

UMSINGA SPATIAL PLANNING AND LAND USE MANAGEMENT ACT BYLAWS, 2022 AMENDMENTS



**UMSINGA MUNICIPALITY
UMKHANDLUWASEMSINGA**

DEPARTMENT: DEVELOPMENT PLANNING

UNIT: TOWN PLANNING

TEL: 033 493 8019

ADDRESS: UMSINGA LOCAL MUNICIPALITY

P/BAG X 530

TUGELA FERRY

3010

DRAFT ADOPTED BY UMSINGA COUNCIL: 31 AUGUST 2022

The **uMsinga Municipal Spatial Planning and Land Use Management Act, 2013 Bylaws, 2022 amendments** aim to fulfil the following:

<ul style="list-style-type: none"> ▪ To provide for the establishment of the Municipal Planning Approval Authority, Municipal Planning Appeal Authority, and the Municipal Planning Enforcement Authority. 	<ul style="list-style-type: none"> ▪ Municipal Planning Tribunal (MPT) / Authorised Officer - available and operational.
<ul style="list-style-type: none"> ▪ to provide for applications for municipal planning approval. 	
<ul style="list-style-type: none"> ▪ to provide for the adoption and amendment of the Municipality's land use scheme, to provide for the development of the package of plans; to regulate and manage spatial and land use planning and development; 	<ul style="list-style-type: none"> ▪ Final uMsinga Single LUMS
<ul style="list-style-type: none"> ▪ provide for offences and penalties; to provide for compensation and matters incidental thereto 	<ul style="list-style-type: none"> ▪ Infringement of Municipal Bylaws penalties included.
<ul style="list-style-type: none"> ▪ To provide for the Municipal Spatial Development Framework and the land use scheme of the Municipality; 	<ul style="list-style-type: none"> ▪ Emphases on the alignment of the Municipal Spatial Framework & Plans.
<ul style="list-style-type: none"> ▪ to provide for the categorisation of land development applications; to provide for processes and procedures for land development applications; to provide for compliance with the land use scheme; to provide for an Appeal Authority; to provide for offences and penalties and to provide for matters incidental thereto. 	<ul style="list-style-type: none"> ▪ Municipal Bylaws SPLUMA

PREAMBLE

WHEREAS the Municipality must contribute to the progressive realisation of fundamental rights contained in the Constitution.

WHEREAS the Municipality is committed to sustainable, developmentally orientated, and integrated developmental municipal planning.

WHEREAS the Municipality must promote the development principles of spatial justice; spatial sustainability; spatial resilience; efficiency and good administration in municipal planning.

WHEREAS the Municipality must observe and enforce compliance of its land use scheme.

WHEREAS the Municipality must maintain open, transparent, and sound accountable practices in its planning administration.

WHEREAS the Municipality recognises the principles of co-operative government in planning matters in order to provide for open, transparent, and accountable government.

AND WHEREAS the Municipality recognises the need to facilitate the involvement of the community and public participation in planning processes and developments.

TABLE OF CONTENTS

PREAMBLE.....	2
CHAPTER 1: PRELIMINARY PROVISIONS	7
1. DEFINITIONS	Error! Bookmark not defined.
CHAPTER 2: APPLICATION OF BY-LAW, ALIGNMENT OF AUTHORISATIONS, TYPES OF APPLICATIONS AND PRINCIPLES, NORMS, STANDARDS AND POLICIES	10
2. APPLICATION OF BY-LAW.....	10
3. ALIGNMENT OF AUTHORISATIONS	10
4. TYPES OF APPLICATIONS.....	10
5. PRINCIPLES, NORMS, STANDARDS AND POLICIES	11
CHAPTER 3: THE LAND USE SCHEME AND SPATIAL DEVELOPMENT FRAMEWORK	12
6. LAND USE SCHEME.....	12
7. PURPOSE AND CONTENT OF LAND USE SCHEME	13
8. LEGAL EFFECT OF LAND USE SCHEME	13
9. REVIEW OF LAND USE SCHEME	14
10. MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK.....	14
11. CONTENT OF MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK.....	15
CHAPTER 4: ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIAL.....	17
12. ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNAL (MPT)	17
13. APPOINTMENT AND COMPOSITION OF MUNICIPAL PLANNING TRIBUNAL	17
14. POWERS AND FUNCTION OF MUNICIPAL PLANNING TRIBUNAL.....	18
15. CLASSIFICATION OF APPLICATIONS TO BE DETERMINED BY THE MUNICIPAL PLANNING TRIBUNAL .	19
16. AUTHORISED OFFICIAL	19
17. CLASSIFICATION OF APPLICATIONS TO BE DECIDED BY THE AUTHORISED OFFICIAL.....	19
CHAPTER 5: GENERAL REQUIREMENTS AND APPLICATION PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS	21
PART 1: CONSENT USE AND BUILDING LINE RELAXATION	21
18. CONSENT USE	21
19. BUILDING LINE RELAXATION	23
PART 2: AMENDMENT OF LAND USE SCHEME (REZONING) AND MATTERS RELATED THERETO	25
20. AMENDMENT OF LAND USE SCHEME.....	25

21. AMENDMENT OF LAND USE SCHEME APPROVAL AND POST-DECISION PROCEDURES	27
22. CORRECTION OF ERRORS OR OMISSIONS	28
23. PROHIBITION OF A FURTHER APPLICATION IN CERTAIN CIRCUMSTANCES	28
24. CONTRIBUTIONS TO BE PAID IN RESPECT OF EXTERNAL ENGINEERING SERVICES	29
PART 3: TOWNSHIP ESTABLISHMENT, DIVISION/PHASING OF AN APPROVED TOWNSHIP, EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP AND MATTERS RELATED THERETO	29
25. TOWNSHIP ESTABLISHMENT	29
26. AUTHORISATION OF CERTAIN CONTRACTS AND OPTIONS	31
27. TOWNSHIP ESTABLISHMENT APPROVAL AND POST-DECISION PROCEDURES	32
28. PROHIBITION OF REGISTRATION OF CERTAIN DEEDS OF TRANSFER OR ENDORSEMENT ON CERTAIN TITLE DEEDS	34
29. FAILURE TO COMPLY WITH REQUIREMENTS OF THE MUNICIPALITY	35
30. PHASING OF AN APPROVED TOWNSHIP	35
31. EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP	36
PART 4: SUBDIVISION AND/OR CONSOLIDATION OF AN ERF IN AN APPROVED TOWNSHIP AND THE SUBDIVISION OF ANY OTHER LAND AND MATTERS RELATED THERETO	37
32. SUBDIVISION AND/OR CONSOLIDATION OF LAND	37
33. CANCELLATION AND AMENDMENT OF CONDITIONS/PLAN, ENDORSEMENT OF CERTAIN DOCUMENTS BY REGISTRAR AND ACCESS	39
34. SUBDIVISION OF ANY OTHER LAND	41
35. FAILURE TO COMPLY WITH REQUIREMENTS OF THE MUNICIPALITY	43
36. PROHIBITION OF REGISTRATION OF CERTAIN DEEDS OF TRANSFER	43
PART 5: ALTERATION, AMENDMENT, OR CANCELLATION OF GENERAL PLAN	43
37. ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION	43
38. ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION APPROVAL AND POST DECISION PROCEDURES	45
39. EFFECT OF ALTERATION, AMENDMENT, OR CANCELLATION OF GENERAL PLAN	46
PART 6: AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS AND MATTERS RELATED THERETO	47
40. AMENDMENT, SUSPENSION, OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF LAND	47
41. DECISION AND POST-DECISION PROCEDURES	49
42. ENDORSEMENTS IN CONNECTION WITH AMENDMENTS, SUSPENSIONS OR REMOVALS OF RESTRICTIONS OR OBLIGATIONS	50

