



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 16 OF 2013

draft regulations in terms of the spatial planning and land use management act, 16 of 2013

The Minister of Rural Development and Land Reform hereby calls for comments on the draft regulations made in terms of section 54 (1) read with section 54 (2) (b) of the Spatial Planning and Land Use Management Act, 16 of 2013, for public comments as set out in the Schedule. This is a further call for comments which was initially published in Gazette No 37797 from the 04 July 2014 to the 04 September 2014, Gazette No 38077 from the 10 October 2014 to the 10 November 2014 and a Gazette notice to be published on the 12 December 2014.

Interested persons and organisations may submit their comments on the draft regulations in writing on or before the **23 January 2015** to:

The Director-General
c/o Sunday Ogunronbi
Department of Rural Development and Land Reform
224 Helen Joseph Street
Room 605, Capitol Towers
Pretoria

Or per fax to (012) 321 6419 or 086 6928882
Private Bag X 833
Pretoria
0001

Email: spluma@ruraldevelopment.gov.za; sunday.ogunronbi@drdlr.gov.za;

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

The draft regulations are available via the following email:
abena.kwayisi@drdlr.gov.za or enkosi.mpondo@drdlr.gov.za

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

No. ...

2015

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

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

SCHEDULE

ARRANGEMENT OF REGULATIONS

CHAPTER 1

INTRODUCTORY PROVISIONS

Regulations

1. Definitions

CHAPTER 2

MUNICIPAL PLANNING TRIBUNALS

Part A

Municipal Assessment

2. Municipal assessment prior to establishment of Municipal Planning Tribunal

Part B

Municipal Planning Tribunal for Local Municipal Area

3. Institutional requirements for establishment of Municipal Planning Tribunal for local municipal area

Part C

Joint Municipal Planning Tribunal

4. Agreement to establish joint Municipal Planning Tribunal
5. Monitoring of joint Municipal Planning Tribunal
6. Withdrawal from or termination of joint Municipal Planning Tribunal

Part D

Municipal Planning Tribunal for District Municipal Area

7. Agreement to establish Municipal Planning Tribunal for District Municipal Area
8. Monitoring and implementing decision of Municipal Planning Tribunal for district municipal area
9. Termination of Municipal Planning Tribunal for district municipal area

Part E

Adjustment of the Division of Functions and Powers of Local Municipality

10. Allocation of municipal planning function

Part F

General Matters

11. Technical and other advisors to Municipal Planning Tribunal
12. Hearings of Municipal Planning Tribunal
13. Legal indemnification

CHAPTER 3

LAND DEVELOPMENT AND LAND USE APPLICATIONS

14. Submission of land development and land use applications
15. Categories of land development and land use applications
16. Timeframes for Land development and land use applications
17. Alignment of authorisations
18. Application where no land use scheme is in place
19. Areas under traditional leadership

CHAPTER 4

APPEALS

20. Determination of appeal procedures
21. Contents of appeal procedures
22. Jurisdiction of appeal authority
23. Hearing by appeal authority
24. Oral hearing by appeal authority
25. Circumstances in which oral hearing may be dispensed with
26. Representation before appeal authority
27. Opportunity to make submissions concerning evidence
28. Decision of appeal authority
29. Body or institution outside of the municipality assumes obligations of appeal authority
30. Body or institution outside of the municipality assumes obligations of appeal authority in the manner determined by provincial legislation
31. Official with delegated authority to assume the obligations of appeal authority
32. Timeframe for submission of appeal to appeal authority
33. Duty of municipality

CHAPTER 5

INTERVENER STATUS

34. Petition to be granted intervener status
35. Security for costs of appeal
36. Interested person

CHAPTER 6

EXEMPTIONS

37. Request for exemption in writing
38. Deciding of request for exemption
39. Procedures related to withdrawal of exemption

CHAPTER 7

GENERAL

40. Electronic submissions
41. National support and monitoring
42. Reason for and procedure for issuing ministerial directive regarding spatial development framework or plan
43. Short title and date of commencement

Schedule 1: Norms and standards for the terms and conditions of service of members of Municipal Planning Tribunal

Schedule 2: Standard Call for Nominations for Persons to be Appointed as Members to the Municipal Planning Tribunal

Schedule 3: Code of Conduct for Members of the Municipal Planning Tribunal

Schedule 4: Standard Agreement for the Establishment of a Joint Municipal Planning Tribunal

Schedule 5: Standard Categories of Land Development and Land Use Applications

CHAPTER 1

INTRODUCTORY PROVISIONS

1 Definitions

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

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

“**appeal authority**” means the appeal authority referred to in regulation 20;

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

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

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

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

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

“**provincial legislation**” means legislation promulgated under section 10 of the Act;

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

“**traditional council**” means a traditional council that has been established and recognised for a traditional community in accordance with the provisions of section 3 of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) or any corresponding provision in provincial legislation;

CHAPTER 2
MUNICIPAL PLANNING TRIBUNALS

Part A

Municipal Assessment

2 Municipal assessment prior to establishment of Municipal Planning Tribunal

- (1) The decision of aMunicipal Council to –
- (a) establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act; or
 - (b) agree to the establishment of a Municipal Planning Tribunal by a district municipality as contemplated in section 34(2) of the Act; or
 - (c) establish a Municipal Planning Tribunal for its municipal area,
- may be preceded by an assessment of the factors referred to in subregulation (2).
- (2) The assessment referred to in subregulation (1) includes, amongst others, the following factors as it relates to Chapter 6 of the Act -
- (a) the impact of the Act on the municipality's financial, administrative and professional capacity;
 - (b) the ability of the municipality to effectively implement the provisions of Chapter 6 of the Act;
 - (c) the average number of applications dealt with by the municipality annually in terms of existing planning legislation; and
 - (d) the development pressures in the municipal area.
- (3) If the municipality does not have capacity to implement the provisions of Chapter 6 of the Act, it is an indication that a joint Municipal Tribunal contemplated in section 34(1) or (2) could be considered by the Municipal Council.
- (4) If a district municipality considers the establishment of a Municipal Planning Tribunal contemplated in section 34(2), it must ensure that it has sufficient financial, administrative and professional capacity to establish and administer that Municipal Planning Tribunal.

Part B

Municipal Planning Tribunal for Local Municipal Area

3 Institutional requirements for establishment of Municipal Planning Tribunal for local municipal area

- (1) A Municipal Council that decides to establish a Municipal Planning Tribunal for its municipal area must –
- (a) determine the number and designation of officials in the full-time service of the municipality to serve on the Municipal Planning Tribunal;

- (b) determine the number of members to be appointed to the Municipal Planning Tribunal, the knowledge and experience that they should represent and their term of office, if it is of the opinion that it should be less than five years as contemplated in section 37(1) of the Act;
 - (c) determine the terms and conditions of service of the members of the Municipal Planning Tribunal in accordance with the norms and standards referred to in Schedule 1;
 - (d) determine procedures for the invitation and calling for nominations of persons contemplated in section 36(1)(b) to serve on the Municipal Planning Tribunal;
 - (e) identify any additional criteria that a person referred to in paragraph (b) must comply with;
 - (f) determine the format of the call for nominations;
 - (g) convene an evaluation panel to evaluate the nominations received by the municipalities and determine the terms of reference of that evaluation panel
 - (h) consider the recommendations of the evaluation panel and make the appropriate appointments and designate the chairperson and deputy chairperson;
 - (i) inform the members in writing of their appointment;
 - (j) publish the names of the members of the Municipal Planning Tribunal and their term of office as contemplated in section 37(4) of the Act;
 - (k) develop criteria in accordance with which it can satisfy itself that the first Municipal Planning Tribunal is in a position to commence its operations; and
 - (l) develop and approve operational procedures for the Municipal Planning Tribunal.
- (2) A member of the Municipal Planning Tribunal appointed in terms of section 36(1)(b) may be –
- (a) an official or employee of a national government department, provincial government department, an organ of state, a state-owned enterprise, a non-governmental organisation, an organisation created by government to provide municipal support and organised local government as envisaged in the Constitution.
 - (b) an individual in his or her own capacity.
- (3) An invitation to nominate an employee to serve on the Municipal Planning Tribunal may be extended to the departments in the national and provincial sphere of government, other organs of state, enterprise and organisation referred to in subregulation (2)(a) and must be in writing but does not have to be published.
- (4) A nomination submitted in response to an invitation must comply with all the requirements for a nomination submitted in response to a call for nomination referred to in subregulation (6).

(5) Notice of the call for nominations for prospective members of the Municipal Planning Tribunal and the names of the members appointed by the Municipal Council may be communicated by it in any format it approves but it must include the publication of the call for nominations in at least one newspaper circulated in the municipal area.

