time as envisaged in subsection (9) above shall be made prior to the expiry of the 12-month period stated in that subsection.

(11) Where the agent/owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (9) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after hearing the agent/owner of land has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.

(12) After an agent/owner of land has been notified in terms of subsection (6) above that his application has been approved, the Municipality may-

(a) where the documents envisaged in subsection (9) above have not yet been lodged with the Surveyor-General; or

(b) where the documents envisaged in subsection (9)above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General,

consent to the amendment of such documents unless the amendment is, in the Municipality's opinion, so material as to constitute a new application in terms of subsection (1) above.

(13) Upon receipt of the notice envisaged in subsection (6) above and after compliance with subsection (9) above, the Registrar shall endorse the deeds registry copy of the title deed under which the land concerned is held to the effect that an application for the division of such land has been approved by the Municipality and if the copy of the title deed of the owner is thereafter, for whatever reason, lodged with the Registrar, he shall endorse it in like manner.

(14) An endorsement in terms of subsection (13) above shall be brought forward as a condition of title in any subsequent deed of transfer of the whole or the remainder of the land concerned, and any succeeding owner of such whole or remainder shall be bound by the conditions imposed by the Municipality in terms of subsection (4) above.

(15) The Registrar shall-

(a) after the land envisaged in subsection (13) above has been divided;

(b) when it is notified in terms of section 54(1) that the application has lapsed,

cancel any endorsement made in terms of the application referred to in subsection (13) above.

(16) Where an agent/owner of land is required to transfer land to the Municipality or any other organ of state by virtue of a condition imposed in terms of subsection (5) above, the land shall be so transferred at the expense of the township owner within a period of 6 months from date of approval of the application in terms of subsection (4) above or within such further period as the Municipality may allow.

(17) Any external engineering services contribution levied in terms of section 68(1) in relation to an application in terms of subsection (1) above shall become due and payable within 6 months from date of the Registrar endorsing the title deed of the land in question as envisaged in subsection (13) above or upon the issuing of the certificate envisaged in section 54(1), which ever happens first.

54. Failure to comply with requirements of the Municipality

(1) Where an applicant has, for a period of one year from the date it was requested in writing to comply with any requirement of the Municipality in respect of an application envisaged in section 53*(1)* above, failed to comply, the Municipality shall notify the applicant of such failure and thereupon the application shall automatically lapse.

55. Prohibition of registration of certain deeds of transfer

(1) The Registrar shall not register a deed of transfer of any portion of land where an application for the division of land was approved by the Municipality as envisaged in section 53(4) where: above unless the Municipality certifies that-

(a) any condition imposed in terms of section 53(5), excluding any condition dealing with the transfer of land as envisaged in section 53(16) above, have not been complied with;

(b) the provisions of section 53(16) in respect of the transfer of land to the Municipality or any other organ of state (if applicable) have not been complied with;

(c) all outstanding external engineering services contributions and all amounts relating to open spaces or parks in respect of the land have not been paid in full.

56. Ownership of roads and public places

(1) With effect from the date of the approval by the Surveyor-General of the plans and diagrams envisaged in section 53*(9)* above, the ownership in any road or public place on the land which has been divided in terms of this By-law, shall vest in the Municipality.

57. Owners' Associations

(1) The Municipality may, when approving an application for a subdivision of land, impose conditions relating to the compulsory establishment of an owners' association by the agent/owner of land for an area determined in the conditions.

(2) An owners' association that comes into being by virtue of subsection (1) is a juristic person and must have a constitution.

(3) The constitution of an owners' association must be approved by the Municipality before the transfer of the first land parcel and must provide for—

(a) the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;

(b) control over and maintenance of buildings, services or amenities arising from the subdivision;

(c) the regulation of at least one yearly meeting with its members;

(d) control over the design guidelines of the buildings and erven arising from the subdivision;

(e) the ownership by the owners' association of all common property arising from the subdivision, including—

(i) private open spaces;

(ii) private roads;

(iii) private places; and

(iv) land required for services provided by the owners' association;

(f) enforcement of conditions of approval or management plans;

(g) procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function;

(h) the implementation and enforcement by the owners' association of the provisions of the constitution.

(4) The constitution of an owners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.

(5) An owners' association may amend its constitution when necessary, but if an amendment affects the Municipality or a provision referred to in subsection (3), the amendment must also be approved by the Municipality.

(6) An owners' association that comes into being by virtue of subsection (1)—

(a) has as its members all the owners of land parcels originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and

(b) is upon registration of the first land parcel automatically constituted.

(7) The design guidelines contemplated in subsection (3)(d) may introduce more restrictive development rules than the rules provided for in the land use scheme.

(8) If an owners' association fails to meet any of its obligations contemplated in subsection (3) and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subsection (6)(a) the amount of any expenditure incurred by it in respect of those actions.

(9) The amount of any expenditure so recovered is, for the purposes of subsection (8), considered to be expenditure incurred by the owners' association.

58. Owners' Association Ceases to Function

(1) If an owners' association ceases to function or carry out its obligations, the Municipality may—

(a) take steps to instruct the association to hold a meeting and to reconstitute itself;

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

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

(2) In determining which option to follow, the Municipality must have regard to—

(a) the purpose of the owners' association;

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

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

Part 5

Approval of alteration, amendment or cancellation of general plan

59. Alteration, amendment or cancellation of a general plan application

(1) Any person who wishes to have the general plan of an approved township or of a division of land (if any) altered, amended or totally or partially cancelled by the Surveyor-General in terms of the Land Survey Act may subject to the provisions of section 60(3), apply in writing to the Municipality for approval as outlined in Schedule 3 of this by-law

(2) An application for the alteration, amendment or totally or partially cancellation of a general plan envisaged in subsection (1) above shall comply with the following procedures:

(a) Notice of the application shall be given once by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the Municipality in English;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;

(c) Such notice shall reflect full details of the application including, but not limited to, the name of the township concerned and the nature and general purpose of the application;

(d) Such notice shall further reflect the date on which such application was submitted to the Municipality and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

(e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post and/or by hand and/or by facsimile and/or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (2)(a) above.

(3) Proof of compliance with subsection (2) above must be submitted to the Municipality in the form of a written affidavit prior to the consideration of the application.

(4) The Municipality shall forward a copy of each objection, comment and representation received in terms of subsection (2)(a) above in respect of the application to the agent/owner of land and the agent/owner of land may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for determination.

(5) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(6) Subject to section 32(2), in the instance of an unopposed application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days after the date of expiry of the time period mentioned in subsection (2)(e) above.

60. Decision and post decision procedures

(1) The Municipality may approve an application envisaged in section 59(1) above either wholly or in part, or refuse it or postpone a decision thereon, either wholly or in part, provided that the Municipality shall not approve such application unless-

(a) the agent/owner of land has the unencumbered ownership of all the land within the area affected by the alteration, amendment or cancellation of the general plan other than land transferred in terms of section 53(16) and subject to sections 46(18) and 56 above;

(b) where the land envisaged in subsection (1)(a) above is subject to a mortgage bond, the bondholder has consented in writing to the alteration, amendment or cancellation of the general plan.

(2) Where the Municipality approves the application envisaged in section 59(1) above, the Municipality may-

(a) impose any condition it may deem expedient;

(b) amend or delete any condition set out in the schedule envisaged in section 46(15) above on which the township concerned was declared an approved township.

(3) The provisions of section 59 shall not apply to an alteration or amendment of a general plan of an approved township which is necessary as a result of the closing of any public

place or street or any portion thereof or diversion of a street or a portion of such street in terms of section 66(1) of this By-law.

(4) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties, including the Surveyor-General, of the decision, and where the application has been approved, state any condition imposed in terms of subsection (2)(a) above, in writing by registered post and/or by hand and/or by any other means available without delay.

(5) After an agent/owner of land has been notified in terms of subsection (4) above that the application has been approved, the agent/owner of land shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if the agent/owner of land fails to do so the approval will automatically lapse.

(6) Where the agent/owner of land fails, within a reasonable time after lodging the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after hearing the agent/owner of land has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.

(7) After the Surveyor-General has in terms of the Land Survey Act altered or amended the general plan or has totally or partially cancelled it, he shall notify the Municipality thereof without delay.

(8) On receipt of the notice envisaged in subsection (7) above, the Municipality shall forthwith give notice thereof by publishing a notice in the Provincial Gazette declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality shall in a schedule to the notice set out the conditions imposed in terms of subsection (2)(a) above or the amendment or deletion of any condition envisaged in subsection (2)(b) above, where applicable.

(9) The Municipality shall forthwith provide the Registrar with a copy of the notice and schedule envisaged in subsection (8) above.

61. Effect of alteration, amendment or cancellation of general plan

(1) Where the general plan of an approved township established in terms of the provisions of legislation other than this By-law, is cancelled in whole or in part, or altered or amended or cancelled in part, any public place or street which vested in trust in the Municipality by virtue of section 63 of the Local Government Ordinance, 1939, the ownership thereof shall revert to the township owner.

(2) Where a general plan is cancelled in whole, the township shall cease to exist as a township.

(3) Where a general plan is cancelled in part, that portion of the township to which the cancellation of the general plan relates, shall cease to exist as a portion of the township.

(4) Where such original township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, the ownership of such public places or streets shall then automatically vest in the Municipality

Part 6

Amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations and matters related thereto

62. Application for the amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations in respect of land

(1) This part of the By-law refers to any restriction, obligation, servitude or reservation which relates to the subdivision of the land or the purpose for which the land may be used or to the requirements to be complied with or to be observed in connection with the erection of structures or buildings on or the use of the land, which is binding on the owner of the land arising out of-

(a) any restrictive condition or servitude which is registered against the title deed or leasehold title of such land; or

(b) a provision of a by-law or of a town-planning scheme; or

(c) the provisions of a title condition contained in the schedule to the proclamation of a township; or

(d) the provisions of a law relating to the establishment of townships or town planning.