43. CONTRIBUTIONS TO BE PAID IN RESPECT OF EXTERNAL ENGINEERING SERVICES	50
PART 7: PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET	50
44. PERMANENT CLOSING OF A PUBLIC PLACE OR DIVERSION OF A STREET	50
CHAPTER 6: ENGINEERING SERVICES AND ENGINEERING SERVICES CONTRIBUTIONS	54
45. ENGINEERING SERVICES	54
46. EXTERNAL ENGINEERING SERVICES CONTRIBUTIONS	54
CHAPTER 7: APPEAL AUTHORITY AND PETITION TO INTERVENE.....	54
47. INTERNAL APPEALS	54
48. HEARING BY APPEAL AUTHORITY	56
49. RECORD OF DECISIONS.....	57
50. PETITION TO BE GRANTED INTERVENER STATUS	57
CHAPTER 8: GENERAL PROVISIONS	58
51. SECTIONAL TITLE SCHEMES	58
52. APPROVAL OR ADOPTION OF AMENDMENT SCHEME UNDER CERTAIN CIRCUMSTANCES	58
53. DOCUMENTS, PLANS AND DIAGRAMS AND ANY OTHER INFORMATION TO BE SUBMITTED WITH LAND DEVELOPMENT APPLICATIONS UNDER THE PROVISIONS OF THIS BY-LAW	59
54. CONTINUATION OF APPLICATION BY NEW OWNER	60
55. TIME FRAMES FOR LAND DEVELOPMENT APPLICATIONS	60
56. HEARING OF SUBMISSIONS, OBJECTIONS, COMMENTS OR REPRESENTATIONS	62
57. REASONS FOR A DECISION	62
58. NAMING AND NUMBERING OF STREETS	63
59. TARIFF OF CHARGES	64
60. OFFENCES AND PENALTIES	64
61. LAW ENFORCEMENT	65
62. NATIONAL AND PROVINCIAL INTEREST.....	66
63. TRANSITIONAL PROVISIONS	67
64. EXEMPTION	67
65. ADMINISTRATIVE LANGUAGE	67
66. VALIDITY OF OBJECTIONS.....	68
67. SHORT TITLE AND COMMENCEMENT	68
CHAPTER 9: AGREEMENTS WITH TRADITIONAL AUTHORITY	69
SCHEDULE 1: LAND DEVELOPMENT APPLICATIONS REQUIREMENTS	70

1. CONSENT USE APPLICATION BUILDING LINE RELAXATION APPLICATION	70
2. BUILDING LINE RELAXATION APPLICATION	70
3. AMENDMENT OF LAND USE SCHEME APPLICATION (REZONING)	71
4. TOWNSHIP ESTABLISHMENT APPLICATION	72
5. PHASING OF AN APPROVED TOWNSHIP	74
6. EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP	75
7. SUBDIVISION OF AN ERF/ERVEN IN AN APPROVED TOWNSHIP	75
8. CONSOLIDATION OF TWO OR MORE ERVEN IN AN APPROVED TOWNSHIP	77
9. SUBDIVISION OF ANY OTHER LAND	77
10. ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION	79
11. AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF LAND	79
12. PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET	80
SCHEDULE 2: TOWN PLANNING MUNICIPAL TARIFFS	82

CHAPTER 1: PRELIMINARY PROVISIONS

1. DEFINITIONS IN THIS BYLAW

In this By-law, unless the context clearly gives it another meaning –

“Affected Owner”	means any owner of land whom the Municipality may consider to be affected by a land development application; and may include a Traditional Authority.
“Authorised Official”	An Authorised Official in the employ of the Municipality and who may consider and determine certain land use and land development applications.
“Authorisation”	means any authorisation or authorisations required in terms of applicable legislation issued by an organ of state which may be required with a Land Development Application, including but not limited to– a) an Environmental Authorisation pursuant to an Environment Impact Assessment issued in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998). b) a Water Use Licence or/and General Authorisation issued in terms of the National Water Act, 1998 (Act No. 36 of 1998); or c) any authorisation which has been issued in terms of the Subdivision of Agricultural Land Act , 1970 (Act No. 70 of 1970); d) any permit and license issued in terms of the National Forest Act;
“Amendment Scheme”	means an approved amendment scheme for purposes of section 22(4) of this By-law and it also includes an amendment to the Municipality’s Land Use Scheme for purposes of section 9 of this By-law;
“Appeal Authority”	means an appeal authority contemplated in terms of Chapter 7 (Section 47) of this By-law.
“building”	includes any structure of any nature whatsoever as envisaged in section 1 of the National Building Regulations and Building Standards Act;
“Complete application”	Land Development Application that has been determined by the Authorising Official
“Combined application”	means an application which contains multiple types of land development applications which may be combined and considered in its entirety as provided for in Chapter 5 of this By-law;
“Consolidation”	means where two or more erven/erf/farm portion are combined to form a new erf in terms of Land Survey Act, 1997 (Act No. 8 of 1997)

