

PROVINCE OF GAUTENG

PLANNING AND DEVELOPMENT BILL

DRAFT

To be submitted to the Gauteng Provincial Legislature

Office of the Premier:
Gauteng Planning Commission

ACT

To provide for the planning and development of land use in the Province; to provide for provincial planning and the coordination of national, provincial and municipal land use and development policies; to provide for the land use planning functions of the Province and the process of provincial planning : to provide for land use schemes in the management of land use by municipalities; to provide for the regulation of municipal land use and the establishment of a municipal appeal tribunal : to provide for the process of land development and to facilitate and expedite development procedures including the upgrading and formalisation of settlements; to provide for appeals and the procedures of the appeal tribunal; to provide for the provision of engineering services in land development; to provide for the control and enforcement of land use; and to provide for related matters.

PREAMBLE

WHEREAS the system of land use planning and development in provincial legislation has not been changed since the introduction of non-racial democracy in South Africa and is no longer appropriate;

WHEREAS there is a need for the use and development of land to be developmental and to be based on normative values which reflect democratic imperatives;

WHEREAS the Constitution enjoins provincial government to give effect to matters of urban and rural development and provincial planning and to support and strengthen the capacity of municipalities in their executive authority of municipal planning;

WHEREAS it is necessary to ensure that the planning, development and management of land use is more effective, efficient and integrated in order to achieve the social and economic improvement of communities, particularly those of the poor and disadvantaged;

WHEREAS planning and development policy and legislation should ensure sustainable development, the establishment of viable communities, protection of the natural environment and the efficient use of resources;

WHEREAS the process of development and land use management is required to be standardized and to be uniform for all municipalities; and

WHEREAS the Constitution has resulted in the creation of new structures and systems of national, provincial and municipal government in which existing planning and development legislation is no longer appropriate

BE IT THEREFORE ENACTED by the Legislature of the Province of Gauteng as follows:-

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SCHEDULE

CHAPTER 1

INTRODUCTION

Definitions

- 1 In this Act, unless the context indicates otherwise:
- (aa) “agricultural holding” means an agricultural holding as contemplated in the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919.
 - (ab) “amendment scheme” means an amendment of a land use scheme in terms of Chapters 4 or 6; or an amendment of an existing scheme which comes into effect after the commencement of this Act.
 - (ac) “appeal tribunal” means the municipal appeal tribunal referred to in Chapter 5.
 - (ad) “application” means any application in terms of this Act or a land use scheme and “applicant” has a similar meaning.
 - (ae) “approval” means the written approval of any application provided for in terms of this Act or a land use scheme and “approved” has the same meaning.
 - (af) “body” means any organization or entity, whether a juristic person or not and includes a community association.
 - (ag) “building” means any structure or building for which building plans are required to be submitted to a municipality for approval in terms of the National Building Regulations and Standards Act, 103 of 1977.
 - (ah) “building regulations” means the building regulations in the National Building Regulations and Standards Act, 103 of 1977.
 - (ai) “by-law” means a by-law promulgated by a municipality.

- (aj) “community association” means a duly constituted organization which represents the interests of a community or defined group of persons.
- (ak) “constitution” means the Constitution of the Republic of South Africa, 1996. (Act 108 of 1996).
- (al) “contiguous” in relation to land means any areas of land which have a common boundary or boundaries.
- (am) “day” when used to define time periods in this Act means a calendar day.
- (an) “decide” in relation to any application or appeal, means to decide on the approval or refusal of the application and “decision” has the same meaning.
- (ao) “develop” in relation to land means the erection of buildings on land, the change of the permitted use of land or the subdivision of land and includes the installation of engineering services on land for which approval is required in terms of this Act and “development” has the same meaning.
- (ap) “development application” means a development application as contemplated in Chapter 6.
- (aq) “development contribution” means the payment required to be made by an applicant to the municipality in respect of an external engineering service, refuse site or parks or open space as provided for in Chapter 8.
- (ar) “diagram” means a diagram approved by the Surveyor General in terms of the Land Survey Act, 8 of 1997.
- (as) “engineering service” means a facility for the provision of water, sewerage, electricity, municipal roads and stormwater drainage, and refuse removal required for the purpose of land development.
- (at) “environmental legislation” means the National Environment Management Act, 107 of 1998, or any subsequent legislation which has the same or similar effect.

- (au) “erf” means an area of land in a township shown on a general plan or diagram as an erf, lot, plot or stand registered in a deeds registry and includes a portion of such erf or consolidation of such erven registered in a deeds registry.
- (av) “Executive Council” means the executive council of the Province established under section 132 of the Constitution.
- (aw) “existing scheme” means a town planning scheme in terms of the Town Planning and Townships Ordinance, 15 of 1986, Annexure F of the Black Communities Development Act, 102 of 1982, or any other similar system for determining and regulating the use and development of land.
- (ax) “external engineering service” means an engineering service situated outside the boundaries of a land area and which is necessary to provide that service to the land area.
- (ay) “farm” means an area of land identified and described as such on a diagram in terms of the Land Survey Act, 8 of 1997 and includes a portion of a farm similarly identified.
- (az) “general plan” means a general plan approved by the Surveyor General in terms of the Land Survey Act, 8 of 1997.
- (ba) “interested party” means any person or body, other than an applicant or the municipality, which in accordance with the procedures prescribed has made any representations in respect of a draft land use scheme, amendment scheme or any application in terms of this Act.
- (bb) “internal engineering service” means an engineering service within the boundaries of a land area which is necessary for the development of the land area and which is to be owned and operated by the municipality or service provider.
- (bc) “land” means any erf, agricultural holding or farm portion and includes any improvement or building on the land.

- (bd) “land area” means the total area of erven, agricultural holdings and/or farm portions which are the subject of an application in terms of this Act or a land use scheme.
- (be) “land use” means the purpose for which land is developed or used or may be developed or used in terms of a land use scheme or existing scheme, including any conditions related to such land use purpose.
- (bf) “land use scheme” means the written document, zoning map and registers referred to in Chapter 4, as amended from time to time, and includes annexures or schedules to the land use scheme, approved in terms of this Act and where the context requires, includes an existing scheme.
- (bg) “MEC” means a member of the Executive Council of the province responsible for a matter referred to in this Act.
- (bh) “municipal area” means the area of jurisdiction of the municipality in terms of the Local Government : Demarcation Act, 27 of 1998.
- (bi) “municipal council” means a municipal council referred to in section 157 of the Constitution.
- (bj) “municipal department” means any department or division of a municipality under the direction of the municipal manager and includes a municipal entity as contemplated in the Local Government : Municipal Systems Act, 32 of 2000.
- (bk) “municipal integrated development plan” means the integrated development plan adopted in terms of Chapter 5 of the Local Government : Municipal Systems Act, 32 of 2000.
- (bl) “municipal manager” means the person appointed as such in terms of the Local Government : Municipal Structures Act, 117 of 1998 and includes a municipal official delegated by the municipal council or by law to perform any function of the municipal manager and “city manager” has the same meaning.

- (bm) “municipal official” means a person in the employ of the municipality who has been delegated to perform any function of the municipality or any function for which the municipal manager is responsible.
- (bn) “municipal road” means a road or similar public thoroughfare shown on a General Plan or diagram or a road established by law which is owned by or which ownership of vests in a municipality including a servitude for such road purposes and “street” has the same meaning.
- (bo) “municipality” means the municipality as envisaged in section 155(1) of the Constitution and for the purposes of this Act includes a municipal department and a municipal entity.
- (bp) “notice” means a notice in the form prescribed.
- (bq) “notify” means giving notice to any specified person or body as contemplated in this Act in the manner prescribed and “notification” has a similar meaning.
- (br) “open space” means an open area of land for use as an area for recreation, social or similar purposes,.
- (bs) “opposed” means any matter in respect of which an interested party has made representations which oppose in part or in whole the approval of a land use scheme or an application in terms of this Act.
- (bt) “organ of state” means an organ of state as defined in section 239 of the Constitution.
- (bu) “owner” means the person registered in a deeds registry as the owner of land or the owner in law and where the context requires, includes an owner’s duly appointed representative.
- (bv) “parastatal body” means an organisation, other than an organ of state, established by law to perform a function or provide a service on behalf of national, provincial or municipal government.

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- (bw) “park” means an area of land designated as a park on a general plan or diagram approved by the Surveyor General in terms of the Land Survey Act, 8 of 1997.
- (bx) “part of land” means an area of land which is part of an erf, agricultural holding or a farm portion which is not separately defined on a diagram or general plan in terms of the Land Survey Act, 8 of 1997.
- (by) “person” means any natural or juristic person including an organ of state.
- (bz) “Premier” means the head of the Executive Council of the province including an MEC acting under delegation by the Premier.
- (ca) “prescribed” means prescribed in this Act or by regulation in terms of this Act and includes any matter determined by notice published by the Premier but excludes matters referred to as guidelines in this Act.
- (cb) “Province” means the province of Gauteng.
- (cc) “provincial plan” means the provincial long-term plan, provincial integrated development plan or provincial spatial development framework as contemplated in Chapter 2.
- (cd) “provisional general plan” means a general plan which is provisionally approved in terms of section 14 of the Land Survey Act, 8 of 1997.
- (ce) “public open space” means any park, square, garden or similar open area of land for use by the public which is owned by or which ownership of vests in the municipality but excludes a street, road or public thoroughfare.
- (cf) “public place” means any public open space, municipal road or other area of land which is owned by or which ownership of vests in the municipality and is for use by the general public including a servitude for such purposes.
- (cg) “publish” means publish by notice in the Gauteng Provincial Gazette and publication has a similar meaning.

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- (ch) “Registrar of Deeds” means the registrar of deeds in terms of the Deeds Registries Act, 47 of 1937.
- (ci) “refuse site” means an area of land owned and used by the municipality for the disposal of domestic or business waste as contemplated in the National Environmental Management Waste Act, 59 of 2008.
- (cj) “regulation” means a regulation published in terms of this Act.
- (ck) “representation” means a representation made in terms of Chapters 4 or 6.
- (cl) “restrictive condition” means any condition registered against the title deed of land restricting the use, development or subdivision of the land concerned.
- (cm) “rezone” means to amend a land use scheme in terms of a development application to change the category of land use in a land use scheme or change any conditions of the land use category irrespective of whether or not the category of land use is changed and “rezoning” has the same meaning.
- (cn) “road” means a municipal road and any other public road or thoroughfare, including a servitude, for public road purposes and a road established by law.
- (co) “secretary” means the secretary of the appeal tribunal contemplated in Chapter 5.
- (cp) “service provider” means the body responsible for the provision of an engineering service where the engineering service concerned is not provided by the municipality.
- (cq) “services appeal board” means the services appeal board established in terms of the Town Planning and Townships Ordinance, 15 of 1986.
- (cr) “settlement” means an area of land which is not a township and which is occupied or to be occupied by a group of persons mainly for residential purposes and has been declared as such in terms of Chapter 6 and shown on a provisional General Plan.