(2) In addition to the provisions of section (1)(d) above, the Municipality may only amend, suspend or remove a restriction or obligation where the Municipality is satisfied that-

(a) to do so would promote the preparation and approval of a general plan, the establishment of a township or the development of any area;

(b) the affected land is required for public purposes by the State, the Province or the Municipality;

(c) the affected land is required for the use or construction of a building or other structure by the State, the Province or the Municipality;

(d) the affected land is required for purposes incidental to any purpose envisaged in subsections (2)(a) to (2)(c) above;

(e) Is in the interest of the general public to do so.

(3) The provisions of subsection (1) above shall not apply to-

(a) any building line restriction which has been imposed by or under the provisions of any applicable legislation pertaining to roads, whether national or provincial;

(b) any condition relating to mineral rights;

(c) any condition imposed in respect of land transferred to a beneficiary in terms of any provincial small farmer settlement programme or any similar land reform programme relating to the circumstances under which such land may be alienated or encumbered; or

(d) any condition relating to the risk of development on land which has been undermined.

(4) An owner of land who wishes to have any restriction, obligation, servitude or reservation as envisaged in subsection (1) above amended, suspended or removed, may lodge an application to the Municipality in terms of Schedules 3 of this by-law.

(5) Notwithstanding subsection (4) above, the Municipality may of its own accord amend, suspend or remove any restriction or obligation envisaged in subsection (1) above in respect of any land.

(6) An application envisaged in subsection (4) above may be submitted simultaneously with any other application envisaged in sections 36, 37, 38, 51 and 53 above and it shall be treated as one application.

(7) If an application is made only for the amendment, suspension or removal of any restriction, obligation, servitude or reservation as envisaged in subsection (1) above whether by an agent/owner of land or by the Municipality, the provisions of section 38(2) to 38(7) above shall mutatis mutandis apply to such application.

(8) Where a simultaneous application is submitted as envisaged in subsection (6) above, the applicant shall comply with all the essential elements of the procedures as set out in this section as well as sections 36, 37, 38, 51 and 53, as the case may be, in a consolidated form.

(9) Subject to section (2), in the instance of an unopposed application envisaged in subsection (4) or (5) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days after the date of expiry of the time periods mentioned in those sections that apply mutatis mutandis to an application envisaged in subsection (4) and (5) above.

(10) Subject to section (2), in the instance of an unopposed simultaneous application envisaged in subsection (6) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days after the expiry of the time periods mentioned in sections 36, 37, 38, 51 and 53 above, which ever section is relevant.

(11) The provisions of section 38(9) above shall also apply mutatis mutandis to an application envisaged in subsections (4), (5) and (6) above.

(12) For purposes of this section, where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the administrator, a Premier, the townships board or any other controlling authority, such consent may be granted by the Municipality and such reference to the administrator, a Premier, the townships board or other controlling authority shall be deemed to be a reference to the Municipality.

63. Decision and post-decision procedures

(1) An application envisaged in section 62(4), (5) or (6) above may be approved subject to any condition the Municipality deems fit or it may be refused.

(2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all

relevant parties of the decision in writing by registered post and /or by hand and /or by any other means available without delay.

(3) The Municipality shall keep a proper record of each application granted under subsection (1) above.

(4) Where the Municipality has approved an application as envisaged under section 62(4), (5) or (6) above and after the expiry of the time period envisaged in section 71(1) of this By-law, it shall give notice thereof in the Provincial Gazette and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be deemed to be an approved application.

(5) An approved application as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.

(6) The provisions of section 41 shall also mutatis mutandis apply to an application under this section if the simultaneous application envisaged in section 62(6) above included an amendment of a land use scheme application as envisaged in section 38*(1)* above.

64. Endorsements in connection with amendments, suspensions or removals of restrictions or obligations

(1) After the coming into operation of any approved application as envisaged in section 62*(4), 62(5)* or 62(6) above, the owner of land shall within 28 days from the date of the approval coming into operation, whether in terms of section 63(5) or 63(6) above, deliver the original title deed to the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the notice envisaged in section 63*(4)* above.

(2) Upon receipt of such original title deed as envisaged in subsection (1) above, the Registrar shall not register any further transactions relating to the land in question until the entries and endorsements envisaged in subsection (1) above have been effected and shall impound the title deed for the purpose of such entries and endorsements whenever it may for any reason be lodged in his or her office.

65. Contributions to be paid in respect of external engineering services and Open Spaces or Parks

(1) Where applicable, the provisions of section 36(8)(e) and 36(8)(f) and subsection 36(11) of the same section, section 42 and section 51*(7)* and subsection 51*(12)* of the same section shall *mutatis mutandis* apply to an approval envisaged in section 63*(1)* above, as the case may be.

Part 7

Permanent closure of a public place or diversion of a street

66. Permanent closing of a public place or diversion of a street

(1) The Municipality, by virtue of a Council resolution may, either of its own accord or upon a written request by any party; permanently close a public place or divert any street or portion of a street.

(2) A formal proposal that steps be taken for the closing of a public place or diversion of a street or portion of a street shall be accompanied by a plan showing the public place to be closed or showing the boundaries of the street or portion of the street proposed to be closed or diverted.

(3) When the Municipality intends to exercise the power envisaged in subsection (1) above or upon receipt of a formal proposal, it shall comply with the following procedures:

(a) Notice of the application shall be given once by simultaneously publishing a notice in the Provincial Gazette and a newspaper that circulates within the area of jurisdiction of the Municipality in English;

(b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;

(c) Such notice shall reflect full details of the application including, but not limited to, the relevant street or portion of street to be closed or diverted (if applicable), the name of the applicable township, a clear erf description of the public place to be closed (if applicable) and the nature and general purpose of the application;

(d) Such notice shall further reflect that the application and its accompanied plan will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post and/or by hand and/or by facsimile and/or by e-mail within a period of 28 days from the date of publication of the notice as envisaged in subsection (3)(a) above.

(e) Another notice that contains the same detail as envisaged in subsections (3)(b) to (3)(d)above shall be displayed on the land under consideration or on or near the street or portion of the street to be closed or diverted in English, and at the discretion of the Municipality, in any other official language;

(f) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (3)(a) above;

(g) Such notice shall be in the format as determined by the Municipality;

(h) Such notice shall be displayed in a conspicuous place on the land in question or on or near the street or portion of street to be closed or diverted where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place; and

(i) Such notice shall be maintained in a clearly legible condition for a period of not less than 21 days from the date of publication of the notice mentioned in subsection (3)(a) above.

(j) Another notice that contains the same detail as envisaged in subsections (3)(b) to (3)(d) above shall be served by hand on the owners or reputed owners, lessees or reputed lessees and the occupiers of all properties abutting upon the public place or the street or portion of the street which it is proposed to close or divert, provided

that if any such property has more than one lessee, reputed lessee or occupier, a copy of the said notice may be posted on the principal door of the main building or in another conspicuous place on such property, except where such property is a sectional title development, in which case the notice shall also be served on the owners of each such unit that constitutes the Body Corporate.

(4) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.

(5) Whether by the Municipal Planning Tribunal, the authorised official or his duly authorised delegate, a permanent closure of a public place or closure or diversion of a street or portion of a street as advertised in subsection (3) above may be approved or it may be refused and all relevant parties shall be notified of the decision by registered post, by hand or by any other means available without delay.

(6) After the closure or diversion as envisaged in subsection (1) above has been approved and has been carried out, the Municipality shall notify the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the approval envisaged in subsection (5) above and that it has been carried out properly in accordance with the provisions of this By-law.

(7) The notification envisaged in subsection (6) above to the Registrar and the Surveyor General shall include a Land Surveyor's diagram to enable them to make such necessary entries and endorsements as envisaged in that subsection.

(8) Such entries and endorsements envisaged in subsection (6) above do not require a formal application as envisaged in section 59 (1) above.

(9) For purposes of this section the word "street" shall include a road, thoroughfare, footpath, sidewalk or lane.

(10) Where any public place or street or any portion thereof has been closed by virtue of an approval envisaged in subsection (5) above, the zoning shall remain the same as indicated in the land use scheme applicable to the property.

(11) Upon the compliance with formal procedures as set out above the local authority shall lodge with the surveyor general the necessary street/public places closure certificates for the amendment of the general plan.

CHAPTER 7

ENGINEERING SERVICES, CONTRIBUTIONS AND OPEN SPACES OR PARKS

Part 1

Engineering services and engineering services contributions / agreements

67. Engineering services

(1) Every land development application approved in terms of the provisions of this By-law shall be provided with such engineering services as the Municipality deem necessary for proper development.

(2) For the proper management and enforcement of this Chapter, the owner of the land in question shall enter into an engineering services agreement with the Municipality and such agreement shall contain every reasonable detail relevant to the engineering services to be installed and comprehensive detail on the different roles, duties and responsibilities of the respective parties.

(3) Subject to subsection (2) above, the owner of the land in question shall be responsible for the provision, installation and costs of internal engineering services required for a development when an application is approved, as contemplated in section 49(1) of the Spatial Planning and Land Use Management Act.

(4) Subject to subsection (2) above, the Municipality shall be responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the Spatial Planning and Land Use Management Act.

(5) When the Municipality is not the provider of an engineering service, the owner of the land in question must satisfy the Municipality that adequate alternative arrangements have been made either by the owner itself or with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Spatial Planning and Land Use Management Act.

(6) Every engineering service to be provided as envisaged in subsection (1) above shall be classified in terms of the engineering services agreement envisaged in subsection (2) above between the owner of the land in question and the Municipality as an internal or external engineering service in accordance with the provisions of this By-law.