“Contravention”	means a contravention of the land use scheme, a contravention of a condition of approval contained in a decision notice or a contravention of a provision of this By-law.
“Contravention Notice”	means a notice served by the Municipality on an owner or person who has committed or is suspected of committing a contravention;
“Constitution”	means the Constitution of the Republic of South Africa, 1996.
“Municipal Planning Tribunal”	means a written code setting out rules and standards relating to the ethics, practice and conduct of the members of the Tribunal.
“Council” or “Municipal Council”	means the uMsinga Municipal Council, a municipal council referred to in section 157(1) of the Constitution and established in terms of section 18 of the Municipal Structures Act.
“Calendar Days”	means calendar days, which includes Saturdays, and Sundays.
“Deeds Registry”	means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937 (Act. 47 of 1937);
“Deeds Registries Act”	means the Deeds Registries Act, 1937 (Act 47 of 1937);
Development rights	means any approval granted to a land development application;
“Diagram”	means an approved diagram as defined in the Land Survey Act, 1997 (Act No. 8 of 1977);
District Municipality	means the uMzinyathi District Municipality;
“Engineering Services Agreement”	means the agreement envisaged in section 45(2) of this By-law;
“Engineering Services Contribution”	means a monetary contribution as envisaged in sections 18(7)(e), 24(1)(a), 32(7)(a), 43 and 46(1) of this By-law;
“Erf”	means land in an approved township registered in a deed's registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township;
“Municipality”	means the uMsinga Local Municipality, established in terms of Section 12 of the Municipal Structures Act read with the provisions of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act 7 of 2000) as amended;

"Municipal Planning Enforcement Officer"	means a municipal official designated or appointed in terms of Section 61(2) of this By-law to perform the powers and functions of enforcement.
"Presiding Officer"	means – a) a member of a Municipal Planning Tribunal designated to preside over the determination of an application for municipal planning approval contemplated in section 16(5); or b) the Presiding Officer of the Municipal Planning Appeal Authority contemplated in section 25.
"Record of Decision"	means a Record of Decision of an application for municipal planning approval as contemplated in section 55.
"Registered Planner"	means a person who is registered as a professional planner or a technical planner as contemplated in the Planning Profession Act, 2002 (Act No. 36 of 2002) as amended.
"Schedule"	means the schedules to this By-law which form part of this By-law;
"Sectional Titles Act"	means the Sectional Titles Act, 1986 (Act No. 95 of 1986).
"Shared Services Agreement"	means an agreement entered into between two or more municipalities, including the District Municipality, whereby the participating municipalities agree to share services described in the agreement.
"Spatial Planning and Land Use Management Act"	means the Spatial Planning and Land Use Management Act 2013 (Act No. 16 of 2013) and the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 (Government Notice No. 239 of 2015).
"Subdivision"	means the division of land in accordance with an approved general plan, including a remainder, but excluding land to be used for road purposes.
"Subdivision of Agricultural Land Act"	means Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970).
"Public Place"	means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for the use and benefit of the general public and is owned by or vests with the Municipality, and includes a public open space and a servitude for any similar purposes in favour of the general public as contemplated in the SPLUMA and section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

CHAPTER 2: APPLICATION OF BY-LAW, ALIGNMENT OF AUTHORISATIONS, TYPES OF APPLICATIONS AND PRINCIPLES, NORMS, STANDARDS AND POLICIES

2. APPLICATION OF BY-LAW

- (1) This By-law is subject to section 2(2) of the **Spatial Planning and Land Use Management Act, 2013** that provides that, except as provided in the Spatial Planning and Land Use Management Act, no legislation may prescribe an alternative or parallel mechanism, measure, institution or system on spatial planning, land use, land use management and land development in a manner inconsistent with it.
- (2) This By-law applies to all land within the jurisdiction of the uMsinga Local Municipality, including land owned by an organ of state; private sector and the Municipality.
- (3) No person may use or develop land unless the use or land development is permitted in terms of the Municipality's land use scheme or an approval in terms this By-law.
- (4) This By-law binds every landowner and their successors-in-title and every user of land, including the state, any organ of state or the Municipality.

3. ALIGNMENT OF AUTHORISATIONS

- (1) Where a land development application requiring authorisation in terms of this By-Law is also regulated in terms of another law, whether National or Provincial in terms of its functional area as per the Constitution, the Municipality may exercise its powers under this By-law jointly with such other organ of state by issuing-
 - (a) separate authorisations; or
 - (b) an integrated authorisation.
- (2) An integrated authorisation envisaged in subsection (1) above may only be issued if-
 - (a) the integrated authorisation specifies the-
 - i. provisions in terms of which it has been issued; and
 - ii. relevant authorities that have issued it.

4. TYPES OF APPLICATIONS

- (1) Land development applications that may be submitted in terms of this By-law include the following-
 - (a) consent-use as provided for in the uMsinga land use scheme;
 - (b) building line relaxation as provided for in the uMsinga land use scheme;
 - (c) the amendment of a land use scheme or any other scheme which might still be applicable relating to land (rezoning);

- (d) township establishment.
- (e) subdivision and/or consolidation of land
- (f) phasing of an approved township;
- (g) extension of boundaries of an approved township;
- (h) amendment or cancellation of a general plan;
- (i) amendment, suspension, or removal of a restrictive or obsolete condition, obligation, servitude, or reservation registered against the title of land, including a consent application if required by a condition of title registered against the title deed of land;
- (j) permanent closure of a public place; road and diversion of a street;
- (k) any other application as provided for in this By-law.

5. PRINCIPLES, NORMS, STANDARDS AND POLICIES

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

- (1) Any land development application in terms of this By-law must give effect to the development principles as set out in section 7(1) of Chapter 2 of the SPLUMA.
- (2) Any land development application in terms of this By-law shall be guided and informed by the uMsinga's Integrated Development Plan and Municipal Spatial Development Framework as adopted and approved in terms of Section 20 of the SPLUMA and section 10 of this By-law.
- (3) Any land development application in terms of this By-law must address need, reasonableness, desirability, and public interest.
- (4) Any land development application in terms of this By-law shall have as its main purpose the co-ordinated and harmonious development of the area to which the application relates in such a way as will most effectively tend to promote the health, safety, good order, amenity, convenience, and general welfare of such specific area as well as efficiency and economy in the process of such development.

CHAPTER 3: THE LAND USE SCHEME AND SPATIAL DEVELOPMENT FRAMEWORK

6. LAND USE SCHEME

- (1) The Municipality shall **approve and adopt**, after public consultation, a single land use scheme for its entire area of jurisdiction.
- (2) A land use scheme adopted in terms of subsection (1) above must-
- (a) include appropriate categories of land use zoning and regulations for the entire municipal area, including areas not previously subject to a land use scheme;
 - (b) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;
 - (c) take cognisance of any culturally or historically significant land uses and comply with any heritage resources legislation;
 - (d) include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums, and areas not previously subject to a land use scheme;
 - i. The community and its leadership, including traditional leaders, must be consulted when land occupied by a traditional community or indigent households is included in a land use scheme.
 - (e) include provisions to promote the inclusion of affordable housing in residential land development;
 - (f) include land use and development incentives to promote the effective implementation of the spatial development framework and other development policies;
 - (g) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
 - (h) give effect to municipal Spatial Development Framework (SDF) and Integrated Development Plan (IDP).
- (3) The land use scheme may include provisions relating to-
- (a) specific requirements regarding any special zones identified to address the development priorities of the Municipality.

