

## LOCAL AUTHORITY NOTICE 1242 OF 2016

**THE CITY OF JOHANNESBURG  
MUNICIPAL PLANNING BY-LAW, 2016****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** 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** 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.

**NOW THEREFORE** the City of Johannesburg Metropolitan Municipality has adopted the following By-Law.

**ARRANGEMENT OF BY-LAW****CHAPTER 1****DEFINITIONS**

1. Definitions

**CHAPTER 2****APPLICATION OF BY-LAW, ALIGNMENT OF AUTHORISATIONS AND  
GENERAL PROVISIONS APPLICABLE TO AN APPLICATION**

2. Application of By-Law
3. Alignment of authorisations
4. Types of applications
5. Provisions and principles which shall guide and inform all land development applications

**CHAPTER 3****LAND USE SCHEME AND MUNICIPAL SPATIAL DEVELOPMENT  
FRAMEWORK**

6. Land use scheme
7. Purpose and content of land use scheme
8. Legal effect of land use scheme
9. Amendment of land use scheme
10. Municipal Spatial development framework
11. Content of Municipal Spatial development framework
12. Legal effect of Municipal Spatial development framework

**CHAPTER 4****MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIAL**

13. Establishment of Municipal Planning Tribunal
14. Composition of the Municipal Planning Tribunal
15. Powers and functions of the Municipal Planning Tribunal
16. Classification of applications to be determined by the Municipal Planning Tribunal
17. Authorised official
18. Classification of applications to be determined by the authorised official

## CHAPTER 5

### GENERAL REQUIREMENTS AND APPLICATION PROCEDURES FOR DEVELOPMENT APPLICATIONS

#### *Part 1*

#### ***Consent Use and Building line relaxation***

- 19. Consent use
- 20. Building line relaxation

#### *Part 2*

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

- 21. Amendment of Land Use Scheme
- 22. Decision and post-decision procedures
- 23. Correction of errors and omissions
- 24. Prohibition of a further application in certain circumstances
- 25. Contributions to be paid in respect of external engineering services and Open Spaces

#### *Part 3*

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

- 26. Township establishment
- 27. Consent to certain contracts and options
- 28. Decision and post-decision procedures
- 29. Prohibition of registration of certain deeds of transfer or endorsement on certain title deeds
- 30. Failure to comply with requirements of the City
- 31. Division/phasing of an approved township
- 32. Extension of boundaries of an approved township

#### *Part 4*

#### ***Subdivision and/or consolidation of an erf in an approved township and the subdivision of any other land and matters related thereto***

- 33. Subdivision and/or consolidation of an erf/erven in an approved township
- 34. Cancellation and amendment of conditions/plan, endorsement of certain documents by Registrar and access
- 35. Subdivision of any other land
- 36. Failure to comply with requirements of the City
- 37. Prohibition of registration of certain deeds of transfer

**Part 5*****Alteration, amendment or cancellation of a general plan***

- 38. Alteration, amendment or cancellation of a general plan
- 39. Decision and post-decision procedures
- 40. Effect of alteration, amendment or cancellation of general plan

**Part 6*****Amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations in respect of land and matters related thereto***

- 41. Amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations in respect of land
- 42. Decision and post-decision procedures
- 43. Endorsements in connection with amendments, suspensions or removals or restrictions or obligations
- 44. Contributions to be paid in respect of external engineering services and Open Spaces

**Part 7*****Permanent closure of a public place and diversion of a street***

- 45. Permanent closing of a public place or diversion of a street

**CHAPTER 6****ENGINEERING SERVICES, CONTRIBUTIONS AND OPEN SPACES****Part 1*****Engineering services and engineering services contributions***

- 46. Engineering services
- 47. External engineering services contributions

**Part 2*****Provisions of Land for open space and inclusionary housing***

- 48. Provision of land for open space, payment in lieu of providing open space and inclusionary housing contribution

**CHAPTER 7****APPEAL AUTHORITY AND PETITION TO INTERVENE**

- 49. Internal appeals
- 50. Hearing by appeal authority
- 51. Record of decisions
- 52. Petition to be granted intervener status

## CHAPTER 8

### GENERAL PROVISIONS

- 53. Sectional Title Schemes
- 54. Approval or adoption of amendment scheme under certain circumstances
- 55. Documents, plans and diagrams and any other information to be submitted with land development applications under the provisions of this By-law
- 56. Continuation of application by new owner
- 57. Time frames for land development applications
- 58. Hearing of submissions, objections, comments or representations
- 59. Reasons for a decision
- 60. Naming and numbering of streets
- 61. Tariff of charges
- 62. Offences and penalties
- 63. Law enforcement
- 64. National and Provincial interest
- 65. Transitional provisions
- 66. Exemption
- 67. Administrative language
- 68. Validity of Objections
- 69. Excision from Agricultural Holding Register
- 70. Short title and commencement

#### Schedule 1

#### Schedule 2

## CHAPTER 1

### DEFINITIONS

#### 1. Definitions

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

**“Adjustment of Fines Act”** means the Adjustment of Fines Act, 1991 (Act 101 of 1991);

**“adopt”** and **“approved”** shall have corresponding meanings;

**“amendment scheme”** means an approved amendment scheme for purposes of section 22(4) of this By-law and it also includes an amendment to the City’s Land Use Scheme for purposes of section 9 of this By-law;

**“appeal authority”** means the appeal authority envisaged in section 49 of this By-law.

**“authorised official”** means an official in the employ of the City as envisaged in section 35(2) of the SPLUMA and section 17 of this By-law authorised to take decisions on certain land use and land development applications and it

includes those municipal officials to which such power has been sub-delegated as envisaged in section 17(2) of this By-law;

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

**“Black Communities Development Act”** means the Black Communities Development Act, 1984 (Act 4 of 1984);

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

**“consolidation”** means the joining of two or more adjacent erven into a single registered entity 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 municipal council and legislative authority of the City as contemplated in section 157 of the Constitution;

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

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

**“development principles”** means the principles as set out in Chapter 2, and more specifically, section 7 of the SPLUMA;

**“diagram”** means an approved diagram as defined in the Land Survey Act;

**“engineering services”** means a system for the provision of water, electricity, gas, roads, storm water drainage and collection and removal of solid waste or sewerage, required for the purpose of land development;

**“engineering services agreement”** means the agreement envisaged in section 46(2) of this By-law;

**“engineering services contribution”** means a monetary contribution as envisaged in sections 19(7)(e), 25(1)(a), 33(7)(a), 44 and 47(1) 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;

**“executive authority”**, in relation to the City, means the executive committee or executive mayor of the City or, if the City does not have an executive committee or executive mayor, a committee of councillors appointed by the Council;

**“external engineering service”** means an engineering service situated outside the boundaries of a land area required to serve the use and development of the land area and is either a link engineering service or a bulk engineering service or an engineering service which has been classified by agreement as such in terms of section 46(6) of this By-law;

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

**“illegal township”** means land held under farm title or as an agricultural holding in terms of the Agricultural Holdings (Transvaal Registration) Act, 1919 (Act 22 of 1919), or other forms of ownership, used for purposes contemplated in the definition of a **“township”** where such use is not being exercised as a result of the establishment of a township contemplated in section 26(1) of this By-law or a township established in terms of any other law, but excludes informal settlements as may be determined by the Municipality;

**“inclusionary housing contribution”** means a monetary contribution as envisaged in section 48(7) of this By-law;

**“informal settlement”** means the informal occupation of land by persons none of whom are the registered owner of such land, which persons are using the land for primarily residential purposes, with or without the consent of the registered owner and established outside of the provisions of this By-law or any other applicable planning legislation;

**“integrated development plan”** means a plan as contemplated in section 25 of the Municipal Systems Act;

**“interested person”** means any person or group of persons, legal entity or body that can demonstrate their interest in any land development application as contemplated in section 52(1) of this By-law;

**“internal engineering service”** means an engineering service situated within the boundaries of a land area required for the use and development of the land area and which is to be owned and operated by the City or a service provider;

**“land”** means any erf, agricultural holding, sectional title scheme-land or farm portion and includes any improvement or building on land and any real right 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 City’s land use scheme approved and adopted in terms of section 24(1) of the SPLUMA and section 6 of this By-law and it includes any other town planning scheme as well as any other legislation that operates as a town planning scheme that might still be in operation within the City’s jurisdiction until replaced by a single land use scheme.

**“law enforcement officer”** means a municipal official envisaged in section 63(2) of this By-law.

**“link engineering service”** means an external engineering service required to connect an internal engineering service to a bulk engineering service up to 100 metres and includes the land required for the link engineering service;

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

**“Municipal Manager”** means the person appointed in terms of section 82 of the Municipal Structures and **“City Manager”** shall have a corresponding meaning;

**“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 SPLUMA read with section 13(1) of this By-law;

**“municipal spatial development framework”** means a spatial development framework, and any component thereof, adopted and approved by the City’s Municipal Council in terms of Chapter 5 of the Municipal Systems Act as a component of its integrated development plan and as envisaged in section 20 of the SPLUMA read with section 10 of this By-law;

**“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);

**“open space”**, in relation to a land area, means land set aside or to be set aside for the use by a community as a recreation area, irrespective of the ownership of such land and it includes private and public open space;

**“open space contribution”** means a monetary contribution as envisaged in sections 19(7)(f), 25(1)(b), 33(7)(b), 44 and 48(5) of this By-law;

**“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 City of Johannesburg 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 34 of this By-law shall mean an area of land which is either part of the subdivided portion or is notarially tied thereto, is at least 4 metres and at most 8 metres wide and is used as access to a public street;

**“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 City, and includes a public open space and a servitude for any similar purposes in favour of the general public as contemplated in the SPLUMA 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;

**“Schedule”** means the schedules to this By-law which form part of this By-law;

**“site”**, in relation to land, may include more than one erf or portion of land, if such erven or portions of land are contiguous and have been notarially tied to the satisfaction of the City or have been consolidated;

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

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

**“the City”** means the City of Johannesburg Metropolitan Municipality and its Municipal Council and any of its successors in title as envisaged in section 155(1) of the Constitution established by Notice No 1866 of 2000 in terms of the Municipal Structures Act and for the purposes of this By-law shall include a committee, an official or group of officials duly delegated in terms of section 56 of SPLUMA read with section 59 of the Municipal Systems Act to perform any duties assigned to them in terms of this By-law, the Municipal Planning Tribunal or the authorised official, where the context so requires;

**“this By-law”** means the City of Johannesburg Municipal Planning By-law, 2016 and it includes the Schedules thereto;

**“township”** means an area of land divided into erven which may be combined with public places and roads as indicated on a general plan, which is used and developed mainly for residential, business, commercial, industrial, institutional, educational or other similar purposes as contained in a land use scheme, or is intended to be so used and developed.