(7) The internal engineering services to be provided by the owner of the land in question shall be installed and provided to the satisfaction and to the standards of the Municipality or any of its Municipal Entities and for that purpose the owner of the land shall lodge with the Municipality or relevant Municipal Entity such reports, diagrams and specifications as the Municipality or Municipal Entity may require.

(8) Where any application envisaged in subsection (1) above has lapsed in terms of any provision of this By-law, the engineering services agreement shall also automatically lapse and the owner of the land in question having installed any engineering services based on the above agreement shall have no claim against the Council with regard to the installation or construction of any engineering services of whatsoever nature.

68. External engineering services contributions / agreements

(1) The Municipality may levy an external engineering services contribution in respect of the provision of an external engineering service to the township or to the divided land in question as envisaged in section 67(1) above.

(2) The external engineering services contribution envisaged in subsection (1) above must be set out in a policy adopted and approved by the Municipality and the amount of the external engineering services contribution, payable by the owner of the land in question, shall be calculated in accordance with such policy as adopted and approved by the Municipality.

(3) The external engineering services contribution in respect of an approved township shall be calculated in terms of the tariff that is applicable at the time of the notice envisaged in 46(15) above and is subject to escalation at the rate calculated in accordance with the policy/By-law as adopted and approved by the Municipality.

(4) The owner of land in question may, in terms of the engineering services agreement with the Municipality envisaged in section 67(2) above, install any external engineering service on behalf of the Municipality and the fair and reasonable cost of installing such a service may be set off against the external engineering services contributions payable.

(5) When an external engineering service is installed by the owner of land as envisaged in subsection (4) above, the provisions of the Municipal Finance Management Act pertaining to procurement and the appointment of contractors on behalf of the Municipality shall not apply.

(6) The external engineering services contribution levied in terms of subsection (1) above shall become due and payable for any amendment or change in land use.

(7) No building plans may be approved by the Municipality in terms of the National Building Regulations and Building Standards Act until the external engineering services contribution envisaged in subsection (1) above has been settled in full.

(8) The provisions of section 42(8) and 42(9) above shall apply mutatis mutandis to an external engineering services contribution levied in terms of subsection (1) above.

Part 2

Land for parks, open space and other uses

69. Land for parks, open space and other uses

(1) The approval of a township application as envisaged in section 44(1) and a division of land application envisaged in section 51(1) and 53(1) above, which provides for the use of land for residential purposes is subject to the provision of land for parks or open space by the agent/owner of land.

(2) The land required for parks or open space must be provided within the land area to which the development application refers or may be provided elsewhere within the Municipality's jurisdiction, at the discretion of the Municipality.

(3) The extent of land required for parks or public open spaces shall be determined by the Municipality in accordance with the formula as set out in Schedule 3 to this By-law.

(4) Any area of land in a proposed township or in a division of land application, which is subject to flooding by a 1:50 and 1:100 year flood line, shall be shown on the plan of the township as an open space or park if so required by the Municipality.

(5) When a township or a division of land application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay an amount of money to the Municipality in lieu of the provision of land.

(6) The amount of money envisaged in subsection (5) above shall be calculated in accordance with the formula as set out in Schedule 3 to this By-law and it shall be calculated in terms of the valuation relevant at the time of proclamation of the approved township envisaged in section 46(15) above, and with a division of land application envisaged in section 51(1) an 53(1) above, at the time of the approval of the application.

(7) The amount of money calculated in terms of subsection (6) above shall be subject to escalation until it has been settled in full.

(8) The provisions of sections 46(16), and 53(17) above shall also apply mutatis mutandis to the payment of the amount of money envisaged in subsection (5) above.

CHAPTER 8

APPEAL AUTHORITY AND PETITION TO INTERVENE

70. Appeal Authority

(1) The Mayoral Committee (executive authority) is the Appeal Authority of the Midvaal Local Municipality.

(2) A quorum for the purposes of an appeal authority would be the Executive Mayor, as presiding officer (or his duly delegated representative) and two members of the Midvaal Mayoral Committee

(3) The Midvaal Local Municipality may in the place of its Mayoral Committee authorise that a body or institution outside the municipality assume the obligations of an appeal authority in terms of Section 51 (6) of the Spatial Panning and Land Use Management Act.

71. Internal appeals

(1) An owner of land, a person that submitted an objection, comment or representation in terms of any provision of this By-law and any interested party as envisaged in sections 38(4), 44(5), 51(2), 53(3) and 68(8) above, a person whose rights are affected by a decision taken by an authorised official and municipal planning tribunal as outlined in Section 51(4) and 51(5) of the Spatial Planning and Land Use Management Act, including a person who's petition to intervene has been granted as envisaged in section 72, whose rights may be adversely affected by a decision taken by the Municipal Planning Tribunal, the authorised official or any of its sub-delegates in respect of-

(a) any land development application envisaged in Chapter 6 of this By-law;

(b) a change of circumstances application envisaged in section 41(2) and 63(6) above;

(c) any engineering services contributions and/or parks or open spaces contributions imposed or levied in terms of any provision of this By-law,

may appeal against that decision to the Municipal Manager by giving written notice of the appeal, including grounds of appeal, within 28 days of the date of notification of the decision or date of being notified of such engineering services contributions and/or parks or open spaces imposed or levied.

(2) The Municipal Manager shall within a reasonable time period and after all relevant information on the appeal has been collated submit the appeal to the Municipality's executive authority as the appeal authority for a decision.

(3) The Municipality's Executive Authority may delegate its appeal authority in terms of section 56 of Spatial Planning and Land Use Management Act read with section 59 of the Municipal Systems Act to-

(a) a body or institution outside of the Municipality to assume the obligations of an appeal authority;

(b) to an official or a committee of officials in the employ of the Municipality,

provided that such appeal authority may not be delegated to an official in the employ of the Municipality who originally made the decision on the application or who is a member of the Municipality's Municipal Planning Tribunal.

(4) An appeal is invalid if it is not lodged within the time period contemplated in subsection (1) above or does not comply with this section.

(5) If an agent/owner of land lodges an appeal, the agent/owner of land shall give notice of the appeal to any person or interested party who commented, represented on or opposed the application.

(6) The notice referred to in subsection (5) must be given in accordance with section 115 of the Municipal Systems Act and notice may be given by hand and/or, by registered post and/or by any other means available.

(7) The notice must allow the parties 21 days from date of notification to oppose or comment on the appeal.

(8) The appellant must provide the Municipality with proof of notification, envisaged in subsection (5), within 14 days of the date of notification.

(9) If an objector or any interested party as envisaged in subsection (1) above lodges an appeal, the Municipal Manager must give notice of the appeal to the applicant within 14 days of receipt thereof.

(10) A person who has received notice of the appeal may comment on or oppose the appeal within 21 days of being notified.

(11) If opposition to or comment on the appeal is not lodged within the time period envisaged in subsection (7) and (10) above, the objection or comment will be invalid and the appeal authority will be under no obligation to entertain the appeal.

(12) The relevant Municipal department must draft a report assessing the appeal and all comments or objections received and submit it to the appeal authority within 30 days of receipt of the comments or after the time period has lapsed and no comment has been received as contemplated in subsections (7) and (10) above as the case may be.

(13) The appeal authority shall decide the appeal within 90 days from the expiry of the time periods envisaged in subsection (7) and (10) above.

(14) The decision of the appeal authority is based on the record of preceding proceedings.

(15) The appeal authority may confirm, vary or revoke the decision appealed against.

(16) Parties to the appeal must be notified, in writing, of the decision of the appeal authority within 21 days from the date of the decision as contemplated in subsection (13) above.

(17) An appeal lodged under this section suspends any decision taken under the provisions of this By-law and any post-decision procedures, as the case may be, until the appeal has been finalised.

72. Hearing by appeal authority

(1) An appeal shall be heard by the appeal authority by means of a hearing based on written submissions only.

(2) Notwithstanding subsection (1) above, the appeal authority may decide that a formal oral hearing be conducted if the appeal authority is of the opinion that the issues to be determined is of such a nature that it justifies the parties to the appeal to be heard in person.

(3) Where the appeal authority decides that an oral hearing be held as envisaged in subsection (2) above, then any party to the appeal may appear in person or may be represented by another person.

73. Record of decisions

(1) The appeal authority shall keep a proper record of all its proceedings and decisions taken.

74. Petition to be granted intervener status

(1) Where an application has been submitted to a Municipal Planning Tribunal, authorised official or any of its sub-delegates or an appeal has been lodged to the appeal authority, an interested person may, at any time during the proceedings, but within seven days of becoming aware of the proceedings, petition the Municipality in writing to be granted intervener status.

(2) The petitioner must submit together with the petition to be granted intervener status a full motivation in support of the petition and an affidavit stating that he or she –

(a) does not collude with any applicant, objector or appellant; and

(b) is willing to deal with or act in regard to the application or appeal as the Municipality may direct.

(3) The municipality must determine whether the requirements of this regulation have been complied with and must thereafter provide a copy of the petition referred to in subsection (1) to the parties to the application or appeal.

(4) Where the Municipality, either through its Municipal Planning Tribunal, authorised official or any of its sub-delegates or the appeal authority, must determine whether a petitioner qualifies as an interested person as contemplated in section 45(4) of the Spatial Planning and Land Use Management Act, it may consider the following:

(a) whether such person has a pecuniary or proprietary right or interest in the matter;

(b) that such person's right or interest has been affected by the decision of the Municipal Planning Tribunal or authorised official or that his or her rights may be adversely

affected by the decision of the Municipal Planning Tribunal or authorised official and might therefore be adversely affected by the decision of the appeal authority;

(c) that the petitioner represents a group of people who have a direct concern in the proceedings;

(d) the ability of the petitioner to protect his or her interest would be impeded by the decision of the Municipal Planning Tribunal, authorised official or appeal authority and that his or her interest is not adequately represented by the current parties to the proceedings;

(e) the petitioner will provide a different perspective on the issues before the Municipal Planning Tribunal, authorised official or appeal authority, without expanding those issues.