(6) The call for nominations must –

- (a) request sufficient information for the municipality to evaluate the knowledge and experience of the nominee;
- (b) permit self-nomination or provide for acceptance of the nomination by the nominee;
- (c) include a confirmation by the nominee that he or she is not disqualified from serving as a member as contemplated in section 38 of the Act;
- (d) include agreement by the nominee to investigate all the information provided by the nominee;
- (e) include a statement that the nominee will be obliged to commit to and uphold a code of conduct;
- (f) provide for a closing date for nominations which date may be no earlier than 21 days from the date of publication and no nominations submitted after that date may be evaluated by the municipality.

(7) If no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and skills or comply with any additional criteria which may have been determined by the municipality, the municipality must invite and call for nominations for a second time and follow the process required for the invitation and calling for nominations prescribed by this regulation.

(8) If after the second invitation and calling for nomination no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and skills or comply with any additional criteria which may have been determined by the municipality, the municipality must request the relevant MEC to designate persons whom the municipality may consider and appoint.

(9) A nomination must be in writing and submitted to the municipality in the manner and format determined by it.

(10) A municipality may use the standard format for a call for nominations contained in Schedule 2, subject to any modifications and qualifications as the municipality deems necessary.

(11) The evaluation panel referred to in subregulation (1)(g) must –

- (a) consist of officials in the employ of the municipality; and

- (b) evaluate all nominations received by the municipality in response to the invitations and call for nominations and make recommendations on the appointment of members to the Municipal Council.

(12) The municipality may not appoint any person to the Municipal Planning Tribunal if that person -

- (a) was not nominated in accordance with the provisions of this regulation;
- (b) is disqualified from appointment as contemplated in section 38 of the Act; or
- (c) if he or she does not possess the knowledge or experience required in terms of section 36(1)(b) of the Act or the additional criteria determined in terms of subregulation (1)(e).

Part C

Joint Municipal Planning Tribunal

4 Agreement to establish joint Municipal Planning Tribunal

(1) An agreement between two or more Municipal Councils to establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act must describe the rights, obligations and responsibilities of the participating municipalities and must provide for at least -

- (a) the name and demarcation code of each of the participating municipalities;
- (b) the budgetary, funding and administrative arrangements for the joint Municipal Planning Tribunal;
- (c) the number and manner of designation of officials representing each of the participating municipalities to the joint Municipal Planning Tribunal, the filling of vacancies and the replacement and recall of the officials;
- (d) the number and manner of appointment of members contemplated in section 36(1)(b) of the Act and the filling of vacancies;
- (e) subject to regulation 3(1)(c), the terms and conditions applicable to the members of the joint Municipal Planning Tribunal;
- (f) the appointment of a chairperson and deputy chairperson;
- (g) the institutional requirements referred to in regulation 3;
- (h) the categories of applications it will consider and decide;
- (i) the administrative support arrangements and the manner in which the municipality must give effect to a decision of the joint Municipal Planning Tribunal;

- (j) the designation of an official to inspect, at any time during normal business hours, the records and operations of the joint Municipal Planning Tribunal on behalf of the participating municipalities;
- (k) determine the conditions for, and consequences of the withdrawal from the agreement of a participating municipality;
- (l) determine the conditions for, and consequences of, the termination of the agreement, including the method and schedule for winding-up the operations of the joint Municipal Planning Tribunal; and
- (m) any other matter relating to the proper functioning of the joint Municipal Planning Tribunal.

(2) The Municipal Councils establishing a joint Municipal Planning Tribunal may use the standard agreement contained in Schedule 4, subject to any modifications and qualifications as the Municipal Councils deem necessary.

(3) An agreement to establish a joint Municipal Planning Tribunal must be approved by a decision taken by each of the Municipal Councils in accordance with their rules and orders.

(4) The publication of an agreement contemplated in section 34(3) must precede the establishment of the joint Municipal Planning Tribunal agreed to in that agreement.

5 Monitoring of joint Municipal Planning Tribunal

A joint Municipal Planning Tribunal –

- (a) is accountable to each municipality which is a party to the agreement establishing it; and
- (b) must submit a quarterly report on its activities and performance to the participating municipalities in the manner and format determined by the participating municipalities.

6 Withdrawal from or termination of joint Municipal Planning Tribunal

(1) If a municipality, for whatever reason, decides to withdraw from a joint Municipal Planning Tribunal, it must ensure that all the legal, financial, practical and other consequences have been identified and addressed before such withdrawal, including the establishment of a Municipal Planning Tribunal for its municipal area or its participation in another joint Municipal Planning Tribunal or in a Municipal Planning Tribunal for a district municipal area.

(2) A joint Municipal Planning Tribunal terminates –

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

(3) If a municipality withdraws from a joint Municipal Planning Tribunal or if it is terminated, the withdrawal or termination must be published in the *Provincial Gazette* and a local newspaper distributed in the municipal area of each of the participating municipalities.

Part D

Municipal Planning Tribunal for District Municipal Area

7 Agreement to establish Municipal Planning Tribunal for District Municipal Area

(1) An agreement between a district municipality and the local municipalities within the area of such district municipality as contemplated in section 34(2) of the Act must describe the rights, obligations and responsibilities of the district municipality and the participating local municipalities and must provide, with the necessary changes, for at least those matters referred to in regulation 4.

(2) In addition to the matters referred to in regulation 4, the agreement must provide for the manner and format within which the district municipality must submit its quarterly report.

(3) The district municipality establishing a Municipal Planning Tribunal and the local municipalities may use the standard agreement contained in Schedule 4 subject to any modifications and qualifications as they deem necessary.

(4) An agreement to establish a Municipal Planning Tribunal for a district municipal area must be approved by a decision taken by each of the Municipal Councils in accordance with their rules and orders.

(5) The publication of an agreement contemplated in section 34(3) must precede the establishment of the type of Municipal Planning Tribunal agreed to in that agreement.

8 Monitoring and implementing decision of Municipal Planning Tribunal for district municipal area

A Municipal Planning Tribunal for a district municipal area –

- (a) is accountable to each municipality which is a party to the agreement;
- (b) must submit a quarterly report on its activities and performance to the district municipality and the constituent municipalities in the manner and format determined by the district municipality; and
- (c) inform the relevant municipality of its decision regarding an application relating to land located in that municipal area and the manner in which that municipality must give effect to that decision,

9 Termination of Municipal Planning Tribunal for district municipal area

(1) If a municipality withdraws from a Municipal Planning Tribunal for a district municipal area, it must ensure that all the legal, financial, practical and other consequences have been identified and addressed before such withdrawal, including the establishment of a Municipal Planning Tribunal for its municipal area.

(2) A Municipal Planning Tribunal for a district municipal area terminates –

- (a) automatically when all but one of the participating municipalities withdraw from the agreement;
- (b) by written agreement among the participating municipalities; or
- (c) upon the fulfilment of any condition for termination contained in the agreement.

(3) If a municipality withdraws from a Municipal Planning Tribunal for a district municipal area or if it is terminated, the withdrawal or termination must be published in the *Provincial Gazette* and a local newspaper distributed in the municipal area of each of the participating municipalities.

Part E

Adjustment of the Division of Functions and Powers of Local Municipality

10 Allocation of municipal planning function

If, in accordance with section 85 the Municipal Structures Act -

- (a) the MEC for local government in a province adjusts the division of functions and powers of a local municipality and district municipality by way of an allocation of the municipal planning function which vests in a local municipality in terms of the Constitution to the district municipality; or
- (b) the national Minister responsible for local government, varies or withdraws any allocation of a function or power or adjusts the division of functions and powers of a local municipality and district municipality by virtue of the refusal by the MEC for local government to make an adjustment in accordance with the assessment of the Demarcation Board,

the district municipality is deemed to be that local municipality for purposes of spatial planning and land use management and it must establish a Municipal Planning Tribunal as contemplated in the Act and the Regulations.

Part F

General Matters

11 Technical and other advisors to Municipal Planning Tribunal

(1) A Municipal Planning Tribunal may establish a database of persons it considers appropriate to serve as technical and other advisors to it.

(2) The technical and other advisors may be –

- (a) an official or employee of a national and provincial government department, an organ of state, a state-owned enterprise, a non-governmental organisation, an organisation created by government to provide municipal support and organised local government as envisaged in the Constitution;
 - (b) a person registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 36 of 2002;
 - (c) a person registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 46 of 2000;
 - (d) a person registered as a professional with any one of the councils for the professions as defined in section 1 of the Council for the Built Environment, 43 of 2000, other than the council referred to in paragraph (c);
 - (e) a person registered as a chartered accountant with a recognised voluntary association or registered in terms of the Auditing Profession Act, 26 of 2005;
 - (f) a person either admitted as an attorney in terms of the Attorneys Act, 53 of 1979 or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 74 of 1964; and
 - (g) an environmental assessment practitioner registered with a voluntary association.
- (3) A technical and other adviser to the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of the municipality that established the Municipal Planning Tribunal;
 - (b) in the case of a person referred to in subregulation (2)(a), is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her;
 - (d) advises the Municipal Planning Tribunal on matters that require his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in subregulation (2)(b) to (g), is entitled to the remuneration referred to in section 39(3) of the Act; and
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.