## CHAPTER 2

### APPLICATION OF BY-LAW, ALIGNMENT OF AUTHORISATIONS AND GENERAL PROVISIONS APPLICABLE TO AN APPLICATION

#### 2. Application of By-law

- (1) Subject to subsection (5) below, the provisions of this By-law are consistent with the provisions of SPLUMA.
- (2) This By-law applies to all land and land development applications within the jurisdiction of the City of Johannesburg and all such applications shall be submitted under the provisions of this By-law.
- (3) No person may use or develop land unless the use or land development is permitted in terms of the City's land use scheme or an approval in terms this By-law.
- (4) This By-law binds 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 a conflict between SPLUMA and its Regulations, any Provincial Act dealing with spatial planning and land use management and any regulations issued in terms thereof and the provisions of this By-law, the provisions of this By-law shall prevail to the extent that the provisions of this By-law give effect to “municipal planning” as a local government matter as per Part B of Schedule 4 of the Constitution.

#### 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 City 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**

- (1) Land development applications that may be submitted in terms of this By-law include the following-
  - (a) consent-use as provided for in the City's land use scheme;
  - (b) building line relaxation as provided for in the City's land use scheme;
  - (c) amendment of a provision of the City's land use scheme or any other scheme which might still be applicable relating to land (rezoning);
  - (d) township establishment;
  - (e) subdivision and/or consolidation of an erf/erven in an approved township or the subdivision of any other land;
  - (f) phasing of an approved township;
  - (g) extension of boundaries of an approved township;
  - (h) amendment or cancellation either wholly or in part of a general plan;
  - (i) amendment, suspension or removal of a restrictive or obsolete condition, obligation, servitude or reservation registered against the title of land, 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 or diversion of a street; and
  - (k) any other application as provided for in this By-law.

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

- (1) Any land development application in terms of this By-law must give effect to the development principles as set out in section 7(1) of Chapter 2 of the SPLUMA.
- (2) Any land development application in terms of this By-law shall be guided and informed by the City's integrated development plan and municipal spatial development framework as adopted and approved in terms of section 20 of the SPLUMA and section 10 of this By-law.
- (3) Any land development application in terms of this By-law must address need, reasonableness, desirability and public interest.
- (4) Any land development application 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 3

## LAND USE SCHEME AND MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

### 6. Land use scheme

- (1) The City shall adopt and approve, after public consultation, a single land use scheme for its entire area of jurisdiction.
- (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) take cognisance of any culturally or historically significant land uses and comply with any heritage resources legislation;
  - (d) 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;
  - (e) include provisions to promote the inclusion of affordable housing in residential land development;
  - (f) include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies;
  - (g) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
  - (h) 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 with the consent and written consent of the City;
  - (b) specific requirements regarding any special zones identified to address the development priorities of the City; 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.

### 7. Purpose and content of land use scheme

- (1) The land use scheme adopted and approved in terms of section 6 above must give effect to and be consistent with the City's municipal spatial development framework and determine the use and development of land within the City'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.

## **8. 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 City, a state-owned enterprise and organs of state within the City's area of jurisdiction are bound by the provisions of such a land use scheme;
  - (b) replaces all existing schemes within the City's area of jurisdiction to which the land use scheme applies as well as "Annexure F" to the Regulations Relating to Township Establishment and Land Use made in terms of the Black Communities Development Act; 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 or any other applicable town planning legislation, until such scheme or any other applicable town planning legislation is replaced by a land use scheme as contemplated in section 6(1) above.
- (3) The City has a duty to enforce the provisions of its 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 6 above must address conflict between the land use scheme adopted and the one it purports to repeal or replace.

## **9. Amendment of land use scheme**

- (1) The City may amend its land use scheme if the amendment-
  - (a) is in the public interest;
  - (b) to advance, or is in the interest of, a disadvantaged community; and
  - (c) in order to further the vision and development goals and objectives of the City as set out in its integrated development plan and municipal spatial development framework.
- (2) Where the City intends to amend its land use scheme, sections 21 to 23 shall apply *mutatis mutandis* to such amendment.

## **10. Municipal spatial development framework**

- (1) The City must by notice in the *Provincial Gazette* adopt and approve a municipal spatial development framework for the municipality.
- (2) The City's municipal spatial development framework must be prepared as part of the City's integrated development plan process in terms of Chapter 5 of the Municipal Systems Act and the Municipal Planning Regulations issued in terms thereof.

- (3) Notwithstanding the provisions of the Municipal Systems Act and its Regulations, before the City adopts its municipal spatial development framework for purposes of this section, including any material amendments thereto, the City must-
- (a) give notice of the proposed municipal spatial development framework in the *Provincial Gazette* and in the media;
  - (b) invite the public to submit written representations in respect of the proposed municipal spatial development framework to the City within 60 days after the publication of the notice envisaged in (a) above; and
  - (c) consider all representations received in respect of the proposed municipal spatial development framework.
- (4) The provisions of subsection (3) above shall not be applicable to what is deemed to be minor amendments to its municipal spatial development framework and/or any of its components.

## 11. Content of municipal spatial development framework

- (1) The City's spatial development framework must-
- (a) give effect to the development principles and applicable norms and standards as set out in Chapter 2 of the SPLUMA;
  - (b) include a written and spatial representation of a five year spatial development plan for the spatial form of the City;
  - (c) include a longer term spatial development vision statement for the City'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 City, 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 City'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 City's area of jurisdiction, including the spatial location of environmental sensitivities and high potential agricultural land;
  - (k) identify the designation of areas in the City 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 City 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 City 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.

## **12. Legal effect of municipal spatial development framework**

- (1) Subject to subsection (2) below, the City 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 City 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 City'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 City'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.

## **CHAPTER 4**

### **MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIAL**

## **13. Establishment of Municipal Planning Tribunal**

- (1) The City shall, in order to determine land development applications within its area of jurisdiction, establish a Municipal Planning Tribunal.
- (2) The Municipal Planning Tribunal shall decide applications referred to it as per the Municipal Planning Tribunal's approved terms of reference, the provisions of the SPLUMA and this By-law.

#### **14. Composition of Municipal Planning Tribunal**

- (1) A Municipal Planning Tribunal must consist of-
  - (a) officials in the full-time employment of the City; and,  
at the sole discretion of the City, it may also include-
  - (b) persons appointed by the City 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 members or more as the City deems necessary.
- (4) A Municipal Planning Tribunal may designate at least three members of the Tribunal which will form a quorum to hear, consider and decide a matter which comes before it.
- (5) The City must designate a member of the Municipal Planning Tribunal as chairperson(s).
- (6) The terms and conditions of service of members of the Municipal Planning Tribunal as envisaged in subsection (1)(a) and (b) above shall be as per Schedule 1 of the SPLUMA Regulations.
- (7) The members of the Municipal Planning Tribunal must also adhere to and shall be required to sign a code of conduct as approved by the City which shall be substantially in accordance with Schedule 3 of the SPLUMA Regulations.
- (8) The members of the Municipal Planning Tribunal shall also be subject to disqualification from membership as set out in section 38 of the SPLUMA.
- (9) Should the City, 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 SPLUMA Regulations.

#### **15. 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 the 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, the SPLUMA 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 City or Municipal Entity; 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 upon any written request submitted by any of the parties which appeared before it within 28 days of date of receipt of the notice of the decision and such reasons shall be provided by the Municipal Planning Tribunal's Chairperson in writing within 14 days from date of receipt of such request.

#### **16. Classification of applications to be determined by the Municipal Planning Tribunal**

Subject to section 18(3), the Municipal Planning Tribunal shall decide any opposed land development application referred to it in terms of the provisions of this By-law, or the City's land use scheme or any other applicable law relating to land development.

#### **17. Authorised official**

- (1) As envisaged in terms of section 35(2) of the SPLUMA the City may authorise an official in terms of a proper delegated power to decide on 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 City and under the control of the authorised official.
- (3) The provisions of section 15 above shall apply *mutatis mutandis* to such authorised official or duly authorised sub-delegate(s).

#### **18. 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 City's land use scheme or any other applicable law relating to land development which application complies with the provisions of section 5 above.
- (2) The authorised official may decide any unopposed application which does not comply with any one or more of the criteria as set out in section 5 of this By-law without forwarding it to the Municipal Planning Tribunal for a decision.
- (3) Notwithstanding subsection (1) and (2) above, such authorised official will have the discretion to forward any application referred to him/her to the Municipal Planning Tribunal for a decision.
- (4) Such authorised official shall also decide applications as envisaged in section 66(2) of this By-law.