7. PURPOSE AND CONTENT OF LAND USE SCHEME

- (1) The land use scheme adopted and approved in terms of **section 6 above** must give effect to and be consistent with the uMsinga Municipal Spatial Development Framework and determine the use and development of land within the uMsinga Municipality area of jurisdiction in order to -
 - (a) give effect to the policies and plans of national, provincial, and municipal government, including the Municipality's own policies and plans;
 - (b) promote economic growth;
 - (c) promote social inclusion;
 - (d) protect reasonable individual and communal interests in land;
 - (e) promote efficient land development; and
 - (f) minimal impact on public health, the environment, and natural resources.
- (2) The land use scheme must include-
 - (a) scheme regulations setting out the conditions relating to the use and development of land in any zone;
 - (b) a map indicating the zoning of the municipal area into land use zones; and
 - (c) a register of all amendments to such land use scheme.

8. LEGAL EFFECT OF LAND USE SCHEME

- (1) An adopted and approved land use scheme-
 - (a) has the force of law and all landowners and users of land, including the State-Owned Enterprise within uMsinga Municipality area of jurisdiction are bound by the provisions of such a land use scheme;
 - (b) replaces all existing schemes within the uMsinga Municipality area of jurisdiction to which the land use scheme applies;
 - (c) provides for land use and development rights.
- (2) Land may be used only for the purposes permitted-
 - (a) by a land use scheme or any other applicable town planning legislation, until such scheme or any other applicable town planning legislation is replaced by a land use scheme as contemplated in section 6(1) above.
- (3) The Municipality has a duty to enforce the provisions of its land use scheme and any use of land which is deemed contrary to such land use scheme shall constitute a criminal offence.

- (4) A land use scheme developed and approved in terms of section 6 above must address conflict between the land use scheme adopted and the one it purports to repeal or replace in envisage of -

- (a) Application submitted at the time of the scheme being replaced but where the application is still being processed/considered after the new scheme has come into effect.

9. REVIEW OF LAND USE SCHEME

- (1) The Municipality shall amend its land use scheme if the amendment-
- (a) is in the public interest;
 - (b) is to advance, or is in the interest of, a disadvantaged community; and
 - (c) to further the vision and development goals and objectives of the Municipality as set out in its Integrated Development Plan and Municipal Spatial Development Framework.
- (2) Where the Municipality intends to amend its land use scheme, sections 20 to 22 shall apply mutatis mutandis to such amendment.

10. MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

- (1) The Municipality must by notice in the local newspaper and provincial gazette, approve and adopt a municipal spatial development framework for the municipality.
- (2) The uMsinga Municipal Spatial Development Framework must be prepared as part of the uMsinga Integrated Development Plan process in terms of Chapter 5 of the Municipal Systems Act and the Municipal Planning Regulations issued in terms thereof.
- (3) Notwithstanding the provisions of the Municipal Systems Act and its Regulations, before the Municipality adopts its municipal spatial development framework for purposes of this section, including any material amendments thereto, the Municipality must-
- a. give notice of the proposed municipal spatial development framework in the local newspaper
 - b. invite the public to submit written representations in respect of the proposed municipal spatial development framework to the Municipality within 60 days after the publication of the notice envisaged in (a) above; and
 - c. consider all representations received in respect of the proposed municipal spatial development framework.

- (4) The provisions of subsection (3) above shall not be applicable to what is deemed to be minor amendments to its municipal spatial development framework and/or any of its components.

11. CONTENT OF MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK

- (1) The municipality's spatial development framework must-
- (a) give effect to the development principles and applicable norms and standards as set out in Chapter 2 of the SPLUMA;
 - (b) include a written and spatial representation of a five-year spatial development plan for the spatial form of the Municipality;
 - (c) include a longer-term spatial development vision statement for the uMzinga Municipality's area of jurisdiction which indicates a desired spatial growth and development pattern for the next 10 to 20 years;
 - (d) identify current and future significant structuring and restructuring elements of the spatial form of the Municipality, including development corridors, activity spines and economic nodes where public and private investment will be prioritised and facilitated;
 - (e) include population growth estimates for the next five years;
 - (f) include estimates of the demand for housing units across different socio-economic categories and the planned location and density of future housing developments;
 - (g) include estimates of economic activity and employment trends and locations in the uMzinga Municipality's area of jurisdiction for the next five years;
 - (h) identify, quantify, and provide location requirements of engineering infrastructure and services provision for existing and future development needs for the next five years;
 - (i) identify the designated areas where a national, provincial, or local inclusionary housing policy may be applicable;
 - (j) include a strategic assessment of the environmental pressures and opportunities within the Municipality's area of jurisdiction, including the spatial location of environmental sensitivities and high potential agricultural land;
 - (k) identify the designation of areas in the Municipality where incremental upgrading approaches to development and regulation will be applicable;
 - (l) identify the designation of areas in which-
 - i. more detailed local plans must be developed; and

- ii. shortened land use development procedures may be applicable and land use schemes may be so amended;
- (m) provide the spatial expression of the coordinated alignment and integration of sectoral policies of all Municipal Departments;
- (n) determine a capital expenditure framework for the municipality's development programmes, depicted spatially;
- (o) determine the purpose, desired impact, and structure of the land use management scheme to apply in that Municipal area; and
- (p) include an implementation plan comprising of-
 - i. sectoral requirements, including budgets and resources for implementation;
 - ii. necessary amendments to a land use scheme;
 - iii. specification of institutional arrangements necessary for implementation;
 - iv. specification of implementation targets, including dates and monitoring indicators; and
 - v. specification, where necessary, of any arrangements for partnerships in the implementation process.