- (cs) “shelter” means a structure, other than a building, erected and used for the purpose of human habitation.
- (ct) “spatial plan” means a provincial spatial development framework or a municipal spatial development framework, as contemplated in sections 9 or 14 of this Act.
- (cu) “Surveyor General” means the Surveyor General as defined in the Land Survey Act, 8 of 1997.
- (cv) “title deed” means any deed registered in a deeds registry recording the ownership of land.
- (cw) “this Act” includes the regulations in terms of this Act.
- (cx) “township” means an area of land divided into two or more erven and which may include public places and roads, indicated on a general plan as a township and which is registered in a Deeds Registry.
- (cy) “Townships Board” means the townships board established in terms of the Town Planning and Townships Ordinance, 15 of 1986.
- (cz) “township register” means the subdivision register of a township in terms of the Deeds Registries Act, 47 of 1937.
- (da) “transfer” means the registration of transfer of ownership of land in terms of the Deeds Registries Act, 47 of 1937.
- (db) “zone” means a category of land use or an area of land to which particular conditions apply in terms of a land use scheme or existing scheme.
- (dc) “zoning map” means the map contemplated in section 17(1)(b).

Use of definitions

- 2 The definitions in section 1 shall apply to and be used in a land use scheme in terms of this Act.

Planning and Development Principles

- 3 (1) The provisions of this Act must be interpreted and applied with the purpose of achieving an effective, efficient and integrated system of land use planning and development in the Province.
- (2) To achieve the purposes set out in subsection (1), all matters provided for in this Act shall be carried out with the aim of:
- (a) facilitating land development;
 - (b) ensuring that spatial plans, development policies, strategies and land development programmes of municipal, provincial and national government are coordinated and aligned;
 - (c) formulating spatial plans which act as a general indicative framework for land development; and
 - (d) eliminating unnecessary administrative delay and regulatory control in the land development process.
- (3) Spatial planning and land development shall have due regard to any principles established in national planning and development legislation.
- (4) For the purposes of this section the Premier may from time to time prescribe particular principles for spatial planning or issue guidelines for land development in the province.

Application of the Act

- 4 This Act constitutes legislation in terms of section 104 of the Constitution and applies to the planning, use and development of all land in the province.

CHAPTER 2

PROVINCIAL PLANNING AND DEVELOPMENT

Provincial plans

- 5 (1) The Executive Council shall, from time to time adopt and amend provincial plans for the development and management of provincial land use in the province.
- (2) Provincial plans have the purpose of coordinating, integrating and aligning:
- (a) provincial land use and development strategies with policies of national government;
 - (b) all plans and development strategies of provincial departments; and
 - (c) provincial and municipal plans and development strategies which relate to land use and its development.

Provincial planning and development

- 6 (1) In order to facilitate provincial planning and development and to give effect to the requirements of this Chapter the Premier shall make any necessary arrangements including the delegation of responsibilities within the province for:
- (a) the preparation of and recommendations for adoption by the Executive Council of:
 - (i) a long-term development plan for the province;
 - (ii) a provincial integrated development plan; and
 - (iii) a provincial spatial development framework

- (b) the preparation of provincial development policy and guidelines for planning and development in terms of this Act;
- (c) the coordination of all plans, strategies and policies of provincial departments relating to development and land use;
- (d) the review from time to time and where necessary the amendment of the plans referred to in paragraph (a) and the policies and guidelines referred to in paragraph (b);
- (e) promoting the coordination and alignment of provincial plans with municipal planning including, but not limited to, municipal integrated development plans and municipal spatial development frameworks.

(2) The Premier shall:

- (a) consult with any bodies, including organs of state, to ensure the coordination of activities related to the development and planning of land use in the province;
- (b) where necessary, coordinate provincial plans, municipal planning and environmental management matters relating to development and land use applications;
- (c) establish and manage a planning and development information system for the province;
- (d) promote the capacity of those involved in planning and development in the province;
- (e) monitor and review all legislation relating to development and land use in the province for consideration by the Executive Council.

Long-term development plan

- 7 (1) The Executive Council may adopt and amend a long-term development plan for the province.

- (2) The long-term development plan for the province is to set out the vision, goals and objectives for development in the province for a period of 20 years or more in the future.
- (3) After the adoption or amendment of the long-term development plan the Premier shall give notice thereof in the Provincial Gazette and by any other means considered appropriate.

Provincial Integrated Development Plan

- 8 (1) The Executive Council shall, at least every five years, adopt a provincial integrated development plan which sets out the strategic development objectives for the province and which coordinates and integrates the plans, strategies and land development programmes of all provincial departments.
- (2) The provincial integrated development plan may be amended from time to time as is considered necessary.
- (3) The purpose of the provincial integrated development plan is to provide:
 - (a) a framework for provincial social and economic development strategies and land development programmes in the province;
 - (b) a framework for the allocation of provincial resources and for preparing the expenditure budget of the Gauteng Provincial Government;
 - (c) for the integration and coordination of plans of all departments of the Gauteng Provincial Government;
- (4) The preparation of the provincial integrated development plan must:
 - (a) take into account any relevant national development policies;
 - (b) be undertaken in consultation with the municipalities in the province; and
 - (c) provide for consultation with relevant organs of state and with the private sector.

- (5) The provincial integrated development plan shall, in addition to any other matters, include:
- (a) an evaluation of existing provincial policies, programmes, projects and plans;
 - (b) an evaluation of existing resources;
 - (c) a financial framework for development; and
 - (d) projects, quantitative targets and time periods for achieving land development objectives.
- (6) When the provincial integrated development plan is adopted or amended, the Premier shall give notice of such adoption or amendment in the Provincial Gazette and in any other manner considered appropriate.

Provincial Spatial Development Framework

- 9 (1) The Executive Council shall adopt a provincial spatial development framework for the province at least every five years and may amend the provincial spatial development framework from time to time.
- (2) Before its adoption by the Executive Council the draft provincial spatial development framework shall be published for comment by the public.
- (3) After the adoption or amendment of the provincial spatial development framework the Premier shall publish notice thereof.

Purpose of the Provincial Spatial Development Framework

- 10 The purpose of the provincial spatial development framework is to:
- (1) provide a spatial representation of the land development objectives of the provincial integrated development plan;

- (2) indicate the desired and intended pattern of provincial land use development in the province;
- (3) coordinate and integrate the land use development plans of provincial departments;
- (4) align provincial development policies with those of national government; and
- (5) promote the coordination of municipal spatial development frameworks and the provincial spatial development framework.

Content of the Provincial Spatial Development Framework

- 11 The provincial spatial development framework shall, in addition to any other matters considered necessary, include:
- (1) a description of and maps indicating the desired spatial development pattern of the province; and
 - (2) any spatial aspects of relevant national and provincial plans, development strategies and programmes.

Effect of the Provincial Spatial Development Framework

- 12 (1) On publication of a notice of its adoption or amendment the provincial spatial development framework becomes the reference guideline for the preparation of development plans, projects and programmes of all provincial departments.
- (2) All development plans, policies, projects and programmes of provincial departments must be consistent with the provincial spatial development framework.
 - (3) The provincial spatial development framework shall be the reference to be used for the purpose of guiding and informing all decisions made in terms of

this Act relating to provincial land use and development but shall not be interpreted as being prescriptive.

- (4) In the event of any inconsistency between the provincial spatial development framework and a municipal spatial development framework, preference shall be given to the municipal spatial development framework for the purpose of guiding and informing decisions made in terms of this Act by the municipality and the appeal tribunal. .
- (5) The provincial spatial development framework does not confer on any person the right to use or develop any land except as may be approved in terms of this Act.

Preparation of the Provincial Spatial Development Framework

13 (1) The preparation or amendment of the provincial spatial development framework shall include:

- (a) consultation with
 - (i) all provincial departments;
 - (ii) all municipalities;
 - (iii) where relevant, other organs of state and parastatal bodies;and
- (b) notice to the general public and any other persons or bodies which may be appropriate

(2) The process of consultation shall:

- (a) have regard to the plans and development strategies of national government, provincial departments, municipalities and parastatal organisations; and

- (b) provide for the draft provincial spatial development framework to be referred to the bodies referred to in subsection (1) for comment.
- (3) Any person or body referred to in subsection 1 may submit comments on the provincial spatial development framework.
- (4) After receipt and consideration of the comments referred to in subsection (3), the Executive Council shall adopt the provincial spatial development framework with or without any amendments.

CHAPTER 3

MUNICIPAL PLANNING

Municipal Spatial Development Frameworks

- 14 (1) A municipal spatial development framework shall be prepared and adopted in accordance with the provisions of the Local Government : Municipal Systems Act, 32 of 2000 and take into consideration the content of the provincial spatial development framework.
- (2) In addition to the requirements of the Local Government : Municipal Systems Act, 32 of 2000, a spatial development framework of a municipality must, with reference to section 26(e) of that Act, include the matters and information referred to in subsection (4) to ensure the effective and efficient planning, development and management of land use by the municipality.
- (3) In the preparation of a municipal spatial development framework and in order to coordinate provincial plans with the municipal spatial development framework the municipality shall consult with the province and with its adjoining municipalities.
- (4) In order for municipal land use planning and development to be effective for the purposes of this Act, a municipal spatial development framework must include:
- (a) a review of existing land use patterns in the municipality and a statement of issues to be addressed;
 - (b) a plan showing the desired pattern, including the density or intensity, of land uses;
 - (c) the future development of roads and transport infrastructure;

- (d) a statement of priorities for the development of any particular land uses or land areas within the municipality and the strategies to be implemented to achieve such priorities;
 - (e) a programme for the development of any particular land uses or land areas within the municipality;
 - (f) the availability of engineering services to serve future land use development; and
 - (g) a programme for the provision of engineering services to serve the development of the desired pattern of land use.
 - (h) the methods, including the provisions of the land use scheme, to achieve the objectives of the municipal strategic development framework.
- (5) In accordance with section 35(1)(a) of the Local Government: Municipal Systems Act, a municipal spatial development framework shall be used to guide and inform the land use and development decisions of the municipality and nothing in a municipal spatial development framework shall be interpreted to limit the discretion of the municipality or the appeal tribunal in deciding any application or appeal in terms of this Act or an existing scheme or land use scheme.
- (6) After the municipal spatial development framework has been adopted by the municipal council the municipality shall give notice thereof in the Provincial Gazette.
- (7) Where a municipality adopts any plan or policy in relation to land use or development which has the same purpose as a municipal spatial development framework, such plan or policy shall be fully set out in or annexed to the municipal spatial development framework and the provisions of subsection (5) shall apply to such plan or policy.

