

**ARRANGEMENT OF THE SCHEDULES**

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**SCHEDULE 1**

**MAPS AND ANNEXURES OF THE  
LAND USE SCHEME IN TERMS OF SECTION 12**

1. The zoning maps to this By-law shall be used in order to illustrate the provisions of the Land Use Scheme as required in terms of this By-law: provided that where another system was lawfully used in the preparation of a land use scheme, that system shall be used in every amendment scheme amending or extending such scheme, other than a land use or amendment scheme substituting such scheme.
2. Subject to the provisions of section 12 of this By-law the following documents shall be required for a Land Use Scheme:
  - (1) scheme clauses containing the provisions of the Land Use Scheme, including Annexures to the clauses;
  - (2) a scheme map depicting the zoning of every property in the municipal area, being a map of the area to which the scheme relates, drawn on one or more sheets;
  - (3) a key plan, being a plan showing the position of the area of a scheme map and, if the scheme map is drawn on more than one sheet, the division of that scheme map into sheets; and
  - (4) a Land Use Scheme register.
3. A scheme map may indicate all matters relevant to a Land Use Scheme and it shall include in particular but not limited to:
  - (1) the scale and the true north of the area on each sheet;
  - (2) the boundaries and names of all townships, agricultural holdings and farms and the boundaries of the various erven, lots or portions into which they have been divided, if any;
  - (3) the position and names of all streets, roads, thoroughfares, squares and other open spaces;
  - (4) every railway reserve;
  - (5) cadastral information; and
  - (6) land uses zones as illustrated by the notations.
4. In indicating the position of the area of a scheme map, a key map shall indicate in particular:
  - (1) the scale and the numerical sequence of each sheet and the true north of the area on each sheet;
  - (2) the boundaries of the area to which the scheme relates and of the area of jurisdiction of the Municipality;

- (3) the boundaries and names of all townships, agricultural holdings and farms;
  - (4) the position and names of all rivers, water courses, dams and lakes; and
  - (5) the route of every main road and every railway.
5. Subject to the provisions of paragraph 3 above all scheme maps where kept in custody by a Municipality in hard copy, shall be to a scale of:
- (1) 1: 1 000 for all areas where townships exist with erven with a ruling size equal to or smaller than 500 m<sup>2</sup>;
  - (2) 1: 2 000 for all areas where townships exist with erven with a ruling size larger than 500 m<sup>2</sup>;
  - (3) 1: 5 000 for all areas where townships exist:
- provided that the Municipality may require that such maps be drawn to a scale of 1:2 000 or such other scale as approved by the Municipality.
6. Where a map in respect of an amendment scheme is prepared, that map shall be to the same scale as that of the map of the approved scheme.
7. Key plans shall be to a scale of 1:10 000, 1:20 000 or 1:50 000 or such other scale as approved by the Municipality.
8. An Annexure to a scheme map or the scheme clauses may be used to:
- (1) indicate in detail, the land use rights permitted and the conditions in respect of certain properties;
  - (2) indicate the properties contemplated in paragraph (1) above by means of a map accurately drawn.
9. The Annexure shall be in the form as indicated in COT: F/24.
10. Every Annexure to a scheme map shall, as far as possible, be drawn on one sheet.
11. The scheme map and Annexures of an amendment scheme shall reflect only the matters relating to the particular amendment to be effected by such scheme.
12. The scheme maps as may be determined by the Municipality may consist of an Annexure(s) of:
- (1) a draft land use scheme or amendment scheme
  - (2) an approved land use scheme or amendment scheme
  - (3) an adopted land use scheme or amendment scheme

13. Zoning Certificate prepared by the Municipality, subject to the information being available and may include the following:
- (1) primary uses;
  - (2) uses that can be obtained with consent use application;
  - (3) definitions;
  - (4) density;
  - (5) coverage;
  - (6) height;
  - (7) floor area ratio;
  - (8) building lines;
  - (9) approved consent use and or permission land use rights;

The zoning certificates shall be available to the public upon request during normal office hours.

A zoning certificate is aimed at assisting the public to provide a summary of the zoning applicable to their property in terms of a land use scheme and does not grant or remove any land use rights. The owner is required to familiarize himself/herself with the content of the Land Use Scheme in operation applicable to his or her property and any relevant legislation and or any policies applicable within the City of Tshwane and no representation by any official or documentation shall be regarded binding on the Municipality read with section 42 of this By-law.

## **SCHEDULE 2 LAND USE SCHEME REGISTER**

1. A Land Use Scheme Register as contemplated in section 12(9) of this By-law may where applicable include the following:
- (a) Date of application
  - (b) Name and contact details of applicant
  - (c) Type of Application
  - (d) Property Description
  - (e) Existing Zoning
  - (f) Square Metres Granted
  - (g) Density
  - (h) FAR
  - (i) Height (storeys/meters)
  - (j) Coverage
  - (k) Building Line
  - (l) Parking Requirements
  - (m) Amendment scheme no

- (n) Annexure Number
- (o) Item No
- (p) Decision and date
- (q) Date of publication
- (r) Any other information which in the opinion of the Municipality shall be required to assist land development in general; provided that (a) to (q) can be made available to the public but information in terms of (r) need not be made available.

### **SCHEDULE 3**

#### **APPLICATION REQUIREMENTS FOR THE CHANGE OF LAND USE RIGHTS ALSO KNOWN AS REZONING IN TERMS OF SECTION 16(1)**

1. An applicant who wishes to apply in terms of section 16(1) of this By-law for an change of land use rights relating to his/her property, shall apply to the Municipality in the form as set out in COT: F/1 and COT: F/2 to this By-law, and such application shall, in addition to the fees prescribed or determined, be accompanied by the maps and documents indicated in paragraph 2 below.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the application:
  - (1) an original of the official receipt for the application fee; the application will not be processed before confirmation has been received of payment;
  - (2) a covering letter addressed to the Department responsible for Development Planning or its successor in title;
  - (3) the completed and signed application form with the details of the applicant and owner as set out on COT: F/1 as well as the applicable application form relevant to the type of application;
  - (4) a power of attorney from the registered owner of the erf substantially, in the opinion of the Municipality, in accordance with COT: F/25, if he/she is not the registered owner. The power of attorney must correspond with the registered Title Deed; provided that:
    - (i) If a property changes hands while an application is being considered, the new owner must submit a power of attorney/letter indicating that he or she concurs with the application, as submitted, before the amendment scheme may be promulgated read with section 16(2)(i)(i) and section 28 of this By-law;
    - (ii) If the new owner fails to submit a power of attorney/letter, the application will be regarded as incomplete in terms of section 16(1)(b);
    - (iii) If the registered owner is a company, close corporation or trust, the applicant must submit a resolution of the company, close corporation or trust substantially, in the opinion of the Municipality, in accordance with this schedule read with COT: F/1 stating the grounds on which the applicant is authorised to act on behalf of the company, close corporation or trust. Note that this resolution is not the same as the power of attorney.

A copy of the following must be attached:

- (aa) a copy of the CM 29 form in the case of a company;
  - (bb) a copy of the CK 1 or 2 forms in the case of a close corporation; and
  - (cc) letter of appointment of trustees in the case of a trust.
- (5) Proof must be submitted if the owner is married in community of property, and his or her spouse must co-sign the power of attorney/application form.
- (6) If the property is encumbered by a bond, the bondholder's consent must be submitted
- (7) A motivating memorandum with at least the following information:
- (i) reference to the objective and principles contained in this By-law;
  - (ii) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or deviated from it;
  - (iii) the development context of the area and impact of the development on the surrounding properties and area;
  - (iv) if the development is a "listed activity" in terms of the National Environmental Management Amended Act, 2004 (Act 8 of 2004), with specific reference to the Regulations promulgated under Section 24(5), the applicant must submit comments from the relevant provincial departments: Gauteng Department of Agriculture, Conservation and Environment (GDACE);
  - (v) if an Environmental Impact Assessment (EIA) process has been initiated, then specify:
    - (aa) date initiated;
    - (bb) name and details of environmental consultant;
    - (cc) what process has been initiated; and
    - (dd) relevant Provincial Reference number assigned.
  - (vi) if an EIA Process is relevant, submit 2 copies of such report to the Department responsible for Environmental Planning or as the case may be of the City of Tshwane, to enable an informed decision by the Department responsible for Development Planning or as the case may be on the merits of the application. The following specific information will be required in the report: (also indicate on a map of a similar scale than the sensitivity map and development layout):
    - (a) fauna and Flora;