## CHAPTER 5

### GENERAL REQUIREMENTS AND APPLICATION PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS

#### *Part 1*

#### *Consent Use and Building Line Relaxation*

#### **19. Consent use**

- (1) An owner of land may submit a consent use application in terms of this By-law and as provided for in the City's land use scheme to use the land or site or any building on the land or site for a particular purpose.
- (2) A consent use application as envisaged in subsection (1) above shall comply with the following procedures:
  - (a) A notice shall be displayed on the land under consideration in English;
  - (b) Such notice shall be displayed on the land within 7 (seven) days from the date of the City's letter of acknowledgment of a complete application;
  - (c) Such notice shall be in the format as determined by the City;
  - (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 1<sup>st</sup> display of such notice;
  - (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, farm portion or agricultural holding concerned and the nature and general purpose of the application;
  - (g) Such notice shall reflect the date of 1<sup>st</sup> display of such notice 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 City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to both the City and the person mentioned in subsection (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
  - (i) In addition to the requirements in subsections (a) to (h) above, a letter shall also be dispatched within 7 days of date of first display of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsections (f), (g) and (h) above.
- (3) Proof of compliance with subsection (2) above in the form of a written affidavit shall be submitted to the City within 14 days of expiry of the date contemplated in subsection (2)(h) above.

- (4) 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 City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 58 below.
- (5) No decision on the application shall be taken unless due regard has been given to each objection, comment and representation lodged timeously.
- (6) Subject to section 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase as contemplated in section 57(3) below;
- (7) Such consent use application may be refused or it may be approved subject to any condition the City 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 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 City 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 City in respect of open spaces where the granting of the consent will bring about a higher residential density.
- (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 City 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 City shall keep a proper record of each approval granted in terms of subsection (7) above.
- (10) The contribution and amount of money envisaged in subsection (7)(e) and (f) above shall become due and payable within 30 days from date of the expiry of the time period referred to in section 49(1) of this By-law, or within such further period as the City may allow, failing which, the consent shall automatically lapse.
- (11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 30 day period stated in that subsection.
- (12) Where the City's land use scheme makes provision for a written consent application, such application shall be exempted from compliance with subsection (2) above.

## **20. Building line relaxation**

- (1) Any building line restriction imposed on land in terms of the City's land use scheme may be relaxed in terms of an application submitted by an 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/site 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 City, may possibly be adversely affected by the relaxation of the applicable building line restriction setting out the following:
    - (aa) 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;
    - (bb) The date on which such application was submitted to the City and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and
    - (cc) That any objection, comment or representation in regard thereto must be submitted timeously to both the City and the person mentioned in subsection (bb) 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 City prior to consideration of the complete application within 14 days of expiry of the time period in subsection (2)(a)(cc) above.
- (3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(cc) above, the applicant may respond in writing thereto to the City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 58 below.
- (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 18(3), in the instance of an unopposed complete 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 administrative phase as contemplated in section 57(3) below;
- (6) Such building line relaxation may be refused or approved subject to any condition the City may deem fit.
- (7) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the City shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (8) The City shall keep a proper record of each building line relaxation approval granted.
- (9) 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*****21. Amendment of land use scheme**

- (1) An owner of land who wishes to have a provision of the City's land use scheme or any provision of any other scheme which may still be applicable to the land under consideration amended, may submit an application in terms of this By-law to the City for consideration.
- (2) An application for the amendment of a provision of the City'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 application site 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 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 City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the City 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 site notice that contains the same detail as envisaged in subsections (b) to (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 (a) above;
  - (h) Such notice shall be in the format as determined by the City;
  - (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;
  - (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 (a) above; and
  - (k) In addition to the requirements in subsections (a) and (f) above, a letter shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing

- such owners/occupiers of all the detail as prescribed in subsection (2)(b) to (e) above.
- (3) Proof of compliance with subsection (2) above must be submitted to the City in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.
  - (4) On receipt of an application in terms of subsection (1) above, the City 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 City, have an interest in the application.
  - (5) The interested parties mentioned in subsection (4)(a)-(c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the City 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 City shall forward a copy of each objection, comment and representation received in terms of the notices envisaged in subsection (2) 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 City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 58 below.
  - (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 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase as contemplated in section 57(3) below.
  - (9) An owner of land 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 City as being material which would warrant re-compliance with subsections (2) and (4) above.

## **22. Decision and post-decision procedures**

- (1) An application as envisaged in section 21(1) above may be approved subject to any condition the City 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 City 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 City shall keep a proper record of each decision in terms of subsection (1) above.
- (4) Only where the City has approved an application in terms of subsection (1) above and after the expiry of the time period envisaged in section 49(1) of this



By-law, it shall 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 an approved scheme which is an amendment scheme.

- (5) Prior to the notice being published as envisaged in subsection (4) above, the owner of land may abandon the approval by giving written notice to the City.
- (6) The City 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.
- (7) 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.
- (8) The City 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.
- (9) No provisional authorisation as contemplated in section 7(6) of the National Building Regulations and Building Standards Act shall be issued unless an approval has been granted in terms of subsection (1) above.

### **23. Correction of errors or omissions**

Where the City 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 again following the provisions of sections 21 and 22 above, it may correct such error or omission by notice in the *Provincial Gazette*.

### **24. Prohibition of a further application in certain circumstances**

- (1) Where the City has approved an application envisaged in section 21(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 21(1) within a period of 24 months from the date of coming into operation of the scheme.
- (2) Notwithstanding subsection (1) above, the City may, upon written application, grant consent that, due to an acceptable change of circumstances, a further amendment application as envisaged in section 21(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 City shall consider the application and notify the owner of land of its decision.
- (4) The provisions of subsection (1) above shall not apply to what is deemed by the authorised official to be minor amendments to the approved amendment scheme.

### **25. Contributions to be paid in respect of external engineering services and Open Spaces**

- (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 22(7) above, the City may, by registered letter, by hand or by any other means available direct the 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 46(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 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:
  - (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 owner of land who:
  - (a) wishes to avoid the payment of a contribution envisaged in subsection (1) above may request the City to repeal the amendment scheme concerned within a period of 90 days from the date of the letter envisaged in subsection (1) above; or
  - (b) wishes to avoid payment of or wishes to reduce the amount of a contribution envisaged in subsection (1) above may in terms of section 21(1) above apply for the further amendment of the land use scheme concerned within 90 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 City shall grant or refuse the request and, if granted, give notice thereof in the *Provincial Gazette*.
- (5) Where the City 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) Subject to subsection (8) below, 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 or within such further period as the City may allow.
- (7) Subject to subsection (8) below, 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 City 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 City.
- (9) In exercising any of the powers under subsections (8)(a) – (c) above, the City may impose any condition it may deem fit including a condition regarding interest.



**Part 3*****Township establishment, division/phasing of an approved township, extension of boundaries of an approved township and matters related thereto*****26. Township establishment**

- (1) An owner of land who wishes to establish a township on its land which falls within the jurisdiction of the City may submit an application in terms of this By-law to the City for consideration.
- (2) A township must be established on any farm portion or agricultural holding where the land concerned is to be used, developed or subdivided mainly for residential, business, commercial, industrial, institutional, educational or other similar purposes as defined in the applicable land use scheme, excluding agricultural, open space or nature conservation purposes.
- (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 by simultaneously publishing a notice in the *Provincial Gazette* and a newspaper that circulates within the area of jurisdiction of the application site 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 proposed township and the nature and general purpose of the application;
  - (d) Such notice shall further 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 City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the City 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 (a) above.
  - (f) A site notice that contains the same detail as envisaged in subsections (b) to (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 (a) above;
  - (h) Such notice shall be in the format as determined by the City;
  - (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;
  - (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 (a) above; and
  - (k) In addition to the requirements in subsections (a) and (f) above, a letter shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above to the owners/occupiers of all

contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsection 3(b) to (e) above.

- (4) Proof of compliance with subsection (3) above must be submitted to the City in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (3)(e) above.
- (5) On receipt of an application in terms of subsection (1) above, the City 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 City, have an interest in the application.
- (6) The interested parties mentioned in subsections (5)(a) to (c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the City 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 City shall forward a copy of each objection, comment and representation received in terms of the notice envisaged in subsection (3) and from the interested parties in terms of subsection (5) above in respect of the application to the applicant and the applicant may respond in writing thereto to the City within 28 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for determination subject to the provisions of section 58 below.
- (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 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase as contemplated in section 57(3) below.
- (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 owner of land may-
  - (a) of his own accord and with the consent of the City; or
  - (b) at the request of the City,amend his application, provided that the amendment is not regarded in the opinion of the City as being material which would warrant re-compliance with subsections (3) and (5) above.

## **27. Authorisation of certain contracts and options**

- (1) After a township application has been approved as contemplated in section 28(1) below and after complying with section 28(5) of this By-law, an owner of land may also apply to the City for authorisation to enter into any contract for the sale, exchange or alienation or disposal in any other manner 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 City may grant such authorisation 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 City a guarantee of such type and for such amount as the City may determine and which is otherwise to its satisfaction that the applicant will fulfil its duties in respect of the engineering services as envisaged in section 46(1) below and if the applicant fails to do so the authorisation shall lapse.
  - (3) The City shall notify the owner of land of its decision in writing and of any condition imposed.
  - (4) Where the City has granted such authorisation as envisaged in subsection (1) above, the contract or option shall contain a clause stating that the township concerned has not been declared an approved township for purposes of section 28(15).
  - (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 as contemplated in section 28(15), 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.