(5) A determination by the Municipal Planning Tribunal, appeal authority or authorised official whether a petitioner qualifies, as an interested person is final and must be communicated to the petitioner and the parties to the proceedings in writing without delay.

CHAPTER 9

ENFORCEMENT

75. Law enforcement

(1) The Municipality may designate an official or officials under its employ as a law enforcement officer(s) to investigate any non-compliance with the provisions of this By-law, its land use scheme or any other town planning scheme still in operation.

(2) The provisions of section 32(5) of the Spatial Planning and Land Use Management Act shall apply mutatis mutandis to such law enforcement officers envisaged in subsection (1) above.

(3) An inspection of an alleged activity may only be carried out by a law enforcement officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of section 75 (4)

(4) A judge or magistrate for the district in which the land is situated, may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the-

(a) law enforcement officer has been refused entry to land or a building that he or she is entitled to inspect;

(b) prior permission of the occupier or owner of land on which an alleged activity is situated as envisaged in subsection (4) above cannot be obtained after reasonable attempts;

(c) the owner, occupier or person in control of a private dwelling has refused consent; or

(d) the purpose of the inspection would be frustrated by the prior knowledge thereof.

(5) The Municipality may apply to a court for an order-

(a) interdicting any person from using land in contravention of any provision of this By-law, its land use scheme or any other town planning scheme still in operation;

(b) authorising the demolition of any structure erected on land in contravention of any provision of this By-law, its land use scheme or any other town planning scheme still in operation without any obligation on the Municipality or the person carrying out the demolition to pay any compensation; or

(c) authorising any other appropriate relief.

76. Offences and penalties

(1) Further to any section in this By-law that declares a specific action a criminal offence, where any person-

(a) undertakes or proceeds with the erection or alteration of or addition to a building or causes it to be undertaken or proceeded with;

(b) performs, undertakes or proceeds with any other work or causes it to be performed, undertaken or proceeded with;

(c) uses any land or building or causes it to be used;

(d) alters the form and function of land,

in conflict with a provision of this By-law, any other applicable legislation dealing with land development, the Municipality's land use scheme or any other a town planning scheme still in operation, such person shall be guilty of an offence.

(2) The Municipality may direct such person in writing-

(a) to discontinue such erection, alteration, addition or other work or such use or cause it to be discontinued;

(b) at his own expense-

(i) to remove such building or other work or cause it to be removed;

(ii) to cause such building or other work or such use to comply with the provisions of the scheme,

and the directive shall state the period within which it shall be carried out.

(3) The Municipality shall not approve a building plan for the erection or alteration of or addition to a building which would be in conflict with any provision of this By-law, the Municipality's land use scheme or any town planning scheme still in operation.

(4) The provisions of subsection (3) shall not apply to the erection or alteration of or addition to a building in accordance with an approved building plan.

(5) Any person who contravenes or fails to comply with a directive issued in terms of subsection (2) shall be guilty of an offence.

(6) Where any person fails to comply with a directive issued in terms of subsection (2), the Municipality may, whether or not a prosecution has been or will be instituted, stop the building or other work or cause the building or other work to comply with the provisions

of this By-law, its land use scheme or any other town planning scheme still in operation and recover all expenses incurred in connection therewith from such person.

(7) Upon conviction of an offence in terms of this By-law a person is liable to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment and the fine shall be calculated according to the ratio determined for such imprisonment in terms of the Adjustment of Fines Act.

(8) A person convicted of an offence under this By-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable to a fine, or upon conviction, to imprisonment for a period not exceeding three months or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.

77. Content of Compliance Notices

(1) A compliance notice must—

(a) identify the judicial person as registered owner to whom it is addressed;

(b) describe the alleged unlawful use of land or construction activity concerned and the land on which it occurs;

(c) state that the activity is unlawful and inform the person of the particular offence contemplated in the By-law which that person allegedly has committed or is committing through the continuation of that activity on the land;

(d) the steps that the person must take and the period within which those steps must be taken;

(e) anything which the person may not do and the period during which the person may not do it;

(f) provide for an opportunity for a person to submit representations in terms of section 92 with the contact person stated in the notice; and

(g) issue a warning to the effect that—

(i) the person may be prosecuted for and convicted of an offence contemplated in the Bylaw;

(ii) on conviction of an offence, the person will be liable for the penalty as provided for;

(iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;

(2) Any person on whom a compliance notice is served must comply with that notice within the time period stated in the notice, unless the Municipality has agreed to suspend the operation of the compliance notice.

CHAPTER 10

GENERAL PROVISIONS

78. Policies, Procedures, Standards, Requirements and Guidelines

(1) The Municipality may adopt a policy, procedure, standard, requirement or guideline for the effective administration of this By-Law.

(2) The Municipal Manager may prescribe anything, which this By-Law empowers the Municipality to prescribe.

(3) The Municipality must make available on the Municipality's website any prescription contemplated in subsection (2) and may make available on the website any policy, procedure, standard, requirement or guideline contemplated in subsection (1)

(4) If the Municipality intends to adopt or amend a policy, procedure, standard, requirement guideline or prescription and the adoption or amendment materially and adversely affects the rights of the public, the Municipality must follow a participation process and procedure, which meets the requirements of the Municipal Systems Act.

(5) An applicable policy, procedure, standard, requirement or guideline applies to an application of this By-Law.

79. Requirements for Petitions on Land Development Applications

(1) All petitions must clearly state—

(a) the contact details of the authorized representative of the signatories of the petition;

(b) the full name and physical address of each signatory; and

(c) the objections, comments or representations and reason therefore.

(2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

80. Approval or adoption of amendment scheme under certain circumstances

(1) Where-

(a) a notice is or has been published in terms of section 46*(15)* above declaring a township an approved township;

(b) a proclamation envisaged in section 49 of the Deeds Registries Act is or has been published extending the boundaries of an approved township;

(c) a notice is or has been published in terms of section 60*(8)* above declaring that the general plan of an approved township or a division of land has been altered, amended or totally or partially cancelled;

(d) an application for the division of land has been approved in terms of section 53*(4)* above,

the Municipality may, by notice in the *Provincial Gazette* declare that it has adopted an amendment scheme relating to the same land as the land envisaged in subsection (1)(a) to (1)(d) above and that a copy of the scheme will lie open for inspection at all

reasonable times at the office of the Municipality and that thereupon the scheme shall be deemed to be an approved scheme.

(2) In respect of an amendment scheme envisaged in subsection (1) above-

(a) any provision of this By-law;

(b) any other provision,

which the Municipality may prescribe shall apply.

81. Documents, plans and diagrams and any other information to be submitted with land development applications under the provisions of this By-law

(1) The documents, plans, diagrams, reports and any other information as set out in Schedules to this By-law shall be submitted with any land development application under any provision of this By-law.

(2) The applicant must, within 30 days or such further period as the Municipality may allow, provide the Municipality with such additional information which the Municipality may require and as provided for in Schedules.

(3) If the applicant does not timeously provide the additional information and does not submit an appeal to the appeal authority, the Municipality may close the application and notify the applicant in writing.

(4) Where the Municipality closes the application-

(a) the application is deemed to be refused;

(b) the application fee is not refundable; and

(c) the applicant may submit a new application and must pay a new application fee.

82. Continuation of application by new owner

(1) If land that is the subject of a land development application in terms of this By-law is transferred to a new owner before the conclusion of such application, the new owner may continue with the application as the successor in title to the previous owner and the new owner will be regarded as the applicant for purposes of this By-law.

(2) The new owner must inform the Municipality in writing of the continuation of the application and provide the Municipality with a new title deed within 30 days of the date of actual registration of the property, failing which, the application will automatically lapse.

83. Time frames for land development applications

(1) An application is regarded as complete only if the Municipality has received the application fee, all information necessary for the Municipality to assess the application as envisaged in Schedules to this By-law and the information submitted is compliant with all information specifications.

(2) The municipality shall within 14 days notify the agent/owner of land that a Land Development Application is complete.

(3) Upon confirmation, the phases of the application process starts.

(4) For the purposes of this section, a land development application under the provisions of this By-law shall be subject to an administrative phase, a consideration phase and a decision phase.

(5) The administration phase commences only after a land development application is regarded as complete as envisaged in subsection (1) above and such phase may not be longer than 12 months.

(6) The consideration phase may not be longer than 3 months.

(7) The decision phase shall be subject to the time frames as set out in the relevant sections of this By-law provided that a decision in respect of any matter to be considered by the Municipal Planning Tribunal, such decision shall shall be made within 30 days from the date of the last meeting of the Municipal Planning Tribunal or from the date of the completion of the consideration phase.

(8) The administrative phase is the phase during which all public participation notices must be published and responded to, parties must be informed, public participation processes finalised, intergovernmental participation processes finalised and the application referred to the Municipal Planning Tribunal or authorised official for consideration and decision-making.

(9) The consideration phase is the phase during which the Municipal Planning Tribunal or authorised official must consider the application, whether it be a written or oral proceeding, and undertake investigations, if required.

(10) If no decision is made within, the period referred to in subsection (7) above, it shall be regarded as an undue delay for purposes of this By-law and the applicant or interested person may lodge an appeal in terms of the provisions of section 71(1) above to the appeal authority for a decision on the application.

(11) Such non-performance may also be reported to the Municipality Manager, who must in turn report it to the Municipality's executive authority and adequate steps shall be taken to ensure compliance with the prescribed time frames.