CHAPTER 4: ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNAL AND AUTHORISED OFFICIAL

12. ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNAL (MPT)

- (1) The Municipality shall, in order to determine land development applications within its area of jurisdiction, establish a Municipal Planning Tribunal.
 - a. The municipality to issue a notice in the local newspaper requesting the members of the public to submit nominations for individuals to serve as additional external members of the Municipal Planning Tribunal (MPT).
 - b. Subject to subsection 12(1)(a) above, once approved and adopted the Municipality must by notice in the local newspaper and provincial gazette advertise the appointed member and the term of offices of the members.
- (2) The Municipal Planning Tribunal shall decide applications referred to it as per the Municipal Planning Tribunal's approved terms of reference, the provisions of the SPLUMA and this By-law.
- (3) The Tribunal must exercise its powers in an independent manner and in accordance with the principles of integrity, impartiality, objectivity, and professionalism.

13. APPOINTMENT AND COMPOSITION OF MUNICIPAL PLANNING TRIBUNAL

- (1) A Municipal Planning Tribunal must consist of –
 - (a) officials in the full-time employment of the Municipality; and,
 - (b) persons appointed by the Municipality who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law relating thereto.
- (2) Municipal Councillors shall not be members of a Municipal Planning Tribunal.
- (3) A Municipal Planning Tribunal must consist of at least 5 members or more as the Municipality deems necessary and shall preferably consist of members with the following qualifications -
 - (a) a Registered Planner;
 - (b) an attorney or advocate with experienced in property and/or planning law and registered with Legal Practice Council;
 - (c) persons registered in a category in terms of section 20(3) of the Natural Scientific Professions Act, 2003 (Act No 27 of 2003) within the field of environmental science; or/and Environmental Assessment Practitioners (EAPs) registered in terms of Section 24H Registration Authority Regulations of the National Environmental Management Act (NEMA), Act 107 of 1998, as amended;

- (d) a person registered in a category in terms of section 18(1)(a) of the Engineering Profession Act, 2000, (Act No 46 of 2000);
 - (e) a person registered in a category in terms of section 18(1)(a) of the Architectural Profession; and
 - (f) a person registered in terms of section 13(1)(d) of the Geomatics Professions Act as a as a Land Surveyor.
- (4) A Municipal Planning Tribunal may designate at least three members of the Tribunal which will form a quorum to hear, consider and decide a matter which comes before it.
 - (5) If the Municipality is of the opinion that it necessary to appoint additional or new members or a new Chairperson or a new Deputy-Chairperson, it may make additional or new appointments;
 - (6) Subject to subsection 12(1), the procedure for the appointment of Municipal Planning Tribunal member(s) must be followed for the appointment of new or additional member (s);
 - (7) New or additional members will serve for the unexpired period of office of the Municipal Planning Tribunal to which he or she is appointed.

14. POWERS AND FUNCTION OF MUNICIPAL PLANNING TRIBUNAL

- (1) A Municipal Planning Tribunal may-
 - (a) approve, in whole or in part, or refuse any application referred to it in accordance with this By-law;
 - (b) in the approval of any application, impose any reasonable conditions, including conditions related to the provision of engineering services and the payment of any engineering services contributions;
 - (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law, the SPLUMA and/or any Provincial legislation;
 - (d) conduct any necessary investigation;
 - (e) give directions relevant to its functions to any person in the service of the Municipality or Municipal Entity; or
 - (f) decide any question concerning its own jurisdiction.
- (2) The Municipality may appoint an Expert Technical Advisor on an ad hoc basis or for such period as the Municipality may decide and upon such terms and conditions as may be agreed with the Expert Technical Advisor.

- (a) An Expert Technical Advisor must advise and assist a Municipal Planning Tribunal or Municipal Council to make a decision on an application for municipal planning approval.
 - (b) An Expert Technical Advisor is not a member of the Municipal Planning Tribunal or Municipal Council and has no voting rights.
 - (c) The Municipality may remunerate an Expert Technical Advisor who is not a national, provincial or municipal official.
- (3) A Municipal Planning Tribunal must keep a record of all its proceedings and decisions.
- (4) A Municipal Planning Tribunal must provide reasons for any of its decisions made upon any written request submitted by any of the parties which was a party to the application within 30 days of date of receipt of the notice of the decision and such reasons shall be provided by the Municipal Planning Tribunal's Chairperson in writing within 14 days from date of receipt of such request.

15. CLASSIFICATION OF APPLICATIONS TO BE DETERMINED BY THE MUNICIPAL PLANNING TRIBUNAL

Subject to section 17(3), the Municipal Planning Tribunal shall decide any opposed land development application referred to it in terms of the provisions of this By-law, or the Municipality's land use scheme or any other applicable law relating to land development.

16. AUTHORISED OFFICIAL

- (1) As envisaged in terms of section 35(2) of the SPLUMA the Municipality may authorise an official in terms of a proper delegated power to decide on certain land development applications.
- (2) The authorisation in terms of subsection (1) above may include the power to sub-delegate such authorisation to any suitably qualified official(s) in the employ of the Municipality and under the control of the authorised official.
- (3) The provisions of section 15 above shall apply mutatis mutandis to such authorised official or duly authorised sub-delegate(s).

17. CLASSIFICATION OF APPLICATIONS TO BE DECIDED BY THE AUTHORISED OFFICIAL

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

- (2) The authorised official may decide any unopposed application which does not comply with any one or more of the criteria as set out in section 5 of this By-law without forwarding it to the Municipal Planning Tribunal for a decision.
- (3) Notwithstanding subsection (1) and (2) above, such authorised official will have the discretion to forward any application referred to him/her to the Municipal Planning Tribunal for a decision.
- (4) Such authorised official shall also decide applications as envisaged in section 64(2) of this By-law.

CHAPTER 5: GENERAL REQUIREMENTS AND APPLICATION PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS

PART 1: CONSENT USE AND BUILDING LINE RELAXATION

18. CONSENT USE

- (1) An owner of land may submit a consent use application in terms of this By-law and as provided for in the Municipality's land use scheme to use the land or site or any building on the land or site for a particular purpose (Refer to Schedule 1.1).
- (2) A consent use application as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) A notice shall be displayed on the land under consideration in **English / Zulu**;
 - (b) Such notice shall be displayed on the land within 7 (seven) days from the date of the Municipality's letter of acknowledgment of a complete application;
 - (c) Such notice shall be in the format as determined by the Municipality;
 - (d) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (e) Such notice shall be maintained in a clearly legible condition for a period of not less than 30 days from the date of 1st display of such notice;
 - (f) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf, farm portion or agricultural holding concerned and the nature and general purpose of the application;
 - (g) Such notice shall reflect the date of 1st display of such notice and it shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
 - (h) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (g) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 30 days from date of first displaying the notice on the land under consideration; and
 - (i) In addition to the requirements in subsections (a) to (h) above, the letter must be dispatched on or before the date of publication of the notice envisaged in