- (bb) ridges;
  - (cc) watercourses (indicating 1:50 and 1:100 year flood lines as well as 32 metre from the centre line of the river);
  - (dd) Red Data;
  - (ee) culture historical aspects; and
  - (ff) high potential agricultural land.
  - (vii) an overlay of the above information to deliver a composite site sensitivity map, indicating high, high-medium, medium and low sensitivity areas;
  - (viii) a responding development layout on the composite site sensitivity map;
  - (ix) well motivated arguments, should the development layout not respond to site sensitivities, to ensure overall sustainability.
- (8) If the Environmental Impact Assessment (EIA) process is not relevant:
- (i) give a short, general overview / description of the site situation highlighting identified site sensitivities;
  - (ii) indicate if the site is situated next to an existing open space resource; and
  - (iii) indicate how the proposed development respond to the open space resource with specific referral to levels, placing and functioning of building footprints, landscaping, and access.
- (9) indicate precisely what the proposed development controls are applied for, for example:
- (i) that the coverage be increased to 72%;
  - (ii) that the height be increased from 19,00 m to 23,00 m;
  - (iii) that the floor area ratio be increased from 2,5 to 2,56; and
  - (iv) that the " Residential" rights be changed to "Special" for offices;
- (10) indicate the necessity (need) and desirability of the land development application with regard to:
- (i) the Land Use Scheme; and
  - (ii) the future development of the area.
- (11) A locality, land-use and zoning plans substantially in accordance with COT: F/20 and

COT: F/21 and COT: F/22 as examples;

- (12) A site plan, on a scale of 1:500 or as determined by the Municipality, indicating the layout of the proposed development, parking layout and landscaped areas must be submitted substantially in accordance with COT: F/23 as an example;
  - (13) The specific development controls in the format as contemplated in COT: F/24, if necessary;
  - (14)
    - (i) A copy of the title deed which is registered in the Deeds Office at the time when the application is submitted, with all the pages including the endorsement pages A draft title deed is not acceptable.
    - (ii) All notarial deeds registered against the property as may be applicable.
  - (15) A copy of a Zoning certificate; including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable on the subdivision and or consolidation.
3. The application must be advertised and proof submitted substantially, in the opinion of the Municipality, in accordance with section 16(e) and schedule 12 of this By-law.

#### **SCHEDULE 4**

##### **APPLICATION REQUIREMENT FOR THE REMOVAL, AMENDMENT OR SUSPENSION OF TITLE CONDITIONS IN A TITLE DEED IN TERMS OF SECTION 16(2)**

1. An applicant who wishes to apply in terms of section 16(2) for the removal, amendment or suspension of a restrictive condition in the title deed relating to his/her property shall apply to the Municipality in the form as set out in COT: F/1 AND COT: F/3 and such application shall, in addition to the fees prescribed or determined, be accompanied by the documentation indicated in paragraph 2 below.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the application:
  - (1) Documents as set out in schedule 3, paragraph 2 (1) up to and including 2(6)) and paragraph 2(11); provided that the application form will be submitted substantially, in the opinion of the Municipality, in accordance with COT: F/3;
  - (2) The motivation memorandum with at least the following information:
    - (i) clearly indicate precisely which conditions are to be removed, amended or suspended; and.
    - (ii) indicate the requirements in the Gauteng Removal of Restrictions Act, 1996 in terms of the motivation of the application and where required by the Municipality; the necessity (need) and desirability of the application with regard to:



- (a) the Land Use Scheme;
  - (b) the future development of the area; and
  - (c) contain a thorough motivation, from a land use point of view, of the proposed removal / amendment of the conditions in the Title Deed including, but not restricted to, the need and desirability of the application.
- (3) A locality plan – see COT: F/20 as example;
- (4) (a) A copy if the title deed which is registered in the Deeds Office at the time when the application is submitted with, all the pages including the endorsement pages. A draft title deed is not acceptable; and
- (b) All notarial deeds registered against the property as may be applicable
- (5) A copy of the Zoning Certificate. including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable on the subdivision and or consolidation.
3. The application must be advertised and proof submitted substantially, in the opinion of the Municipality, in accordance with section 16(e) and schedule 12.

#### **SCHEDULE 5**

##### **RESERVATION OF A TOWNSHIP NAME IN TERMS OF SECTION 16(4)(iv)**

1. Before the submission of a township establishment application as contemplated in section 16(4) or a division or phasing of a township as contemplated in section 16(5) a request for approval for the reservation of a township name must be submitted to the Municipality.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the township name reservation request:
- (1) an original of the official receipt for the application fee; the application will not be processed before confirmation has been received of payment;
  - (2) a written request for a new township name on the specific land description;
  - (3) a copy of the registered title deed of all portions included in the request letter;
  - (4) a power of attorney from the registered owner of the erf substantially, in the opinion of the Municipality, in accordance with COT: F/25, if he/she is not the registered owner. The power of attorney must correspond with the registered Title Deed; provided that:
    - (i) If a property changes hands while an application is being considered, the new owner must submit a power of attorney/letter indicating that he or she concurs with the application, as submitted;
    - (ii) If the registered owner is a company, close corporation or trust, the applicant

must submit a resolution of the company, close corporation or trust substantially, in the opinion of the Municipality, in accordance with this schedule stating the grounds on which the applicant is authorised to act on behalf of the company, close corporation or trust. This resolution is not the same as the power of attorney.

A copy of the following must be attached:

- (aa) a copy of the CM 29 form in the case of a company;
  - (bb) a copy of the CK 1 or 2 forms in the case of a close corporation; and
  - (cc) Letter of appointment of trustees in the case of a trust.
- (iii) proof must be submitted if the owner is married in community of property, and his or her spouse must co-sign the power of attorney/application form.
- (5) a Locality plan indicating where the proposed development will be as well as the exact boundaries of the proposed township; and
- (6) the township lay-out plan on a scale of 1:1 000, 1:1 250, 1:1 500, 1:2 000, 1:2 500 or 1:5 000 or as determined by the Municipality.

## **SCHEDULE 6**

### **APPLICATION REQUIREMENTS FOR AN APPLICATION FOR TOWNSHIP ESTABLISHMENT IN TERMS OF SECTION 16(4)**

1. An applicant who wishes to apply in terms of section 16(4) or an establishment of a township relating to his/her property, shall apply to the Municipality in the form as set out in COT: F/1 and COT: F/5, and such application shall, in addition to the fees prescribed or determined, be accompanied by the maps and documents indicated in paragraph 3 below.
2. The applicant must first ensure that they have applied substantially, in the opinion of the Municipality, in accordance with schedule 5 and received approval for a Township Name from the Department responsible for Development Planning or as the case may be. The applicant must ensure that the Township Name Reservation Letter is submitted with the application.
3. The applicant shall submit at least but not limited to the following documentation upon submission of the application:
  - (1) documents as set out in schedule 3, paragraph 2(1) and 2(2) and 2(4) up to and including 2(6);
  - (2) the completed and signed application form as set out in COT: F/1 and COT: F/5;
  - (3) Township Name Reservation Letter;
  - (4) a motivating memorandum with at least the following information:

- (i) reference to the objective and principles contained in this By-law;
- (ii) reference to the Integrated Development Plan and Municipal Spatial Development Framework and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or deviates from it;
- (iii) the development context of the area and impact of the development on the surrounding properties and area. (If an application for additional business floor area is submitted, the applicant must report on the business and population density in support of his or her application).
- (iv) a comprehensive report containing the following:
  - (a) the need and desirability of the township;
  - (b) the design and use of the erven and streets in the township with special reference to:
    - (i) the nature of the application;
    - (ii) the situation of the township and its proposed uses in relation to the surrounding land and the influence which its establishment is likely to exercise on—
      - (aa) land situated within a distance of 1 km from its boundaries and vice versa; and
      - (bb) the provision of engineering services;
    - (iii) how the proposed township will be affected by—
      - (aa) topography;
      - (bb) geotechnical conditions;
      - (cc) existing and proposed transportation routes and systems;
      - (dd) pollution and other environmental factors; and
      - (ee) existing and proposed sewage disposal works;
  - (c) how the proposed township will accord with the proposed development pattern of the area; and
  - (d) any other aspect necessary for the consideration of the application.
- (5) a written certified copy or clear and legible photo-copy of the registered title deed of

each portion of land or agricultural holding on which the township is to be established together with a typewritten certified copy or clear and legible photo-copy of every mortgage bond and, if the rights to minerals have been severed from the ownership of the land, of every certificate of cession of the rights to minerals;