84. Excision of land from Agricultural Holdings Register

(1) The agent/owner of land shall be responsible for the excision of land from an Agricultural Holding Register.

(2) The endorsement of the Agricultural Holding Title by the Registrar of Deeds to the effect that it is excised and known as a farm portion for the purposes of a township establishment can be done simultaneously with the endorsement of the title deed of the farm portion and the opening of a township register.

(3) The municipality shall issue a certificate certifying that the pre-proclamation conditions have been complied with and in certifying; it may require that certain conditions be complied with together with the opening of a township register.

(4) If an applicant elects to remove restrictive conditions of title to an Agricultural Holding through an excision application, the municipality shall only regard proof of the removal of the restrictive conditions if the applicant provides the title deed of the Agricultural Holding as it has been endorsed by the Registrar of Deeds and a copy of the farm title deed created as a result of the excision.

(5) Where the Municipality is authorized to grant permission for the excision of an Agricultural Holding in terms of any other law the applicant shall submit an application for excision as may be prescribed in Section 84 of this By-law; provided that an application for excision shall not be regarded as a land development application for purposes of this By-law.

(6) The Municipality shall consider the permission application submitted in terms of subsection (5) and may make a recommendation on whether it is in a position to grant the application for excision of an Agricultural Holding and may do so subject to such condition as the Municipality may deem expedient or postpone or refuse the application.

(7) The applicant shall upon receipt from the Municipality of a recommendation for granting the application contemplated in subsection (6) for excision without delay submit the recommendation to the Surveyor-General, with a request for a new property description of the farm into which the Agricultural Holding will be incorporated.

(8) The applicant shall upon receipt of a new farm description as contemplated in subsection (7) from the Surveyor-General submit, proof to the satisfaction of the Municipality of:

(a) the new farm description;

(b) a draft surveyed diagram; and

(c) confirm that he/she wishes to proceed with the excision, quoting the new farm portion number contemplated in subsection (7).

(9) The Municipality shall consider the information provided and may grant the permission for the excision application contemplated in subsections (5) and (8) and may impose any condition it deems expedient and for purposes of granting the excision application shall issue a certificate that excision of the Agricultural Holding has been approved.

(10) The Municipality shall deliver a notice to the applicant of its decision in terms of subsection (9) and the applicant shall deliver to the Surveyor-General and the Registrar of Deeds a copy of the excision certificate contemplated in subsection (9).

(11) An excision application granted in term of subsection (9) shall only be valid upon the date on which the title deed of the Agricultural Holding has been endorsed by the Registrar of Deeds to the effect that the Agricultural Holding has been excised.

(12) An owner of a property(ies) who wishes to apply for the excision of an agricultural holding from the Agricultural Holding Register and the Registrar of Deeds as contemplated in terms of section 84(5) of this By-law, shall apply to the Municipality in the forms as set out in Schedule 3 of this By-law, and such application shall, in addition to the fees prescribed be accompanied by the maps and documents indicated in section 13 of this By-law.

(13) The applicant shall for the purposes of an application in terms of section 84 of The Midvaal Spatial Planning and Land Use Management By-law submit the following documentation:

(1) an original official receipt or proof of EFT payment of the application fee; the application will not be processed before confirmation of payment has been received;

(2) a covering letter addressed to the Department responsible for Development Planning;

(3) the completed and signed application form as set out on Schedule 3 of this bylaw;

(4) a power of attorney that complies with the provisions of schedule 3 (MLM: F/25) of this bylaw;

(5) if the property is encumbered by a bond, the bondholder's consent;

(6) a motivating memorandum with at least the following information:

(a) indicate the reasons for the proposed excision of the agricultural holding; and

(b) indicate any other land development application submitted that necessitates the excision of the agricultural holding from the Agricultural Holding Register;

(c) purpose of the excision application, whether it is intended to remove the restrictive conditions relevant to Agricultural Holdings or are as a result of an application contemplated in paragraph (b);

(d) if the Agricultural Holding is excised the farm register into which it will be re-incorporated with an indication whether that farm is exempted in terms of the Subdivision of Agricultural Land, 1970 (Act 70 of 1970);

(7) a locality plan (MLM: F/20) indicating where the agricultural holding is situated as well as the exact boundaries of the proposed division(s) of the agricultural holding;

(8) a copy of the approved Agricultural Holding diagram or General Plans as approved by the Surveyor-General.

(9) the agricultural holding layout plan on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 as the case may be, or as determined by the Municipality

(10) a copy of the Title Deed which is registered in the Deeds Office at the time when the application is submitted or registered ownership or beneficial ownership of property, with all the pages including the endorsement pages and any notarial deed of agreement and/or other rights and/or servitude(s) registered against the property; provided that a draft Title Deed shall not be acceptable.

85. Approval of Building Plans and Registration

(1) An approval in terms of Section 7(6) of the National Building Regulations and Standards Act, 1977, (Act 103 of 1977) shall not be granted unless the land use rights have come into operation in terms of the provisions of this By-law.

(2) The Municipality shall not approve the erection of any building in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) on the land which is the subject of any land development application in accordance with such approval;

(3) The Registrar of Deeds shall not register any transaction in terms of the Deeds Registries Act, 1937 (Act 47 of 1937) or the Sectional Titles Act, 1986 (Act 95 of 1986) submitted by or on behalf of the owner of the land which is the subject of an approval under this By-law and arising as a consequence of such approval unless the documents evidencing such transaction include any conditions of title imposed by the Municipality.

86. Hearing of submissions, objections, comments or representations

(1) Where in terms of any provision of this By-law a land development application is referred to the Municipal Planning Tribunal for a decision, the Municipality shall forthwith determine a day, time and place for such hearing.

(2) The person making the application and any other person, who timeously submitted an objection, comment or representation in terms of any provision of this By-law, including an interested person who has been granted intervener status for purposes of section 74 above, shall receive 14 days written notice of such day, time and place of the hearing.

(3) At such hearing contemplated in subsection (1) above the parties envisaged in subsection (2) above may appear in person and set out their motivation in support of the application or their grounds of objection or representation, as the case may be, and adduce any evidence in support thereof or authorise any other person to do so on their behalf.

(4) A hearing contemplated in subsection (1) above shall be open to the public unless otherwise directed by the Chairperson of the Municipal Planning Tribunal.

(5) Where an objection, comment or representation has been submitted in the form of a petition, the Municipality will only be obliged to give notice of such hearing to the main petitioner.

87. Reasons for a decision

(1) Unless otherwise provided for in this By-law, the Municipality shall be obliged to provide written reasons on any decision if requested to do so in writing by any party whose rights may be adversely affected by such decision, taken in terms of any provision of this By-law.

(2) Such reasons shall be provided in writing within 21 days of date of receipt of the request for reasons envisaged in subsection (1) above and it shall be provided by the Chairperson of the Municipal Planning Tribunal, the authorised official or its sub-delegate who made the decision, or the appeal authority, as the case may be.

88. Naming and numbering of streets

(1) If as a result of the approval of a land development application, streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number for each of the erven or land units located in such street or road.

(2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision.

(3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.

(4) The Municipality must in writing inform the Surveyor-General and Post Office General of the approval of new street names as a result of the approval or amendment of subdivision plans as envisaged in subsection (1) above and a street name which is indicated on an approved general plan within 30 days of the approval thereof.

(5) The applicant must erect the street names according to the Municipality's standards.

(6) No person may alter or amend a street name as approved in terms of subsection (1) above without the approval of the Municipality.

(7) An owner of land to which a street number has been allocated as envisaged in subsection (1) above shall ensure that the number as approved for that land unit is displayed and remain displayed.

(8) No person may alter or amend or use another street number unless approved by the Municipality.

(9) The Municipality may, by written notice direct the owner of a land unit to display the number allocated to the land unit and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such land unit shall, within 30 days of the date of such notice, affix the alocated number on the premises in accordance with such notice.

(10) The Municipality may direct any owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

89. Tariff of charges

(1) The Municipality may determine tariff of charges in respect of-

(a) any act, matter or application in terms of this By-law;

(b) anything required or authorised to be done in terms of this By-law.

(2) Such tariff of charges shall be published as part of the approved tariffs, adopted by Council as part of the approved budget.

(3) As a transitional measure the tariffs determined through the Municipal Financial Management Act shall apply.

90. National and Provincial interest

(1) The Municipality shall forward a land development application to the relevant Minister or MEC for comment where such application will materially affect an exclusive functional area of the National or Provincial sphere as per Schedules 4 and 5 of the Constitution.

(2) Subject to section 52(6) of the Spatial Planning and Land Use Management Act, the relevant Minister or MEC, as the case may be, may submit its comments on the application to the Municipality within 60 days from date of receipt of the application, failing which, it shall be deemed that such Minister or MEC has no comment to make.

91. Transitional provisions

(1) Transitional arrangements are as per Council Resolution C 1415/11/2015, and shall lapse on the inception date of these By-laws.

92. Exemption

(1) The Municipality may in writing exempt any person from complying with any provision of this By-law upon good cause shown.

(2) An application for exemption shall be in writing setting out which section of the By-law exemption is being applied for accompanied by a full motivation why such exemption should be granted.

(3) Such application shall be considered by the authorised official or Municipal Planning Tribunal and a decision shall be made on the application within 14 days from date of receipt of such application and the agent /owner of land shall be informed in writing of such decision.

93. False or misleading information in connection with application. —

(1) Any person who wilfully and or with intent to defraud furnishes false or misleading information in connection with an application contemplated in this By-law shall be guilty of an offence.

94. Short title and commencement

(1) This By-Law is called the Midvaal Local Municipality Spatial Planning and Land Use Management By-Law, and comes into operation on the date as indicated by the proclamation of the inception date in the *Provincial Gazette*.