## **28. Decision and post-decision procedures**

- (1) After the provisions of section 26 have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.
- (2) Where the City 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 City 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 owner of land has been notified in terms of subsection (3) above that his application has been approved, but before the township is declared an approved township as contemplated in subsection (15) below, the City may, in consultation with the owner of land, amend or delete any condition imposed in terms of subsection (2) above or add any further condition.
- (5) After an owner of land has been notified in terms of subsection (3) that his application has been approved, the owner of land shall within a period of 12 months from the date of such notice, or such further period as the City 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 applicant 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 and if granted, may not exceed another 24 months and no further extension shall be granted.

- (7) Where the 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 City accordingly and where the City is satisfied, after consulting the owner of land, that the owner of land has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.
- (8) An owner of land who has been notified in terms of subsection (3) above that his application has been approved but prior to the township being declared an approved township as contemplated in subsection (15) below, 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,
- submit a further application to the City for the amendment of such approval unless:
- (i) the amendment is, in the City's opinion, so material as to constitute a new application in terms of section 26(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 26(3) and/or (5) above,
- and subsections (1) and (2) of this section shall apply *mutatis mutandis* to such application.
- (9) The owner of land shall lodge with the City, 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 applicant fails to comply within the 3 month period, the City may obtain a certified copy or tracing directly from the Surveyor-General at the applicant's costs.
- (10) After complying with subsection (5) above, the applicant 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 City may allow.
- (11) The Registrar shall not accept such plans, diagrams or any other documents for endorsement or registration until such time as the City has advised him in writing that the applicant has complied with such pre-proclamation conditions as the City may require to be fulfilled before giving notice in terms of subsection (15) below 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 and if granted, may not exceed another 24 months and no further extension shall be granted.

- (14) Having endorsed or registered the title deeds envisaged in subsection (10) above, the Registrar shall notify the City 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 City 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, open spaces and inclusionary housing contributions (if applicable) required to be paid in respect of the approved township as envisaged in sections 47(1), 48(5) and 48(7) below, shall be paid within 12 months from date of the notice envisaged in subsection (15) above, failing which, it may be subject to arrear interest as well as escalation.
- (17) Where a township owner is required to transfer land to the City 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 issuing of the certificate as contemplated in section 29(1) below.
- (18) With effect from the date of the notice envisaged in subsection (15) above, the ownership in any public road in a township established in terms of this By-law, shall vest in the City.

## **29. 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 City certifies that-
  - (a) the township has been declared an approved township in terms of section 28(15) above;
  - (b) that any condition as set out in the schedule envisaged in subsection 28(15) above has been complied with;
  - (c) the provisions of section 28(17) above in respect of the transfer of land to the City or any other organ of state (if applicable) have been complied with;
  - (d) that the City 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 the approval of a building plan in terms of the National Building Regulations and Building Standards Act in respect of the erf in question; and
  - (e) subject to section 28(16) above, all outstanding external engineering services- and inclusionary housing contributions and all amounts in lieu of open spaces (where applicable) as envisaged in sections 47(1), 48(5) and 48(7) 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.
- (3) No building plans shall be approved and no occupancy certificate shall be issued in terms of the provisions of the National Building Regulations and



Building Standards Act unless the certificate contemplated in subsection (1) above has been issued.

### **30. Failure to comply with requirements of the City**

Where an owner of land has, for a period of one year from the date he was requested in writing to comply with any requirement of the City in respect of an application envisaged in section 26(1) above, failed to comply, the City shall notify the owner of land of such failure and thereupon the application shall automatically lapse.

### **31. Phasing of an approved township**

- (1) An owner of land who has been notified in terms of section 28(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 City may allow;
  - (b) shall, if directed to do so by the City, within such period as the City may determine, apply to the City for the phasing of the approved township into two or more separate townships.
- (2) On receipt of an application envisaged in subsection (1) above, the City may-
  - (a) where the documents envisaged in subsection 28(5) have not yet been lodged with the Surveyor-General;
  - (b) where the documents envisaged in subsection 28(5) above have been lodged with the Surveyor-General, after consultation with the Surveyor-General, consent to the phasing of the township subject to any condition the City may deem expedient.
- (3) Where consent has been granted in terms of subsection (2) above, the City shall forthwith notify the owner of land in writing thereof and of any condition imposed.
- (4) The owner of land shall within a period of 3 months from the date of the notice envisaged in subsection (3) above, or such further period as the City may allow, submit to the City 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 City 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 28(1) above and a notice envisaged in section 28(3) above.
- (7) The provisions of sections 28(4) to (18), 29(1) to (3) and 30 shall apply *mutatis mutandis* to such phased townships.

### **32. 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 submit an application to the City.
- (2) The provisions of section 26(3) to (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 26(3) to (10) have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.
- (4) Where the City 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 complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the City 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 City 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 28(15) on which the township concerned was declared an approved township;
  - (b) impose a condition that the applicant shall pay to the City an amount of money in respect of the provision of the engineering services envisaged in terms of section 46(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 28(15).

#### ***Part 4***

### ***Subdivision and/or consolidation of an erf in an approved township and the subdivision of any other land and matters related thereto***

### **33. Subdivision and/or consolidation of an erf/erven in an approved township**

- (1) An owner 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 submit an application, simultaneously or separately, as the case may be, to the City as provided for in its land use scheme and at the same time lodge a plan with the City setting out the proposed subdivision and/or consolidation.

- (2) Only an application for subdivision in respect of land zoned "Residential 1" 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 the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane, setting out the following:
    - (aa) 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;
    - (bb) The name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and
    - (cc) That any objection, comment or representation in regard thereto must be submitted timeously to both the City and the person mentioned in subsection (bb) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 28 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 City within 14 days from date of expiry of the date contemplated in subsection (2)(a)(cc) above.
- (3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(cc) above, the applicant may respond in writing thereto to the City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 58 below.
- (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 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 60 days of date of expiry of the administrative phase as contemplated in section 57(3) below.
- (6) Such subdivision and/or consolidation application may be refused or approved subject to any condition the City may deem fit which may include conditions to be registered against the relevant erf's title deed.
- (7) With a subdivision application, such condition may include a condition that the owner shall pay to the City an amount of money in respect of the provision of-
- (a) the engineering services where it will be necessary to enhance or improve the services as a result of the subdivision;
  - (b) open spaces, and such amount shall be determined by the City in terms of this By-law or approved policy,
- provided that in calculating the amount of the contribution to be paid envisaged in subsections (a) and (b) above, a contribution that has been paid or has become due and payable under section 25(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 City 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 City shall keep a proper record of all subdivision and consolidation decisions.
- (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 City 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 and if granted, may not exceed a further 12 months.
- (12) Subject to section 34(5) below, the amount of money envisaged in subsection (7) above shall become due and payable before the date of the first registration of the newly created erven 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 City.

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

- (1) The City may, in consultation with the owner of land, or on application by the owner of land himself, prior to the registration of the subdivision and/or consolidation approval with the Surveyor-General and the Registrar as envisaged in section 33(10) above and,-
  - (a) cancel the approval of an application submitted in terms of section 33(1) above;
  - (b) amend or delete any condition imposed in terms of section 33(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 City may not approve an application envisaged in section 33(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 28(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 a land use scheme or an approved amendment scheme applicable to the erf or erven in question.
- (3) The City may not approve an application envisaged in section 33(1) above unless the City 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 City 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 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 City to the effect that the owner of land has complied with the conditions imposed in terms of section 33(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 33(7) above, have been made to the satisfaction of the City.

- (6) The Registrar shall not issue a certificate of consolidated title in respect of a consolidation unless the City has confirmed in writing that the owner of land has complied with the conditions imposed in terms of section 33(6) above.

### **35. Subdivision of any other land**

- (1) Subject to any other law that may be applicable to such land, an owner of land, excluding land as envisaged in section 33(1) above, who wishes to divide such land may apply in writing to the City and such application shall be accompanied by such plans, diagrams and other documents as may be required.
- (2) The provisions of section 21(2) to (9) shall apply *mutatis mutandis* to an application envisaged in subsection (1) above.
- (3) Subject to compliance with subsection (2) 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.
- (4) Where an application has been approved in terms of subsection (3) above, the City may impose any condition it may deem expedient.
- (5) Whether a decision was taken on the complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the City shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision and of any condition imposed in terms of subsection (4) above in writing by registered post, by hand or by any other means available without delay.
- (6) After the owner of land has been notified in terms of subsection (5) above that his application has been approved, but before any portion of land is transferred, the City may, in consultation with the applicant, amend or delete any condition imposed in terms of subsection (4) above or add any further condition.
- (7) After an owner of land has been notified in terms of subsection (5) that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the City 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 applicant fails to do so the approval will automatically lapse.
- (8) An application for an extension of time as envisaged in subsection (7) above shall be made prior to the expiry of the 12-month period stated in that subsection which if granted, shall not exceed a further 12 months.
- (9) Where the owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (7) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the City accordingly and where the

- City is satisfied, after consulting the applicant, that the applicant has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.
- (10) An owner of land who has been notified in terms of subsection (5) above that his application has been approved, may-
- (a) where the documents envisaged in subsection (7) above have not yet been lodged with the Surveyor-General; or
  - (b) where the documents envisaged in subsection (7) above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General,
- submit a further application to the City for the amendment of such approval unless:
- (i) the amendment is, in the City's opinion, so material as to constitute a new application in terms of subsection (1) above;
  - (ii) the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in subsection (2) above,
- and subsections (3) and (4) of this section shall apply *mutatis mutandis* to such application.
- (11) Upon receipt of the notice envisaged in subsection (5) above and after compliance with subsection (7) 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 City 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.
- (12) An endorsement in terms of subsection (11) 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 City in terms of subsection (4) above.
- (13) The Registrar shall-
- (a) after the land envisaged in subsection (11) above has been divided;
  - (b) when he is notified that the application has lapsed,
- cancel any endorsement made by him in terms of subsection (11) above.
- (14) Where the owner of land is required to transfer land to the City or any other organ of state by virtue of a condition imposed in terms of subsection (4) above, the land shall be so transferred at the expense of the owner of land within a period of 6 months from date of the issuing of the certificate as contemplated in section 37(1) below.
- (15) Any external engineering services contribution levied in terms of section 47(1) in relation to an application in terms of subsection (1) above shall become due and payable before the registration of a deed of transfer with the Registrar.