- (6) a certificate from a Conveyancer, indicating who the registered owner of the land is, the conditions of title or servitudes recorded in the title deed[s], how these conditions of title or servitudes affect the proposed land development, as well as the mortgage bond registered against the property. The report must indicate how to deal with such conditions or restrictions in the proposed conditions of establishment;
  - (7) a certificate from a Land Surveyor indicating whether and how (which erven) the conditions of title or servitudes recorded in the title deed[s] affect the proposed land development;
  - (8) a Geo-technical report (including Geology) must classify the soil types, indicate risk classifications and recommended type of development;
  - (9) township Layout Plan that complies with the requirements as set out in Schedule 6;
  - (10) a copy of the Zoning Certificate; including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable on the subdivision and or consolidation.
  - (11) a locality plan, see COT: F/20 as an example;
  - (12) the proposed statement of conditions as contemplated in section 16(4)(f) and (g) of this By-law
  - (13) Traffic Impact Report in required;
  - (14) Retail Study if required;
  - (15) architectural drawings/ Draft Site Development Plans if required; and
  - (16) noise impact assessment if required.
  - (17)
    - (a) A copy of the title deed which is registered in the Deeds Office at the time when the application is submitted with all the pages including the endorsement pages  
A draft title deed is not acceptable.
    - (b) All notarial deeds registered against the property as may be applicable
4. The application must be advertised and proof submitted substantially, in the opinion of the Municipality, in accordance with Section 16(e) and schedule 12.
  5. The Municipality may require other documents, such as further copies of the plan of the proposed township, drawn to such scale as required, site plans and traffic impact studies, to be submitted in support of the application before the application is finalized.

**SCHEDULE 7**

**APPLICATION REQUIREMENTS FOR AN APPLICATION FOR  
THE DIVISION OR A PHASING OF A TOWNSHIP IN TERMS OF SECTION 16(5)**

1. An applicant who wishes to apply in terms of section 16(5) for a division or phasing of a township an establishment relating to his/her property, shall apply to the Municipality in the form as set out in COT: F/1 and COT: F/7 to this By-law, and such application shall, in addition to the fees prescribed or determined, be accompanied by the maps and documents indicated in paragraph 3 below.
2. The applicant must first ensure that they have applied substantially, in the opinion of the Municipality, in accordance with schedule 5 and received approval for the Township Names for the division or phasing from the Department responsible for Development Planning or as the case may be. The applicant must ensure that the Township Name Reservation Letter is submitted with the application.
3. The applicant shall submit at least but not limited to the following documentation upon submission of the application:
  - (1) Documents as set out in schedule 3, paragraph 2(1) and 2(2) and 2(4) up to and including 2(6);
  - (2) the completed and signed application form as set out in COT: F/1 and COT: F/7;
  - (3) Township Name Reservation Letter;
  - (4) A motivating memorandum reasons for the division or phasing of a township and the manner in which it will be done;
  - (5) Approved conditions for the establishment of the township to be divided or phased together with the township lay-out plan;
  - (6) Proof of compliance with section 16(6); or proof of compliance with section 16(5)(b)(iv) (aa);
  - (7) A certificate from a Land Surveyor indicating whether and how (which erven) the conditions of title or servitudes recorded in the title deed[s] affect the proposed land development;
  - (8) A Geology Report must classify the soil types, indicate risk classifications and recommended type of development;
  - (9) Township Layout Plan that complies with the requirements as set out in COT: F/6; and
  - (10) The proposed revised statement of conditions of approval.
  - (11) (i) A copy of the title deed which is registered in the Deeds Office at the time when the application is submitted with all the pages including the endorsement pages. A draft title deed is not acceptable.

- (ii) All notarial deeds registered against the property as may be applicable
5. The Municipality may require other documents, such as further copies of the plan of the proposed township, drawn to such scale as required, site plans and traffic impact studies, to be submitted in support of the application before the application is finalized.

## **SCHEDULE 8**

### **APPLICATION REQUIRMENTS FOR SUBDIVISION AND/OR CONSOLIDATION IN TERMS OF SECTION 16(12)**

1. An applicant who wishes to apply in terms of section 16(12) for the subdivision or consolidation relating to his/her property shall apply to the Municipality in the form as set out in COT: F/1 and COT: F/9, and such application shall, in addition to the fees prescribed or determined, be accompanied by the documentation indicated in paragraph 2 below.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the application.
  - (1) documents as set out in schedule 3, paragraph 2 (1) up to and including 2(6) and paragraph 2(11); provided that the application form will be submitted substantially, in the opinion of the Municipality, in accordance with COT: F/ 9;
  - (2) the motivation memorandum indicating at least the necessary need and desirability of the application with regard to:
    - (i) the Land Use Scheme;
    - (ii) the future development of the area; and
    - (iii) contain a thorough motivation, from a land use point of view, of the proposed subdivision or consolidation including, but not limited to, the need and desirability of the application.
  - (iv) Applications in terms of section 16(12)(a)(iii) must in addition to the requirements of paragraph (2)(i) to (iii) include the following information:
    - (a) the need and desirability of the division;
    - (b) how the proposed division is affected by
      - (aa) topography;
      - (bb) geotechnical conditions;
      - (cc) transportation routes and systems (existing and proposed);
      - (dd) environmental factors such as pollution;
      - (ee) existing and proposed sewage disposal works;
    - (c) how the division will accord with the proposed development pattern of the area;

- (d) the provision made or to be made for the supply of water, electricity and sanitary services to each portion
  - (e) any other aspect deemed to be necessary for the consideration of the application.
- (3) a locality plan substantially in accordance with COT: F/20 as example as;
  - (4) a copy if the title deed which is registered in the Deeds Office at the time when the application is submitted, with all the pages including the endorsement pages. A draft title deed is not acceptable;
  - (5) All notarial deeds registered against the property as may be applicable.
  - (6) a copy of the Zoning Certificate including any notices published in terms of this By-law which has the purpose of changing the land use rights which may be applicable on the subdivision and or consolidation.
  - (7) A4 or A3 size copies of the subdivision and consolidation sketch plan(s) of the erf/erven in question must be submitted and shall be substantially, in the opinion of the Municipality, in accordance with the requirements set out in below of this document.

Note: Where the combined consolidation and subdivision results in a complex sketch plan that is not easily interpretable, the applicant must submit separate plans showing the various stages of the combined consolidation and subdivision. This will facilitate the processing of the application.

- (i) the plan must be drawn in black on a white background;
- (ii) the plan must be drawn to a scale -
  - (a) not smaller than 1:500 for erven smaller than 2 000 m<sup>2</sup>;
  - (b) not smaller than 1:1 000 for erven from 2 000 m<sup>2</sup> up to and including 3 000 m<sup>2</sup>; and
  - (c) not smaller than 1:1 500 for erven larger than 3 000 m<sup>2</sup> but smaller than 10 000 m<sup>2</sup>;

Provided that the Municipality may authorise another scale to be used.