CHAPTER 4

LAND USE SCHEMES

Purpose of a land use scheme

15 (1) The purpose of a land use scheme is to determine and to regulate the use and development of land in the municipal area to which it relates.

(2) The provisions of a land use scheme determine the permitted use and development of land in order to promote:

- (a) the land development policies of the municipality and of provincial and national government;
- (b) the use and development of land in the general interest of public welfare both economically and socially;
- (c) the reasonable protection of individual and community interests in land;
- (d) the economic and sustainable use and development of land;
- (e) the efficient and environmentally sensitive use and development of land;
- (f) the protection of valuable natural features and the conservation of heritage sites and areas of public value; and
- (g) the limitation of nuisance and undesirable conditions in the use and development of land:

in a balanced and coordinated manner.

Preparation and adoption of a land use scheme

- 16 (1) Except as provided in subsection (3), every metropolitan and local municipality shall within five years of coming into operation of this Act or such longer period as the Premier may allow, prepare and adopt a single land use scheme for the whole area of its jurisdiction.
- (2) The preparation of a land use scheme shall be as prescribed and after consideration of any guidelines published by the Premier.
- (3) With the agreement or at the request of its constituent local municipalities, a district municipality may prepare a single land use scheme for the area of the district municipality.
- (4) Where a municipality advises the Premier that it is unable to prepare or it fails to prepare a land use scheme as prescribed, the Executive Council may do so on its behalf in accordance with the provisions of section 139 of the Constitution.
- (5) After a land use scheme has been prepared, which shall be known as a draft land use scheme, and before its adoption, the municipality shall give notice thereof as prescribed.
- (6) Any person or body may, as prescribed, submit representations in respect of a draft land use scheme..
- (7) Simultaneously with the notice referred to in subsection (5), the municipality shall submit the draft land use scheme to the Premier for comment.
- (8) The municipality shall consider the representations submitted in terms of subsection (6) and any comments of the Premier in terms of subsection (7), and may amend its draft land use scheme accordingly.
- (9) The municipality may adopt its draft land use scheme with or without any amendments.

- (10) After the land use scheme has been adopted, it shall be known as an approved land use scheme and the municipality shall publish notice thereof as prescribed.
- (11) After notice has been given in terms of subsection (10), any interested party who is aggrieved by the provisions of the land use scheme may appeal within 56 days of the date of such notice.

Form and content of a land use scheme

17 (1) A land use scheme must include, in the form prescribed:

- (a) a document containing the written provisions, procedures and conditions relating to the use and development of land;
- (b) a zoning map indicating the categories of land use referred to in the written document;
- (c) a register of all development applications together with a record of their approval or refusal;
- (d) a register of all land use applications together with a record of their approval or refusal; and
- (e) a register of all approved amendments to a land use scheme including any annexures or schedules relating to an amendment of the land use scheme which shall be known as a land use scheme register.

(2) A land use scheme may as prescribed include provisions relating to:

- (a) the purposes for which land may only be used or developed with the consent of the municipality;
- (b) the relaxation or variation of conditions of a land use scheme;
- (c) procedures required in terms of the land use scheme other than any procedures prescribed in terms of this Act; and

(d) any persons or bodies to whom a copy of a land use application must be circulated.

(3) Where any provision in a land use scheme is in conflict with the provisions of this Act, the provisions of this Act shall prevail.

Status of a land use scheme

18 (1) An approved land use scheme comes into effect 56 days after the date of publication of the notice in terms of section 16(10) or on the date of the notice in terms of section 65 whichever date is the later.

(2) An amendment of a land use scheme comes into effect on the date of publication of the notice in terms of sections 21(8), 21(14), 39(1), 54(1), 56(10) or 65 whichever date is the latest.

(3) Subject to section 19, on the coming into effect of a land use scheme in terms of subsection (1) or its amendment in terms of subsection (2), a land use scheme:

(a) has the force of law and binds all owners of land including a municipality, all organs of state and any other person having a right or interest in land; and

(b) replaces all existing schemes within the municipal area to which the land use scheme applies.

(4) Nothing in a land use scheme shall override a restrictive condition in a title deed.

Conflict with existing schemes

19 (1) Where the provisions of an approved land use scheme conflict with and are more onerous or restrictive than in an existing scheme, the less onerous or less restrictive provisions of the existing scheme shall apply for a period of 5 years from the date referred to in section 18(1).

- (2) The provisions of subsection (1) shall not apply to any amendment of a land use scheme approved after the date of a notice referred to in section 18(1).
- (3) Notwithstanding the provisions of section 18(3), the use of any building for which building plans have been approved on or prior to the date referred to in section 18(1), may continue to be used as if the land use scheme had not come into effect.
- (4) Notwithstanding the provisions of subsection (3), any building plans submitted before but not yet approved on the date referred to in section 18(1) shall be approved in terms of the applicable existing scheme replaced by a land use scheme.
- (5) If a building is altered or extended after the date on which a land use scheme comes into effect, the provisions of the land use scheme shall only apply to such alterations and extensions.
- (6) The provisions of subsections (3), (4) and (5) shall not apply if a building is demolished after a land use scheme has come into effect.

Review of a land use scheme

- 20 (1) A municipality may at any time review the provisions of its land use scheme and shall do so at least every 5 years.
- (2) The municipality shall prepare a report on the review of its land use scheme including any recommendations on the amendment of the provisions of the land use scheme.
- (3) A copy of the report referred to in subsection (2) shall be submitted to the Premier for comment within the time period prescribed.
- (4) After receipt of the comments of the Premier or if no such comments have been received, the municipal manager shall submit the report to the municipal council, including the comments of the Premier if any, for consideration.

- (5) After consideration of the report the municipal council may adopt the recommendations of the report with or without amendment.
- (6) Where the municipal council has adopted any recommendation to amend its scheme, the municipality shall amend its land use scheme in accordance with the provisions of section 21.
- (7) Where the boundaries of a municipal area are altered, the municipality shall within 1 year or such longer period as the Premier may allow, prepare and adopt an amendment of its land use scheme accordingly and in accordance with the provisions of section 21.
- (8) Until such time as a land use scheme has been amended in terms of section 21, the provisions of a land use scheme or existing scheme applicable to the area affected by the altered municipal boundaries shall remain in force.

Amendment of a land use scheme by a municipality

- 21 (1) In addition to an amendment of a land use scheme in terms of section 20 a municipality may at any time prepare and adopt an amendment of its land use scheme:
- (a) in respect of any land owned by the municipality; or
 - (b) in respect of any other area of land for the purpose of promoting or achieving the land development objectives of its spatial development framework.
- (2) An amendment of a land use scheme prepared in terms of this section or section 20 shall be known as a draft amendment scheme.
 - (3) The municipality shall give notice of a draft amendment scheme.
 - (4) Any person to whom notice has been given of a draft amendment scheme may submit representations in respect of the draft amendment scheme.

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- (5) the municipality shall consider the draft amendment scheme and any representations and may:
- (a) approve the amendment scheme with or without any further amendment; or
 - (b) may resolve not to approve the amendment scheme.
- (6) If any representations were made in terms of subsection (4) the municipality shall notify all interested parties of the decision in terms of subsection (5).
- (7) Any interested party aggrieved by the decision may appeal within 28 days of the date of the notice contemplated in subsection (6).
- (8) After the approval of any amendment in terms of this section and if no appeal is lodged, the municipality shall publish a notice of such approval.
- (9) Where an existing scheme has been amended prior to the coming into operation of this Act or an existing scheme or land use scheme has been amended in terms of this Act, the municipality may alter, correct or further amend that amendment in the following circumstances:
- (a) where the implementation or application of a condition of the amendment scheme is no longer relevant or practical.;
 - (b) where it is necessary or appropriate as the result of the subdivision or consolidation of land, the amendment or cancellation of a general plan or diagram or the closure of a road or public place;
 - (c) where it is necessary for the proper interpretation or administration of the existing scheme or land use scheme;
 - (d) any other circumstance prescribed; and

such amendment shall not be subject to the provisions of subsections (1), (2), (3), (4), (5), (6), (7) and (8) or sections 30 or 31.

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- (10) The alteration, correction or further amendment referred to in subsection (9) shall not be made if such alteration, correction or further amendment would materially affect the rights of an owner of land which is the subject of the amendment scheme.
- (11) Where any amendment scheme is replaced or partially superseded by a further amendment scheme on approval of any application in terms of this Act, such amendment scheme shall be consequentially amended by the municipality to the extent that may be necessary.
- (12) After an alteration, correction or further amendment referred to in subsections (10) or (11) the municipality shall give notice thereof to every owner of land which is the subject of that amendment scheme.
- (13) An owner of land to whom notice has been given in terms of subsection (12) may appeal within 28 days of the date of such notice.
- (14) After the period referred to in subsection (13) or the determination of any appeal in terms of that subsection the municipality shall publish a notice of the alteration, correction or further amendment of the existing scheme or land use scheme.
- (15) The municipality shall record the alteration, correction or further amendment in the land use scheme register and in any other manner considered necessary.
- (16) Subject to the provisions of subsections (9), (10), (11), (14) and (15) the municipality shall alter, correct or further amend an existing scheme or land use scheme at the request of the owner of the land concerned.

CHAPTER 5

LAND USE REGULATION

Municipal land use regulation

- 22 (1) A municipality shall establish any necessary structures and procedures for the management of land use, the consideration of and decisions on applications and the administration of any other matters required in terms of this Act.
- (2) The procedures and administration referred to in subsection (1) shall not be in conflict with the provisions of this Act.