(4) The remuneration referred to in subregulation (3)(e) is subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Services.

12 Hearings of Municipal Planning Tribunal

(1) When deciding on the number of members that will hear, consider and decide a land development and land use application as contemplated in section (40)(1) of the Act, cognisance must be taken of the type and complexity of the application and the knowledge and experience required to decide such an application and the persons designated must have the requisite knowledge and experience.

(2) A Municipal Planning Tribunal must make a decision on a land development and land use application within 30 days after the final hearing.

13 Legal indemnification

Whenever a claim is made or legal proceedings are instituted against any member of the Municipal Planning Tribunal arising out of any act done or any omission by a member in the performance of his or her duties or the exercise of his or her powers the municipality must -

- (a) in the case of a civil claim or civil proceedings, if it is of the opinion that the member acted or omitted to act in good faith without negligence, indemnify the member in respect of such claim or proceedings and –
 - (i) provide for the legal representation of such member at the cost of the municipality or undertake to pay his or her taxed party-and-party costs; and
 - (ii) settle the claim and pay any amount due in terms of such settlement; or
 - (iii) pay any award made by a court against him;
- (b) in the case of criminal proceedings, if it is of the opinion that the member acted in good faith and without negligence, indemnify him or her in respect of his or her legal costs therein or provide for his or her legal representation at the cost of the municipality; and
- (c) in the case of criminal proceedings, if it is of the opinion that it is in its interest to do so, indemnify the member in respect of his or her legal costs therein or provide for his or her legal representation at the cost of the municipality, provided that the municipality may refuse to act in accordance with the afore-going provisions or may terminate any steps already taken by it and recover from the member any costs incurred by it on his or her behalf if the member –
 - (i) has made an admission or statement which the municipality considers to be prejudicial to a successful defense;

- (ii) has made any offer of payment or settlement;
- (iii) declines to accept the services of a legal representative nominated by the municipality;
- (iv) fails or refuses to furnish information the municipality may require or furnishes false and misleading information;
- (v) fails or refuses to cooperate with the municipality or to render assistance required by the municipality.

CHAPTER 3

LAND DEVELOPMENT AND LAND USE APPLICATIONS

14 Submission of land development and land use applications

- (1) A municipality must determine-
 - (a) the manner and format in which a land development and land use application must be submitted;
 - (b) subject to regulation 16, the timeframes applicable to each component of the phases referred to in that regulation;
 - (c) the manner and extent of the public participation process for each type of land development and land use application;
 - (d) the manner and extent of the intergovernmental participation process for each type of land development and land use application;
 - (e) procedures for site inspections;
 - (f) procedures for an amendment to a land development and land use application; and
 - (g) determine the location where a land development and land use application must be submitted by the applicant.
- (2) The municipality must designate an official in its full-time service to receive and screen a land development and land use application.
- (3) If the municipality does not determine a location as contemplated in subregulation (1)(g), a land development and land use application must be submitted to the municipal manager.

15 Categories of land development and land use applications

- (1) If a municipality decides not to authorise an official to consider and determine certain land development and land use applications, the Municipal Planning Tribunal must consider and decide all land use and land development and land use applications that is submitted to the municipality.

(2) If a municipality decides to authorise an official to consider and determine certain land use and land development and land use applications, it must categorise land development and land use applications and may categorise it as follows:

- (a) type of land development and land use application;
- (b) according to the type, scale and nature of the land development and land use application;
- (c) according to the potential impact of the right granted if the land development and land use application is approved;
- (d) the level of public participation required;
- (e) any other categorisation that the municipality considers appropriate; or
- (f) any combination of the criteria referred to in paragraph (a) to (e).

(3) If the municipality decides to categorise land development and land use applications according to the type of application referred to in subregulation 2(a), it may use the standard categorisation of land development and land use applications contained in Schedule 5, subject to any modifications and qualifications as the municipality deems necessary.

(4) The municipality must determine which category of land development and land use application must be considered and determined by the authorised official and which category must be considered and determined by the Municipal Planning Tribunal and may use the standard division of functions contained in Schedule 5.

16 Timeframes for Land development and land use applications

(1) For the purpose of this regulation, a land development and land use application will be subjected to an administrative phase, a hearing phase and a decision phase.

(2) The administrative phase may not be longer than 10 months, the hearing phase may not be longer than 3 months and the decision must be made within 30 days from the last hearing of the Municipal Planning Tribunal.

(3) The administrative phase is the phase during which all 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.

(4) The hearing phase is the phase during which the Municipal Planning Tribunal or authorised official must hold the necessary hearing, whether an oral or written hearing, and undertake investigations, if required.

(5) If no decision is made within the period referred to in subregulation (2), it shall be deemed to be undue delay for purposes of the Act and the applicant or interested person may -

- (a) report the non-performance of the Municipal Planning Tribunal or authorised official to the municipal manager, who must report it to the municipal council and mayor;
- (b) if, after the municipal manager, municipal council or mayor instructs the Municipal Planning Tribunal or authorised official to make a decision and the Municipal Planning Tribunal or authorised official fails to make such decision, report the failure to the relevant MEC who must assist the Municipal Planning Tribunal or authorised official to make a decision;
- (c) if, after the assistance of the MEC, no decision is made by the Municipal Planning Tribunal or authorised official, the applicant or interested person may approach the court for a remedy.

(6) If at any time during the administrative phase the applicant fails to act or provide the necessary information within the timeframe required by the municipality, the application is deemed to be withdrawn by the applicant.

(7) If an organ of state which is requested to provide comment on an application does not provide comment in the timeframe permitted for that comment, it is deemed that the organ of state has no objection to the application and the granting of the right applied for in the application and the Municipal Planning Tribunal or authorised official may report that non-performance to the executive authority of that organ of state, the Minister and relevant MEC.

17 Alignment of authorisations

(1) If a municipality and an organ of state elect to exercise their powers jointly as contemplated in section 30 of the Act, they must enter into a written agreement that –

- (a) identifies the duplication in the submission of information to the municipality and organ of state;
- (b) identifies the duplication in the execution of a process, including a public participation process and an intergovernmental consultation process;
- (c) provides a framework for the coordination of the procedural requirements for applications submitted in terms of the municipal by-laws and other legislation;
- (d) determines the circumstances under which separate authorisations or an integrated authorisation will be issued; and
- (e) if the municipality and organ of state agree to an integrated authorisation, facilitates –
 - (i) the integrated submission, public participation and intergovernmental consultation process for a specific proposed development or utilisation of land;
 - (ii) assessment of applications by the municipality and the organ of state; and

- (iii) the publication of one notice indicating the decision of the municipality and the organ of state for a specific proposed development or utilisation of land.
- (2) A municipality may decide an application that, in addition to the approval required in terms of the Act, requires approval in terms of other legislation on the basis of a process prescribed under that legislation, but only if that process meets the requirements of the applicable by-laws and the Act.

18 Application where no town planning or land use scheme applies

(1) The owner of land located in a municipal area where no town planning scheme or land use scheme applies to that piece of land, if such owner wants to change the purpose of the land use from that which it is lawfully used for in terms of Schedule 2 of the Act to another purpose listed in that Schedule or formalise an existing lawful land use; the owner or such other person as referred to in section 45(1) of Act, must apply to the municipality in whose municipal area that land is located, for an amendment of the land use.

(2) An application referred to in subregulation (1) must, amongst others, contain the following information:

- (a) a description of the land to which the application relates;
- (b) the land use rights requested and the reason therefor; and
- (c) any other information that the municipality may require.

(3) The municipality must, if an application is received as contemplated in subregulation (1), determine whether the land to which the application relates was lawfully used or could have lawfully been used for a purpose listed in Schedule 2 of the Act.

(4) The public participation procedures and the intergovernmental participation procedures for an application in terms of this regulation are the same as determined by the municipality for a land development and land use application.

(5) The municipality must refer an application contemplated in subregulation (1) to the Municipal Planning Tribunal for consideration and decision.

(6) The Municipal Planning Tribunal must consider, amongst other, the following when deciding an application –

- (a) whether that application is in conflict with the municipal spatial development framework;
- (b) whether or not the approval of the application is in conflict with or will impact negatively on the land uses of the pieces of land in the area surrounding the land to which the application relates;
- (c) whether the land to which the application relates is or is part of high potential agricultural land; and
- (d) whether granting the application will formalise an existing lawful land use.

(7) The decision of the Municipal planning Tribunal must be effected by the municipality and the land use scheme, when developed, must reflect the land use approved by the Municipal Planning Tribunal.