- (iii) the following information must be indicated on the consolidation and subdivision sketch plan(s) for applications in terms of section 16(12)(a)(i) and (ii):
  - (i) the erf number(s);
  - (ii) the name of the township in which the erven are situated;

- (iii) the erf numbers of adjoining erven, and the township(s) in which they are situated;
- (iv) proposed consolidation and subdivision lines and existing or proposed servitude lines, if applicable Scale 1:200;
- (v) north point (true north);
- (vi) a legend identifying each proposed consolidated and subdivided portion by means of a figure;
- (vii) the applicant's signature;
- (viii) the dimensions of the erven;
- (ix) the dimensions of each consolidated and subdivided portion;
- (x) the size of the erven;
- (xi) the size of each consolidated and subdivided portion;
- (xii) the location and nature of every building on the erf and the distances between the buildings and the street boundaries, existing boundaries and the consolidation and subdivision line;
- (xiii) the number of storeys in every existing building situated within 5,0 m of any proposed subdivision line;
- (xiv) the direction, by means of small arrows, of the slope of the roof of every building situated immediately next to any proposed subdivision line;
- (xv) the nature of any building fronting on and which is within 10,0 metres of the subdivision line;
- (xvi) the purpose for which every room on the side of a building that fronts on any subdivision line is used;
- (xvii) the position of every door and window in any wall facing any subdivision line;
- (xviii) the approximate location of any existing overhead conductor or structure used for -
  - (aa) Telephone purposes; and
  - (bb) Electrical purposes
- (xix) the approximate location, in the street reserve adjacent to the erf, of -
  - (aa) trees;



- (bb) fire hydrants;
  - (cc) bus shelters;
  - (dd) storm-water catch pits; and
  - (ee) water connection points, indicated with the symbol.
  - (xx) if the cross slope of the street reserve or the slope of any proposed new access is more than 1:5, an insert on the sketch plan that indicates contours with intervals of 1,0 m;
  - (aaa) all buildings and structures or any portion of buildings and structures the applicant intends demolishing;
  - (bbb) all natural watercourses traversing the erf in question;
  - (ccc) the 1:50 and 1:100 year flood lines if the erf in question is situated in an area that is subject to flooding;
  - (ddd) existing drains on the erf, the street number and name;
- (8) Erven can only be consolidated if the application properties belong to the same owner and the application properties are located within the same township as contemplated in section 16(13)(a)(ii).
- (9) Application in terms fo section 16(12)(2)(iii) must include at least the following information with regards to open space and environmental sensitivities:
- (i) Is the development a “listed activity” in terms of the National Environmental Management Amended Act, 2004 (Act no 8 of 2004), with specific reference to the Regulations promulgated under Section 24(5). The applicant must submit comments from the relevant provincial departments: North West Department of Agriculture, Conservation (NWDACE) and Environment or Gauteng Department of Agriculture, Conservation and Environment (GDACE).
  - (ii) If relevant, has an Environmental Impact Assessment (EIA) process been initiated  
Please Specify:
    - date initiated,
    - name and details of environmental consultant,
    - what process has been initiated,
    - relevant Provincial Reference number assigned

Should an EIA Process be relevant, please forward 2 copies of such report to the Environmental Planning Department, to enable an informed decision by the Section on the merits of the application. The following specific information would

be required in the report: (also indicate on a map of a similar scale than the sensitivity map and development layout)

- Fauna and Flora
- Ridges
- Watercourses (indicating 1:50 and 1:100 year flood lines as well as 32 metre from the centre line of the river)
- Red Data
- Culture Historical aspects
- High potential agricultural land
- An overlay of the above information to deliver a composite site sensitivity map, indicating high, high-medium, medium and low sensitivity areas
- A responding development layout on the composite site sensitivity map
- Well motivated arguments, should the development layout not respond to site sensitivities, to ensure overall sustainability

(iii) Should the Environmental Impact Assessment (EIA) process not be relevant:

- Give a short, general overview / description of the site situation highlighting identified site sensitivities.
- Is the site situated next to an existing open space resource?
- If relevant, how does the proposed development respond to the open space resource? Refer to levels, placing and functioning of building footprints, landscaping, and access?

(10) Requirements for the subdivision plan for applications lodged in terms of section 16(12)(a)(iii):

- (i) contour lines, the values of which shall be based on the datum plane of national geodetic bench-marks based on sea-level as datum plane or, with the written approval of the authorized local authority concerned, on some other datum plane;
- (ii) the area of the land and distinctive numbers and areas of the portions;
- (iii) existing buildings on the land;
- (iv) roads, their names, widths and connections with existing streets or roads in adjoining areas;
- (v) water courses, railways, pipelines, power lines, existing public roads and all servitudes in or abutting to the land;
- (vi) by means of a distinctive notation, the sites proposed to be reserved for specific purposes;
- (vii) the name of the Municipality in whose area of jurisdiction the land is situated;

- (viii) a locality plan, as an inset to the divisional plan, drawn on a scale of not less than 1:50000, showing -
  - (aa) the locality of the land with the principal topographical features of the land and its environs, its position in relation to surrounding farms, farm portions and agricultural holdings and portions of agricultural holdings;
  - (bb) the names and numbers of adjoining properties;
  - (cc) the routes, which provide access to the nearest main road and an indication of the road network in the vicinity of the land;
  - (dd) the boundaries of any demarcated noise zone; and
  - (ee) the bar scale in respect of the locality plan;
- (ix) in an enclosure, the names of the persons responsible for the contour surveys and a reference of the datum plane on which the contour values are based;
- (x) each registered servitude over the land with a reference to the notarial deed or approved diagram relating to such servitude and where an alteration in the route of such servitude is contemplated the proposed route;
- (xi) grid co-ordinates and a reference to the geodetic system used;
- (xii) if the land is subject to flooding, the 1:50 and 1: 100 year flood line or, if the land is not subject to flooding, a certificate by an engineer qualified to do so to the effect that the land is not so subject: Provided that the Municipality may at the written request of an applicant, waive compliance with this subparagraph; and
- (xiii) a bar scale

**SCHEDULE 9**

**REQUIREMENTS FOR EXTENSION OF TIME  
AS MAY BE ALLOWED IN TERMS OF ANY PROVISION OF THIS BY-LAW**

An applicant who wishes to apply in terms of this By-law to the Municipality must do so where practically possible at least one month before the expiry date of the time as stipulated in this By-law or approval of a land development application for extension of time to comply with any provision and or condition of approval.

1. The applicant shall submit at least but not limited to the following documentation upon submission of the application:
  - (1) documents as set out in Schedule 3, paragraph 2(1) up to and including 2(6); provided that the application form will be submitted substantially, in the opinion of the Municipality, in accordance with COT: F/10;
  - (2) compelling reasons for the request for extension of time;

**SCHEDULE 10**

**REQUIREMENTS FOR THE AMENDMENT OR  
CANCELLATION OF A GENERAL PLAN IN TERMS OF SECTION 16(16)**

1. An applicant who wish to apply for the application for the alteration, amendment of total or partial cancellation of a general plan shall at least but not limited to submit the following documentation:
  - (i) an original of the official receipt for the application fee; the application will not be processed before confirmation has been received of payment;
  - (ii) copies of the relevant sheet of the general plan which may be reduced copies of the original;
  - (iii) copies of a plan of the township showing the posed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
  - (iv) a motivational memorandum stating the reasons plan of the township showing the posed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
  - (v) copy of the title deed which is registered in the Deeds Office at the time when the application is submitted of the land affected by the alteration, amendment or total or partial cancellation;
  - (vi) if the property is encumbered by a bond, the bondholder's consent;
  - (vii) The application must be advertised in the Provincial Gazette and Local News Papers

as contemplated in COT: F/35 and proof thereof must be submitted.

2. The applicant shall submit after approval of the amendment, amendment or total or partial cancellation of the general plan of an approved township or a division of land:
  - (i) a certified copy of the altered, amended or totally or partially cancelled general plan;
  - (ii) a statement indicating—
    - (aa) the use of the land affected by such alteration, amendment or cancellation;
    - (bb) every condition imposed, amended or deleted in terms of section 16(16) of the By-law governing the use of the land contemplated in subparagraph (aa).

## **SCHEDULE 11**

### **AMENDMENT OF A LAND DEVELOPMENT APPLICATION PRIOR TO APPROVAL IN TERMS OF SECTION 16(18) OR POST APPROVAL IN TERMS OF SECTION 16(19)**

1. An owner of land or applicant may apply to the Municipality for the amendment of his or her land development application in terms of section 16(18) or section 16(19) as the case may be and shall submit at least but not limited to the following documentation upon submission of the application:
  - (1) an original of the official receipt for the application fee; the application will not be processed before confirmation has been received of payment;
  - (2) covering letter addressed to the Municipality;
  - (3) motivating memorandum clearly indicating the reasons for the amendment as well as the proposed amendment;
  - (4) all documents relevant to the proposed amendment such as a revised set of proposed development controls, statement of conditions of establishment, layout plan, diagrams, site plans and any other relevant document.