Establishment of the municipal appeal tribunal

- 23 (1) An appeal tribunal is hereby established which is a municipal appeal tribunal.
- (2) The members of the appeal tribunal shall be appointed jointly by all the metropolitan and local municipalities in the province.
- (3) On the coming into operation of this Act, every metropolitan and local municipality shall, subject to section 24, each prepare a list of the names of not more than twelve persons to be considered for appointment as members of the appeal tribunal and shall submit such list to the Premier.
- (4) Of the persons nominated by each municipality not more than one half may be in the fulltime employment of a municipality or the province.
- (5) The Premier shall prepare a schedule of the names of all the persons referred to in subsection (3) and may include the names of such other persons as he or she considers appropriate or necessary and shall submit such schedule to the municipalities for consideration.
- (6) The Premier shall publish a notice of the schedule of names referred to in subsection (5) for comment by the general public within 28 days of the date of publication of the notice.

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- (7) The Premier shall submit any comments received from the general public to the municipalities for consideration.
- (8) The municipalities shall, subject to section 24(1) and (2), jointly and in consultation, select thirty names of the persons referred to in subsection (5) and shall submit a list of the names of such persons to the Premier.
- (9) Should agreement not be reached as contemplated in subsection (8), the Premier shall convene a meeting of one representative of each municipality at which the representatives shall vote in respect of each person whose name appears on the schedule referred to in subsection (5).
- (10) The names of persons to be appointed as members of the appeal tribunal shall be decided by a majority of votes in respect of each person by the municipal representatives present at the meeting.
- (11) On the determination of the names of persons in terms of subsection (8) or (10) the Premier shall, on behalf of the municipalities, publish the names of the persons concerned and on the date of such publication those persons shall be the members appointed to the appeal tribunal.
- (12) The appointment of a member to the appeal tribunal shall be for a period of 5 years.
- (13) In terms of sections 41(h) and 154 of the Constitution, the Premier shall, after consultation with the municipalities, determine:
- (a) the location of the office where the appeal tribunal shall be situated;
 - (b) provisions for the performance of all functions necessary to the operation of the appeal tribunal; and
 - (c) the terms and conditions of appointment of members of the appeal tribunal.

(14) The Premier shall:

- (a) make arrangements for the appointment and remuneration of officials to perform the administrative functions of the appeal tribunal; and
- (b) appoint a secretary to the appeal tribunal.

(15) After the period of 5 years referred to in subsection (12) has expired the further appointment of members of the appeal tribunal shall be in accordance with the provisions of this section.

(16) A member whose term of office has expired may be re-appointed as a member of the appeal tribunal.

Composition of the appeal tribunal

24 (1) The members of the appeal tribunal shall be persons appointed by reason of their qualifications in and knowledge and experience of planning and development or the law related thereto.

(2) Not more than one half of the members of the appeal tribunal shall be persons who are in full-time employment of a municipality.

(3) In consultation with the municipalities, the Premier shall designate;

- (a) A member of the appeal tribunal as chairperson; and
- (b) A member as deputy chairperson to act as chairperson when the chairperson is absent or unable to perform his or her functions.

(4) The chairperson shall designate at least three but not more than four members of the appeal tribunal to hear, consider and decide a matter which comes before it and shall designate one of such members as the presiding officer.

(5) The members designated in terms of subsection (4) shall include at least:

- (a) one member who is a registered professional planner;

- (b) one member who has knowledge and experience of the law relating to planning and development; and
 - (c) where the appeal concerns engineering services, one member who is a registered professional engineer.
- (5) The members designated in terms of subsection (4) shall include at least one member who is in the full-time employment of a municipality and one member who is not so employed.

Functions of the appeal tribunal

- 25 (1) The appeal tribunal shall consider and decide all appeals and any other matters referred to it in terms of this Act.
- (2) The appeal tribunal must keep a record of all its proceedings.
 - (3) The appeal tribunal must provide the reasons for any decision or determination made by it.
 - (4) The appeal tribunal shall perform such functions as are designated to the Townships Board in terms of the Gauteng Transport Infrastructure Act, 8 of 2001.

Powers of the appeal tribunal

- 26 (1) The appeal tribunal may:
- (a) make any decision which could have been made by a municipality and may uphold or dismiss an appeal and impose any conditions with regard to the subject of an appeal;
 - (b) make any appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this Act;
 - (c) conduct any necessary investigation;

- (d) give directions relevant to its functions to any person in the service of the provincial administration, a provincial public entity, provincial government business enterprise or a municipality relevant to matters referred to in this Act;
 - (e) decide any question concerning its own jurisdiction;
 - (f) subpoena any person to appear before it and to produce any document or information reasonably required and clearly identified in the subpoena concerned;
 - (g) decide any matters referred to it on the grounds of failure by a municipality to decide an application within the prescribed period;
 - (h) decide appeals relating to engineering services and development contributions; and
 - (i) make an order as to costs.
- (2) In the case of an appeal against the failure or refusal of a municipality to register an application, the appeal tribunal may either direct the municipality to register the application or may dismiss the appeal.
- (3) A decision of the appeal tribunal is final.

Disqualification from membership of the appeal tribunal

- 27 (1) A person may not be appointed or continue to serve as a member of the appeal tribunal, if that person:
- (a) is not a citizen of the Republic, and resident in the province;
 - (b) is a member of parliament, a provincial legislature, a house of traditional leaders or a municipal council in terms of the constitution.
 - (c) is an un-rehabilitated insolvent;

- (d) is of unsound mind, as declared by a court;
- (e) has at any time been convicted of an offence involving dishonesty;
- (f) has at any time been removed from an office of trust on account of misconduct; or
- (g) has previously been removed from the tribunal for a breach of any provision of this Act.

- (2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (1).

Conflicts of interest

28 (1) A member of the appeal tribunal:

- (a) must make full disclosure of any conflict of interest including any potential conflict of interest in any matter which he or she is designated to consider;
- (b) may not attend, participate or vote in any proceedings of a tribunal in relation to any matter in respect of which the member has a conflict of interest.

(2) For the purposes of this section, a member has a conflict of interest if:

- (a) the member, or a family member, partner or business associate of the member is the applicant in terms of this Act, or if the member has a pecuniary or material interest in the matter before the tribunal; or
- (b) the member has any other interest that may preclude, or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner.

- (c) the member is in the full-time employment of a provincial department, municipality, organ of state or service provider which is a party to the appeal.

Termination of membership of the appeal tribunal

- 29 (1) A person's membership of the appeal tribunal may be terminated by a decision of the majority of municipalities in the province referred to in section 23(3) if there are good reasons for doing so after giving such member an opportunity to be heard.
- (2) The reasons for removal referred to in subsection (1) may include, but are not limited to:
- (a) misconduct, incapacity or incompetence; and
 - (b) failure to comply with any provisions of this Act.
- (3) If a member's appointment is terminated or a member resigns, the Premier shall publish the name of a person selected by the municipalities to fill the vacancy for the unexpired portion of the vacating member's term of office.
- (4) The functions of the appeal tribunal shall not be affected if any member resigns or his or her appointment is terminated.

CHAPTER 6

DEVELOPMENT AND LAND USE

Development and use of land

30 (1) Except where the development and use of land has been approved in terms of legislation in force prior to the coming into operation of this Act and is permitted in terms of an existing scheme or land use scheme, the use and development of land shall only take place in terms of the provisions of this Act.

(2) Where the development and use of land requires approval in terms of this Act, a land use scheme or existing scheme for any purpose referred to in sections 31, 46 or 51 an application for such approval shall be submitted to the municipality.

(3) The provisions of this Chapter shall not apply to the use of land or erection of buildings on land by an organ of state or parastatal body where such use or erection of buildings:

(a) is of a temporary nature; and

(b) is directly related to the functions for which the organ of state or parastatal body concerned is authorised to undertake on such land:

Provided that such use of land or buildings erected on such land shall not exceed or remain in existence for a period exceeding 2 years or such longer period as the municipality may allow.

(4) The provisions of this Chapter shall not apply to the use of land by or on behalf of an organ of state or parastatal body for or the construction of water pipelines, electricity transmission lines, sewer pipelines, gas pipelines, oil and petroleum product pipelines or roads or for telecommunication lines by or on behalf of a licensed telecommunications operator or to land used by the South African National Defence Force.

Development applications

- 31 (1) A development application shall be made for any one or more of the following purposes:
- (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 for the rezoning of land;
 - (c) the removal, amendment or suspension of a restrictive condition, servitude or reservation registered against a title deed;
 - (d) the amendment or cancellation in whole or in part of a general plan of a township;
 - (e) the permanent closure of a public place;
 - (f) the subdivision of any land other than a subdivision which is provided for in a land use application.
- (2) A development application may include more than one proposed township where the townships concerned have common boundaries or are only separated by a road and the land area of the townships is in the same ownership.
- (3) Any application for a purpose in subsection (1) (a), (c), (d), (e) or (f) which if approved would necessitate an amendment of an existing scheme or land use scheme must include an application referred to in subsection 1(b).
- (4) A township shall be established or the boundaries of a township shall be extended on any farm portion or agricultural holding where the land concerned is to be used, developed or subdivided for any purpose other than agricultural, open space, recreation, mining or nature conservation purposes as defined in the applicable land use scheme.

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- (5) Where land is to be used for mining purposes the municipality may determine whether all or only part of the land concerned shall be zoned for mining purposes as provided for in its land use scheme.
- (6) Subsection (4) shall not apply to:
- (a) land contemplated in section 51; or
 - (b) the continued use or development of a farm portion or agricultural holding for a purpose approved prior to the coming into operation of this Act.
- (7) A single development application may include more than one of the purposes in subsection (1) and may also include any matters for which an application is required in terms of section 46.
- (8) Where a development application includes a matter referred to in subsection (1) or section 46 for which any procedure is contained in an existing scheme, the procedures prescribed in this Act shall apply.
- (9) A development application shall be submitted to the municipality through the municipal manager.
- (10) A development application may be submitted by:
- (a) the owner or owners, including the state, of the land concerned;
 - (b) a person acting as the duly authorized agent on behalf of the owner or owners;
 - (c) a person to whom the land concerned has been made available in writing by an organ of state or such person's duly authorized agent;
 - (d) a person who has been granted any approval, permission, permit or right in terms of the Mineral and Petroleum Resources Act, 28 of 2002, in respect of the land which is the subject of the development application including such person's duly appointed representative; or

- (e) a person to whom a municipality has agreed to alienate a public place or any other land owned by the municipality.
- (11) An application for the amendment or the partial or total cancellation of a general plan of a township:
- (a) may only be made by or on behalf of a person or persons who is or are the owner or owners of all the erven affected by such amendment or cancellation;
 - (b) may not include the alteration of the name of the township if such township is registered in a Deeds Registry; and
 - (c) shall not affect any proclaimed provincial or national road except with the written consent of the provincial or national road controlling authority;
 - (d) shall be subject to any other procedures prescribed.