### **36. Failure to comply with requirements of the City**

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 City in respect of an application envisaged in section 35(1) above, failed to comply, the application shall automatically lapse.

### **37. 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 subdivision of land was approved by the City as envisaged in section 35(3) above unless the City certifies that-
  - (a) that any condition imposed in terms of section 35(4), excluding any condition dealing with the transfer of land as envisaged in section 35(14) above, have been complied with;
  - (b) the provisions of section 35(14) in respect of the transfer of land to the City or any other organ of state (if applicable) have been complied with; and
  - (c) subject to section 35(15) above, all outstanding external engineering services contributions in respect of the land have been paid in full.
- (2) No building plans shall be approved and no occupancy certificate shall be issued in terms of the provisions of the National Building Regulations and Building Standards Act unless the certificate contemplated in subsection (1) above has been issued.

### ***Part 5***

### ***Alteration, amendment or cancellation of general plan***

### **38. Alteration, amendment or cancellation of a general plan application**

- (1) Any person who wishes to have the general plan of an approved township or an approved SG diagram of a subdivision 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 39(3) below, apply in writing to the City for approval.
- (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 City 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 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 City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the City 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 (a) above.

- (3) Proof of compliance with subsection (2) above must be submitted to the City in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.
- (4) The City 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 applicant and the applicant may respond in writing thereto to the City within 14 days of date of receipt of such objection, comment and/or representation where after the City shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to section 58 below.
- (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 18(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 90 days of date of expiry of the administrative phase as contemplated in section 57(3) below.

### **39. Decision and post decision procedures**

- (1) The City may approve an application envisaged in section 38(1) above either wholly or in part, or refuse it or postpone a decision thereon, either wholly or in part, provided that the City shall not approve such application unless-
  - (a) the applicant 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 35(14) and subject to sections 28(17) above;
  - (b) where the land envisaged in subsection (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 City approves the application envisaged in subsection (1) above, the City may-
  - (a) impose any condition it may deem expedient;
  - (b) amend or delete any condition set out in the schedule envisaged in section 28(15) above on which the township concerned was declared an approved township.
- (3) The provisions of section 38 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 45(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 City 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, by hand or by any other means available without delay.
- (5) After an applicant has been notified in terms of subsection (4) above that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the City 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 applicant fails to do so the approval will automatically lapse.

- (6) Where the applicant 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 City accordingly and where the City is satisfied, after hearing the applicant, that the applicant 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 City thereof without delay.
- (8) On receipt of the notice envisaged in subsection (7) above, the City 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 City 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 City shall forthwith provide the Registrar with a copy of the notice and schedule envisaged in subsection (8) above.

#### **40. 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 City by virtue of section 63 of the Local Government Ordinance, 1939, the ownership thereof shall revert in 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 City.

#### **Part 6**

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

#### **41. 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) The City may only amend, suspend or remove a restriction or obligation where the City 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 City;
  - (c) the affected land is required for the use or construction of a building or other structure by the State, the Province or the City;
  - (d) the affected land is required for purposes incidental to any purpose envisaged in subsections (a) to (c) above.
- (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 unless consent has been obtained in writing from the relevant roads authority;
  - (b) any condition relating to mining or mining 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 City in terms of this By-law for consideration.
- (5) Notwithstanding subsection (4) above, the City 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 19, 20, 21 and 33 above.
- (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 owner of land or by the City, the provisions of section 21(2) to (7) above shall *mutatis mutandis* apply to such application.
- (8) Where simultaneous applications are 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 19, 20, 21 and 33, as the case may be, in a consolidated form.
- (9) Subject to section 18(3), in the instance of an unopposed complete 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 60 days after the date of expiry of the administrative phase as contemplated in section 57(3) below.

- (10) Subject to section 18(3), in the instance of unopposed complete applications submitted simultaneously as 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 90 days after the expiry of the time periods mentioned in sections 19, 20, 21 and 33 above, whichever section is relevant.
- (11) The provisions of section 21(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 City and such reference to the administrator, a Premier, the townships board or other controlling authority shall be deemed to be a reference to the City.
- (13) 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 township owner and such township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, such consent may be granted by the City and such reference to the township owner shall be deemed to be a reference to the City.

#### **42. Decision and post-decision procedures**

- (1) An application envisaged in section 41(4), (5) or (6) above may be approved subject to any condition the City 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 City 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 City shall keep a proper record of each decision under subsection (1) above.
- (4) Only where the City has approved an application as envisaged under section 41(4), (5) or (6) above and after the expiry of the time period envisaged in section 49(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 24 shall also *mutatis mutandis* apply to an approval envisaged in subsection (1) above if it was in relation to a simultaneous application as envisaged in section 41(6) above and such simultaneous application included the amendment of a land use scheme as envisaged in section 21(1) above.



#### **43. 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 41(4), (5) or (6) above, the owner of land shall as soon as practically possible 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 42(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.

#### **44. Contributions to be paid in respect of external engineering services and Open Spaces**

Where applicable, the provisions of section 19(7)(e) and (f) and subsection (10) of the same section, section 25 and section 33(7) and subsection (12) of the same section shall *mutatis mutandis* apply to an approval envisaged in section 42(1) above, as the case may be.

### **Part 7**

#### ***Permanent closure of a public place or diversion of a street***

#### **45. Permanent closing of a public place or diversion of a street**

- (1) The City may, either of its own accord or upon a written application by any person, permanently close a public place or divert any street or portion of a street.
- (2) A written application 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 City intends to exercise the power envisaged in subsection (1) above or upon receipt of a written application, 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 application site in English;
  - (b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;
  - (c) Whether it is a written application submitted by any person or an application initiated by the City, such notice shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;

- (d) 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;
  - (e) 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 City's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the City 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 (a) above.
  - (f) A site notice that contains the same detail as envisaged in subsections (b) to (e) 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;
  - (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 (a) above;
  - (h) Such notice shall be in the format as determined by the City;
  - (i) 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
  - (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 (a) above.
  - (k) In addition to the requirements in subsections (a) and (f) above, a letter containing the same detail as envisaged in subsections (b) to (e) above shall also be dispatched within 7 days of date of the publication of the notice envisaged in subsection (a) above by hand or by any other means available to 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 letter 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, subject to any conditions the City may deem fit, 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 City 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 38(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 township owner shall, without any claim to compensation, be divested of all rights of ownership in the land comprising such public place, street or portion and such rights shall vest in the City and the Registrar shall do whatever is necessary to record such ownership in its registers.
- (11) Notwithstanding the above provisions of this section, the City may, by giving written notice in a newspaper that circulates within the area of jurisdiction of the relevant public place:
  - (a) temporarily close any public place; or
  - (b) permanently or temporarily close any street, road or thoroughfare for any particular class of traffic, procession or gathering or temporarily for all traffic; or
  - (c) divert temporarily any street, road or thoroughfare contemplated in subsection (b) above,and any public place temporarily closed in terms of subsection (a) above may be let temporarily or the use thereof may be granted temporarily to any person on such terms and conditions as the City may deem fit.

## CHAPTER 6

### ENGINEERING SERVICES, CONTRIBUTIONS AND OPEN SPACES

#### *Part 1*

#### *Engineering services and engineering services contributions*

#### **46. Engineering services**

- (1) Every township approved in terms of the provisions of this By-law shall be provided with such engineering services as the City deem necessary for the proper development of the township.
- (2) For the proper management and enforcement of this Chapter and prior to the payment of any engineering services contribution as contemplated in section 47(1) below, the owner of the land in question shall enter into an engineering services agreement with the City 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 SPLUMA.
- (4) Subject to subsection (2) above, the City shall be responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the SPLUMA.
- (5) When the City is not the provider of an engineering service, the owner of the land in question must satisfy the City that adequate alternative arrangements have been made either by the owner himself or with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the SPLUMA and the City shall in such instances not be responsible for the maintenance and management of such engineering service.
- (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 City 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 City or any of its Municipal Entities and for that purpose the owner of the land shall lodge with the City or relevant Municipal Entity such reports, diagrams and specifications as the City or Municipal Entity may require.
- (8) Where any township 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.
- (9) Where the City has been satisfied that adequate alternative arrangements have been made by the owner himself in relation to an engineering service as envisaged in subsection (5) above and a municipal services does become available in future, the owner of land shall without delay and at its own cost connect to such municipal engineering service and decommission such other alternative arrangement all to the satisfaction of the City or its Municipal Entity, as the case may be.

#### **47. External engineering services contributions**

- (1) The City may levy an external engineering services contribution in respect of the provision of an external engineering service to the township as envisaged in section 46(1) above and when it does so, the City shall inform the owner of land in writing of the contribution payable with the necessary supporting documentation on how the contribution was calculated and any conditions it might be subject to.
- (2) The external engineering services contribution envisaged in subsection (1) above must be set out in a policy/By-law adopted and approved by the City 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/By-law.