## **SCHEDULE 12**

### **REQUIREMENTS FOR THE ADVERTISEMENT OF APPLICATIONS AND SUBMISSION OF PROOF THEREOF IN TERMS OF SECTION 16(1)(e) and (2)**

1. Notices must be published once a week for two consecutive weeks in two local newspapers and in the Provincial Gazette (in two official languages) as set out in COT: F/13, F/14 F/15, F/16, F/17, F/18 as the case may be or other provisions, as the case may be.
2. A notice as set out in COT: F/13, F/14 F/15, F/16, F/17, F/18 as the case may be or other provisions as the case may be must be placed on the erf boundary clearly visible to the

general public and maintained for a period of at least 14 days from the date of first publication. The Placard must be at least 594 mm x 420 mm and the lettering on the notices shall be at least 6 mm high, legible, upright and in print.

3. A notice as set out in COT: F/13, F/14, F/16 as the case may be or other provisions, as the case may be must be sent by registered mail or delivered by hand to each owner of land that abuts the application site and adjacent street, not later than the date of the first publication.

The diagrams below, indicate which occupants or land users of erven surrounding the proposed application must be notified by means of an application notice.

Diagram A: Application in the centre of the block

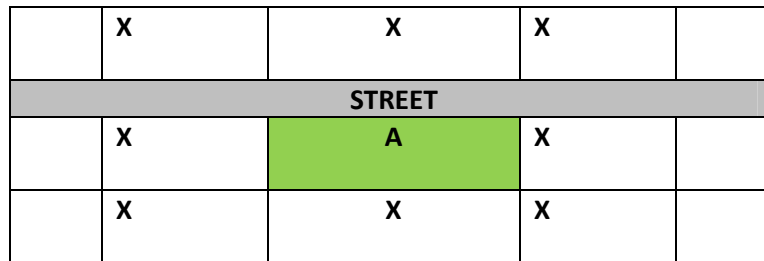
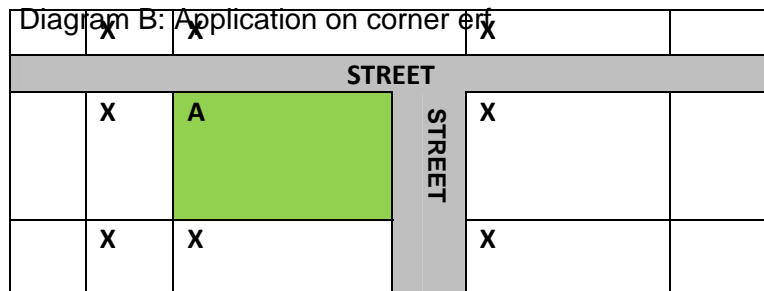


Diagram B: Application on the corner of the erf



Erven marked **A** represent the application erven.

Erven marked **x** represent the erven whose occupants/land users must complete an application notice.

4. In terms of section 16(1)(g), the applicant must submit proof to the satisfaction of the Municipality that he or she has complied with all the provisions of this By-law or relevant Act. This is done as follows:
  - (a) the applicant must submit the full pages of the newspapers and in which the notice appeared or certificates from the editors of the newspapers and Provincial Gazette.
  - (b) the applicant must submit an affidavit stating that the provisions of section 16(1)(e)(ii) and COT: F/26 have been complied with.

- (c) the applicant must submit two legible photographs of the placard notice, not smaller than half-postcard size:
    - (i) one close-up of the notice to clearly show the wording;
    - (ii) one from a distance across the road to show the visibility of the notice;
  - (d) the applicant must submit proof that a notice as prescribed by section 16(1)(e)(iii) and COT: F/13, F/14 F/15, F/16, F/17, F/18 as the case may be has been sent by registered mail or delivered by hand to every owner of land directly adjacent to and opposite the application site. Proof to the satisfaction of the Municipality which proof shall be as may be directed by the Municipality from time to time;
- 5 In terms of section 16(1)(m) a copy of every objection that is received must be submitted to the Municipality or his successor in title. The applicant will also receive a copy of each objection from the said Department.
- 6 When an application for rezoning to Zone “Special” is made, the newspaper advertisements and placard notices must clearly specify what new land-use rights are envisaged with the proposed zoning “Special”. When application is made for other rights, the land-use zones formulated in the Land Use Scheme must be mentioned in the notices.
7. Notices shall place the public in a position to provide comment and or objections to the application and shall specifically allow for the application to be open for inspection to look at the detail of the land development application to be considered by the Municipality.
8. Notices shall specifically when soliciting or calling for objections and or comments require that for purposes of commenting or objecting the objector or interested person shall provide contact details as contemplated in this By-law to enable the Municipality to correspond or send notices to the objectors and or interested parties.

### SCHEDULE 13

#### REQUIREMENTS FOR CONSENT OF THE MUNICIPALITY IN TERMS OF A RESTRICTIVE CONDITION IN THE TITLE DEED IN TERMS OF SECTION 16(2)(d)

1. An applicant who wishes to apply in terms of section 16(2)(d) for the consent of the Municipality of a restrictive condition in title relating to his/her property shall apply to the Municipality in the form as set out in Schedule 1 and 3, and such application shall, in addition to the fees prescribed or determined, be accompanied by the documentation indicated in paragraph 2 below.
2. The applicant shall submit at least but not limited to the following documentation upon submission of the application.
  - (1) documents as set out in schedule 3, paragraph 2 (1) up to and including 2(6) and paragraph 2(11); provided that the application form will be submitted substantially, in the opinion of the Municipality, in accordance with COT: F/1 and COT: F/4;
  - (2) the motivation memorandum with at least the following information:

- (i) the applicant should address the restrictive condition(s) in the title deed that relate to the consent to be granted by the Municipality;
  - (ii) the applicant should indicate where applicable in terms of what other legislation the same planning or land use matter is being governed e.g. National Building Regulations or Town Planning Scheme and its specific provisions etc.
  - (iii) the Land Use Scheme
  - (iv) the future development of the area, (it should provide for the present and the future needs of the city, or a part of it, rather than just benefit a specific business).
  - (v) contain a thorough motivation, from a land use point of view, of the proposed consent of the Municipality in the Title Deed including, but not restricted to, the need and desirability of the application.
- (3) a locality plan – see COT: F/20 as example as;
- (4) (i) A copy if the title deed which is registered in the Deeds Office at the time when the application is submitted with all the pages including the endorsement pages. A draft title deed is not acceptable;
- (ii) All notarial deeds registered against the property as may be applicable.
- (5) a copy of the Zoning Certificate
- (6) where the consent as contemplated above forms part of a rezoning or other type of town planning/development application the applicant should indicate that they are also applying for consent in terms of the conditions as indicated above.
- (7) the local authority reserves the right that, upon this request for consent of the local authority in terms of the restrictive condition in the title deed having been submitted and after evaluation of the application, in the sole opinion of the local authority the rights and obligation of any other party shall be affected, then the applicant shall be required to embark on a process of public participation to the satisfaction of the local authority.

#### **SCHEDULE 14**

##### **APPLICATION FOR CORRECTION OF ERRORS OR OMISSION IN TERMS OF SECTION 22**

1. An applicant or the Municipality on its own accord who wishes to apply in terms of section 22 for the correction of errors or omissions must submitted at least but not limited to the following documents:
- (1) Motivation memorandum that clearly indicates the reasons for the submission as well as the alleged error or omission with specific reference to whether the error or omission is so



material as to constitute a new application or not as is required to be considered by the Municipality in terms of this By-law.

- (2) Substantial proof such as an official approval and or promulgation of land use rights must be submitted that clearly and without any doubt indicates the error or omission.
- (3) The proposed corrected development controls, statement of conditions of establishment, layout plan or any other document that must be corrected.
- (4) If the application was promulgated in accordance with COT: F/29 F/30, F/31 and F/32 as the case may be a correction notice shall be published in the Provincial Gazette.