19 Areas under traditional leadership

(1) A traditional council may conclude a service level agreement with the municipality in whose municipal area that traditional council is located, subject to the provisions of any relevant national or provincial legislation in terms of which the traditional council may perform land use management powers and duties on behalf of the municipality in the traditional area concerned.

(2) If a traditional council concludes a service level agreement with the municipality as contemplated in subregulation (1), that traditional council must undertake land use management in its traditional area in accordance with provisions of that service level agreement.

(3) If a traditional council does not conclude a service level agreement with the municipality as contemplated in subregulation (1), that traditional council is responsible for providing proof of the allocation of land rights in terms of the customary law applicable in that traditional area to the applicant of a land development and land use application in order for that applicant to submit it in accordance with the provisions of these Regulations.

CHAPTER 4

APPEALS

20 Determination of appeal procedures

A municipality must determine appeal procedures for the lodging and hearing of appeals contemplated in section 51 of the Act in the following instances:

- (a) if the executive authority of the municipality serves as appeal authority;
- (b) if the municipality authorises a body or institution outside of the municipality to assume the obligations of an appeal authority, including a body or institution authorised in terms of an agreement to establish a joint Municipal Planning Tribunal;
- (c) if provincial legislation regulates the manner of appeals, but does not determine appeal procedures; and
- (d) if the executive authority delegates its authority to hear appeals to an official or a panel of officials as contemplated in section 56 of the Act.

21 Contents of appeal procedures

The appeal procedures determined by the municipality in terms of regulation 20, must include the following:

- (a) designation of the presiding officer and the powers and functions of the presiding officer;
- (b) duty of members of executive authority to disclose interest;
- (c) management of the administrative affairs of the appeal authority;
- (d) record keeping;
- (e) manner of submission and notice of appeal;
- (f) manner of submission and notice to oppose an appeal;
- (g) granting intervener status as contemplated in Chapter 5 of these Regulations;
- (h) manner of obtaining all the necessary information from the Municipal Planning Tribunal or authorised official that made the decision which forms the subject matter of the appeal;
- (i) giving effect to the decision of the appeal authority; and
- (j) any other procedure which may, in the opinion of the municipality, be necessary for the effective and efficient functioning of the appeal authority.

22 Jurisdiction of appeal authority

- (1) An appeal authority may hear an appeal on merit.
- (2) The grounds for hearing an appeal on merit are -

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

23 Hearing by appeal authority

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

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

24 Oral hearing by appeal authority

(1) An appeal authority may hold an oral hearing on the written application of a party or on its own initiative if such hearing would assist in the expeditious and fair disposal of the appeal.

(2) If appropriate in the circumstances, the oral hearing may be held by electronic means.

25 Circumstances in which oral hearing may be dispensed with

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

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

26 Representation before appeal authority

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

27 Opportunity to make submissions concerning evidence

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

28 Decision of appeal authority

An appeal authority must -

- (a) consider and determine all appeals lawfully submitted to it;
- (b) may uphold, in whole or in part, an appeal;
- (c) provide reasons for any decision made by it;
- (d) give directions relevant to its functions to the municipality;
- (e) keep a record of all its proceedings;
- (f) decide any question concerning its own jurisdiction; and
- (g) appoint a technical adviser to advise or assist it with regard to a matter forming part of the appeal.

29 Body or institution outside of the municipality assumes obligations of appeal authority

(1) If the municipality authorises a body or institution to assume the obligations of the appeal authority, it must publish notice of the authorisation establishment in the *Provincial Gazette* and one newspaper in circulation in the municipal area.

(2) Apart from an application, authorised official or a member of the Municipal Planning Tribunal that made a decision on the application that forms the subject matter of the appeal, may not be a member of the body or institution authorised in terms of this regulations.

30 Body or institution outside of the municipality assumes obligations of appeal authority in the manner determined by provincial legislation

If relevant provincial legislation regulates the manner in which the obligations of an appeal authority must be assumed, the municipality must determine the necessary procedures to give effect to the provincial legislation provided that the provincial legislation does not substitute the decision-making authority with its own authority.

31 Official with delegated authority to assume the obligations of appeal authority

(1) If the executive authority delegates its power to hear an appeal to an official in the employ of the municipality, the procedures to hear an appeal determined by the municipality under regulation 20, apply to that official in addition to any conditions of delegation that may be determined by the executive authority.

(2) The executive authority may not delegate its power to hear an appeal to an official in the employ of the municipality who decided the application or who is a member of the Municipal Planning Tribunal that made a decision on the application that forms the subject matter of the appeal.

32 Timeframe for submission of appeal to appeal authority

(1) The municipal manager must, as soon as practicable, but no later than seven days after completion of the pre-hearing process, submit the appeal to the appeal authority to hear the appeal.

(2) The pre-hearing process must be completed within 150 days from the date of receipt of the notice of the appeal by the municipal manager.

33 Duty of municipality

The municipality must give effect to the decision of the appeal authority.

CHAPTER 5

INTERVENER STATUS

34 Petition to be granted intervener status

(1) Where an application has been submitted to a Municipal Planning Tribunal, authorised official or an appeal has been lodged to the appeal authority, an interested person may, at any time during the proceedings, petition the Municipal Planning Tribunal, authorised official or appeal authority in writing in the form determined by the municipality, to be granted intervener status on the grounds that his or her rights may be affected or have been affected by the decision of the Municipal Planning Tribunal or authorised official and might therefore be affected by the decision of the appeal authority.

(2) The petitioner must submit together with the petition to be granted intervener status an affidavit stating that he or she –

- (a) does not collude with any applicant or appellant; and
- (b) is willing to deal with or act in regard to the application or appeal as the Municipal Planning Tribunal, authorised official or appeal authority 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 form to the parties to the application or appeal.

(4) The presiding officer of the Municipal Planning Tribunal or appeal authority or the authorised official must rule on the admissibility of the petitioner to be granted intervener status and the decision of the presiding officer or authorised official is final and must be communicated to the petitioner and the parties.

35 Security for costs of appeal

(1) The presiding officer may, in his or her discretion or on request of one of the parties to the appeal, require security for that party's costs of appeal from the petitioner, in the form and manner determined by him or her, by delivering a notice setting forth the grounds on which the security is claimed and the amount demanded.

(2) If one of the parties request security for costs and only the amount of security is contested, the presiding officer must determine the amount to be given and his or her decision is final.

(3) If the person from whom security is demanded contests his or her liability to give security or if he or she fails or refuses to furnish security in the amount demanded or the amount fixed by the presiding officer within ten days of the demand or the presiding officer's decision, the other party may apply to the appeal authority for an order that such security be given and that the proceedings be stayed until such order is complied with.

(4) The appeal authority may, if security is not given within the time determined in the order, dismiss any petition for intervener status.

36 Interested person

(1) An “interested person” for the purpose of this Chapter means - -

(a) a person who –

(i) has a direct or indirect pecuniary or proprietary interest in the land affected by the decision of the municipal planning tribunal or authorised official and might therefore be affected by the judgement of the appeal authority; and

(ii) submitted written comments or made oral representations during the decision-making process of the municipal planning tribunal or authorised official referred to in paragraph (a);

(b) the Minister or the relevant MEC acting on behalf of the national or provincial sphere of government in the national or provincial interest.

(2) The provisions of regulation 35 do not apply to the Minister or relevant MEC if they are granted intervener status but the Minister or the relevant MEC may authorise the payment to a party to the proceeding by the department concerned of such costs as he or she considers were reasonably incurred by that party in relation to the proceeding as a result of that intervention.

CHAPTER 6 EXEMPTIONS

37 Request for exemption in writing

(1) As soon as practicable after a province or municipality identifies a piece of land or an area that requires an exemption from the provisions of the Act, the province or municipality must, in writing, request the Minister to exempt that piece of land or an area from one or all of the provisions of the Act.

(2) A request for exemption must contain the following information:

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

38 Deciding of request for exemption

(1) Upon receipt of the request for exemption from a province or municipality as contemplated in regulation 37, the Minister must –

- (a) if the request is materially incomplete, advise the province or municipality of any further information required before the request will be considered; or
- (b) if the request does not duly identify the piece of land or area, require the province or municipality to more specifically identify the piece of land or area before the request will be considered.

(2) If the province or the municipality does not respond to the Minister within 30 days of receipt of the request for further particulars, the request will be deemed to have been abandoned by the province or the municipality.

(3) If the province or the municipality responds to the Minister, but does not, to the satisfaction of the Minister, provide sufficient information to enable the Minister to make a decision, the Minister may again request further particulars or clarification and the provisions of subregulation (1) apply to such new request for further particulars or clarification.

(4) If a request is deemed to have been abandoned in terms of subregulation (2), the Minister may close the file on that request without making a decision contemplated in section 55 of the Act.