Development application procedure

- 32 (1) Except as otherwise provided a development application shall be submitted to the municipality in the manner prescribed.
- (2) On a development application being submitted the municipality shall, on delivery thereof, acknowledge receipt in writing.
 - (3) After a development application has been submitted, including the payment of any application fee, the municipality shall register the application and notify the applicant thereof in writing.
 - (4) A municipality may refuse to register a development application if the application does not comply with the prescribed requirements including the payment of any prescribed application fee.

- (5) If the municipality refuses to register a development application it shall, in writing inform the applicant together with the reasons for such refusal.
- (6) Where a municipality refuses or fails to register a development application, the applicant may appeal within the time period prescribed.

Notification

- 33 (1) After a development application has been registered the applicant shall give notice of the application.
- (2) The applicant shall submit proof of the notification of the application to the municipality.
 - (3) If the applicant fails within a period prescribed to give notice in terms of subsection (1), the municipality may cancel the registration of the application.
 - (4) Any person or body, other than the municipality, who has an interest in or may be affected by the application may submit representations in writing in the manner prescribed.

Circulation

- 34 (1) Not later than the date of notice referred to in section 33(1), the applicant shall forward a copy of the notice together with any relevant application documents to every municipal department, organ of state, parastatal body and to any service provider prescribed.
- (2) The applicant shall submit proof of circulation of the application to the municipality.
 - (3) A municipal department, organ of state, parastatal body or service provider shall submit its comments on the application to the municipality and submit a copy thereof to the applicant.

- (4) The municipality may within the time period prescribed request an applicant to provide supplementary information to any application document or report which is necessary for the consideration of the application.
- (5) If an applicant fails to submit proof of circulation or to provide the supplementary information referred to in subsections (2) and (4) the municipality may refuse the application.
- (6) If any municipal department, organ of state, parastatal body or service provider fails to submit its comments within the time period prescribed, it shall be deemed that it has no comments or requirements.
- (7) The applicant may reply to any representations or comments and shall submit such reply to the municipality or secretary of the appeal tribunal as the case may be.

Consideration

- 35 (1) After the periods prescribed in terms of sections 33 and 34, the municipality shall consider the application.
- (2) Before a municipality approves a development application which is not opposed it shall submit a copy of the proposed approval including all the proposed conditions of such approval, to the applicant for comment within 14 days.
 - (3) In considering a development application the municipality shall follow such procedures as may be necessary in order to satisfy the requirements of the Promotion of Administrative Justice Act, 3 of 2000.
 - (4) Where a municipality fails to consider and decide a development application within the time period prescribed, the applicant may appeal.

Determination of development applications

- 36 (1) A development application shall be considered and decided by the municipality not later than 180 days after the date of notification referred to in section 33.
- (2) In deciding on an application the municipality may:
- (a) approve the application in whole or in part;
 - (b) approve the application with amendments; and
 - (c) approve the application subject to any appropriate conditions; or
 - (d) refuse the application.
- (3) A decision by the municipality to approve an application as contemplated in subsection (2) (a), (b) or (c) which was opposed shall be a provisional decision and shall be submitted to the applicant for comment within 14 days and such decision shall be finalized after the municipality has considered any comments by the applicant.

Conditions of approval

- 37 (1) The conditions of approval of a development application shall if applicable include a separate statement of any conditions:
- (a) to be complied with prior to the registration in a Deeds Registry of any land in the land area; and
 - (b) to be registered as conditions of title in the registration of any land in the land area;
- and such statement shall be known as the conditions of establishment.
- (2) The municipality shall submit a copy of the conditions of establishment to the Registrar of Deeds.

- (3) If a condition of approval requires a payment of a development contribution by the applicant for the provision and installation of external engineering services the condition shall state the amount of such payment required for each such engineering service as prescribed in terms of Chapter 8 and the municipality shall provide the applicant with the particulars of the calculation of such development contribution.
- (4) If a condition requires the payment of a development contribution by the applicant in respect of parks or open space or refuse sites it shall state the amount and method of calculation of such payment as prescribed in terms of Chapter 8.
- (5) The conditions relating to any payment referred to in subsections (3) or (4) may include a proviso that before such payment is made, the amount of such payment may be amended as determined by the municipality from time to time.
- (6) Upon the approval of a township or the extension of the boundaries of a township to be established on any agricultural holding, such approval shall constitute approval of the cancellation or partial cancellation, as the case may be, of a certificate contemplated in section 6(1) of the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919 and the provisions of sections 6(3), 6(5) and 6(6) of that Act shall apply as if the said certificate was cancelled or partially cancelled by the Minister.
- (7) On the approval of the cancellation of the certificate referred to in subsection (6) the municipality shall inform the Surveyor General and the Registrar of Deeds accordingly.
- (8) On being informed as referred to in subsection (7) the Surveyor General shall amend such general plan and diagrams as may be necessary and thereafter the Registrar of Deeds shall record the cancellation of the certificate referred to in subsection (6).

Procedure after a decision on a development application

- 38 (1) After the approval or refusal of an application in terms of section 36 the municipality shall inform the applicant thereof in writing and if the application was opposed, the municipality shall inform the interested parties thereof in writing.
- (2) The municipality shall record the approval or refusal of an application in the application register.
- (3) Where the approval of an application includes an amendment of the land use scheme, the municipality shall record the amendment scheme in the land use scheme register and if no appeal is lodged in terms of subsection (4) shall amend the land use scheme accordingly.
- (4) An applicant or any interested party who is aggrieved by a decision of the municipality may appeal.
- (5) If the approval of a development application includes the establishment of a township, the extension of the boundaries of a township, the cancellation or partial cancellation or the amendment of a general plan, or the closure of a public place, the general plan, diagrams and any other plans or documents required by the Surveyor General shall be submitted to the Surveyor General by the applicant for approval or amendment within 12 months of the date of publication of the notice of approval of the development application, failing which the approval of the development application shall lapse.
- (6) After the approval of the general plan and/or diagrams of a township or the extension of the boundaries of a township by the Surveyor General the applicant shall, within 12 months of the date of such approval lodge such general plan and/or diagrams together with any other documents required with the Registrar of Deeds failing which the approval of the application shall lapse.
- (7) Where any general plan, diagram or document submitted to the Surveyor General or Registrar of Deeds contains any errors or omissions, such errors or omissions shall be rectified by the applicant.

- (8) The applicant may, before the approval of the application has lapsed in terms of subsections (5) or (6), request the municipality to extend the time periods referred to in those subsections and the municipality may grant or refuse such request subject to any conditions considered appropriate.
- (9) Where an approval of a township or extension of the boundaries of a township has lapsed, the municipality shall inform the Surveyor General and the Registrar of Deeds accordingly and the Surveyor General shall cancel the general plan or part thereof as the case may be.
- (10) Before the General Plan and/or diagrams of a township are lodged with the Registrar of Deeds in terms of subsection (6) the applicant may apply to the municipality for a township to be divided into two or more townships and on approval thereof the provisions of section 37 and subsections (1), (2), (3), (4), (5), (6), (7), (8) and (9) of this section shall apply mutatis mutandis to the divided townships.
- (11) On approval of a township being divided into two or more townships the municipality shall advise the Surveyor General accordingly and the Surveyor General shall cancel any relevant general plan or part thereof and any diagram of the township which has been divided.
- (12) Where a township has been divided the provisions of sections 37, 38 and 39 shall apply separately to each of the townships created by such division.

Notification of approval

- 39 (1) On the approval of a development application and if no appeal has been lodged, the municipality shall publish a notice of the approval as prescribed.
- (2) The approval of the amendment of an existing scheme or land use scheme or the removal, amendment or suspension of a restrictive condition, servitude or reservation referred to in section 31(1)(c) or in terms of a condition of establishment comes into effect on the date of the publication of the notice in subsection (1).

- (3) The approval of any purposes other than those referred to in subsection (2) comes into effect on the date on which the general plan of a township or extension of boundaries of a township, the amendment or cancellation in whole or in part of a general plan, the permanent closure of a municipal road or public place or subdivision is registered in the Deeds Registry.
- (4) After publication of a notice of the removal, amendment or suspension of a restrictive condition, servitude or reservation the Registrar of Deeds shall record such removal, amendment or suspension in accordance with the Deeds Registries Act, 47 of 1937.

Change of ownership

- 40 (1) If, at any time prior to the publication of a notice of approval of a development application, the ownership of land in the land area is transferred, the new owner shall inform the municipality thereof and the new owner shall be the applicant from the date of such transfer.
- (2) The new owner referred to in subsection (1) shall assume all the rights and responsibilities of the applicant which exist at the date of transfer.

Joint application

- 41 (1) Two or more owners of land may make a single development application provided that the land area in the application forms a single area of erven, agricultural holdings and/or farm portions which are contiguous.
- (2) Where a township is approved on two or more contiguous farm portions such farm portions shall be consolidated prior to the registration of the township in a Deeds Registry and the consolidation of such farm portions shall be deemed to be approved in the approval of the township.

Withdrawal of a development application

- 42 An applicant may at any time before the approval of a development application, withdraw the application in whole or in part and shall inform the municipality and any interested party accordingly.

Abandonment of a development application

- 43 (1) An applicant may at any time after the approval of a development application but before the publication of the approval, abandon the approval of the application and shall inform the municipality accordingly in writing.
- (2) Where the approval of a development application is abandoned the municipality shall make such amendments to any register referred to in section 17 of this Act as may be necessary.

Amendment of a development application

- 44 (1) An applicant may amend a development application at any time prior to its approval.
- (2) If any proposed amendment of an application, in the opinion of the municipality or secretary, as the case may be, would constitute a material change to the proposed land use or development which may affect any person, the municipality or the secretary shall direct the applicant to give notice of the amendment as is considered necessary.
- (3) Any delay caused by the amendment of the development application shall be excluded from the time periods prescribed.
- (4) If the amendment of a development application requires notification in terms of subsection (2) any applicable time periods shall be calculated from the date of notification of the application for amendment.
- (5) An applicant may at any time, prior to the approval or refusal of the application, inform the municipality or the secretary as the case may be, that

he or she is prepared to accept a partial approval of the development application and such proposed partial approval shall not constitute an amendment of the application.