### SCHEDULE 15

#### CONTRIBUTIONS PAYABLE AND PROVISION OF LAND FOR OPEN SPACES AND PARKS IN TERMS OF THIS BY-LAW

1. Determination of amount or contribution payable in respect of provision of open spaces (private open space or public open space) or parks.
2. Where, by virtue of or in terms of the provisions of this By-law an owner of land on which a land development application is approved (excluding a township establishment in terms of section 16(4) is required to pay an amount of money or a contribution to the Municipality in respect of the provision of open spaces or parks, such amount or contribution shall be determined substantially, in the opinion of the Municipality, in accordance with the formula—

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

“a” represents the number of residential units which may be erected on the land to which the application relates in terms of the approved application;

“b” represents the number of residential units which could have been erected on the land contemplated in paragraph (a) prior to the approval of the application;

“c” represents:

- (i) 24 m<sup>2</sup> where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 1 or 2 purposes or for purposes as may be determined by the Municipality from time to time, as the case may be;
- (ii) 18 m<sup>2</sup> where, in terms of the approved application, the land contemplated in paragraph (a) may be used for Residential 3, 4 or 5 for purposes as may determined by the Municipality from time to time or as the case may be; (e.g. retirement village)

“d” represents the area of the land contemplated in paragraph (a) in m<sup>2</sup>;

“e” represents the site value of the land contemplated in paragraph 1

- (i) as reflected in the valuation roll or the supplementary valuation roll of the local authority; or
  - (ii) if the land is not reflected in the valuation roll or supplementary valuation roll of the Municipality, as determined by a valuer
    - (aa) who is a member of the South African Institute of Valuers; or
    - (bb) as defined in the Local Government Property Rates Act, 2004.
- 2. Provision of Land for Open Spaces (private open space or public open space) or Parks including where a division of township application;**
- (1) Where, in terms of sections 16(4) or 16(5), the Municipality of an application to establish a township, imposes a condition requiring the applicant to provide land for open spaces or parks, the area of that land shall be determined substantially, in the opinion of the Municipality, in accordance with the formula:  
  
a x 24 m<sup>2</sup> + b x 18 m<sup>2</sup>, in which formula
    - “a” represents the number of residential units which may be erected on land in the township which, in terms of the land use scheme concerned, is to be zoned “Residential 1” or “Residential 2” or as may be determined by the Municipality from time to time, as the case may be;
    - “b “ represents the number of residential units which may be erected on land in the township which, in terms of the town planning scheme concerned, is to be zoned “Residential 3” “Residential 4” or “Residential 5” or as may be determined by the Municipality from time to time, as the case may be.
  - (2) Any area of land in a proposed township which is subject to flooding by a 1:100 year flood shall be shown on the plan of the township as an open space or park if so required by the Municipality concerned and such area may at the request be protected by means of a servitude and shall be indicated in terms of a zoning for the purpose for which it is set aside.
  - (3) If, in a proposed township, part of any area of land subject to flooding by a flood contemplated in paragraph (2) is less than 32 m measured from the centre of a water course, the area of land shown as an open space or park on the plan of the township shall be extended to measure 32 m from the centre of the water course.
  - (4) The area of land to be provided for open spaces or parks in terms of paragraph (1), may not be reduced by the area of land to be shown as open spaces or parks in terms of paragraph (2) and (3); provided that the Municipality may give consent to reduce this requirement.

**SCHEDULE 16**

**CODE OF CONDUCT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL AND GUIDELINES**

**PROCEDURE FOR THE MUNICIPAL PLANNING TRIBUNAL TO CONSIDER LAND DEVELOPMENT APPLICATIONS**

This Code of Conduct aims at providing a foundation for procedures to be followed by the Municipal Planning Tribunal or authorised official to consider Development Applications in terms of the applicable legislation that authorises the Municipality to take decisions.

**A. INTRODUCTION: THE PROCESS OF SUBMISSION OF LAND DEVELOPMENT APPLICATIONS**

1. The process refers to all land development applications submitted in terms of this By-law, the Act or other relevant legislation i.e. national, provincial or municipal.
2. Applicants lodge a land development application with the Department for Development Planning or as the case may be. Depending on the nature of the application, an application will be advertised or not. The method of advertising may differ from one type of application to the other. The application is circulated to various departments within the Municipality as well as those bodies the Municipality is obliged to consult with as prescribed by the different legislation. The application may be circulated to the Ward Councillor for comment at this stage.
3. The different types of land development applications submitted have different procedural requirements, which include different prescribed fees, specific documentations, different advertising requirements, affidavits, etc.
4. Upon submission of the land development applications the administration must ensure that all procedural requirements have been met in terms of the relevant legislations.
5. Once all the advertising periods, as well as circulation dates have expired the application is ready to be processed by the administration.
6. The Department responsible for development planning prepares a report capturing the assessment that include need and desirability or any other burden of proof for the application to be considered, compliance with policy framework, respond to all comments received and deal specifically with objections.
7. Once a report has been prepared by the Department responsible for development planning it will be determined whether the application can be dealt with in terms of powers delegated to the authorised official in terms of the categorisation of development applications or whether the application must be referred to the Municipal Planning Tribunal for decision-making in terms of their functions and delegated powers.
8. If an application is referred to the Municipal Planning Tribunal, all relevant documentation, the

applicant's memorandum, objections, the applicant's reply to the objections and the official's comments are annexed to a report which sets out the basis of the application.

9. The administration responsible for supporting the Municipal Planning Tribunal arranges for a public hearing contacting all objectors and advising them to attend an inspection of site and the hearing. It is important to send out the notification strictly in accordance with the requirements of the relevant legislation, in most instances fourteen days' notice plus seven days for postal delivery for the hearing.
10. The schedule of meetings and items to be considered during a month, may be circulated to the relevant ward councilors at the beginning of the month.

## **B. OPERATIONAL FRAMEWORK FOR THE MUNICIPAL PLANNING TRIBUNAL**

1. The policy guidelines are intended to assist the Municipal Planning Tribunal with decision-making on land development applications and should work towards the implementation of the Integrated Development Plan for Council. These policies would include proposed densities, areas where mixed land use could be supported and policy statements with regard to the treatment of development corridors, etc. before they can be implemented. The most important policy document being the Metropolitan Spatial Development Framework (MSDF) and its components.
2. The MSDF's (IDP) shall be adhered to at all times unless deviated as provided for in terms of this By-law.
3. In terms of the relevant municipal planning legislation the Municipality may take certain decisions with regard to land development applications.
4. In taking decisions as contemplated in the various land development pieces of legislation, such decisions may be regarded as an administrative action in terms of administrative law. The Promotion of Administrative Justice Act, 2000 (2 of 2000) should be complied with at all times. All administrative actions should be lawful, reasonable and procedurally fair. Further, the Municipal Planning Tribunal can be regarded as a quasi-judicial body in the execution of its responsibilities.
5. A quasi-judicial act or function refers to an act or function, which influence the liberty, property or other existing rights of an individual. Submissions made to the Municipal Planning Tribunal will range from new development to change of land use rights on a given site, and they involve both public and private sector initiatives, all of which need to be assessed in terms of their strategic influence on the whole of the City of Tshwane area.
6. Any quasi-judicial body is required to comply with the rules of natural justice, as well as administrative action. This legislation dealing with land development provides that certain requirements be adhered to with regards to any decision that may be taken by the Municipal Planning Tribunal and no discretion exists to deviate there from.
7. In order to remain objective in the decision-making process, the applicant will only discuss the application with the relevant officials and objectors prior to the hearing. If the matter is discussed with any member of the Municipal Planning Tribunal prior to the hearing, it could be construed that, a decision taken by the Municipal Planning Tribunal where such interaction did take place, that such a decision is not objective. The planning official will negotiate conditions and problem

areas with the applicant and the service departments may need to discuss specific issues relating to implementation. The rules of natural justice, however, indicate that it would be fair to all parties concerned, if negotiations take place prior to the Municipal Planning Tribunal hearings.