(5) Subject to subregulation (6), the Minister must, within 30 days after receiving a request for exemption or receiving adequate information for an exemption, publish in the *Gazette* a notice of the request for exemption received which notice must –

- (a) identify the piece of land or area for which an exemption is sought;
- (b) indicate the province and municipality in whose area of jurisdiction the piece of land or area is located;

- (c) indicate which organ of state is requesting the exemption;
 - (d) give the reasons for the exemption as stated in the request for exemption; and
 - (e) invite comment on the request for exemption in writing within a period stated in the notice, but the period may not be less than 30 days from the date of publication of the notice.
- (6) Notwithstanding subregulation (5), the Minister does not have to publish a notice of the request for exemption in the *Gazette* if –
- (a) the piece of land or an area is part of a strategic integrated project designated as such in terms of the Infrastructure Development Act, 2014;
 - (b) the piece of land or an area has to be exempted due to an emergency or a natural disaster; or
 - (c) the exemption is merely due to non-compliance with timeframes contained in the Act.
- (7) In deciding whether a request for exemption is in the public interest as contemplated in section 55 of the Act, the Minister may consider:
- (a) the degree to which the objects of the Act referred to in section 3 of the Act will be undermined;
 - (b) the degree to which the development principles, norms and standards referred to in Chapter 2 of the Act will be promoted or prejudiced by the exemption;
 - (c) the degree of risk or potential risk posed by the exemption;
 - (d) the impact on existing and surrounding land uses;
 - (e) should the exemption not be granted, the effect would be extremely prejudicial to the interests of the community;
 - (f) the type and extent of the emergency, if applicable;
 - (g) if the Minister substitutes alternative provisions as contemplated in section 55(1)(b) of the Act, the capacity of the municipality to administer and implement the substituted provisions and regulate the development on the land; and
 - (h) the inclusion of the piece of land or area in a strategic integrated project designated as such in terms of the Infrastructure Development Act, 2014.
- (8) The Minister must, within 30 days after the closing date referred to in subregulation (5)(e), grant, grant in part, grant subject to conditions, grant for a specific period, substitute alternative provisions consistent with the Act or refuse a request for exemption.
- (9) As soon as practicable after the decision of the Minister, he or she must –
- (a) inform the province or the municipality thereof and give reasons for his or her decision
 - (b) publish a notice of his or her decision in the *Gazette*.
- (10) At any time after refusing to grant an exemption in terms of subregulation (8), the

Minister –

- (a) may withdraw his or her notice of refusal to grant the exemption; and
- (b) if the Minister does withdraw the notice of refusal, he or she must reconsider the request for exemption and the provisions of this part applies with the necessary changes to that request for exemption.

39 Procedures related to withdrawal of exemption

- (1) The Minister may withdraw an exemption granted in terms of section 55 of the Act if -
 - (a) the exemption was granted on the basis of false or incorrect information;
 - (b) a condition, subject to which the exemption was granted, is not fulfilled; or
 - (c) the reason for granting the exemption no longer exists.
- (2) If the Minister is contemplating withdrawing an exemption granted in terms of section 55 of the Act, the Minister must advise the province or the municipality concerned, in writing, of the intention to do so, as well as publishing a notice to that effect in the *Gazette*.
- (3) After considering any submissions or other information received in relation to the proposed withdrawal, the Minister must –
 - (a) withdraw the exemption; or
 - (b) confirm the exemption as previously granted, in writing to that province or municipality; or
 - (c) substitute alternative provisions consistent with the Act; and
 - (d) give written reasons for his or her decision; and
 - (e) publish a notice in the *Gazette*.

CHAPTER 7 GENERAL

40 Electronic submissions

- (1) Where these Regulations -
 - (a) require a person to -
 - (i) send a document, a copy of a document or any notice to another person,
 - (ii) notify another person of any matter; and
 - (b) that other person has an address for the purposes of electronic communications, the document, copy, notice or notification may be sent or made by way of electronic communications.
- (2) Where these Regulations permit a person to make representations on any matter or document, those representations may be made—
 - (a) in writing, or
 - (b) by way of electronic communications
- (3) Where—
 - (a) an electronic communication is used as mentioned in subregulation(1) and (2), and
 - (b) the communication is delivered to the recipient's address referred to in subregulation 1(b) after the recipient's office hours, it is deemed to have been received on the next working day.
- (4) If a municipality has or implements an electronic land use management system, any document, copy, notice, notification or record must be submitted and kept in accordance with that system.
- (5) The provisions of the Electronic Communications and Transactions Act, 25 of 2002 apply to any electronic communication made in terms of this regulation.
- (6) For the purposes of this regulation "working day" means a day which is not a Saturday, Sunday, or other public holiday.

41 National support and monitoring

- (1) If the Minister deems it necessary to issue guidelines to municipalities to assist them in the exercising of any of their functions under the Act, the municipalities must have regard to those guidelines in the performance of their functions.
- (2) Without prejudice to the generality of subregulation (1) and in order to monitor municipalities as required in section 9(1)(b) a municipality must, when preparing a spatial development framework and a land use scheme, append a statement to it which must include the information referred to in subregulation(3).
- (3) The statement referred to in subregulation(2) must include information which

demonstrates -

- (a) if the municipality implemented the policies and objectives contained in the guidelines, how and to what extent the municipality implemented it; or
- (b) if the municipality did not implement the policies and objectives contained in the guidelines, because of the nature and characteristics of the area or part of the area of the spatial development framework and land use scheme, it must give reasons for the for not implementing the policies and objectives contained in the guidelines.

(4) Where applicable, a Province must have regard to any guidelines issued to municipalities under subregulation (1) in the performance of its functions.

(5) The Minister may revoke or amend guidelines issued under this regulation.

(6) The Minister must publish in the *Gazette* a notice of any guidelines and of any amendment or revocation of those guidelines issued under this regulation.

42 Reason for and procedure for issuing ministerial directive regarding spatial development framework or plan

(1) Where the Minister is of the opinion that –

- (a) a municipality, in preparing a spatial development framework or an amendment of a spatial development framework, has ignored or has not taken sufficient account of submissions or observations made by the Minister to the municipality;
- (b) in the case of a plan, the plan fails to set out an overall strategy for the proper planning and sustainable development of the area, or
- (c) the plan is not compliance with the requirements of the Act,

the Minister may in accordance with this regulation, for stated reasons, issue a directive to that municipality to take such recommended measures as he or she may consider necessary to ensure that the spatial development framework, an amendment of a spatial development framework or plan gives effect to the purpose of the Act or is in compliance with the Act.

(2) Where the Minister issues a direction under this regulation and the municipality fails to implement that directive the Minister must declare a dispute between the municipality and the Department and the Intergovernmental Relations Framework Act applies to that dispute if the Minister has not issued spatial planning and land use management dispute regulations

(3) Before the Minister issues a direction under this regulation, the Minister must issue a notice in writing to a municipality no later than four weeks after a plan is made.

(4) The notice referred to in subregulation (3) must, for stated reasons, inform the municipality of—

- (a) the forming of the opinion referred to in subregulation (1);

- (b) the intention of the Minister to issue a direction, a draft of which must be contained in the notice, to the municipality to take certain recommended measures specified in the notice in order to ensure that the plan is in compliance with the requirements of the Act and, in the case of a plan, sets out an overall strategy for the proper planning and sustainable development of the area,
- (c) those parts of the plan that by virtue of the issuing of the notice under this subregulation must be taken not to have come in to effect, been made or amended under subregulation (6).

(5) The Minister must furnish a copy of the notice referred to in subregulation (3) to the municipal manager and Mayor of the municipality, where there is a regional spatial development framework in force for the area of the municipality, to the Premier of the province concerned and, where relevant, to the any relevant or affected organ of state.

(6) No later than 2 weeks after receipt of the notice issued by the Minister under subregulation (3), the municipal manager of the municipality must publish notice of the draft direction in at least one newspaper circulating in the area of the spatial development framework and land use scheme or local area plan, as the case may be, which must state—

- (a) the reasons for the draft direction,
- (b) that a copy of the draft direction may be inspected at such place or places as are specified in the notice during such period as may be so stated which period may not exceed two weeks from date of publication; and
- (c) that written submissions or observations in respect of the draft direction may be made to the municipality during such period and must be taken in to consideration by the Minister before he or she directs the municipality pursuant to this regulation.

(7) No later than 4 weeks after the expiry of the period referred to in subregulation (6)(b), the municipal manager must prepare a report on any submissions or observations received under subregulation (6)(c) which must be furnished to the Minister and the municipal council.

(8) The report referred to in subregulation (6) must —

- (a) summarise the views of any person who made submissions or observations to the municipality,
- (b) summarise the views of and recommendations, if any, made by the municipal council,
- (c) summarise the views of and recommendations, if any, made by the Province,
- (d) make recommendations in relation to the best manner in which to give effect to the draft direction.