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

- (3) Proof of compliance with subsection (2) above in the form of a written affidavit shall be submitted to the Municipality within 14 days of expiry of the date contemplated in subsection (2)(h) above.
- (4) Where objections, comments and/or representations have been received as a result of subsection (2) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 56 below.
- (5) No decision on the application shall be taken unless due regard has been given to each objection, comment and representation lodged timeously.
- (6) Subject to section 17(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the consideration phase as contemplated in section 55(4) below;
- (7) Such consent use application may be refused, or it may be approved subject to any condition the Municipality may deem fit and it may include a condition that-
- (a) the consent shall lapse if the use of the land or building concerned is not commenced with within the period stated in the condition;
 - (b) the consent shall lapse if it is discontinued for a period stated in the condition;
 - (c) the consent shall lapse on the expiry of a period or on the occurrence of an event stated in the condition;
 - (d) the consent may be withdrawn if there has been non-compliance with any of the conditions of approval or because of change of circumstances;
 - (e) a contribution to the Municipality in respect of engineering services where it will be necessary to enhance or improve such services as a result of the consent granted.

- (8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all affected parties of the decision in writing by hand, by email or by any other means available without delay.
- (9) The Municipality shall keep a proper record of each approval granted in terms of subsection (7) above.
- (10) The confirmation of engineering services envisaged in Section 45(1)(a) below shall accompany a consent use application as envisaged in subsection (1) above.
- (11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 30-day period stated in that subsection.
- (12) Where the Municipality's land use scheme makes provision for a written consent application, such application shall be exempted from compliance with subsection (2) above.

19. BUILDING LINE RELAXATION

- (1) Any building line restriction imposed on land in terms of the Municipality's land use scheme may be relaxed in terms of an application submitted by an owner of land in terms of this By-law (Refer to Schedule 1.2).
- (2) A building line relaxation application as envisaged in subsection (1) above shall comply with the following procedures:
- (a) A letter, accompanied by a proposed building/site plan, shall be dispatched in writing and by registered post, by hand or by any other means available to any adjoining owners whom, at the discretion of the Municipality, may possibly be adversely affected by the relaxation of the applicable building line restriction setting out the following:
 - i. Full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application with specific emphasis on which building lines (side/rear or street) are being applied for;
 - ii. The date on which such application was submitted to the Municipality, and it shall reflect the name, postal address, telephone number, fax

number and e-mail address of the person submitting the application;
and

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

(b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the Municipality prior to consideration of the complete application within 14 days of expiry of the time period in subsection (2)(a)(iii) above.

- (3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(iii) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 56 below.
- (4) No decision shall be taken on the application unless due regard has been given to each objection, comment and representation lodged timeously.
- (5) Subject to section 17(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the consideration phase as contemplated in section 55(4) below;
- (6) Such building line relaxation may be refused or approved subject to any condition the Municipality may deem fit.
- (7) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the applicant shall notify all objected parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (8) The Municipality shall keep a proper record of each building line relaxation approval granted.
- (9) No building plans may be approved in terms of the National Building Regulations and Building Standards Act showing a proposed building within a building line restriction area without the approval of such building line relaxation application as envisaged in subsection (1) above.

**PART 2: AMENDMENT OF LAND USE SCHEME, REZONING AND MATTERS RELATED
THERETO**

20. AMENDMENT OF LAND USE SCHEME

- (1) An owner of land who wishes to have a provision of the Municipality's land use scheme or any provision of any other scheme which may still be applicable to the land under consideration amended, may submit an application in terms of this By-law to the Municipality for consideration (Refer to Schedule 1.3).
- (2) An application for the amendment of a provision of the Municipality's land use scheme or any other scheme that may still be applicable to the land under consideration as envisaged in subsection (1) above shall comply with the following procedures:
- (a) Notice of the application shall be given once by simultaneously publishing a notice in the newspaper that circulates within the area of jurisdiction of the application site in **English / Zulu**;
 - (b) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;
 - (c) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;
 - (d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
 - (e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 30 days from the date of publication of the notice as envisaged in subsection (2)(a) above.
 - (f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration in **English / Zulu**;
 - (g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;
 - (h) Such notice shall be in the format as determined by the Municipality;

- (i) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (j) Such notice shall be maintained in a clearly legible condition for a period of not less than 30 days from the date of publication of the notice mentioned in subsection (a) above; and
 - (k) In addition to the requirements in subsections (a) and (f) above, the letter must be dispatched on or before the date of publication of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsection (2)(b) to (e) above.
- (3) Proof of compliance with subsection (2) above must be submitted to the Municipality in the form of a written affidavit with evidence of a site notice and a local newspaper advert within 14 days of expiry of the date contemplated in subsection (2)(e) above.
- (4) On submission of an application in terms of subsection (1) above, the applicant must have submitted a copy of such application to:
 - (a) any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;
 - (b) any district municipality who may have an interest in the application; and
 - (c) any other stakeholder, Municipal Department, Provincial Department, National Department, Municipal Entity, or any other interested party who may, in the discretion of the Municipality, have an interest in the application.
- (5) The interested parties mentioned in subsection (4)(a) -(c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the Municipality in writing within **60 days of date of receipt of the application**, failing which, it shall be deemed that such interested party has no objection, comment, or representation to make.
- (6) The Municipality shall forward a copy of each objection, comment and representation received in terms of the notices envisaged in subsection (2) and from the interested parties in terms of subsection (4) above in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the

Municipality shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of **section 56 below**.

- (7) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (8) Subject to section 17(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the consideration phase as contemplated in section 55(4) below.

21. AMENDMENT OF LAND USE SCHEME APPROVAL AND POST-DECISION PROCEDURES

- (1) An application as envisaged in section 20(1) above may be approved subject to any condition the Municipality deems fit or it may be refused.
- (2) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the applicant shall notify all objected parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (3) The Municipality shall keep a proper record of each decision in terms of subsection (1) above.
- (4) Only where the Municipality has approved an application in terms of subsection (1) above and after the expiry of the time period envisaged in **section 47(1) of this By-law**, it shall forthwith give notice thereof in the local newspaper in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be an approved land use management scheme which is an amendment scheme.
- (5) Prior to the notice being published as envisaged in subsection (4) above, the owner of land may abandon the approval by giving written notice to the Municipality.
- (6) The Municipality shall cause a copy of every approved scheme as envisaged in subsection (4) above to lie for inspection at all reasonable times at its office.