SCHEDULES TO THE BY-LAW

SCHEDULE 1: LAND USE SCHEME REGISTER

1. A Land Use Scheme Register as contemplated in section 14(10) of this By-law may where applicable include the following:

   (a) Date of application

   (b) Name and contact details of applicant

   (c) Type of Application

   (d) Property Description

   (e) Existing Zoning

   (f) Square Metres Granted

   (g) Density

   (h) FAR

   (i) Height (storeys/meters)

   (j) Coverage

   (k) Building Line

   (l) Parking Requirements

   (m) Amendment scheme no

   (n) Annexure Number

   (o) Item No

   (p) Decision and date

   (q) Date of proclamation

   (r) Any other information, which in the opinion of the Municipality shall be required to assist land development in general; provided that (a) to (q), can be made available to the public but information in terms of (r) need not be made available.

SCHEDULE 2 CONTRIBUTIONS PAYABLE AND PROVISIONS OF LAND FOR OPEN SPACES AND PARKS IN TERMS OF THIS BY LAW

1. Determination of amount or contribution payable in respect of provision of open spaces (private open space or public open space) or parks.

2. Where, by virtue of or in terms of the provisions of this By-law an owner of land on which a land development application is approved (excluding a township establishment in terms of section xxx is required to pay an amount of money or a contribution to the Municipality in respect of the provision of open spaces or parks, such amount or contribution shall be determined substantially, in the opinion of the Municipality, in accordance with the formula—

$$\frac{(a - b) \times c \times e}{d},$$ in which formula

"a" represents the number of residential units which may be erected on the land to which the application relates in terms of the approved application;

"b" represents the number of residential units which could have been erected on the land contemplated in paragraph (a) prior to the approval of the application;

"c" represents:

(a) 24 m² where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 1 or 2 purposes or for purposes as may be determined by the Municipality from time to time, as the case may be;

(b) 18 m² where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 3, 4 or 5 for purposes as may be determined by the Municipality from time to time or as the case may be; (e.g. retirement village)

"d" represents the area of the land contemplated in paragraph (a) in m²;

"e" represents the site value of the land contemplated in paragraph 1

(c) as reflected in the valuation roll or the supplementary valuation roll of the local authority; or

(d) if the land is not reflected in the valuation roll or supplementary valuation roll of the Municipality, as determined by a valuer

(i) who is a member of the South African Institute of Valuers; or

(ii) as defined in the Local Government Property Rates Act, 2004.

3. Provision of Land for Open Spaces (private open space or public open space) or Parks including where a division of township application;

(e) Where, in terms of sections xx, the Municipality of an application to establish a township, imposes a condition requiring the applicant to provide land for open spaces or parks, the area of that land shall be determined substantially, in the opinion of the Municipality, in accordance with the formula:

a x 24 m² + b x 18 m², in which formula

"a" represents the number of residential units which may be erected on land in the township which, in terms of the land use scheme concerned, is to be zoned —Residential 1 or —Residential 2 or as may be determined by the Municipality from time to time, as the case may be;

"b" represents the number of residential units which may be erected on land in the township which, in terms of the town planning scheme concerned, is to be zoned —Residential 3' —Residential 4 or —Residential 5 or as may be determined by the Municipality from time to time, as the case may be.

(f) Any area of land in a proposed township which is subject to flooding by a 1:100 year flood shall be shown on the plan of the township as an open space or park if so required by the Municipality concerned and such area may at the request be protected by means of a servitude and shall be indicated in terms of a zoning for the purpose for which it is set aside.

(g) If, in a proposed township, part of any area of land subject to flooding by a flood contemplated in paragraph (2) is less than 32 m measured from the centre of a water course, the area of land shown as an open space or park on the plan of the township shall be extended to measure 32 m from the centre of the water course.

(h) The area of land to be provided for open spaces or parks in terms of paragraph (1), may not be reduced by the area of land to be shown as open spaces or parks in terms of paragraph (2) and (3); provided that the Municipality may give consent to reduce this requirement.

SCHEDULE 3 MIDVAAL FORMS

ARRANGEMENT OF THE FORMS:

MLM: F/1	Application form with applicant and owner details	
MLM: F/2	Application form for change of land use rights also known as rezoning in terms of section 38(1)	
MLM: F/3	Application form for removal, amendment or suspension of title conditions in terms of section 62(1)	
MLM: F/4	Application form for consent use in terms of the Land Use Scheme read with section 36(1)	
MLM: F/5	Application form for township establishment in terms of section 44(1)	
MLM: F/6	Checklist for layout plans for township establishment	
MLM: F/7	Application form for a division or phasing of a township application in terms of section 49	
MLM: F/8	Application form for the amendment of an approved township in terms of section 46(8)	
MLM: F/9	Application form for subdivision and consolidation in terms of section 51(1)	
MLM: F/10	Application from for application for extension of time to comply with pre-promulgation conditions in terms this By-law	
MLM: F/11	List of attachments and supporting information required / submitted by the applicant can checklist for Municipal use	
MLM: F/12	List of number of copies per document per land development application required	
MLM: F/13	The Provincial Gazette, newspapers and placard notice in terms of section 38(2)(a) of the Midvaal Local Municipality Land Use Management By-law, 2016 for a change of land use rights	
MLM: F/14	The Provincial Gazette, newspapers and placard notice in terms of section 38(2)(a) of the Midvaal Local Municipality Land Use Management By-law, 2016 for the removal, amendment or suspension of a restrictive condition in the title	
MLM: F/15	The Provincial Gazette, newspapers and placard notice for a consent use in terms of a Land Use Scheme	
MLM: F/16	The Provincial Gazette, newspapers and placard notice in terms of section 44 of the Midvaal Local Municipality Land Use Management By-law, 2016 for the establishment of a township	
MLM: F/17	The Provincial Gazette, newspapers and placard notice in terms of section 46(8) of the Midvaal Local Municipality Land Use Management By-law, 2016 for the alteration / amendment or partial cancellation of a general plan of a	
MLM: F/18	The Provincial Gazette, newspapers and placard notice in terms of section 51(1)(a) of the Midvaal Local Municipality Land Use Management By-law, 2016 for subdivision of land as contemplated in terms of section 16(12)(a)(iii)	
MLM: F/19	Notice in the Provincial Gazette and newspapers of the Draft Land Use Scheme in terms of section 11 (2) of the Midvaal Local Municipality Land Use Management By- law, 2016	
MLM: F/20	Example of a Locality Plan	
MLM: F/21	Example of a Land Use Plan	
MLM: F/22	Example of a Zoning Plan	
MLM: F/23	Example of a Site Plan	
MLM: F/24	Format of proposed development controls for change of land use rights and consent use application in terms of section 36(1) AND 38(1)	

MLM: F/25	Example of a Power of Attorney	
MLM: F/26	Example of affidavit / affirmation	
MLM: F/27	Notification of place, date and time of hearing of the Municipal Planning Tribunal in terms of section 86(2)	
MLM: F/28	Notice of Appeals	
MLM: F/29	Notice of a draft Land Use Scheme in terms of section 22(2) of the Midvaal Local Municipality Land Use Management By-law, 2016	
MLM: F/30	Notice of an approved Land Use Scheme in terms of section 19(1) of the Midvaal Local Municipality Land Use Management By-law, 2016	
MLM: F/31	Notice of an approval of an amendment scheme in terms of section 38(6) or (8) of the Midvaal Local Municipality Land Use Management By-law, 2016	
MLM: F/32	Notice of an approved removal, amendment or suspension of a restrictive condition in title in terms of section 63(2) of the Midvaal Local Municipality Land Use Management By-law, 2016	
MLM: F/33	Declaration of an approved township in terms of section 46(11) of Midvaal Local Municipality Land Use Management By-law, 2016	
MLM: F/34	Notice of an approval of an amendment scheme in terms of section 39(2) Midvaal Local Municipality Land Use Management By-law, 2016 for an approved	
MLM: F/35	Notice of application for the alteration / amendment / total or partial cancellation of a general plan of a township	

MLM: F/1

APPLICATION FORM WITH APPLICANT AND OWNER DETAILS

APPLICANT DETAILS				
Please indicate the type of applicant:				
Individual		Legal Entity / Other		
Applicant Details: Individual				
Title				
Initial				
First Name(s)				
Surname				
Preferred Name				
ID Number				
Gender	Male		Female	
Applicant Details: Legal Entity / Other				
Name				
Registration number				
Representative name				
Postal Details of Applicant				
Physical Address (Work)				
Address Line 1 (street no)				
Address Line 2 (street name)				
Township		Postal Code		
Specify City				
Physical Address (Home)				
Address Line 1 (street no)				
Address Line 2 (street name)				
Township		Postal Code		
Specify City				
Applicant Postal Address Details				
Postal Type	PO Box Private Bag		Physical Address (Home) Physical Address (Work)	
Postal Number				
Township		Postal Code		
Specify City				
Applicant Communication Details				
E-Mail Address				
Cell Phone				
Home Phone				
Work Phone				
Home fax				
Work fax				
Preferred Communication Type:	E-Mail		SMS (Text)	

OWNER DETAILS				
Please indicate the type of applicant:				
Individual		Legal Entity / Other		
Owner Details: Individual				
Title				
Initials				
First name				
Surname				
Preferred name				
ID Number				
Gender	Male		Female	
Owner Details: Legal Entity/other				
Name				
Registration number				
Representative name				
Postal Details of Owner				
Physical Address (Work)				
Address Line 1 (street no)				
Address Line 2 (street name)				
Township		Postal Code		
Specify City				
Physical Address (Home)				
Address Line 1(street no)				
Address Line 2 (street name)				
Township		Postal Code		
Specify City				
Owner Postal Address Details				
Postal Type	PO Box Private Bag		Physical Address (Home) Physical Address (Work)	
Postal Number				
Township		Postal Code		
City				
Communication Details				
E-Mail Address				
Cell Phone				
Home Phone				