(9) The municipal council may make a submission to the Minister in relation to the notice issued by him or her under subregulation (3) at any time up to the expiry of the period of time

referred to in subregulation (6)(b).

(10) The Minister must consider the report furnished under subregulation (7) and any submissions made to him or her under subregulation (9) and -

- (a) where he or she believes that no material amendment to the draft direction is required, or that further investigation is not necessary in order to clarify any aspect of the report or submissions, he or she may decide, no later than three weeks after the date of receipt of the report under subregulation (8), for stated reasons—
 - (i) to issue the direction referred to in subregulation (4)(b) with or without minor amendments, or
 - (ii) not to issue the direction referred to in subregulation (4)(b), or
- (b) where he or she believes that—
 - (i) a material amendment to the draft direction may be required,
 - (ii) further investigation is necessary in order to clarify any aspect of the report furnished under subregulation (8) or submissions made under subregulation (9), or
 - (iii) it is necessary for any other reason,

he or she may, for stated reasons, appoint an inspector no later than three weeks after the date of receipt of the report under subregulation (7).

(11) The inspector appointed under subregulation (10)(b) must be a person who, in the opinion of the Minister, has satisfactory experience and competence to perform the functions required of him or her pursuant to this regulation and must be independent in the performance of his or her functions.

(12) The inspector appointed under subregulation (10)(b) having regard to the stated reasons for his or her appointment—

- (a) must review the draft direction, the report furnished under subregulation (8) and submissions made under subregulation (9),
- (b) must consult with the municipal manager and municipal council,
- (c) may consult with the provincial government and persons who made submissions under subregulation (6)(c), and
- (d) must no later than three weeks after he or she was appointed, furnish a report containing recommendations to the Minister .

(13) Copies of the report of the inspector referred to in subregulation (12)(d) must be furnished as quickly as possible by the Minister to the municipal manager and municipal council, the provincial government and persons who made submissions under subregulation (6)(c).

(14) The persons who have been furnished with the report of the inspector referred to in

subregulation (12)(d) may make a submission to the Minister in relation to any matter referred to in the report no later than 10 days after the receipt by them of the report.

(15) No later than three weeks or as soon as may be during such period extending that three week period as the Minister may direct, after receipt of the report of the inspector referred to in subregulation (12)(d), or any submissions made to him or her under subregulation (14), the Minister, having considered the report, recommendations or submissions, as the case may be, must decide for stated reasons—

- (a) to issue the direction referred to in subregulation (4)(b),
- (b) not to issue the direction referred to in subregulation (4)(b), or
- (c) to issue the direction referred to in subregulation (4)(b), which has been amended by the Minister to take account of any of the matters referred to in subparagraphs (i) or (ii) as the Minister considers appropriate:
 - (i) recommendations contained in the report of the inspector referred to in subregulation (12)(d); or
 - (ii) any submissions made pursuant to subregulation (14).

(16) If the municipality does not implement the direction issued by the Minister under subregulation (15) the Minister must declare a dispute as contemplated in subregulation (2).

43 Short title and date of commencement

These Regulations is called the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 and comes into operation on the date determined by the Minister by publication of a notice thereof in the *Gazette*.

SCHEDULE 1

Norms and standards for the terms and conditions of service of members of Municipal Planning Tribunal

- (1) An official of the municipality appointed by the Municipal Council as a member of the Municipal Planning Tribunal –
- (a) may only serve as member of the Municipal Planning Tribunal for as long as he or she is in the full-time employ of the municipality;
 - (b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal.
- (2) A person appointed in terms of section 36(1)(b) of the Act as a member of the Municipal Planning Tribunal -
- (a) is not an employee on the staff establishment of that municipality;
 - (b) in the case of a person referred to in regulation 3(2)(a), is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other employee benefit as a result of his or her membership on the Municipal Planning Tribunal;
 - (c) performs the specific tasks allocated by the chairperson of the Municipal Planning Tribunal to him or her at a hearing of the tribunal;
 - (d) sits at such hearings of the Municipal Planning Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Municipal Planning Tribunal;
 - (e) in the case of a person referred to in regulation 3(2)(b), is entitled to a seating and travel allowance for each hearing of the Municipal Planning Tribunal that he or she sits at as determined by the applicable treasury regulations and the rates as determined by the Department of Transport;
 - (f) is not entitled to paid overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, performance bonus, medical scheme contribution by municipality, pension, motor vehicle or any other benefit which a municipal employee is entitled to.
- (3) The seating allowance referred to in subregulation (2)(e) is subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Services.
- (4) All the members of the Municipal Planning Tribunal must adhere to a code of conduct for members of a Municipal Planning Tribunal approved by the Municipal Council and non-

compliance thereof is grounds for or a disciplinary hearing by the municipality if the member is designated or removal from office of a member appointed in terms of regulation 3(1)(b).

(5) A municipality may use the standard Code of Conduct for Members of a Municipal Planning Tribunal contained in Schedule 3, subject to any modifications and qualifications as the municipality deems necessary.

SCHEDULE 2

Standard Call for Nominations for Persons to be Appointed as Members to the Municipal Planning Tribunal

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

CLOSING DATE: (INSERT DATE)

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

The period of office of members will be (insert number of years) years calculated from the date of appointment of such members by the _____ Municipal Council.

Nominees must be persons with leadership qualities and must have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

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

- (a) The name and address of the nominator, who must be a natural person and a person may nominate himself or herself;
- (b) The name, address and identity number of the nominee;
- (d) Motivation by the nominator for the appointment of the nominee to the _____ Municipal Planning Tribunal (not exceeding one page);
- (e) A short curriculum vitae of the nominee (not exceeding two pages);

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

Nominations must be sent to:

The Municipal Manager

_____ Local Municipality

P.O. Box _____

For Attention: _____

For Enquiries: _____

Tel _____

* I,(full names of nominee),

ID No (of nominee),

hereby declare that –

- (a) I am available to serve on _____ Municipal Planning Tribunal.
- (b) there is no conflict of interest OR I have the following interests which may conflict with the _____ Municipal Planning Tribunal:

- (c) I am not disqualified in terms of section 38 of the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the _____ Municipal Planning Tribunal and I authorise the _____ Local Municipality to investigate any record in relation to such disqualification or requirement.
- (d) I undertake to sign, commit to and uphold the Code of Conduct applicable to members of the _____ Municipal Planning Tribunal.

SCHEDULE 3

Code of Conduct for Members of the Municipal Planning Tribunal

OBJECTIVES OF THE CODE

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

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

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

COMPLIANCE WITH LAWS

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

COMPLIANCE WITH CONTRACTUAL OBLIGATIONS

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

COMPLIANCE WITH CONTRACTUAL OBLIGATIONS

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

This policy requires each member to conduct himself or herself with the utmost honesty, accuracy and fairness when taking decision. Each situation needs to be examined under this

standard. No unethical practice can be resorted to on the grounds that it is customary practice outside the Municipal Planning Tribunal or that it serves worthy goals. Expediency should never compromise integrity.

GENERAL RESPONSIBILITIES

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

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

REPORTING OF SUSPECTED VIOLATIONS

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

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

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

CONFLICT OF INTEREST

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

CONFIDENTIAL INFORMATION

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

GRATUITIES AND GIFTS

Members of the Municipal Planning Tribunal may not give, offer or promise anything of value to any government official to enhance relations with that official regardless of whether that

official is in a position to influence any government decision with respect to the Municipal Planning Tribunal and its activities.

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

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

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

FINANCIAL RECORDING AND REPORTING

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

CONSEQUENCE OF NON-OBSERVANCE

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

SIGNATURE OF THE CODE OF CONDUCT

Each member of the Municipal Planning Tribunal must, upon taking of office, sign this Code:

I, as a member, undertake-

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

MONITORING THE OBSERVANCE OF THE CODE

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

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

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

SCHEDULE 4
STANDARD AGREEMENT FOR THE ESTABLISHMENT OF A JOINT MUNICIPAL
PLANNING TRIBUNAL
AGREEMENT
FOR THE ESTABLISHMENT OF A JOINT MUNICIPAL
PLANNING TRIBUNAL

Concluded by and between:

MUNICIPALITY 1

Demarcation Code

(Herein represented by, in his/her capacity as Executive Mayor of
Municipality 1 and, in his/her capacity as Municipal
Manager)

(Hereinafter referred to as “”)

AND

MUNICIPALITY 2

Demarcation Code

(Herein represented by, in his/her capacity as Executive Mayor of
Municipality 2 and, in his/her capacity as Municipal
Manager)

(Hereinafter referred to as “”)

WHEREAS the Spatial Planning and Land Use Management Act, 16 of 2013 makes provision in section 34(1) for the establishment of a joint Municipal Planning Tribunal to determine land development and land use applications;

AND WHEREAS the Parties have undertaken an assessment as contemplated in regulation 2 of the Regulations;

AND WHEREAS the Parties are desirous to conclude an agreement to establish a joint Municipal Planning Tribunal to jointly consider and decide the land development and land use applications submitted to their respective municipal councils;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

The headings of the clauses in this Agreement are for the purposes of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

In this Agreement, unless a contrary intention clearly appears:

1.1 Words importing -

1.1.1 any one gender includes the other gender;

1.1.2 the singular includes the plural and vice versa; and

1.1.3 natural persons include created entities (corporate or non-corporate) and vice versa.