- (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 28(15) above and is subject to escalation at the rate calculated in accordance with the policy/By-law as adopted and approved by the City.
- (4) The owner of land in question may, in terms of the engineering services agreement with the City envisaged in section 46(2) above, install any external engineering service on behalf of the City 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 City shall not apply.
- (6) Should the cost for installing such external engineering service(s) exceed the amount of the external engineering services contribution as determined by the City, then the City may in its sole discretion refund the owner of the land; provided that the necessary funds are available on the City's approved budget.
- (7) The external engineering services contribution levied in terms of subsection (1) above shall become due and payable as envisaged in sections 28(16) and 35(15) above and shall be subject to escalation after expiry of the time periods mentioned in the said sections.
- (8) No building plans may be approved by the City 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.
- (9) Subject to subsection (7) above, the provisions of section 25(8) and (9) above shall apply *mutatis mutandis* to an external engineering services contribution levied in terms of subsection (1) above.

## **Part 2**

### ***Provision of land for open space and inclusionary housing***

#### **48. Provision of land for open space, payment in lieu of providing open space and inclusionary housing contribution**

- (1) The approval of a township application as envisaged in section 26(1) above which provides for the use of land for residential purposes is subject to the provision of land for open spaces by the applicant.
- (2) The land required for open spaces must be provided within the land area to which the development application refers or may be provided elsewhere within the City's jurisdiction, at the discretion of the City.
- (3) The extent of land required for open spaces shall be determined by the City in accordance with the formula as set out in Schedule 2 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 shall be shown on the plan of the township as an open space if so required by the City.
- (5) When a township is approved without the required provision of land for open spaces within the land area of the development, the applicant may be

required to pay an amount of money to the City in lieu of the provision of land and when it does so, the City shall inform the owner of land in writing of the amount payable with the necessary supporting documentation on how the amount was calculated and any conditions it might be subject to.

- (6) The amount of money envisaged in subsection (5) above shall be calculated in accordance with the formula as set out in Schedule 2 to this By-law and it shall be calculated in terms of a valuation relevant at the time of the notice envisaged in section 28(15) above.
- (7) Where the City's land use scheme and/or municipal spatial development framework makes provision for the promotion of inclusionary housing as part of an approved township as envisaged in sections 6(1)(e) and 11(1)(i) above, the City may levy an inclusionary housing contribution upon the owner of the land.
- (8) All aspects regarding when an inclusionary housing contribution may be imposed shall be set out in an Inclusionary Housing Policy/By-law as approved and adopted by the City and shall be calculated in accordance with such policy/By-law.

## **CHAPTER 7**

### **APPEAL AUTHORITY AND PETITION TO INTERVENE**

#### **49. Internal appeals**

- (1) An owner of land, any person that submitted an objection and any person who's petition to intervene has been granted as envisaged in section 52 below, 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 5 of this By-law;
  - (b) a change of circumstances application envisaged in section 24(2) and 42(6) above;
  - (c) any engineering services- 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 City Manager by giving written notice of the appeal, including comprehensive grounds of appeal, within 28 days of the date of receipt of such notification of the decision or of date of receipt of the notification of such engineering services- and/or parks or open spaces and/or inclusionary housing contributions imposed or levied.
- (2) The City Manager shall within a period of 7 days after the expiry of the pre-hearing process submit the appeal to the City's executive authority as the appeal authority for a decision and the pre-hearing process may not exceed a 150 days.
- (3) The City's executive authority may delegate its appeal authority in terms of section 56 of SPLUMA read with section 59 of the Municipal Systems Act to-
  - (a) a body or institution outside of the City to assume the obligations of an appeal authority; or
  - (b) to an official or a committee of officials in the employ of the City; or
  - (c) to a Member of the Executive Committee or Mayoral Committee, as the case may be,



provided that such appeal authority may not be delegated to an official in the employ of the City who originally made the decision on the application or who is a member of the City'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 in any other manner with this section.
- (5) If an owner of land lodges an appeal in terms of subsection (1) above, the owner of land shall give notice of the appeal to any person who validly opposed the application and who has been granted intervenor status as envisaged in section 52 below.
- (6) The notice must be given in accordance with section 115 of the Municipal Systems Act and notice may be given by hand, by registered post or by any other means available.
- (7) The appellant must provide the City with proof of notification, envisaged in subsection (5), within 14 days of the date of notification.
- (8) If an objector or any intervening party as envisaged in subsection (1) above lodges an appeal, the City Manager must give notice of the appeal to the applicant and any other person who validly opposed the application or who has been granted intervenor status as envisaged in section 52 below, if any, within 14 days of receipt thereof.
- (9) Any person who has received notice of the appeal in terms of either subsections (5) or (8) may comment on or oppose the appeal within 21 days of date of receipt of such notice.
- (10) If opposition to or comment on the appeal is not lodged with the City within the time period envisaged in subsection (9) above, the objection or comment will be invalid and the appeal authority will be under no obligation to entertain such opposition or comment.
- (11) Any comment or objection received as envisaged in subsection (9) above shall be forwarded to the appellant to reply thereto within 14 days from date of receipt thereof.
- (12) The relevant City department must draft a report in which it assesses the appeal and all comments, objections and replies received, if any, and submit it to the City Manager to enable the City Manager to comply with the time frame as envisaged in subsection (2) above.
- (13) The appeal authority shall decide the appeal within 30 days from the date of receipt of the appeal documents from the City Manager.
- (14) The appeal authority may confirm, vary or revoke the decision appealed against.
- (15) 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 by registered post or by any other means available.
- (16) 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.

## **50. Hearing by appeal authority**

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

- (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, the provisions of section 57 shall apply *mutatis mutandis* to such a hearing and the appeal authority may designate a committee of officials to conduct the oral hearing and to make a recommendation to the appeal authority.
- (4) The appeal authority shall decide the appeal within 30 days of date of the formal oral hearing.
- (5) Sections 49(14) to (16) shall also apply *mutatis mutandis* to a formal oral hearing.

## **51. Record of decisions**

The appeal authority shall keep a proper record of all its decisions.

## **52. 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 City 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 City 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 City, 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 SPLUMA, 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 shall not be subject to an appeal as envisaged in section 49(1) above and must be communicated to the petitioner and the parties to the proceedings in writing without delay.

## CHAPTER 8

### GENERAL PROVISIONS

#### 53. Sectional Title Schemes

Notwithstanding the provisions of this By-law, the Registrar shall not register a sectional title scheme on any property unless the City has confirmed in writing that there has been compliance with this By-law, the City's land use scheme and/or any other planning legislation that might still be in operation and applicable to the property in question.

#### 54. Approval or adoption of amendment scheme under certain circumstances

- (1) Where-
- (a) a notice is or has been published in terms of section 28(15) above declaring a township an approved township; or
  - (b) a proclamation envisaged in section 49 of the Deeds Registries Act is or has been published extending the boundaries of an approved township; or
  - (c) a notice is or has been published in terms of section 39(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;
- the City 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 (a) to (c) above and that a copy of the scheme will lie open for inspection at all reasonable times at the office of the City 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 City may prescribe shall apply.

**55. 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 Schedule 1 to this By-law shall be submitted with any land development application under any provision of this By-law.
- (2) All the necessary reports where required as per Schedule 1 to this By-law shall be certified by a professional competent person.
- (3) The applicant must, within 30 days or such further period as the City may allow, provide the City with such additional information which the City may require and as provided for in Schedule 1.
- (4) If the applicant does not timeously provide the additional information and does not submit an appeal to the appeal authority, the City may close the application and notify the applicant in writing.
- (5) Where the City 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.

**56. Continuation of application by new owner**

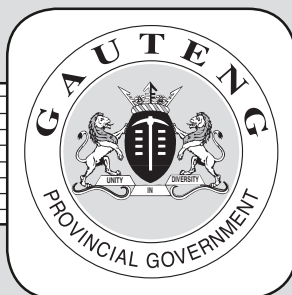
- (1) If land that is the subject of any land development application in terms of this By-law is transferred to a new owner before the conclusion of such application, the new owner may continue with the application as the successor in title to the previous owner and the new owner will be regarded as the applicant for purposes of this By-law.
- (2) The new owner must inform the City in writing of the continuation of the application and must simultaneously provide the City with a new power of attorney, if necessary.
- (3) The new owner of land shall provide the City with the new title deed as and when it becomes available after the date of actual registration of the property.

**57. Time frames for land development applications**

- (1) An application is regarded as a complete application only if the City has received the application fee, all information necessary for the City to assess the application as envisaged in Schedule 1 to this By-law and the information submitted is compliant with all information specifications.
- (2) 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.
- (3) The administrative 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.
- (4) The consideration phase may not be longer than 3 months.
- (5) The decision phase shall be subject to the time frames as set out in the relevant sections of this By-law provided that any decision by the Municipal

**CONTINUES ON PAGE 258 - PART 3**

**THE PROVINCE OF  
GAUTENG**



**DIE PROVINSIE VAN  
GAUTENG**

# Provincial Gazette Provinsiale Koerant

Selling price • Verkoopprijs: **R2.50**  
Other countries • Buitelands: **R3.25**

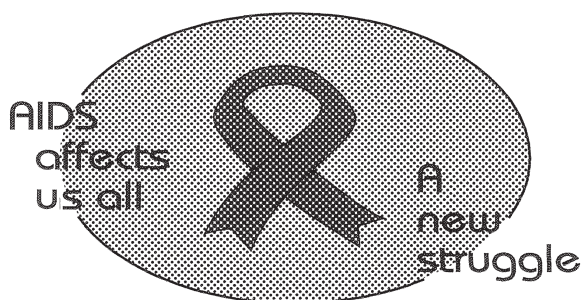
Vol. 22

**PRETORIA**  
3 AUGUST 2016  
3 AUGUSTUS 2016

**No. 255**

## PART 3 OF 3

**We all have the power to prevent AIDS**



**Prevention is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**N.B. The Government Printing Works will  
not be held responsible for the quality of  
"Hard Copies" or "Electronic Files"  
submitted for publication purposes**

ISSN 1682-4525



9 771682 452005

00255





Planning Tribunal shall be made within 30 days from the date of the last meeting of the Municipal Planning Tribunal.