Amendment of the approval of a development application

- 45 (1) An applicant may, at any time before or after a notice of approval of a development application is published, request the municipality or the appeal tribunal as the case may be, for the amendment of any approved plan, conditions of approval or conditions of establishment, but such amendment may not include any increase in the land area or the density or intensity of the land use in the approved development
- (2) If the amendment to a plan, conditions of establishment or conditions of approval, in the opinion of the municipality or secretary as the case may be, will have a material affect on any interested party, the municipality or secretary shall direct the applicant to give notice of the amendment to such interested party.
- (3) Any person or body to whom notice has been given in terms of subsection (2) may oppose the amendment.
- (4) The municipality or appeal tribunal may approve or refuse any amendment and shall notify the applicant and any interested parties thereof.

Land use applications

- 46 (1) The provisions of sections 40, 41, 42, 43, 44 and 45 shall apply mutatis mutandis to a land use application.
- (2) A land use application shall be made for any one or more of the following purposes:
- (a) the subdivision of land where such subdivision is expressly provided for in a land use scheme;

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- (b) the consolidation of any land;
 - (c) the simultaneous subdivision and consolidation or consolidation and subdivision of land;
 - (d) the consent of the municipality for any secondary purpose in terms of a land use scheme or existing scheme which does not constitute a development application;
 - (e) subject to subsection (3) 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;
 - (f) the relaxation, variation or amendment of a condition in a land use scheme or existing scheme as prescribed; or
 - (g) any consent or approval provided for in any law referred to in subsection (3);
 - (h) under circumstances other than those contemplated in section 37(6) the cancellation or partial cancellation of a certificate contemplated in section 6 of the Agricultural Holdings (Transvaal) Registration Act, Act 22 of 1919.
 - (i) any other matter prescribed;
- (3) A consent or approval referred to in subsections (1)(e) and (g) shall only apply in respect of a condition imposed in terms of:
- (a) The Town Planning and Townships Ordinance, 25 of 1965;
 - (b) The Town Planning and Townships Ordinance, 15 of 1986;
 - (c) The Gauteng Removal of Restrictions Act, 3 of 1996;
 - (d) The Removal of Restrictions Act, 84 of 1967;
 - (e) The Agricultural Holdings (Transvaal) Registration Act, 22 of 1919;

- (f) The Less Formal Township Establishment Act, 113 of 1991;
 - (g) The Black Communities Development Act, 102 of 1982;
 - (h) The Division of Land Ordinance, 20 of 1986;
 - (i) The Development Facilitation Act, 67 of 1995; or
 - (j) This Act.
- (4) An application for any one or more purposes in subsection (2) shall be known as a land use application.
- (5) A land use application may be submitted by:
- (a) the owner or owners; including an organ of state, of the land concerned;
 - (b) a person acting as the duly authorized agent on behalf of the owner or owners; or
 - (c) a person to whom the land concerned has been made available in writing by an organ of state or such person's duly authorized agent.
 - (d) a person to whom a municipality has agreed to alienate a public place or any other land owned by the municipality.

Land use application procedure

- 47 (1) A land use application shall be submitted to the municipality in the manner prescribed.
- (2) On a land use application being submitted the municipality shall, on delivery thereof, acknowledge receipt in writing.

- (3) After a land use application has been submitted including the payment of any prescribed application fee, the municipality shall register the application and notify the applicant thereof in writing.
- (4) A municipality may refuse to register a land use application if the application does not comply with the prescribed requirements including the payment of any prescribed application fee.
- (5) If the municipality refuses to register a land use application it shall inform the applicant together with the reasons for such refusal in writing and the applicant may appeal.
- (6) Notwithstanding the provisions of any existing scheme an application for a consent, relaxation or variation in terms of that existing scheme shall be made in accordance with the provisions of this section.

Circulation

- 48 (1) After a land use application has been registered in terms of section 47, the applicant shall forward a copy of the application to every municipal department, organ of state, any service provider and to any other person as may be required in terms of the land use scheme.
- (2) A municipal department, organ of state or service provider to which a copy of the application has been submitted shall submit its comments to the municipal manager and to the applicant within the time period prescribed.
 - (3) Any person other than a municipal department, organ of state or service provider to whom a copy of the land use application has been circulated may submit any representations to the municipality as prescribed.
 - (4) If any municipal department or organ of state or service provider fails to submit its comments within the time period prescribed, it shall be deemed that it has no comments or requirements in respect of the application.

Consideration

- 49 (1) After the time period for any comments or representations prescribed in terms of section 48, the municipality shall consider the application.
- (2) If, after considering the application and any comments or representations in terms of section 48 the municipality is prepared to approve the application, it shall inform the applicant thereof together with any proposed conditions of approval.
- (3) The applicant may comment on the proposed conditions of approval as prescribed.

Determination of a land use application

- 50 (1) After any comments by the applicant in terms of section 49(3) the municipality may:
- (a) approve the application in whole or in part;
- (b) approve the application with amendments;
- (c) approve the application subject to any conditions which are appropriate including, where relevant, conditions referred to in section 37; or
- (d) refuse the application.
- (2) The municipality shall approve or refuse the land use application not later than 120 days of the date of registration of the application.
- (3) The municipality shall notify the applicant and any interested parties of the approval or refusal of the application in writing.
- (4) Where the approval of a land use application includes the subdivision of land, the municipality shall submit a copy of such approval to the Registrar of Deeds.

- (5) Where the municipality fails to determine a land use application within the period referred to in subsection (2), the applicant may appeal in the manner prescribed and shall simultaneously serve a copy of the appeal on the municipality and any interested party.
- (6) An applicant or an interested party aggrieved by the decision of the municipality may appeal.
- (7) After the approval of a consent referred to in section 46(2)(d), (e) or (g) or relaxation, variation or amendment of a condition referred to in section 46(2)(f) the municipality shall record such approval in the land use scheme register.
- (8) The approval by the municipality of the cancellation or partial cancellation of a certificate referred to in section 46(2)(h) shall be deemed to be a cancellation or partial cancellation by the Minister as contemplated in section 6 of the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919.
- (9) After the approval of any matter referred to in section 46(2)(h) the municipality shall inform the Surveyor General and the Registrar of Deeds accordingly and the Registrar of Deeds shall record such approval as may be necessary in terms of the Deeds Registries Act.

Establishment of a settlement

- 51 (1) After the coming into operation of this Act a settlement may only be established on land which has been declared as a settlement area in terms of section 52.
- (2) The establishment of a settlement shall only be for the purpose of facilitating and regulating the development of land for the purposes of housing which is subsidised or to be subsidised by government and for purposes related thereto.
- (3) The provisions of sections 30 up to and including 50 shall not apply to the establishment of a settlement.

Application for the declaration of a settlement area

52 (1) An application shall be submitted to the municipality for the declaration of a settlement area.

(2) An application for the declaration of a settlement area may be submitted by:

- (a) the owner, including the state, of the land concerned;
- (b) a person acting as the duly authorized agent on behalf of the owner;
- (c) a person or such person's duly authorised agent, to whom the land concerned has been made available in writing by an organ of state;
or
- (d) with the consent of the owner, a person acting on behalf of the community which occupies or will occupy the settlement area.

Application procedure

53 (1) Notice of an application for the declaration of a settlement area shall be given by the person referred to in section 52(2).

(2) Any person may submit representations in respect of an application for the declaration of a settlement area, in the manner prescribed.

(3) The municipality shall consider the application, including any representations, and may:

- (a) approve the application;
- (b) approve the application in whole or in part;
- (c) approve the application subject to any necessary conditions; or
- (d) refuse the application.

- (4) The decision of the municipality in terms of subsection (3) shall be issued to the applicant and any interested parties not later than 90 days after the date of the notice in subsection (1).
- (5) If the municipality fails to issue a decision on an application for the declaration of a settlement area in terms of subsection (4), the applicant may appeal.
- (6) An applicant or any interested party who is aggrieved by the decision of the municipality may appeal.
- (7) In approving the declaration of a settlement area the municipality or appeal tribunal as the case may be, may amend an existing scheme or land use scheme and suspend or alter any restrictive conditions of title as considered necessary.
- (8) After the approval of the declaration of a settlement area the applicant shall submit a provisional General Plan of the settlement area to the Surveyor General for approval.

Declaration of a settlement area

- 54 (1) After the approval or partial approval of an application in terms of section 53(3) and after the approval of the provisional General Plan the municipal manager shall forthwith publish a notice of the declaration of the settlement area and shall notify the Surveyor General and the Registrar of Deeds accordingly and the declaration of the settlement area shall take effect from the date of such notice.
- (2) Where the declaration of a settlement area includes an amendment of the applicable land use scheme or existing scheme, the municipality shall amend the land use scheme or existing scheme accordingly.
 - (3) After a settlement area has been declared no land in the settlement area may be transferred except with the written approval of the municipality.

Development of a settlement

- 55 (1) After publication of a notice referred to in section 54(1) that a settlement area has been declared, no person shall erect a shelter, construct any building or install any engineering services in the settlement area except with the written approval of the municipal manager.
- (2) After the declaration of a settlement area the applicant shall submit a township layout plan of the settlement area to the municipality for approval.
- (3) In approving the layout plan of the settlement area the municipality may impose any conditions considered appropriate including any amendments of the layout plan.
- (4) After the approval of the layout plan including any amendments if applicable, the applicant shall submit a general plan of the township to the Surveyor General for approval.
- (5) After approval of the general plan the applicant shall make arrangements for:
- (a) the provision and installation of engineering services in and for the settlement;
 - (b) the issue by the municipality of any conditions or requirements for the establishment of a township in the settlement area; and
 - (c) any necessary amendment of the existing scheme or the land use scheme.
- (6) After the general plan has been approved and subject to any requirements in subsection (5), the municipality may, prior to the establishment of a township, in writing and subject to any conditions, permit the registration of any erf in a Deeds Registry, the installation of engineering services and the approval of building plans.

- (7) After being satisfied that any arrangements referred to in subsection (5) have been complied with, the municipality may approve the establishment of a township in the settlement area.
- (8) After the approval of a township in terms of subsection (7) the municipality shall publish a notice thereof as prescribed.
- (9) The approval of the establishment of a township in subsection (7) on any agricultural holding includes the approval of the cancellation or partial cancellation of a certificate referred to in section 46(1)(i) of the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919.