1.2 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of the Agreement, notwithstanding that it is only contained in the interpretation clause.

1.3 When any number of days is prescribed in this Agreement, it shall be reckoned exclusively of the first and inclusively of the last day.

1.4 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:

1.4.1 **"commencement date"** means the date of publication of the notice referred to in clause 4.8 irrespective of the date of signature hereof;

1.4.2 **"notice"** means a written notice;

1.4.3 **"Parties"** mean the parties to this Agreement identified herein;

1.4.5 **"the Act"** means the Spatial Planning and Land Use Management Act, 16 of 2013 and the Regulations issued thereunder;

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

2. FUNDING

2.1 The Parties shall make provision in their respective budgets to fund the cost of hearings of the joint Municipal Planning Tribunal the remuneration of members appointed to it and any other necessary operational costs, on an annual alternating basis as contemplated in clause 4.6.3 and 4.6.4.

2.2 There will be no transfer of funds between the parties.

2.3 Each Party shall be responsible to fund the extent of considering and deciding those categories of applications that shall be heard by an authorised official as contemplated in section 35(2) of the Act.

2.4 All funding is subject to the approval of the municipal councils of the parties.

2.5 In the event of the one of the municipal councils not approving funding, it shall result in the termination of this Agreement.

OR IN THE ALTERNATIVE

2. FUNDING

2.1 Municipality 1 shall make provision in its budget to fund the cost of hearings of the joint Municipal Planning Tribunal, the remuneration of members appointed to it and any other necessary operational costs.

2.2 There will be no transfer of funds between the parties.

2.3 Each Party shall be responsible to fund the extent of considering and deciding those categories of applications that shall be heard by an authorised official as contemplated in section 35(2) of the Act.

2.4 Funding of the joint Municipal Planning Tribunal is subject to the approval of the municipal council of Municipality 1 of the parties.

2.5 In the event of the municipal council of Municipality 1 not approving funding, it shall result in the termination of this Agreement.

3. DURATION

3.1 This Agreement commences on the commencement date.

3.2 This Agreement shall terminate –

(a) on the date that the term of office of the members of the joint Municipal Planning Tribunal expires as referred to in clause 4.7;

(b) when one of the municipal councils does not approve funding as contemplated in clause 2.5;

OR IN THE ALTERNATIVE

- (b) when the municipal council of Municipality 1 does not approve funding as contemplated in clause 2.5;
- (c) when one of the parties terminates the Agreement by giving a full financial year's notice of its intention to withdraw from this Agreement.

4. ESTABLISHMENT OF THE JOINT MUNICIPAL PLANNING TRIBUNAL

4.1 Composition of the joint Municipal Planning Tribunal

4.4.1 The joint Municipal Planning Tribunal shall consist of at least 15 members made up as follows:

- (a) three officials in the full-time service of Municipality 1;
- (b) three officials in the full-time service of Municipality 2;
- (c) two persons registered as a professional with the South African Council for the Planning Profession in terms of the Planning Profession Act, 36 of 2002;
- (d) two persons registered as a professional with the Engineering Council of South Africa in terms of the Engineering Profession Act, 46 of 2000;
- (e) two persons registered as a chartered accountant with a recognised voluntary association or registered in terms of the Auditing Profession Act, 26 of 2005;
- (f) two persons either admitted as an attorney in terms of the Attorneys Act, 53 of 1979 or admitted as advocate of the Supreme Court in terms of the Admission of Advocates Act, 74 of 1964; and
- (g) an environmental assessment practitioner registered with a voluntary association;
- (h) any other person who has knowledge and experience of spatial planning, land use management and land development or the law related thereto.

4.4.2 In addition to the criteria determined in subclause 4.4.1 the persons referred to in paragraphs (c) to (g) must have knowledge and experience of spatial planning, land use management and land development or the law related thereto.

4.2 Invitations and nominations to serve on the joint Municipal Planning Tribunal

The Parties shall jointly issue an invitation and a call for nominations for persons referred to in clause 4.1.1(c) – (g) to serve on the joint Municipal Planning Tribunal in the manner and form provided for in the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015.

4.3 Joint evaluation panel

4.3.1 The Parties shall constitute a joint evaluation panel from employees in the full time service of the Parties to evaluate all nominations received, whether due to an invitation or call for nominations.

4.3.2 The joint evaluation panel of the Parties shall evaluate all nominations received and make recommendations to the municipal councils of the Parties including a recommendation with regard to the chairperson and deputy chairperson.

4.4 Appointment of members

- 4.4.1 Each municipal council shall evaluate the recommendations of the joint evaluation panel referred to in clause 4.3 and appoint such persons who qualify for appointment as members of the joint Municipal Planning Tribunal subject to all the terms and conditions of appointment to and serving on the joint Municipal Planning Tribunal referred to in the Act and the Regulations.
- 4.4.2 The Parties shall jointly inform the successful nominees of their appointment to the joint Municipal Planning Tribunal.

4.5 Officials in the full-time employ of the Parties to serve on joint Municipal Planning Tribunal

- 4.5.1 The Parties shall designate three officials each to serve on the joint Municipal Planning Tribunal and shall delegate the necessary authority to these officials.
- 4.5.2 The Parties shall review and amend the contracts of service of the officials designated to serve on the joint Municipal Planning Tribunal.

4.6 Appointment of the chairperson and deputy chairperson

- 4.6.1 The chairperson and the deputy chairperson of the joint Municipal Planning Tribunal shall be appointed by the Parties from the ranks of the officials referred to in clause 4.1(a) and (b).
- 4.6.2 The term of office of the chairperson and the deputy chairperson shall be for a period of one year calculated from the commencement date of this Agreement.
- 4.6.3 For the first year of its existence, the chairperson shall be from Municipality 1 and the deputy chairperson shall be from Municipality 2.
- 4.6.4 For the second year of its existence, the chairperson shall be an official from Municipality 2 and the deputy chairperson shall be an official from Municipality 1 and for every year thereafter, the office of the chairperson and deputy chairperson shall so alternate.

4.7 Term of office

The term of office of members of the joint Municipal Planning Tribunal shall be five years calculated from the commencement date of this Agreement.

4.8 Publication of notice

When the joint Municipal Planning Tribunal is ready to commence operations, the municipal managers of the Parties, shall jointly publish the notice referred to in section 37(4) of Act.

5. APPLICATIONS TO BE HEARD BY THE JOINT MUNICIPAL PLANNING TRIBUNAL

- 5.1 The Parties shall, in accordance with the criteria determined in the Regulations, categorise land development and land use applications in a corresponding manner.

- 5.2 The Parties shall refer such categories of applications determined by them to the joint Municipal Planning Tribunal.
- 5.3 The joint Municipal Planning Tribunal shall exercise and perform and the powers, duties and functions of a Municipal Planning Tribunal referred to in the Act, the relevant provincial legislation and the by-laws of the Parties.

OR IN THE ALTERNATIVE

- 5.1 All land development and land use applications shall be heard by the joint Municipal Planning Tribunal.
- 5.2 The joint Municipal Planning Tribunal shall exercise and perform and the powers, duties and functions of a Municipal Planning Tribunal referred to in the Act, the relevant provincial legislation and the by-laws of the Parties.

6. SEAT OF THE JOINT MUNICIPAL PLANNING TRIBUNAL

The hearings of the joint Municipal Planning Tribunal shall be held at the offices of the Municipality in whose employ the chairperson is for that particular year.

7. SUBMISSION OF APPLICATIONS

- 7.1 A land development and land use application referred to in clause 5,2 shall be submitted by an applicant to the municipality in whose municipal area the land to which the application relates, is located.
- 7.2 The municipality in whose municipal area the land to which the application relates, is located, shall undertake all the required public participation procedures, intergovernmental participation procedures and internal procedures.

OR IN THE ALTERNATIVE

- 7.2 Municipality 1 shall undertake all the required public participation procedures, intergovernmental participation procedures and internal procedures on behalf of Municipality 2.
- 7.3 When the procedures referred to in paragraph 7.2 are completed, the municipality shall refer the application and all required documentation to the joint Municipal Planning Tribunal to consider and determine.