Work Phone			
Home fax			
Work fax			
Preferred Communication Type	E-Mail		SMS
Details of Owner's / Marital Status	Not Applicable	Married in Community of Property	Married out of Community of Property
FOR OFFICIAL USE			
Receipt Amount			
Receipt Number			
Payment Date			
Application Form Date			

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/2

APPLICATION FORM FOR CHANGE OF LAND USE RIGHTS ALSO KNOWN AS REZONING IN TERMS OF SECTION 38(1)

PROPERTY INFORMATION

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

Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Planning Region	

REZONING DETAILS

Land Use Scheme			
Present Zoning			
Property Size (m²)		Title Deed Number	
Present Height (Scheme)			
Present Density (Scheme)			
Present Coverage (Scheme)			
Present Annexure No		Present Amendment Scheme No	
Present Land Value		Present FAR	
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			
Restrictive Title Deed Condition Paragraph No			
Proposed Use Zone			
Proposed Primary Right			
Proposed number of units			
Proposed density			
Density Units (m²/units per ha)			
Proposed Height (m/storey)			
Proposed coverage (%)			
Proposed FAR			
Estimate project value			
Applicant responsible to request outside comments?	Yes	No	N/a

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		Proof of Marital Status of the Owner	
Motivating Memorandum		Locality Plan		Zoning Plan	
Zoning Certificate		Site Plan		Registered Title Deed	
List of names of adjacent properties		Proposed Development Controls		Other	

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted; the application shall not be considered.

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

MLM: F/3

APPLICATION FORM FOR REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS IN TERMS OF SECTION 62(1)

PROPERTY INFORMATION

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

Township / Agricultural Holding / Farm		Portion (e.g. /R1)	
Erf / Plot / Farm No			
Ward			
Street Name			
Street Number		Planning Region	
Land Use Scheme			
Present Zoning			
Property Size (m²)		Title Deed Number	
Bond (Yes/No)			
If yes specify Bond Account No			
Bondholder's Name			
Existing Development			
Restrictive Title Deed Condition Paragraph No			
Marital Status	Not applicable	In community of property	Out of community of property

REMOVAL OF RESTRICTIONS IN TITLE DEED

Removal or suspension of conditions (According to the Title Deed)				
Amendment of condition/s				
Reason for Amendment or Removal of Condition/s				
Indicate whether the property/ties is/are situated in a conservation area or has/have been included in a register of properties worthy of conservation		Yes		No
Does the property have any endangered plant or animal species, which will be Specify		Yes		No

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		Proof of Marital Status of the Owner	
Motivating Memorandum		Locality Plan		List of names of adjacent properties	
Zoning Certificate		Registered Title Deed		Other	

I,.....being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/4

APPLICATION FORM FOR CONSENT USE IN TERMS OF THE LAND USE SCHEME READ WITH SECTION 36(1)

PROPERTY INFORMATION

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

Township / Agricultural Holding / Farm		Portion (e.g. /R1)	
Erf / Plot / Farm No			
Ward			
Street Name			
Street Number		Planning Region	

CONSENT USE DETAILS

Land Use Scheme			
Present Zoning			
Present Height			
Present Density			
Present Coverage		Present FAR	
Present Annexure T No		Present Amendment Scheme No	
Present Land Value			
Property Size (m²)		Title Deed Number	
Existing Development			
Restrictive Title Deed Condition Paragraph No			

Please complete this section for each property (make a separate copy for each property)

Proposed Use							
Area of proposed Use	**Main building**	Existing					m²
		New					m²
	Outbuilding	Existing					m²
		New					m²
		Total					m²
Proposed Height							
Height Units:	Metres		Storey		Not Applicable		
Proposed Coverage (%)							
Proposed FAR							

Time and number of deliveries		**Weekdays**	**Saturdays**	**Sunday or Public holiday**
	Morning			
	Afternoon			
	Night			

BUSINESS HOURS		**Start**	**End**
	Weekday		
	Saturday		
	Sunday		
	Public holiday		

NUISANCE

Noise level	**None**	**Low**	**Medium**	**High**

Noise Description				

Odour level	**None**	**Low**	**Medium**	**High**
Odour Description				

Dust level	**None**	**Low**	**Medium**	**High**
Dust Description				

Vibration level	**None**	**Low**	**Medium**	**High**
Vibration Description				

ADDITIONAL INFORMATION

Numbering of Parking Spaces on Property	

Does the approval of this application require obtaining a trade licence?	Yes		No	
If yes, has the application for a trade licence been handed in already?	Yes		No	

Licence Number	
Number of loading zones required?	
Staff Composition: Management	
Staff Composition: Employees	
TOTAL OF STAFF COMPOSITION	

Describe activities indoors	

Describe activities outdoors	

Number of clients expected daily	

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders' Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		Proof of Marital Status of the Owner	
Motivating Memorandum		Locality Plan		Zoning Plan	
Zoning Certificate		Site Plan		Registered Title Deed	
Proposed Development Controls					

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/5

APPLICATION FORM FOR TOWNSHIP ESTABLISHMENT IN TERMS OF SECTION 44(1)

PART B: PROPERTY INFORMATION

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

Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion (e.g. /R/1)	
Title Deed no/ certificate of Registered Title no			
Size of property			
Name of Bond Holder			
Mortgage Bond Account No		Date of Bond	
Ward		Planning Region	

PART C: EXISTING LAND USE INFORMATION

Land Use Scheme			
Present Zoning			
Present Height (Scheme)			
Present Density (Scheme)			
Present Coverage (Scheme)			
Present Annexure No or Schedule No		Present Amendment Scheme No	
Present Land Value		Present FAR	
Existing Development			

PART D: PROPOSED TOWNSHIP

Name and Extension of the proposed township							
Use zone no	Proposed use zone	Erf no	Average size m²	Height	FAR	Coverage	Other development control measures (density)

PART E: GENERAL INFORMATION

Has the consent of the Department of Minerals and Energy as custodian of mineral rights been obtained?	Yes	No

Is the property situated in a demarcated noise zone in terms of the Gauteng Noise Control Regulations, 1999?	Yes	No
Is the property situated within 3 km of a sewerage disposal works?	Yes	No
Name the local authority(s) that is situated within 10 km of the boundaries of the property		

Name the local authorities or authorised bodies that provide the following services:	
Water	
Electricity	
Sewerage	
Roads and stormwater	

Is the existing development (structures and land use) on the property described in the memorandum?	Yes	No
Is it required that the building(s) on the property be conserved in terms of the National Heritage resources Act, Act 25 of 1999?	Yes	No

ENDOWMENT/DWELLING UNITS

Does the layout plan provide for open spaces or parks according to section 69 of this By-law.	Yes	No
Motivate if answer is "no" above		
Provide the total number of dwelling units on all erven in the township		

ENVIRONMENTAL/BIOPHYSICAL SENSITIVITIES

Is the development a "listed activity" in terms of the National Environmental Management Amended Act, 2004 (Act 8 of 2004), with specific reference to the regulations promulgated under section 24(5)?		Yes	No
If "Yes" above, has an environmental impact assessment (EIA) process been initiated?		Yes	No
Indicate which process has been initiated	Basic	Yes	No
	Scoping	Yes	No
	None	Yes	No
Appointed environmental consultant	Name		
	Contact details		

Are two copies of the application regarding the above process attached to this application?	Yes	No
If the development is not a "listed activity" or if the above EIA process has not been initiated, have the on-site ecological issues been discussed in the memorandum?	Yes	No
Request permission to forward a copy of the application to external bodies in terms of section 44(5)	Yes	No

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required

documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/6

CHECKLIST FOR LAY-OUT PLANS FOR TOWNSHIP ESTABLISHEMENT

No	Requirements of information to be provided	Yes	No
1	Prints of the plan of the proposed township		
2	Plan number; CPD (Township name, extension / number of plans e.g. CPD MVO x55/1)		
3	Contour lines and values		
4	A bar scale		
5	The true north		
6	The name of the Municipality within whose area of jurisdiction the land on which the applicant proposes to establish the township is situated		
7	The boundaries of the proposed township		
8	The Property description as indicated in the 'name reservation letter'		
9	Grid co-ordinates and a reference to the geodetic system used		
10	Existing buildings in the proposed township		
11	Adjoining existing and adjoining proposed streets and roads with their names;		
12	Adjoining proposed public streets/roads with their names and widths		
13	adjoining erven in existing townships or proposed townships in respect of which applications have been submitted or notice has been given in terms of section 16(4) or 16(5)		
14	Streets, squares and Open spaces (Private and Public) in the proposed township		
15	Adjoining erven in existing townships or proposed townships in respect of which applications have been submitted		
16	Water courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township		
17	Public roads in or abutting the proposed township		
18	All servitude in or abutting the proposed township		
19	Private 'access' erven (name and widths) in or abutting the proposed township		
20	A table indicting the total number of erven in the proposed township, the number of erven for specific purposes (proposed zoning) and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets, the total length of the streets within the township, the area of streets as a percentage of the total area of the township and the area of parks and open spaces, if any, as a percentage of the total area of the township		
21	A locality plan, as an inset on the plan of the township, accurately drawn to a scale of not less than 1:50 000 or such other scale which the Municipality, as the case may be, may approve indicating:		
21.1	The situation of the proposed township on the farm or agricultural holding		
21.2	The routes giving access to the nearest main road and the road network in the vicinity of the township		
21.3	The boundaries of the farm portion or agricultural holding on which the township is to be established		
21.4	the situation of existing sewage disposal works and the distance from the proposed township of such works, where such works are situated within 3 km of the boundaries of the township		
21.5	The boundaries of a demarcated noise zone		
21.6	A bar scale, in respect of the locality plan		
21.7	The true north		
22	The erven in the proposed township accurately drawn to a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000; 1:2 500 or 1: 5000 and numbered consecutively in each block		
23	In an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plan on which the contour values are based		

No	Requirements of information to be provided	Yes	No
24	If the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings		
25	Each registered servitude over the land in the proposed township with a reference to the purpose of the servitude, the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed route		
26	The boundaries of the geological zones on dolomite as well as the certification thereof of the geologist (if applicable);		
27	The 1:50 year and 1:100 year flood line shall be certified on the layout plan		

It is hereby certified that in terms of the provisions of section 144 of the National Water Act, (Act 36 of 1998), the 1:50 and 1:100 year flood lines, are correctly indicated on the plan.