- (7) An approved scheme as envisaged in subsection (1) above shall come into operation on the date of publication of the notice envisaged in subsection (4) above.
- (8) The Municipality shall observe and enforce the provisions of the scheme from the date of it coming into operation and any person who contravenes a provision of an approved scheme shall be guilty of an offence.
- (9) No provisional authorisation as contemplated in section 7(6) of the National Building Regulations and Building Standards Act shall be issued unless an approval has been granted in terms of subsection (1) above.

22. CORRECTION OF ERRORS OR OMISSIONS

Where the Municipality is of the opinion that any error or omission in an approved scheme relating to land situated within its area of jurisdiction may be corrected without the necessity of again following the provisions of sections 20 and 21 above, it may correct such error or omission by notice in the local newspaper.

23. PROHIBITION OF A FURTHER APPLICATION IN CERTAIN CIRCUMSTANCES

- (1) Where the Municipality has approved an application envisaged in section 20(1) above, no person shall in respect of the land to which the amendment scheme relates apply for a further amendment in terms of section 20(1) within a period of 24 months from the date of coming into operation of the scheme.
- (2) Notwithstanding subsection (1) above, the Municipality may, upon written application, grant consent that, due to an acceptable change of circumstances, a further amendment application as envisaged in section 20(1) above may be submitted.
- (3) Within a period of 30 days from date of receipt of the change of circumstances application envisaged in subsection (2) above, the Municipality shall consider the application and notify the owner of land of its decision.
- (4) The provisions of subsection (1) above shall not apply to what is deemed by the authorised official to be minor amendments to the approved amendment scheme.

24. CONTRIBUTIONS TO EXTERNAL ENGINEERING SERVICES

- (1) Where an amendment scheme which is an approved scheme came into operation in terms of section 21(7) above, the Municipality may deem necessary for the owner to be provided with such engineering services envisaged in section 45(1) of this By-law where it will be necessary to enhance or improve such services as a result of the commencement of the amendment scheme.

PART 3: TOWNSHIP ESTABLISHMENT, DIVISION/PHASING OF AN APPROVED TOWNSHIP, EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP AND MATTERS RELATED THERETO

25. TOWNSHIP ESTABLISHMENT

- (1) An owner of land who wishes to establish a township on its land which falls within the jurisdiction of the Municipality may submit an application in terms of this By-law to the Municipality for consideration (Refer to Schedule 1.4).
- (2) A township must be established on any land where the land concerned is to be used, developed, or subdivided mainly for residential, business, commercial, industrial, institutional, educational, or other similar purposes as defined in the applicable land use scheme, excluding agricultural, open space or nature conservation purposes.
- (3) An application for the establishment of a township as envisaged in subsection (1) above shall comply with the following procedures:
 - (a) Notice of the application shall be given once by simultaneously publishing a notice in the newspaper that circulates within the area of jurisdiction of the application site in **English / Zulu**;
 - (b) Such notice shall clearly reflect in terms of which section of this By-law the application is made and which land use scheme or any other scheme is applicable;
 - (c) Such notice shall reflect full details of the application including, but not limited to, the street address, the name of the proposed township and the nature and general purpose of the application;
 - (d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
 - (e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment, or representation in regard thereto must be submitted timeously to the

Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 30 days from the date of publication of the notice as envisaged in subsection (a) above.

- (f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration in **English / Zulu**;
 - (g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;
 - (h) Such notice shall be in the format as determined by the Municipality;
 - (i) Such notice shall be displayed in a conspicuous place on the land in question where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place;
 - (j) Such notice shall be maintained in a clearly legible condition for a period of not less than 30 days from the date of publication of the notice mentioned in subsection (a) above; and
 - (k) In addition to the requirements in subsections (a) and (f) above, the letter must be dispatched on or before the date of publication of the notice envisaged in subsection (a) above to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane by registered post, by hand or by any other means available informing such owners/occupiers of all the detail as prescribed in subsection 3(b) to (e) above.
- (4) Proof of compliance with subsection (3) above must be submitted to the Municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (3)(e) above.
- (5) On submission of an application in terms of subsection (1) above, the applicant must have submitted a copy of such application to:
- (a) any Roads authority whether local (as a municipal owned Entity), Provincial or National which may have an interest in the application;
 - (b) any District Municipality who may have an interest in the application; and
 - (c) any other stakeholder, Municipal Department, Provincial Department, National Department, Municipal Entity, or any other interested party who may, in the discretion of the Municipality, have an interest in the application.
- (6) The interested parties mentioned in subsections (5)(a) to (c) above to which a copy of the application has been forwarded shall submit its objection, comment and/or representation to the Municipality in writing within 60 days of date of receipt of the

application, failing which, it shall be deemed that such interested party has no objection, comment, or representation to make.

- (7) The Municipality shall forward a copy of each objection, comment and representation received in terms of the notice envisaged in subsection (3) and from the interested parties in terms of subsection (5) above in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application to the Municipal Planning Tribunal for determination subject to the provisions of section 56 below.
- (8) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (9) Subject to section 17(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the consideration phase as contemplated in section 55(4) below.
- (10) Prior to a decision being taken on a township application submitted under this section whether by the Municipal Planning Tribunal or the authorised official, the owner of land may-
 - (a) Withdraw of his own accord and with the consent of the Municipality; or
 - (b) at the request of the Municipality, amend his application, provided that the amendment is not regarded in the opinion of the Municipality as being material which would warrant re-compliance with subsections (3) and (5) above.

26. AUTHORISATION OF CERTAIN CONTRACTS AND OPTIONS

- (1) After a township application has been approved as contemplated in section 27(1) below and after complying with section 27(5) of this By-law, an owner of land may also apply to the Municipality for authorisation to enter into any contract for the sale, exchange or alienation or disposal in any other manner of an erf in the proposed township or to grant an option to purchase or otherwise acquire an erf in the proposed township.
- (2) The Municipality may grant such authorisation envisaged in subsection (1) above subject to any condition it may deem expedient, which may include a condition that the applicant shall, before entering into such contract or granting such option and

within 6 months of granting the consent, furnish to the Municipality a guarantee of such type and for such amount as the Municipality may determine and which is otherwise to its satisfaction that the applicant will fulfil its duties in respect of the engineering services as envisaged in section 45(1) below and if the applicant fails to do so the authorisation shall lapse.

- (3) The Municipality shall notify the owner of land of its decision in writing and of any condition imposed.
- (4) Where the Municipality has granted such authorisation as envisaged in subsection (1) above, the contract or option shall contain a clause stating that the township concerned has not been declared an approved township for purposes of section 27(15).
- (5) Where such contract or option does not contain such clause as envisaged in subsection (4) above, the contract or option shall, at any time before the township is declared an approved township as contemplated in section 27(15), be voidable at the instance of any party to the contract or option, other than the person who alienates or disposes of the erf or who grants the option.
- (6) Any person who alienates or disposes of an erf and who enters into a contract or grants an option without such clause as envisaged in subsection (4) above shall be guilty of an offence.