- (6) 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.
- (7) 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.
- (8) If there is non-compliance with the time frames as contemplated in subsections (4) and (5) above, it shall be regarded as unreasonable delay for purposes of this By-law and the owner of land may lodge an appeal in terms of the provisions of section 49(1) above to the appeal authority for a decision on the application.
- (9) Such non-performance shall also be reported to the City Manager, who must in turn report it to the City's executive authority and adequate steps shall be taken to ensure compliance with the prescribed time frames in terms of the City's performance management system.

#### **58. 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 City 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 52 above, shall receive 14 days clear 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 City will only be obliged to give notice of such hearing to the main petitioner.
- (6) The hearing may be preceded at the discretion of the Municipal Planning Tribunal by a site inspection.
- (7) The Municipal Planning Tribunal shall determine its own procedure in accordance with the objectives of administrative justice.

#### **59. Reasons for a decision**

- (1) Unless otherwise provided for in this By-law, the City shall be obliged to provide adequate 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 requested within 28 days of date of receipt of the notice of the decision and shall be provided in writing within 14 days of date of receipt of the request for reasons 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.

## **60. 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 City 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 and township establishment in terms of the provisions of this By-law.
- (3) In considering the naming of streets, the City must take into account the relevant policies relating to street naming and numbering.
- (4) The City must in writing inform the Surveyor-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 owner of land must erect the street names according to the City'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 City.
- (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 City.
- (9) The City 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 allotted number on the premises in accordance with such notice.
- (10) The City may direct any owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

## **61. Tariff of charges**

- (1) The City 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 in the *Provincial Gazette* for information.

## 62. Offences and penalties

- (1) Further to any section in this By-law that declares a specific action a criminal offence and safe for what is deemed by the City as an informal settlement, 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 or the City's land use scheme, such person shall be guilty of an offence.
- (2) The City 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 City 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 City's land use scheme or any other applicable legislation dealing with land development.
- (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 City may, whether or not a prosecution has been or will be instituted, remove 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.

### 63. Law enforcement

- (1) The City may adopt a By-law aimed at enforcing the provisions of its land use scheme.
- (2) The City 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 and its land use scheme and, subject to subsection (4) and (5) below, such official(s) may enter upon any premises at all reasonable times to give effect to this section.
- (3) The provisions of section 32(5) of the SPLUMA shall apply *mutatis mutandis* to such law enforcement officers envisaged in subsection (2) above.
- (4) An inspection of a private dwelling 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 subsection (5).
- (5) A judge or magistrate for the district in which the land is situated, may, at the request of the City, 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 a private dwelling 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.
- (6) The City 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 without any obligation on the City or the person carrying out the demolition to pay any compensation; or
  - (c) authorising any other appropriate relief.

### 64. National and Provincial interest

- (1) The City 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 Part A of the Constitution.
- (2) Subject to section 52(6) of the SPLUMA, the relevant Minister or MEC, as the case may be, may submit its comments on the application to the City 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.

## 65. Transitional provisions

- (1) The repeal of the legislation referred to in Schedule 3 of the SPLUMA or by a provincial legislature in relation to provincial legislation dealing with municipal planning shall not affect the validity of anything done in terms of that legislation.
- (2) All applications, appeals or other matters pending before the City at the commencement of this By-law, that have not been decided or otherwise disposed of, shall be continued and disposed of in terms of the provisions of this By-law.
- (3) All applications, appeals or other matters that have been submitted and lodged prior to 1 July 2015 in terms of legislation not repealed by the SPLUMA and pending before the Gauteng Provincial Government at the commencement of this By-law, shall be dealt with and finalised by the Gauteng Provincial Government and in terms of such relevant legislation unless a court of law directs otherwise.
- (4) Any tariff of charges adopted, approved and published in terms of any other legislation dealing with municipal planning prior to this By-law coming into operation, shall remain in force and shall apply *mutatis mutandis* to the provisions of this By-law until new tariff of charges have been approved and published in terms of this By-law.
- (5) Any notation system used to illustrate the provisions of a town planning scheme in terms of any legislation envisaged in subsection (1) above, shall remain valid for purposes of the preparation, approval and adoption of the land use scheme envisaged in section 10 of this By-law.
- (6) Any town planning scheme in operation within the jurisdiction of the City shall remain in force until the adoption and approval of a land use scheme envisaged in section 6 of this By-law which shall replace such schemes as well as Annexure 'F' to the Regulations Relating to Township Establishment and Land Use published in terms of the Black Communities Development Act and which will also address any conflict between the land use scheme adopted and those it purports to repeal or replace.
- (7) Any municipal spatial development framework lawfully adopted and approved prior to the coming into operation of the SPLUMA and this By-law shall remain valid until a new municipal spatial development framework is adopted and approved in terms of the provisions of the SPLUMA and this By-law.

## 66. Exemption

- (1) The City may in writing exempt any person from complying with any procedural 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 and a decision shall be made on the application within 14 days from date of receipt of such application and the applicant shall be informed in writing of such decision.

## **67. Administrative language**

- (1) This By-law on commencement shall be published in English and the official administrative language for purposes of this By-law shall be English.
- (2) All land development applications, requests, reports, documentation, notices and/or communications shall be in English provided that any person may, within good reason and where practically possible, request that it be translated to another language of choice in terms of the City's approved language policy, if any.

## **68. Validity of Objections**

- (1) Where in terms of any provision of this By-law any person may lodge an objection against any land development application or appeal, such objection must clearly set out:
  - (a) the right, interest or legitimate expectation the objection is framed to protect, and
  - (b) the full contact details, including e-mail and facsimile details, of the person objecting,failing which, the objection may be deemed to be invalid and may be disregarded.
- (2) Councillors may only lodge an objection against any land development application in their personal capacities and not in their capacity as a Ward Councillor on behalf of a third-party or parties.

## **69. Excision from Agricultural Holding Register**

- (1) If the excision of an Agricultural Holding is required as a result of a township establishment application envisaged in section 26(1) above, it may be included as a pre-proclamation condition as envisaged in section 28(2) above.
- (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 purposes of a township establishment application, can be done simultaneously with the endorsement of the title deed of the farm portion and the opening of a township register as envisaged in section 28(10) above.
- (3) In issuing a certificate as envisaged in section 28(11) above the City may require that certain conditions be complied with together with the opening of a township register as envisaged in section 28(10) above, which may include the registration of the excision of an Agricultural Holding.

## **70. Short title and commencement**

This By-Law is called the City of Johannesburg: Municipal Planning By-Law, 2016, and comes into operation on a date by proclamation in the *Provincial Gazette*.



## **SCHEDULE 1**

***Documents, maps, diagrams, reports and any other relevant information necessary to be submitted with any land development application envisaged in Chapter 5 of this By-law and as envisaged in section 54 of this By-law***

### **1. Consent use application**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) Information on the proposed use on the land;
- (12) A locality map;
- (13) Proposed lay out plan that includes the parking lay out;
- (14) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (15) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

### **2. Building line relaxation application**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which

- authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
  - (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
  - (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
  - (10) Information on the existing development on the land;
  - (11) A proposed building plan/site plan which shows the relevant building lines to be relaxed with the necessary elevations, where applicable;
  - (12) Where it also affects a relevant Roads authority's building line, consent in writing from such relevant roads authority;
  - (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application with specific emphasis on the purpose/objective of the building line relaxation(s); and
  - (13) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

### **3. Amendment of Land Use Scheme application (Rezoning)**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) Information on the proposed use on the land;
- (12) A land use map of the surrounding immediate area;
- (13) A zoning map of the surrounding immediate area;
- (14) A locality map;
- (15) The proposed scheme clauses, schedules, maps and annexures (where applicable);
- (16) Proposed site development plan, where required, showing, *inter alia*, the parking lay out;

- (17) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (18) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

#### **4. Township establishment application**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A proposed lay-out plan of the proposed township indicating or containing-
  - (a) contour lines, the values of which shall be based on a datum plane acceptable to the City;
  - (b) existing buildings in the proposed township;
  - (c) streets and open spaces in the proposed township;
  - (d) the widths and names of streets envisaged in (c) above;
  - (e) all adjoining existing and adjoining proposed streets and roads with their names as well as erven in existing or proposed adjoining townships;
  - (f) water-courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the proposed township;
  - (g) by means of a distinctive notation, the sites/erven in the proposed township proposed to be reserved for specific purposes;
  - (h) the boundaries of the proposed township;
  - (i) a table indicating the total number of erven in the proposed township, the number of erven for specific purposes and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets as a percentage of the total area of the township and the area of the parks and open spaces, if any, as a percentage of the total area of the township;
  - (j) the erven in the proposed township accurately drawn to a scale acceptable to the City and numbered consecutively in each block;

- (k) 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 plane on which the contour values are based;
- (l) 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;
- (m) each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed new route;
- (n) Grid co-ordinates and a reference to the geodetic system used;
- (o) if the proposed township is subject to flooding, the 1:50 and 1:100 year flood lines or, if the land is not subject to flooding, a certificate by a qualified engineer to the effect that the land is not so subject, where required;
- (p) a bar scale;
- (q) the true North;
- (12) A locality plan, as an inset on the lay-out plan of the proposed township, accurately drawn to a scale acceptable to the City indicating-
  - (a) the situation of the proposed township on the farm portion or agricultural holding;
  - (b) the routes giving access to the nearest main road and the road network in the vicinity of the proposed township;
  - (c) the boundaries of the farm portion or agricultural holding on which the proposed township is to be established;
  - (d) a bar scale in respect of the locality plan;
  - (e) the true North in respect of the locality plan;
- (13) An outline scheme report in relation to any engineering service, where required;
- (14) A traffic impact study/statement, where required;
- (15) A ROD on any environmental impact assessment issued by the relevant authority, where required;
- (16) A geotechnical- and Radon report submitted by a professional Geotechnical Engineer, where required;
- (17) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (18) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

***NB: It should be noted that an application for a township name allocation shall be submitted prior to the submission of a formal township establishment application.***

## **5. Phasing of an approved township**

In addition to the information already provided in (4) above-

- (1) The prescribed application fee;
- (2) A copy of the approved plan of the township on which the proposed divisional lines are clearly marked; and

- (3) A comprehensive motivational report which sets out the reasons for the division of the township.