Development and use of land by a municipality

- 56 (1) Subject to the provisions of this section, a municipality may develop and use land and declare a settlement on any land owned by it.
- (2) Where the proposed development and use of land or declaration of a settlement by a municipality requires the approval of any matters contemplated in sections 31, 46 or 52, the municipality shall give notice of such proposal as provided for in sections 33, 48 or 53 respectively..
 - (3) The municipality shall circulate a copy of the proposed development and land use or declaration of a settlement to every organ of state, parastatal body, service provider and any other person as prescribed.
 - (4) Any person or body to which a copy of the proposed development or use of land or declaration of a settlement has been circulated in terms of subsection (3) may, as prescribed, submit any comments to the municipality.
 - (5) Any person to whom notice has been given in terms of subsection (2) may submit representations in the manner prescribed.
 - (6) After the periods prescribed in terms of subsections (4) or (5) the municipality shall consider the proposed development, land use or declaration of a settlement and the provisions of section 35(3) shall apply *mutatis mutandis*.

- (7) The municipality may approve the proposed development and land use or declaration of a settlement with or without amendments and subject to any conditions.
- (8) Where the municipality has approved any development or land use or declaration of a settlement in terms of this section the municipal manager shall, as prescribed, notify every interested party.
- (9) Any interested party aggrieved by the approval of the development or land use or declaration of a settlement may appeal.
- (10) After approval of any development or land use or declaration of a settlement in terms of this section and if no appeal has been lodged the municipality shall publish any applicable notice of the approval provided for in this Chapter.

Reasons for decisions

- 57 (1) An applicant or any interested party may, after being notified of any decision of a municipality in terms of this Chapter or in terms of a land use scheme or existing scheme, request the municipality for the reasons for such decision.
- (2) The municipality shall, within 28 days of receipt of a request by an applicant or any interested party, provide the reasons for a decision referred to in subsection (1).

General

- 58 (1) Where the development or use of land or establishment of a settlement requires any consent or approval in terms of the Less Formal Townships Establishment Act, 113 of 1991, the Black Communities Development Act, 4 of 1984 or the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919; or where a condition of title, a condition of establishment of a township or existing scheme provides for the consent or approval of a Minister, the Administrator, an MEC, a controlling authority or the Townships Board, any

reference to a Minister, the Administrator, an MEC, a controlling authority or Townships Board shall be deemed to be a reference to the municipality.

- (2) The provisions of subsection (1) shall not apply to a matter referred to in the Gauteng Transport Infrastructure Act, 8 of 2001.
- (3) After the coming into operation of this Act a reference to the Townships Board in the Gauteng Transport Infrastructure Act, 8 of 2001, shall be a reference to the appeal tribunal.
- (4) At the request by or on behalf of an owner of land the municipal manager or secretary as the case may be, may amend or cancel a condition of establishment of a township approved in terms of any other law if such amendment or cancellation is necessary for practical or administrative purposes and would not affect any other person or body.
- (5) On the approval of a township or the extension of the boundaries of a township the applicant shall submit a copy of the approved layout and conditions of establishment of the township to the Surveyor General and the Surveyor General shall allocate erf numbers to the erven to be shown on the General Plan of the township.
- (6) Where after the approval of any application in terms of this Act any General Plan or diagram is approved by the Surveyor General, the applicant shall submit a copy of such General Plan or diagram to the municipality.
- (7) Subject to any other provisions of this Act, if an applicant fails to comply with a directive issued by the municipality in relation to an approved application or fails to comply with any condition in a provisional approval of an application within a time period specified in such directive or condition or within such further period as the municipal manager may allow, the approval or provisional approval of the application shall lapse.
- (8) If an approval or provisional approval has lapsed in terms of subsection (7) the municipality may on good cause being shown renew the approval or provisional approval.

CHAPTER 7

APPEALS

Types of appeals

59 An appeal may be lodged with the appeal tribunal as provided for in this Act:

- (1) By an applicant who is aggrieved by:
 - (a) the refusal of any application in terms of this Act or a land use scheme or existing scheme by the municipality;
 - (b) any conditions of approval of an application imposed by a municipality in the approval of an application;
 - (c) any requirements or standards laid down by the municipality for the provision or installation of internal engineering services in the approval of an application;
 - (d) any condition or requirement relating to the provision of engineering services or services contributions;
 - (e) any other decision by a municipality provided for in this Act or in a land use scheme or existing scheme;
 - (f) the failure of a municipality to register or decide an application within the time periods prescribed;
- (2) By an interested party who is aggrieved by the approval by the municipality of:
 - (a) a land use scheme in terms of section 16 or its amendment in terms of section 21;
 - (b) a development application, land use application or any other application in terms of a land use scheme or existing scheme.

Procedure for appeals

- 60 (1) An appeal shall be submitted to the secretary in the manner and within the time period prescribed.
- (2) On being given notice of an appeal in terms of section 61 the municipality shall within 21 days submit the reasons for the decision on or for the failure to register or to decide the application which is the subject of the appeal to the secretary and to the appellant.

Notice of appeals

- 61 (1) Except as provided in subsections (4) and (5) an applicant who has lodged an appeal shall simultaneously give notice of the appeal in the manner prescribed:
- (a) to the municipality; and
 - (b) to every interested party.
- (2) An interested party who has lodged an appeal shall simultaneously give notice of the appeal in the manner prescribed:
- (a) to the municipality; and
 - (b) except in the case of an appeal in terms of sections 16 or 56, to the applicant.
- (3) Any person or body including the municipality, to whom notice of appeal has been given in terms of subsections (1) or (2) may oppose the appeal as prescribed.
- (4) An applicant who has lodged an appeal which is only in respect of the provision of essential services or development contributions shall simultaneously give notice to the municipality.

- (5) An applicant who has lodged an appeal against the failure or refusal of the municipality to register an application shall simultaneously give notice of the appeal to the municipality..

Hearing of appeals

62 After an appeal has been lodged, the secretary of the appeal tribunal shall:

- (1) refer the appeal to the appeal tribunal and shall determine a date and time for the hearing of the appeal; and
- (2) notify the appellant, the municipality and every other party who has opposed the appeal of the date and time of the hearing of the appeal as prescribed.

Determination of an appeal

63 (1) An appeal shall be heard by the appeal tribunal within a period of 90 days of the date on which the appeal was lodged with the secretary.

- (2) The failure of a municipality to oppose an appeal or to provide the reasons referred to in section 60(2) shall not delay the hearing of the appeal or the decision of the appeal tribunal.
- (3) After the hearing of an appeal, the appeal tribunal shall decide the appeal as provided for in sections 36 and 37, 50 or 53 with the necessary changes.
- (4) After the appeal has been decided, the secretary shall inform the appellant, the municipality and all parties to the appeal accordingly.

Procedure after appeal

64 Where in the determination of an appeal, a development application, land use application or declaration of a settlement is approved, the municipality shall comply *mutatis mutandis* with the provisions of sections 38, 50 and 54 as may be applicable.

Notification of approval on appeal

- 65 (1) Where a land use scheme or its amendment or any application which has been approved by the appeal tribunal, the municipality shall forthwith publish any notice of the approval required in terms of Chapters 4 or 6.
- (2) If a municipality fails to publish a notice referred to in subsection (1) within 28 days of the date of an approval by the appeal tribunal, the secretary shall publish such notice.
- (3) Where a notice is published by the secretary in terms of subsection (2) the cost thereof shall be paid by the municipality.

Reasons

- 66 (1) Any party to an appeal may, as prescribed, request the reasons for the decision of the appeal tribunal; and
- (2) The secretary shall provide such reasons within 14 days of receipt of the request for such reasons.

Form of appeal

- 67 The form of an appeal shall not be limited except as may be prescribed and may be in respect of only a part of a decision by the municipality.

CHAPTER 8

ENGINEERING SERVICES AND DEVELOPMENT CONTRIBUTIONS

Provision of engineering services

- 68 (1) The approval of a development application or land use application shall be subject to conditions for the provision of engineering services for the development or land use concerned, as prescribed.
- (2) The applicant shall be responsible for the provision and installation of internal engineering services.
- (3) The municipality shall be responsible for the provision and installation of external engineering services.
- (4) Where the municipality is not the provider of an engineering service, the applicant shall satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of such service.
- (5) The applicant shall install the internal engineering services as set out in the conditions of approval of the application and in accordance with any guidelines published by the Premier from time to time.
- (6) The municipality or service provider shall, subject to the payment of any relevant development contributions, install the external engineering services in accordance with any guidelines published by the Premier from time to time.
- (7) The applicant may as prescribed, with the prior agreement of the municipality or service provider, install any external engineering service in lieu of the payment of the applicable development contributions..
- (8) The installation of external engineering services by the applicant in terms of subsection (7) shall not be subject to the provisions of the Local Government: Municipal Finance Management Act 56 of 2003.

Development contributions

- 69 (1) The applicant shall pay development contributions to the municipality or service provider, as the case may be, in respect of the provision and installation of external engineering services.
- (2) The external engineering services for which development contributions are payable by the applicant shall be as prescribed and the amounts payable shall be calculated in accordance with guidelines published by the Premier from time to time.
- (3) The applicant shall pay a development contribution to the municipality in respect of the provision of land for the purpose of refuse sites as prescribed.
- (4) The amounts payable by an applicant in respect refuse sites shall be calculated in accordance with any guidelines published by the Premier from time to time.

Land for parks and open space

- 70 (1) The approval of a development application or land use application which provides for the use of the land concerned for residential purposes shall, subject to subsection (5), be subject to the provision of land for parks or open space as prescribed.
- (2) The land required for parks or open spaces shall be provided within the land area of the development application or land use application, or may be provided elsewhere within the municipal area at the discretion of the municipality.
- (3) The area of land to be provided for parks or open space shall be as prescribed.
- (4) The land provided as parks, or open space which is intended as public open space shall, as prescribed, be transferred to the municipality.

- (5) Where a development application or land use application in subsection (1) is approved without the required provision of land for parks or open space, the applicant shall pay a development contribution to the municipality in lieu of such provision of land as prescribed.

General matters

71 (1) The first registration in a deeds registry of any erf in a township or an erf in the extension of the boundaries of a township or of any subdivided portion of land shall not take place:

(a) before a certificate by the municipality has been issued to the Registrar of Deeds to the effect that:

(i) the relevant development contributions have been paid by the applicant; and

(ii) any conditions to be met prior to the transfer of land have been complied with; and

(b) prior to the transfer of any land required for parks or open space referred to in section 70(4);

(2) Any land transferred to the municipality in terms of subsection 1(b) may not be sold or alienated by the municipality within a period of 30 years of such transfer except with the written consent of the Premier.

(3) Any development contributions payable as a result of the approval of a development application or land use application shall be paid prior to:

(a) the use and development of the land;

(b) the approval of any building plans; and

(c) the registration of transfer of the land.