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

MLM: F/7

APPLICATION FORM FOR A DIVISION OR PHASING OF A TOWNSHIP APPLICATION IN TERMS OF SECTION 49(1)

NOTE: MLM: F/1 and F/5, PART A TO PART E MUST BE SUBMITTED TOGETHER WITH MLM: F/6

1. Name and extension:
.....

2. Date of approval of township to be divided: .....

3. Has extension of time in terms of section 53(10) been granted?

   Yes ☐ No ☐ Not applicable ☐

4. Has the general plan of the township to be divided been approved by the Surveyor-General?

   Yes ☐ No ☐

5. Division of township in ..... separate townships, namely:

.....

6. APPROVED LAND USES

Details of approved land uses of the township to be divided

Use zone no	Proposed use zone	Erf no	Size m²	Height	FAR	Coverage	Other development control measures (density)

7. PROPOSED LAND USES FOR SEPARATE TOWNSHIPS

Details of proposed land uses for township: .....

.....

Use zone no	Proposed use zone	Erf no	Average size m²	Height (Storeys)	FAR	Coverage	Other development control measures (density)

(Complete a separate table for each new township.)

8. ENDOWMENT AND DWELLING-UNITS

Details of endowment and total number of dwelling units for separate townships

Township name	Is endowment payable?			Total number of dwelling units
	Yes	No	If "No", why not?	

I, ... being the Registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/8

APPLICATION FORM FOR THE AMENDMENT OF AN APPROVED TOWNSHIP IN TERMS OF SECTION 46(8)

NOTE: MLM: F/1 and MLM F/5, PART A TO PART E MUST BE SUBMITTED TOGETHER WITH MLM: F/6

1. Name and extension: .....

2. Date of approval of township: .....

3. Have the documents contemplated in the above township been lodged at the Surveyor-General?

   Yes ☐ No ☐

4. If "Yes", have the Surveyor-General's comments on the proposed amendment in terms of section 16(4)(i) been submitted?

   Yes ☐ No ☐

5. **APPROVED LAND USES**

   Details of approved land uses

Use zone no	Proposed use zone	Erf No	Size m²	Height	FAR	Coverage	Other development control measures (density)

6. PROPOSED LAND USES

Details of proposed land uses

Use zone no	Proposed use zone	Erf no	Average size m²	Height	FAR	Coverage	Other development control measures (density)

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/9

APPLICATION FORM FOR SUBDIVISION AND CONSOLIDATION IN TERMS OF SECTION 51(1)

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

Township / Agricultural Holding / Farm		Portion (e.g. /R1)	
Erf / Plot / Farm No			
Ward			
Street Name			
Street Number		Planning Region	

SIMULTANEOUS CONSOLIDATION / SUBDIVISION

SUBDIVISION DETAILS

Proposed Portion Description	Buildable Area (m²)	Panhandle Area (m²)	Panhandle Width (m)	Portion Area

CONSOLIDATION DETAILS

Proposed Portion Description	Size (m²)

Land Use Scheme			
Present Zoning			
Present Height			
Present Density			
Present Coverage		Present FAR	
Present Annexure No		Present Amendment Scheme No	
Present Land Value			
Property Size (m²)		Title Deed Number	
Existing Development			
Restrictive Title Deed Condition Paragraph No			

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		Proof of Marital Status of the Owner	
Motivating Memorandum		Locality Plan		Registered Title Deed	

Zoning Certificate		Subdivision and/or consolidation plans		Other	

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/10

APPLICATION FORM FOR APPLICATION FOR EXTENSION OF TIME TO COMPLY WITH PRE-PROMULGATION CONDITIONS IN TERMS OF THIS BY-LAW

APPROVED APPLICATION INFORMATION

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

Type of application (section ito the By-law)			
Reference number			
Date of approval			
Date approval will lapse			
Township / Agricultural Holding / Farm			
Erf / Plot / Farm No		Portion (e.g. /R/1)	
Ward			
Street name			
Street number		Planning Region	

REQUIRED DOCUMENTS

Covering Letter		Power of Attorney		Bondholders Consent	
Company/Close Corporation/Trust resolution		Proof of Members of Company /Close Corporation/Trust		Proof of Marital Status of the Owner	
Motivating Memorandum with reasons for extension		Other			

I, ... being the registered Owner / Applicant of the property/ties declare that the above information is correct and that the required documents are attached.

I hereby acknowledge that the Midvaal Local Municipality has the right to request additional information or documentation should it be deemed necessary to be able to make an informed decision.

I further hereby acknowledge that should not all the required documentation be submitted, the application shall not be considered.

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

MLM: F/11

LIST OF ATTACHMENTS AND SUPPORTING INFORMATION REQUIRED / SUBMITTED BY THE APPLICANT AND CHECKLIST FOR MUNICIPAL USE

Checklist: to be completed by the Applicant Only				Checklist: for Official Use only		
YES	NO	ANNEXURE OR PAGE REFERENCE	DOCCUMENT ATTACHED	YES	NO	NA
			Official Receipt of payment of the application fees			
			Covering letter			
			Completed Application form			
			Power of Attorney			
			In the instant of the owner being a company: CM 29 form			
			In the instant of a close corporation a CK 1 or 2 forms			
			In the instant of a Trust a Letter of appointment of the Trustees			
			Proof of marriage out / in community of property			
			Bondholder's consent			
			Motivational Memorandum			
			Proposed development controls			
			Locality Plan			
			Land-Use Plan			
			Zoning Plan			
			Site Plan			
			Township Lay-out Plan			
			Zoning Certificate			
			Registered Title Deed			
			Township Name Reservation Letter			
			Conveyancer's Certificate			
			Proposed design / lay-out Plan			
			Proposed Subdivision Plan			
			Proposed Consolidation Plan			
			Mineral Rights Certificate (together with mineral holder's consent) and/or prospecting contract			
			Environmental Impact Assessment, including Heritage Impact Assessment and Archeological Assessment			
			Geo-technical Report (including geology)			
			Transport Impact Report			
			Retail study			
			Architectural drawings / draft Site Development Plans			
			Noise Impact assessment			
			List of conditions to be removed, amended or suspended in the Title Deed			

MLM: F/12

LIST OF NUMBER OF COPIES PER DOCUMENT PER LAND DEVELOPMENT APPLICATION REQUIRED

Documents	Rezoning 16(1)	Removal of Restrictions 16(2)	Consent use 16(3)	Township Establishment 16(4)	Division or Phasing of Township 16(5)	Subdivision & Consolidation
Covering Letter	5	5	5	3	5	5
Application Form	5	5	5	5 Plus 6 (External Departments)	5	5
Power of Attorney	3	3	3	3	3	3
Company/close corporation/trust resolution	3	3	3	3	3	3
Proof of Members of company/close Corporation/trust	3	3	3	3	3	3
Proof of Marital Status of the Owner	3	3	3	nil	3	3
Bondholder's consent	3	3	3	3	3	3
Motivating Memorandum	5	5	5	5 Plus 6 (External Departments)	5	5
Locality plan	5	5	5	nil	5	5
Zoning Plan	5	Nil	5	nil	nil	nil
Zoning Certificate	5	5	5	3	5	5
Site plan	5	Nil	5	nil	nil	nil
Land Use Plan	5	Nil	5	nil	nil	nil
Registered Title Deed	3	3	3	3	3	3
List of names and addresses of surrounding owners	nil	5	Nil	nil		nil
The Municipality's report on the sale/lease of the application property as approved by Council (if application is on Council owned land)	3	3	3	3	3	3
Subdivision and/or consolidation sketch plans	nil	Nil	nil	nil	5	5
Proof of Advertisement	1	1	1		1	1
Name Reservation letter	nil	Nil	nil	3	nil	nil
Deeds/Conveyances Report	nil	Nil	nil	4	nil	nil
Land Surveyors Report	nil	Nil	nil	3	nil	nil

Documents	Rezoning	Removal of Restrictions	Consent use	Township Establishment	Division or Phasing of Township	Subdivision & Consolidation
Geological Report	nil	Nil	nil	3	nil	nil
Township Layout Plan	nil	Nil	nil	5 Plus 6 (External Departments	nil	nil
Land Use Map	nil	Nil	nil	5	nil	nil
Proposed Conditions of Establishment	nil	Nil	nil	5	nil	nil
Transport Impact Report	nil	Nil	nil	5	nil	nil
Retail Study (If Required)	nil	Nil	nil	2	nil	nil
Architectural drawings/ Draft Site Development Plans (If Required)	nil	Nil	nil	5	nil	nil
Noise Impact Assessment (If Required)	nil	Nil	nil	2	nil	nil
Divisional Plan	nil	Nil	nil	nil	5	nil
Other						

The number of copies and the documents required for submission per land development application can be amended from time to time by the Municipality