## **6. Extension of boundaries of an approved township**

The requirements as envisaged in (4) above shall *mutatis mutandis* be applicable to an extension of boundaries of an approved township application and-

- (1) a certificate from the Surveyor-General that the land can be shown on the general plan of the township concerned.

## **7. Subdivision of an erf/erven in an approved township**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning and density on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A sketch plan of the erf concerned and the cadastral information of such erf and each adjoining property signed by the owner of land and shall indicate the following:
  - (a) the name of the township in which the erf to be subdivided is situated and the delineation of the proposed subdivided portions accurately drawn to a scale acceptable to the City;
  - (b) the true north;
  - (c) the scale to which the sketch plan is drawn;
  - (d) a legend which identifies each proposed subdivided portion by means of a figure;
  - (e) the number of the erf to be subdivided and each adjoining erf and if an adjoining erf is not situated within the same township as the erf to be subdivided, the name of that other township;
  - (f) the approximate size of the erf to be subdivided and of each subdivided portion;
  - (g) the situation of each building on the erf to be subdivided and the approximate distance between the street boundary and every other boundary of the erf and the nearest wall of the building nearest to

- such boundary as well as the approximate distance between the proposed subdivisional line and the nearest wall of the building nearest to such line;
- (h) the number of storeys in each existing building on the erf to be subdivided which is situated within 5 metres of a proposed subdivisional line;
  - (i) the direction, by means of an arrow, of the slope of the roof of each building on the erf to be subdivided situated immediately adjacent to the proposed subdivisional line;
  - (j) the nature of a building on the erf to be subdivided which fronts on and is within 10 metres of the proposed subdivisional line, the purpose for which any room on that side of a building which fronts on such line is used and the position of a door or window in a wall facing such line;
  - (k) the approximate location of an existing conductor on the erf to be subdivided used for telephonic or electrical purposes or any transformer, structure or other obstruction relating thereto as well as any tree, fire hydrant or bus shelter on the street reserve adjoining the street frontage of such erf;
  - (l) where the cross slope or longitudinal slope of the street reserve or the cross slope or longitudinal slope of any proposed access to the proposed subdivided portions is more than 1:5, contours with intervals of 1 metre or alternatively a longitudinal section of the access portion of the erf or portion, showing details of the profile of the natural ground level as well as the proposed access way in relation to the street which gives access to the newly created portion;
  - (m) any building or portion thereof on the erf to be subdivided which the applicant intends demolishing;
  - (n) any natural water course which traverses the erf to be subdivided;
  - (o) where the erf to be subdivided is situated in an area which is subject to flooding, the 1:50 and 1:100 year flood line on the proposed subdivided portions.
- (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (13) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

## **8. Consolidation of two or more erven in an approved township**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which



- authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copies of the relevant registered title deeds of all the erven to be consolidated;
  - (8) If the erven are subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
  - (9) Information regarding the existing zoning and density on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
  - (10) Information on the existing development on the land;
  - (11) A plan showing the cadastral information of the component erven;
  - (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
  - (13) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

## **9. Subdivision of any other land**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A subdivisional plan indicating-
  - (a) contour lines, the values of which shall be based on a datum plane acceptable to the City;
  - (b) the area of the land and distinctive numbers and areas of the portions;
  - (c) existing buildings on the land;
  - (d) roads, their names, widths and connections with existing streets or roads in adjoining areas;
  - (e) water-courses, railways, pipe lines, power lines, existing public roads and all servitudes in or abutting the land;
  - (f) by means of a distinctive notation, the sites/erven proposed to be reserved for specific purposes;
- (12) A locality plan as an inset on the subdivisional plan showing-

- (a) the locality of the land with the principal topographical features of the land and its environs, and its situation in relation to surrounding farms, farm portions and agricultural holdings and portions of agricultural holdings;
- (13) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (14) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

#### **10. Alteration, amendment or cancellation of a general plan application**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land which would be affected by the application, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land which would be affected by the application;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land which would be affected by the application;
- (8) If the land which is affected by the application is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land, if any;
- (11) A copy of the relevant sheet of the general plan which may be in a reduced format;
- (12) A copy of a plan of the township showing the proposed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
- (13) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (14) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

#### **11. Amendment, suspension or removal of restrictive or obsolete conditions or obligations, servitudes or reservations in respect of land**

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;

- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A list of the restrictive conditions or obligations, servitudes or reservations to be amended, suspended or to be removed;
- (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (13) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

If the application is submitted as an application submitted simultaneously with any other application as envisaged in section 41(6) of this By-law, any additional requirements which have not been listed under 11(1) to (13) above as set out in (1), (2), (3), (7) and (8) above shall *mutatis mutandis* apply to such an application.

## **12. Permanent closure of a public place or diversion of a street**

- (1) The prescribed application fee;
- (2) Full name of the person making the application, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the person making the application;
- (4) If the person is being represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If the person is represented by an agent, an original power of attorney authorising the agent to make such application on such person's behalf;
- (6) If the person is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed relevant to the land which would be affected by the application, if any;
- (8) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (9) Information on the existing development on the land, if any;
- (10) 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;

- (11) Where necessary, a Land Surveyor's diagram showing the street or portion of street to be closed or diverted;
- (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application;
- (13) Subject to section 55(2) to (5) of this By-law, any other information deemed relevant to the application.

***The City may direct an applicant to submit as many copies of any document, plan, diagram or other information relevant to any of the above applications as may be required.***

## **SCHEDULE 2**

### ***Provision of land for open spaces or payment of an amount of money in lieu of providing land for open spaces***

#### **1. Provision of land for open spaces**

- (1) Where in terms of any provision of this By-law or any condition of approval an owner of land is required to provide land for open spaces, the area of that land shall be determined in accordance with the following formula:

**$a \times 24m^2 + b \times 18m^2$ , in which formula**

- (a) "a" represents the number of residential units which may be erected on land in the township which in terms of the land use scheme or town planning scheme concerned, is to be zoned "Residential 1", "Residential 2" or any other zoning that includes residential units provided that the density does not exceed 20 dwelling units per hectare;
  - (b) "b" represents the number of residential units which may be erected on land in the township which in terms of the land use scheme or town planning scheme concerned is to be zoned "Residential 3", "Residential 4", "Residential 5" or any other zoning that includes residential units provided that the density is in excess of 20 dwelling units per hectare;
- (2) The area of land to be provided for open spaces in terms of (1) above, shall be reduced by the area of land to be shown as open spaces as envisaged in section 48(4) of this By-law.
  - (3) In calculating the number of residential units which may be erected in a township which does not have a specified density, a residential unit shall be deemed to have a floor area of 40m<sup>2</sup>.

## 2. Determination of amount or contribution payable in respect of open spaces

- (1) Where by virtue of any provision of this By-law an owner of land is required to pay an amount of money or a contribution to the City in lieu of the provision of open spaces, such amount or contribution shall be determined in accordance with the formula-

$$\frac{(a - b) \times c \times e}{d}$$

in which formula-

- (a) "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) "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) "c" represents-
- 24m<sup>2</sup> where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 1 or 2 purposes or any other zoning that includes residential units provided that the density does not exceed 20 dwelling units per hectare;
  - 18m<sup>2</sup> where, in terms of the approved application, the land contemplated in (a) may be used for Residential 3, 4 or 5 purposes or any other zoning that includes residential units provided that the density is in excess of 20 dwelling units per hectare;
- (d) "d" represents the area of land contemplated in paragraph (a) in m<sup>2</sup>;
- (e) "e" represents the site value of the land contemplated in paragraph (a).
- (2) In mixed-use developments which include residential units, the determination as per 2(1) above shall *mutatis mutandis* apply and if no density is specified, a residential unit shall be deemed to have a floor area of 40m<sup>2</sup>.
- (3) Where the City when approving an application to establish a township imposes a condition requiring the owner of land to pay an amount of money in lieu of providing land for open spaces as envisaged in section 48(5) of this By-law, the market value of a vacant "Residential 1" zoned stand in the township or, if there is no such stand in the township, the market value of a vacant "Residential 1" zoned stand in the immediate vicinity of the township or land concerned, as the case may be, excluding improvements, shall be used as a basis for the determination of the value of the area calculated according to the above formula.

**City of Johannesburg Metropolitan Municipality**  
**Date of Publication: 03 August 2016**