8. In order to save time and to ensure that matters do not have to be postponed unnecessarily, applicants and objectors would be requested to submit *points in limine* prior to the meeting. These *points in limine* should be submitted, in writing to the administration supporting the Municipal Planning Tribunal within a specific time frame. These may then be dealt with administratively, in consultation with the legal department, prior to the meeting. If necessary, the meeting date may be changed to accommodate the correction of matters i.e. if all objectors did not receive notification of the meeting.
9. The rules of natural justice, which should be adhered to, include the *nemo index insua causa* rule, i.e. no person may be a judge in his own case. Various case law confirms the above and goes further to apply the principle that "justice should not only be done, but should be seen to be done". In other words, even if it can indisputably be proven that a person is not biased, if it appears to the layman that somebody may be biased he/she must recuse themselves from the decision making process.
10. A member of the Municipal Planning Tribunal shall not take part in the discussion of or the making of decisions about any matter before the Tribunal in which he or she or his or her spouse, immediate family, partner of employer or the partner or employer of his or her spouse has, directly or indirectly, may have any pecuniary interest read with section 38 of the Act.

### **C. SITE INSPECTION**

1. Applicants and objectors will be requested to bring evidence along to the hearing such as photographs, video recordings, models, etc. with regards to any physical features they wish to base their submission on.
2. Parties will be permitted to argue the relevance of a site inspection at the hearing if they so wish.
3. The Municipal Planning Tribunal will decide whether to go on a site inspection or not. This will follow the next day of the hearing where after the hearing will be concluded.
4. In the case where it has been argued and agreed that the inspection of the site is important, the inspection must be attended by a quorum of the Municipal Planning Tribunal and preferably all the members of the Municipal Planning Tribunal who are due to hear the matter.

The procedure adopted to facilitate this is as follows:

- \* The parties agree at the hearing at what time the inspection will take place either on the day, or if the site inspection is scheduled prior to the hearing, as may be determined at the site inspection.
- \* At the inspection the parties are entitled to point out physical features that they intend arguing as being important during the hearing. There shall be no arguments or debates at the site and during the site inspection.

5. The following points should be noted with regard to site inspections:
- \* All the Municipal Planning Tribunal members will concentrate on the physical features pointed out by the parties to the hearing and will at all relevant times pay full attention to the submissions made on site.
  - \* The Municipal Planning Tribunal members will follow the Chairman on the tour of the site and/or relevant building(s). The inspection will be of a visual nature elucidated by questions or requests for further particulars. No doors, cabinets or drawers are to be opened unless the applicant or his representative offers to do so.
  - \* The Chairperson will meet the applicant and/or representatives of the applicant and explain the nature and purpose of the site inspection.
  - \* The site inspection will be regarded as concluded when the Chairman has ascertained that there are no further questions to be asked and informed the participants where and at which time all parties will meet again to conclude the hearing.
  - \* No bias towards a decision should be communicated by any Tribunal member at this stage. All members are to remain objective, until the hearing is concluded. Concerns and objections by Tribunal members should be raised in the Tribunal session.
  - \* Tribunal members and or officials will switch off their cellular telephones and/or pagers during site inspection and the formal hearing.
  - \* No discussion of any nature whatsoever will be allowed on the bus, should a bus be used, on the merits or physical features or any time prior or after the site inspection thereof.

**D. ORDER OF HEARING**

1. In order to ensure that proceedings of the Tribunal take place in a dignified atmosphere. The Municipal Planning Tribunal members are requested to refrain from criticizing other officials, expressing disagreement with other members of the Tribunal or making statements, which could be construed as pre-judgment of the issue before the or during the hearing itself. Members are free to express themselves fully at the decision making stage of the proceedings. Members should respect the procedures by asking leave from the chair to leave the proceedings.
2. If any Municipal Planning Tribunal member or his or her family has a vested interest as contemplated in section 38 of the Act, in the application, he or she should recuse himself or herself from the hearing for the application.
3. The Appeal Court has expressed itself as follows regarding the principles that govern properly conducted meetings: -
  - \* *The Municipal Planning Tribunal has specially been created to deal with disputes relating to administration and are not bound to follow the procedure of a court of law. Certain elementary principles, speaking generally, they must have due and proper opportunity of producing their evidence and stating their contentions, (and the statutory duties imposed must be honestly and impartially discharged). These elementary principles must be regarded as embodied in the Act, and regulations running counter to them could be upheld."*

4. The above principles should be seen to be observed both at the site inspection and the hearing in order to enhance the reputation of the Tribunal as a credible body and to ensure that the Tribunal proceedings cannot be attacked in the courts on the basis that such principles were not properly observed.
5. The procedure adopted in the hearing shall be in accordance with section 18(3) of this By-law;

**E. IN-COMMITTEE DISCUSSIONS**

1. The Tribunal may approve the application as submitted, in an amended form subject to conditions, refuse the application or postpone its decision. The Tribunal should also take a decision on the merit of an application and look at all the relevant information and disregard the irrelevant information. The Tribunal has to apply its mind in the consideration of an application before it.
2. The Chairman facilitates the Tribunal discussions. It is the duty of the legal adviser to ensure that the decision that is made can be substantiated by the relevant facts and be upheld in a court of law. The proceeding is also recorded and the Tribunal should state its reasons for the decision on record.
3. If the Tribunal intend to change the conditions of an application substantially, it should be done in consultation with the parties to the application. The development planning legislation makes provision for the amendment of the application, after consultation with the applicant and or parties to the Tribunal hearing. However, no greater rights than that which has been applied for and consequently advertised may be asked for or given in an amended form.
4. An application can only be postponed for relevant reasons. These include: by request and agreement of the objectors, if points *in limine* were raised, adequate notification of the hearing was not received, etc.
5. Consideration of the application should be done with due regard to all relevant facts, policies and in particular the Integrated Development Plans and Metropolitan Spatial Development Framework with reference to section 35 of the Municipal Systems Act, 2000 (Act 32 of 2000). It is the responsibility of the Council to formulate policy, including consultation with all stakeholders not that of the Municipal Planning Tribunal and this should be taken into account.

**F. OBJECTIVES AND DEVELOPMENT PRINCIPLES FOR CONSIDERATION**

The objectives and development principles as set out in section 3, 6 and 7 of the Act must be considered by the Municipal Planning Tribunal in their consideration of the Land Development Applications, however specific reference thereto during the deliberation and decision of applications shall not be required.

**G. ASSISTANCE IN TAKING DECISIONS**

1. Council policies

Some of the developed areas of City of Tshwane are subject to development policies that were developed for the areas. These are in many cases very detailed and address the specific needs and dynamics of the various neighbourhoods. These neighbourhood policy documents were drawn up in



consultation with the affected community and was then approved by Council and were incorporated into the RSDF's. The policies also included an evaluation of the infrastructure capacity and transportation routes, and development proposals were made accordingly.

## 2. Official's Comments

The Department responsible for Development Planning or as the case may be assesses applications that are submitted to the local authority. Planning staff is trained to assess the impacts of development and make recommendations thereon. The Municipal Planning Tribunal is a quasi-judicial body, and therefore need to make the final decision on development applications, but the planning staff act as an advisory body to the Municipal Planning Tribunal. Note that the planning department is not a party to the application, but merely provides a professional assessment of the application and recommendations to guide and assist the Municipal Planning Tribunal to assist the Municipal Planning Tribunal to make a decision, the report should include:

- \* Site details and important physical factors that may impact on the development
- \* Development context of the area that may impact on the site
- \* History of development in terms of use, scale and intensity
- \* Impact of the proposed development on the surrounding properties and area
- \* Assessment of proposed development in terms of Council policies and infrastructure and
- \* Recommendations from a town planning point of view.

It is the responsibility of the planning official to obtain the comments of the other service departments and affected parties and to assess the appropriateness of the development.

## 3. The Chair/Legal Adviser

The legal adviser, assist the Tribunal to make decisions that are in accordance with the various procedures and guidelines stated in legislation. The legal adviser should also advise the Tribunal of the scope of decisions that may be made, and the necessary procedures to be followed.

If reasons for the Tribunal decision are required, it is the responsibility of the legal adviser to provide such comments from the tribunal discussion. The legal adviser and or chairperson have to represent and state the reasons for Tribunal decisions. It is thus imperative that the correct procedures and motivations be used in decision making. The legal adviser should ensure that a quorum is present at all times, that the members of the hearing were present at the site inspection and that the relevant legislation is adhered to at all times.