- (4) Ownership of the roads in an approved township or the extension of the boundaries of a township which are to be municipal roads shall vest in the municipality from the date of the first registration in the Deeds Registry of any erf in the township.
- (5) If a new road or the widening of a road is to be created in an existing township in the approval of any application, such road or road widening shall be an erf and shall be transferred to the municipality.
- (6) The subdivision of any land to create an erf referred to in subsection (5) shall be deemed to be approved where such erf is required as a condition of approval of any application in terms of this Act.
- (7) The amounts of any development contribution shall be as prescribed and determined by the municipality from time to time in accordance with any guidelines published by the Premier.
- (8) Any amounts of money paid as a development contribution shall only be used for the purpose for which such contribution was paid.
- (9) The municipal manager shall annually prepare a report on the amounts of development contributions paid to the municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and shall submit such report and statement to the municipal council.
- (10) An applicant who is aggrieved by any decision of the municipality relating to engineering services, the provision of parks or open space, refuse sites or development contributions, may appeal.

CHAPTER 9

GENERAL PROVISIONS

Regulations

72 (1) The Premier may make regulations not inconsistent with this Act in regard to:

- (a) any matter which may be prescribed in terms of this Act;
- (b) determining the fees payable in respect of a development application, land use application or other application referred to in this Act; and
- (c) any other matter deemed necessary for achieving the objects of this Act.

(2) Any regulations made in terms of subsection (1) shall come into effect on the date of publication of a notice thereof or such other dates as provided for in such notice.

(3) Before the publication of a notice in terms of subsection (2), the Premier shall by notice in the Provincial Gazette and by any other means considered appropriate, invite any persons or bodies to submit comments in respect of the draft regulations.

Guidelines

73 (1) The Premier may from time to time publish and amend guidelines not inconsistent with this Act in respect of the following matters:

- (a) the formulation, application and administration of land use schemes;
- (b) engineering services and development contributions;

- (c) the formulation and application of any provincial plan, municipal spatial development framework or municipal policy relating to the use and development of land; and
 - (d) any other matters deemed necessary for the uniform, efficient and effective administration of the provisions of this Act.
- (2) Guidelines published in terms of subsection (1) shall be used by a municipality and the appeal tribunal to inform and indicate the manner in which the provisions of this Act and the Regulations should be applied in the administration of the provisions of this Act or a land use scheme.
- (3) Guidelines published in terms of subsection (1) shall be referred to and used by a municipality and the appeal tribunal with discretion in any particular case and shall not be interpreted as being prescriptive.

Decisions

- 74 (1) Any decision required to be made in terms of this Act by a municipality or the appeal tribunal shall not be delayed pending any determination or approval of a matter related to the use or development of land in terms of any other law.
- (2) Except as referred to in subsection (3), a decision taken in terms of this Act by a municipality or the appeal tribunal does not override a restriction or condition imposed in terms of any other law except in the case of a law which has been repealed in terms of this Act.
- (3) A condition in the approval of any application or in terms of a land use scheme or existing scheme shall prevail over a by-law of the municipality concerned.
- (4) Any decision taken in terms of this Act by a municipal manager, municipal official or municipal department is a decision of the municipality.

Condonation

- 75 (1) A municipality or the appeal tribunal may of its own accord, or on application by an applicant or any interested party, upon good cause being shown, grant condonation of a failure to comply with any procedure or time period prescribed in terms of this Act, the Regulations or in any directive lawfully imposed in terms of this Act.
- (2) The appeal tribunal may upon good cause being shown grant condonation of a failure by a municipality to comply with any procedure or time period prescribed in terms of this Act or the Regulations.
- (3) A condonation in terms of subsections (1) or (2) shall not be granted if it would unreasonably prejudice any party.

Delegation

- 76 (1) The Premier may delegate any power or duty conferred or imposed on him or her by this Act to one or more than one Member of the Executive Council or to any official in the provincial administration subject to subsection (2).
- (2) The Premier may not delegate his or her power to make regulations.
- (3) A delegation under subsection (1) does not prevent the Premier from exercising the power or performing the duty concerned.
- (4) Subject to the provisions of the Local Government : Municipal Structures Act, 117 of 1998, a municipal council may delegate any power or duty conferred or imposed on it by this Act to a committee of the council, the municipal manager or any official in the municipal administration.

Application fees

- 77 (1) Application fees payable to the municipality shall be determined by the municipality.

- (2) Fees payable to the provincial administration in respect of an appeal may be determined by the Premier.
- (3) The fees determined in terms of paragraph (1) may be reduced or waived by the municipal manager and in terms of paragraph (2) may be reduced or waived by the secretary
- (4) Any fees determined by a municipality in terms of subsection (1) or by the Premier in terms of subsection (2) shall be published and come into effect on the date of the notice in the Provincial Gazette.
- (5) No fees shall be payable in respect of the following matters:
 - (a) an application for condonation;
 - (b) the withdrawal or abandonment of an application in terms of sections (42) or (43);
 - (c) the publication of any notice of approval;
 - (d) any matter referred to as a request in terms of this Act, Regulations or land use scheme.

Offences and penalties

78 (1) Any person who:

- (a) contravenes any provision of this Act or a land use scheme;
- (b) wilfully furnishes a municipal manager, municipal development tribunal, or the appeal tribunal with false information;
- (c) fails to produce any document or information in his or her possession when lawfully required to do so;
- (d) fails to attend any hearing after being issued with a subpoena; or

- (e) wilfully disrupts the proceedings of a municipal tribunal, or the appeal tribunal or in relation to such proceedings does anything which, if done in relation to a court of law, would constitute contempt of court;

shall be guilty of an offence.

- (2) A person convicted of an offence in subsection (1) shall be liable on conviction to be sentenced to a term of imprisonment for a period not exceeding one year or to a fine calculated according to the ratio for such imprisonment in terms of the Adjustment of Fines Act, 101 of 1992, or both such fine and imprisonment.

Enforcement

- 79 A municipality shall be responsible and may promulgate by-laws for the effective enforcement of its land use scheme.

Provision of information

- 80 Any person shall be entitled to obtain a copy of any document or information relating to a development application, land use application or any other document referred to in this Act from the municipality or secretary, as the case may be: Provided that:

- (a) the copy of the document or information shall be provided within 7 days of the date of such copy of the document or information being requested in writing;
- (b) the person requesting a copy of the document or information shall pay the reasonable cost of printing or reproducing such copy.

Hearings

- 81. Any hearing of an application by a municipality or the appeal tribunal shall be open to the public.

Correction of errors

- 82 (1) Where an error or omission has occurred in an approval referred to in this Act, in any conditions of approval or conditions of establishment, in any existing scheme, land use scheme or amendment scheme, or in any notice published in the Provincial Gazette, such error or omission may be corrected.
- (2) A correction of an error or omission referred to in subsection (1) shall be limited to:
- (a) technical or administrative matters which do not materially affect the subject of the correction; or
 - (c) typographical or grammatical matters; or
 - (c) matters necessary for the effective and proper administration of the land use scheme.
- (3) If a notice published in the Provincial Gazette is corrected, a notice of such correction shall be published in the Provincial Gazette.

Transitional arrangements

- 83 (1) Any application submitted or any other pending matter in terms of any law repealed by this Act not disposed of prior to the commencement of this Act shall be dealt with and finalised as if this Act had not come into operation.
- (2) Any appeal or other matter pending before the Townships Board or Services Appeal Board in terms of any law repealed by this Act not disposed of prior to the coming into operation of this Act shall be dealt with and finalised by the Townships Board or Services Appeal Board as the case may be as if this Act had not come into operation.
- (3) For the purposes contemplated in subsection (2) the Premier shall extend the term of office of any members and secretarial staff of the Townships Board or the Services Appeal Board serving on the date on which this Act

comes into operation on such terms and conditions as may be necessary under the circumstances.

- (4) A reference to the Townships Board in any law not repealed by this Act shall be a reference to the appeal tribunal for the purposes of that other law.
- (5) Any appeal to the MEC or the Townships Board or any matter to be decided by the Townships Board in terms of any other law which is submitted after the date of the coming into operation of this Act shall be dealt with and decided by the appeal tribunal.
- (6) Where necessary, any notice, certificate or other document or any consent or approval issued, or anything lawfully done in terms of any law repealed by this Act shall be deemed to comply with the provisions of this Act.
- (7) On the coming into operation of this Act a reference to the Administrator or the Director in the Town Planning and Townships Ordinance, 25 of 1965, the Town Planning and Townships Ordinance, 15 of 1986, or in the Division of Land Ordinance, 20 of 1986, shall be deemed to be a reference to a municipality except where such reference relates to an appeal.
- (8) After 12 months following the coming into operation of this Act no extension of the time periods and no condonation referred to in sections 66 or 68 of the Town Planning and Townships Ordinance 25 of 1965 shall be granted by a municipality.
- (9) An application for the amendment of an existing scheme made prior to the coming into effect of a land use scheme but which is approved after the land use scheme comes into effect shall be deemed to be an amendment of the land use scheme to the extent that may be necessary and the land use scheme shall be amended accordingly.
- (10) The Gauteng Transport Infrastructure Act, 8 of 2001, is hereby amended by the substitution of the term Townships Board wherever it appears in the said Act with the term Appeal Tribunal.

General

84 A reference in this Act to any other law includes any amendment of such law.

Repeal of laws

85 The laws set out in the schedule to this Act are hereby repealed as specified and to the extent as set out in the schedule.

Short title and commencement

86 (1) This Act is called the Gauteng Planning and Development Act, 2012.

(2) The Act comes into operation:

- (a) on the date determined by the Premier in publication of notice thereof; or
- (b) on different dates in respect of different provisions of the Act determined by the Premier in publication of a notice thereof.

SCHEDULE**LAWS REPEALED**

	Ordinance/Act	Title	Extent
1	Ordinance 17 of 1939	Local Government Ordinance, 1939	Sections 67 and 68
2	Act 21 of 1940	Advertising on Roads and Ribbon Development Act, 1940	The whole
3	Ordinance 20 of 1943	Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943	The whole
4	Act 4 of 1984	Black Communities Development Act, 1984	The whole
5	Ordinance 15 of 1986	Town Planning and Townships Ordinance, 1986	The whole
6	Ordinance 20 of 1986	Division of Land Ordinance, 1986	The whole
7	Act 113 of 1991	Less Formal Township Establishment Act, 1991	The whole
8	Act 3 of 1996	Gauteng Removal of Restrictions Act, 1996	The whole
9	Act 3 of 2003	Gauteng Planning and Development Act, 2003	The whole