8. DESIGNATION OF MEMBERS TO CONSIDER AND DETERMINE AN APPLICATION BY CHAIRPERSON

- 8.1 On receipt of an application referred to in clause 7.3, the chairperson shall evaluate the application and decide on the knowledge and skills required to consider and determine the application and designate the necessary members to so consider and determine that application, including the presiding officer.
- 8.2 The chairperson shall nominate no less than three members to consider and decide an appeal.

9. APPOINTMENT OF TECHNICAL AND OTHER ADVISERS

9.1 The Parties shall establish and maintain-

- (a) a database of public sector technical and other advisers; and
- (b) a database of private sector technical and other advisers.

9.2 The Parties shall before publication of the notice referred to in clause 4.8 –

- (a) in writing request the employer of an official or employee referred to in regulation 11(2)(a) to make that official or employee available on an *ad hoc* basis for technical and other support before that official or employee is placed on the database of public sector technical and other advisers; and
- (b) publish an invitation in one newspaper circulating in the municipal areas of the Parties for persons referred to in regulation 11(2)(b) to (g) to be registered on the database of private sector technical and other advisers and may determine conditions for incorporation into that database.

9.3 The chairperson shall appoint technical and other advisers to assist the joint Municipal Planning Tribunal per application that it has to consider and determine, if necessary.

9.4 The chairperson shall first consider appointing an adviser from the database of public sector technical and other advisers and only if there is no such adviser available or no adviser available with the requisite knowledge and skill, shall the chairperson consider an adviser from the database of private sector technical and other advisers.

9.5 The municipality in whose full-time service the chairperson is, is responsible to remunerate that technical or other adviser for services rendered to the joint Municipal Planning Tribunal, if that adviser is not a public service official.

OR IN THE ALTERNATIVE

9.5 Municipality 1 is responsible to remunerate that technical or other adviser for services rendered to the joint Municipal Planning Tribunal, if that adviser is not a public service official as contemplated in section 39(3) of the Act.

ASSETS

10.1 The joint Municipal Planning Tribunal shall not acquire any assets or incur liabilities and shall not employ any staff.

10.2 The municipality in whose full-time service the chairperson is, shall provide the necessary assets and designate staff to assist the joint Municipal Planning Tribunal and shall be responsible for any other operational requirements of the joint Municipal Planning Tribunal.

OR IN THE ALTERNATIVE

- 10.1 The joint Municipal Planning Tribunal shall not acquire any assets or incur liabilities and shall not employ any staff.
- 10.2 The necessary assets, but shall make use of the assets provided by and the staff designated by that municipality for each year that the chairperson who is in the full-time service of that municipality the Parties on an alternating basis.

11. LIAISON BETWEEN THE PARTIES

The Parties agree to liaise through the following persons or their successors, duly authorised by the Parties:

For Municipality 1: The Municipal Manager
 Phone number:
 Fax number:
 For Municipality 2: The Municipal Manager
 Phone number:
 Fax number:

12. DISPUTES

- 12.1 Any dispute which arises between the Parties in connection with the interpretation of or giving effect to this Agreement shall be resolved amicably through consultation and negotiation.
- 12.2 Should a dispute remain unresolved, the provisions of the Intergovernmental Relations Framework Act, 13 of 2005 shall apply in the absence of specific dispute resolution measures prescribed by the Act.

13. LIMITATION OF LIABILITY

Notwithstanding anything contained in this Agreement, the Parties' maximum liability shall be limited to –

- (a) an actor omission of the authorised official referred to in section 35(2) of the Act; and
- (b) the acts or omission of a memberof the joint Municipal Planning Tribunal in the year that the Party is responsible for the operational expenses of the joint Municipal Planning Tribunal as contemplated in clause 10.2.

OR IN THE ALTERNATIVE

- 13.1 Notwithstanding anything contained in this Agreement, the liability of Municipality 1 shall be limited to –
 - (a) an act or omission of the authorised official referred to in section 35(2) of

the Act; and

(b) an act or omission of a member of the joint Municipal Planning Tribunal.

13.2 Notwithstanding anything contained in this Agreement, the liability of Municipality 2 shall be limited to the act or omission of the authorised official referred to in section 35(2) of the Act.

(a) the acts or omission of the members of the joint Municipal Planning Tribunal in the year that the Party is responsible for the operational expenses of the joint Municipal Planning Tribunal as contemplated in clause 4.6.3 and 4.6.4.

14. ENTIRE AGREEMENT

14.1.1 This Agreement constitutes the entire agreement and supersedes any and all previous agreements regarding this subject matter that may exist between the parties.

14.1.2 No representations, either verbal or written, made by either party during the tenure of this Agreement shall be of any force or effect unless agreed to by both parties, reduced to writing, and annexed hereto, as an addendum.

15. NO WAIVER

The failure of either Party to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy consequent upon a breach hereof shall not constitute a waiver by such Party to require strict and punctual compliance with each and every provision of this Agreement.

16. NOTICES AND DOMICILIUM

16.1. The parties choose as their *domiciliacitandietexecutandit* the following addresses:-

THE MUNICIPALITY

For the Municipality

Address

THE MUNICIPALITY

For the Municipality

Address

16.2 Either party hereto shall be entitled from time to time by written notice to the other party, to vary its *domicilium* to any other physical address.

16.3 Any notice required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing and if received or deemed to have been received by the addressee.

16.4 Any notice given by one party to the other "the addressee" which –

(a) is delivered by hand during the normal business hours of the addressee at the addressee's *domicilium* for the time being shall be presumed, until the contrary is proved, to have been received by the addressee at the time of delivery;

(b) is posted by prepaid registered post from an address to the addressee at the addressee's *domicilium* for the time being, shall be presumed, until the contrary is proved, to have been received by the addressee on the day after the date of posting;

17. AUTHORITY

The Parties confirm that they have the necessary authorisation to sign this Agreement on behalf of the applicable Party.

18. SIGNATURES

THUS DONE AND SIGNED BY MUNICIPALITY 1 AT _____ ON
THIS _____ DAY OF _____ 2015.

FOR MUNICIPALITY 1

WITNESS FOR MUNICIPALITY 1

SIGNATURE

SIGNATURE

FULL NAME OF SIGNATORY

FULL NAME OF SIGNATORY

THUS DONE AND SIGNED BY MUNICIPALITY 2 AT _____ ON
THIS _____ DAY OF _____ 2015.

FOR MUNICIPALITY 1

WITNESS FOR MUNICIPALITY 1

SIGNATURE

SIGNATURE

FULL NAME OF SIGNATORY

FULL NAME OF SIGNATORY

SCHEDULE 5

Standard Categories of Land Development and Land Use Applications

- (1) Category 1 Applications are -
 - (a) the establishment of a township or the extension of the boundaries of a township;
 - (b) the amendment of an existing scheme or land use scheme by the rezoning of land;
 - (c) subject to subitem (3)(e), the removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
 - (d) the amendment or cancellation in whole or in part of a general plan of a township;
 - (e) the subdivision and consolidation of any land other than a subdivision and consolidation which is provided for as a Category 2 application;
 - (f) permanent closure of any public place;
 - (g) any consent or approval required in terms of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use scheme;
 - (h) any consent or approval provided for in any law referred to in subitem (3).
- (2) Category 2 Applications are:
 - (a) the subdivision of any land where such subdivision is expressly provided for in a land use scheme;
 - (b) the consolidation of any land;
 - (c) the simultaneous subdivision, under circumstances contemplated in paragraph (a) and consolidation of land;
 - (d) the consent of the municipality for any land use purpose or departure or deviation in terms of a land use scheme or existing scheme which does not constitute a land development application;
 - (e) the removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use scheme in operation.
- (3) A consent or approval referred to in subitem(1)(c) only applies in respect of a condition imposed in terms of:
 - (a) The Agricultural Holdings (Transvaal) Registration Act, 22 of 1919;
 - (b) The Removal of Restrictions Act, Act 84 of 1967 or a provincial Act with similar provisions;
 - (c) The Less Formal Township Establishment Act, Act 113 of 1991;
 - (d) The Black Communities Development Act, Act 4 of 1984;

- (e) Physical Planning Act, Act 125 of 1991;
 - (f) The Development Facilitation Act, 67 of 1995
 - (g) Any applicable town planning and townships ordinance not yet repealed;
- (4) The division of functions between an authorised official and a Municipal Planning Tribunal can be made as follows:
- (a) All category 1 land development applications and all opposed category 2 land development applications must be referred to the Municipal Planning Tribunal.
 - (b) All category 2 land development and land use applications that are not opposed must be considered and determined by the authorised official.
- (5) For the purposes of this Schedule -
- (a) “consent” means a land use right that may be obtained by way of consent from the municipality and is specified as such in the land use scheme;
 - (b) “consolidation” means the joining of two or more pieces of land into a single entity;
and
 - (c) “subdivision” means the division of a piece of land into two or more portions.