## 4. Infrastructure Capacity

There is a close relationship between the availability of infrastructure and development that can take place. In terms of the relevant development planning legislation and it is the responsibility of the Municipality to ensure that the development is provided with the necessary infrastructure or that arrangements have been made for the provision thereof.

## 5. 3<sup>rd</sup> party agreements and conditional withdrawal of objections.

In terms of section 18(3)(k) the Municipal Planning Tribunal shall not be bound by agreements reached between parties to the land development application and the assessment and imposition of conditions shall be done based on the facts and merits in front of it.



**H. APPLICABLE LEGISLATION AND LAND USE SCHEME**

All members of the Tribunal shall have a duty to familiarize themselves with the content of any legislation, policy, plan framework in terms of which they consider any matter before it and the provisions of the Promotion of Administrative Justice Act, 2 of 2000.

They shall have specific regard to what shall be required by the applicant to be proven in terms of the said legislation in order for the land development application or any matter before it, to be considered.

**I. NOTICE V. AGENDA**

A notice in terms of this By-law to any member whether in the form of an Agenda or not, shall have the same purpose as a subpoena to serve on the Municipal Planning Tribunal and only formal apologies and alternative arrangements approved by the Chairperson appointed in terms of the act, shall be accepted.

**J. ATTENDANCE REGISTER**

- Every member attending a meeting must sign his or her name in the attendance register.

**K. ADJOURNMENT IN THE EVENT OF NO QUORUM**

- If a quorum is not present at the expiry of 30 minutes after the time scheduled for a meeting, the meeting may not be held unless it is decided, with the consent of the majority of the members present, that a further 15 minutes should be allowed to enable a quorum to be present.
- The quorum at the hearing(s) of the Tribunal will be three (3) or more members, including the Chairperson and of which 1 members shall be a non municipal official as contemplated in section 40 (2) of the Act.

**L. METHOD OF VOTING DURING MEETING(S)**

- The members of Municipal Planning Tribunal will be required to vote in favour of or against the recommendation of the report(s) or make any other recommendation and vote for the said recommendation.
- Should there be an equal number of votes in respect of a proposal/application during meeting(s) the Chairperson of a Tribunal must record his or her casting vote.

**M. CONSIDERATION OF THE MINUTES OF A PREVIOUS MEETING OR MEETINGS**

- Due to the rotation of members of the Municipal Planning Tribunal the minutes must be circulated to all members and it may be amended in accordance with any comments received by the chairperson and signed off by him/her.
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**N. RECORDING**

- Municipal Planning Tribunal is a tribunal of record and that all the documents submitted and the proceedings of the committee shall, consequently be recorded. Provision must also be made for the recording of the proceedings during the site inspection, alternatively, that such proceedings be read into the record by the chairperson or his/her nominee during the site inspection.

.....

**DECLARATION**

I, .....hereby declare that I have read and Understand the contents of the Code of Conduct. I further declare that I will be bound by the Code of Conduct and Operational Procedures in my participation as a member of the Municipal Planning Tribunal at all times.

.....  
Signature

.....  
Date

**SCHEDULE 17**  
**EXEMPTION OF FEES IN TERMS OF SECTION 25(5)**

1. An applicant can apply to the Municipality for exemption of payment of application fees in the following instances:
  - (1) The proposed development will be for National , Provincial of Municipal uses
2. The applicant must at least, but not limited to submit the following documentation before submission of a land development application as contemplated in section 16
  - (1) written motivation with the reasons for exemption
  - (2) proof that the proposed development will be of National, Provincial or Municipal purposed
  - (3) Proof of ownership of the proposed application properties
3. Exemption for payment of application fees must be granted before lodgement of a land development application, failing which section 25(3) shall apply.

**SCHEDULE 18**

**CONDITIONS TO BE INSERTED IN THE  
MEMORANDUM OF INCORPORATION OF A NON PROFIT COMPANY**

The following conditions as contemplated section 33 of this By-law shall be included in the documents establishing the non-profit company and shall be filed with the Registrar of Companies, which condition may not be amended without the consent of the Municipality.

- (1) The main purpose of the non-profit company shall be to provide access, engineering services and maintain the said engineering services for the benefit of the owners of the Portions/Erven within the development and or township.
- (2) Each and every owner of Portions of.....Erf OR Erven in .....Extension ... Township (*insert numbers of newly created portions/Erven in the township*) and/or owners of units erected thereon, shall have free access over Portion/s ..... of Erf (*insert number/s of the access erf/erven*) to afford them access to a public road.
- (3) Each and every owner of Portions of.....Erf OR Erven in .....Extension ... Township (*insert numbers of newly created portions/Erven in the township*) and/or owners of units erected thereon , shall have free entrance to Portion/s .....of Erf .....(*insert the number/s of the private open space erf/erven*).
- (4) The Municipality shall not be liable for the malfunction of the surfacing of the access erf/erven, the private open space erf/erven, the stormwater drainage system and/or any engineering services in or on the newly created erven.
- (5) The entire Portion/s ..... of Erf ..... (*insert number/s of the access erf/erven*) shall be subject to a servitude for municipal purposes and right of way in favour of the Municipality and each and every Erf/Portion or Unit in the township/subdivision or development.
- (6) The Municipalities engineering services departments and its emergency services are guaranteed 24 hour access to Portion/s ..... of Erf ..... (*insert number/s of the access erf/erven*) to maintain the Municipalities installations and/or to provide services to the owners of the newly created erven.
- (7) Portion/s .....of Erf..... (*insert the number/s of the access erf/erven and private open space erf/erven*) shall be maintained at its own costs by ..... (*insert the name of the NPC*) in good order and repair, to the satisfaction of the Municipality, failing which such maintenance will be done by the Municipality at the costs of the ..... (*insert the name of NPC*).
- (8) ..... (*insert the name of the Section 21 company*) shall undertake not to submit an application to rezone Portion/s ..... of Erf/Erven ..... (*insert the number/s of the access erf/erven and private open space erf/erven*).

- (9) Portion/s .....of Erf..... (*insert the number/s of the access erf/erven and private open space erf/erven*) shall not be alienated to or transferred into the name of any purchaser other than .....(*insert name of the NPC*) without the written consent of the Municipality first having been obtained.
- (10) ..... (*insert the name of theNPC*) shall not be de-registered at the Registrar of Companies without the written consent of the Municipality first having been obtained.
- (11) The street name allocated to the internal road/s (over the access erf/erven) and the street numbers allocated to the newly created erven in the development, shall be properly and clearly displayed and shall be maintained by .....(NPC) to the satisfaction of the Municipality, failing which such maintenance will be done by the Council at the costs of the ..... (NPC).
- (12) Neither the access Erf..... nor the private open space Erf..... in the development shall be bonded.
- (13) The developer shall become and remain a member of the NPC, until the last transfer of any portion/erf or unit within the development and shall be liable for all rates and taxes, or metered services payable in relation to any of the portions/erven or units including payments due to the Municipality on the remainder of the development, should they have separate title or not.
- (14) This Memorandum of Incorporation shall not be amended, without the written consent of the Municipality first being had and obtained;
- (15) Any other condition which in the opinion of the Municipality is deemed expedient.

**SECHEDULE 19**  
**CANCELLATION, ABANDONMENT REPEAL OF A**  
**LAND DEVELOPMENT APPLICATION IN TERMS OF SECTION 22 (3)**

1. An owner or applicant can apply to the Municipality for the cancellation , abandonment or repeal of the land development application as contemplated in terms of section 22(3) by submitting, but not limited to the following documentation:
  - (1) Submit proof that the applicant requesting for the cancellation, abandonment or repeal have the authority to do so;
  - (2) A written notification for the cancellation, abandonment or repeal
  - (3) Submit proof that all the persons as contemplated in Section 16(1)(m) have been notified of the cancellation, abandonment or repeal of the land development application

- (4) Submit and acknowledgement that the owner shall not have any claim in the future to any re-instatement of such land development application.

**SHORT TITLE OF THE REGULATIONS**

These Regulations shall be called the City of Tshwane Land Use Management By-law Regulations, 2015