27. TOWNSHIP ESTABLISHMENT APPROVAL AND POST-DECISION PROCEDURES

- (1) After the provisions of section 25 have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.
- (2) Where the Municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.
- (3) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.
- (4) After the owner of land has been notified in terms of subsection (3) above that his application has been approved, but before the township is declared an approved township as contemplated in subsection (15) below, the Municipality may, in consultation with the owner of land, amend or delete any condition imposed in terms of subsection (2) above or add any further condition.
- (5) After an owner of land has been notified in terms of subsection (3) that his application has been approved, the owner of land shall within a period of 12 months from the date

of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the applicant fails to do so the approval will automatically lapse.

- (6) An application for an extension of time as envisaged in subsection (5) above shall be made prior to the expiry of the 12-month period stated in that subsection and if granted, may not exceed another 24 months and no further extension shall be granted.
- (7) Where the owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after consulting the owner of land, that the owner of land has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.
- (8) An owner of land who has been notified in terms of subsection (3) above that his application has been approved but prior to the township being declared an approved township as contemplated in subsection (15) below, may-
 - (a) where the documents envisaged in subsection (5) above have not yet been lodged with the Surveyor-General; or
 - (b) where the documents envisaged in subsection (5) above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General,
 - (c) submit a further application to the Municipality for the amendment of such approval unless:
 - i. the amendment is, in the Municipality's opinion, so material as to constitute a new application in terms of section 25(1) above;
 - ii. the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in section 25(3) and/or (5) above,and subsections (1) and (2) of this section shall apply mutatis mutandis to such application.
- (9) The owner of land shall lodge with the Municipality, within a period of 3 months from the date upon which the Surveyor-General has approved the plans, diagrams and any other documents envisaged in subsection (5) above, a certified copy or tracing of the general plan of the township and where the applicant fails to comply within the 3 month period, the Municipality may obtain a certified copy or tracing directly from the Surveyor-General at the applicant's costs.
- (10) After complying with subsection (5) above, the applicant shall lodge with the Registrar the plans, diagrams and any other documents as envisaged in subsection (5) above

and as approved by the Surveyor-General together with the relevant title deeds for endorsement or registration, as the case may be, within 12 months from the date of approval of such plans, diagrams and any other documents by the Surveyor-General, or within such further period as the Municipality may allow.

- (11) The Registrar shall not accept such plans, diagrams or any other documents for endorsement or registration until such time as the Municipality has advised him in writing that the applicant has complied with such pre-proclamation conditions as the Municipality may require to be fulfilled before giving notice in terms of subsection (15) below declaring that the township is an approved township.
- (12) Failure by the applicant to comply with subsection (10) above, the approval will automatically lapse.
- (13) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-month period stated in that subsection and if granted, may not exceed another 24 months and no further extension shall be granted.
- (14) Having endorsed or registered the title deeds envisaged in subsection (10) above, the Registrar shall notify the Municipality thereof without delay and the Registrar shall not register any further transactions in respect of any land situated in the township thereafter until such time as the township is declared an approved township in terms of subsection (15).
- (15) After the notice envisaged in subsection (14) above and after compliance with subsections (5), (9), (10) and (11) above, the Municipality shall, by giving notice in the Provincial Gazette, declare the township an approved township and it shall in a schedule to such notice set out the conditions on which the township is declared an approved township.
- (16) Where a township owner is required to transfer land to the Municipality or any other organ of state by virtue of a condition set out in the schedule envisaged in subsection (15) above, the land shall be so transferred at the expense of the township owner within a period of 6 months from date of the issuing of the certificate as contemplated in section 28(1) below.
- (17) With effect from the date of the notice envisaged in subsection (15) above, the ownership in any public road in a township established in terms of this By-law, shall vest in the Municipality.

28. PROHIBITION OF REGISTRATION OF CERTAIN DEEDS OF TRANSFER OR ENDORSEMENT ON CERTAIN TITLE DEEDS

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

- (a) the township has been declared an approved township in terms of section 27(15) above;
 - (b) that any condition as set out in the schedule envisaged in subsection 27(15) above has been complied with;
 - (c) the provisions of section 27(17) above in respect of the transfer of land to the Municipality or any other organ of state (if applicable) have been complied with;
 - (d) that the District Municipality will, within a period of 3 months from the date of such certification, be able to provide the erf with such engineering services as it may deem necessary and that it is prepared to consider the approval of a building plan in terms of the National Building Regulations and Building Standards Act in respect of the erf in question; and
- (2) The Registrar shall not endorse a title deed in terms of section 4C (1)(a) of the Housing Development Schemes for Retired Persons Act unless the certificate envisaged in subsection (1) above has been issued.
- (3) No building plans shall be approved, and no occupancy certificate shall be issued in terms of the provisions of the National Building Regulations and Building Standards Act unless the certificate contemplated in subsection (1) above has been issued.

29. FAILURE TO COMPLY WITH REQUIREMENTS OF THE MUNICIPALITY

Where an owner of land has, for a period of one year from the date he was requested in writing to comply with any requirement of the Municipality in respect of an application envisaged in section 25(1) above, failed to comply, the Municipality shall notify the owner of land of such failure and thereupon the application shall automatically lapse.

30. PHASING OF AN APPROVED TOWNSHIP

- (1) An owner of land who has been notified in terms of section 27(3) above that his township application has been approved (Refer to Schedule 1.5)-
- (a) may elect to phase a development within a period of 6 months from the date of the notice, or such further period as the Municipality may allow;
 - (b) shall, if directed to do so by the Municipality, in compliance with Section 43(2) of SPLUMA, 2013 , and apply to the Municipality for the phasing of the approved township into two or more separate townships.
- (2) On receipt of an application envisaged in subsection (1) above, the Municipality may-
- (a) where the documents envisaged in subsection 27(5) have not yet been lodged with the Surveyor-General;

- (b) where the documents envisaged in subsection 27(5) above have been lodged with the Surveyor-General, after consultation with the Surveyor-General, consent to the phasing of the township subject to any condition the Municipality may deem expedient.
- (3) Where consent has been granted in terms of subsection (2) above, the Municipality shall forthwith notify the owner of land in writing thereof and of any condition imposed.
- (4) The owner of land shall within a period of 3 months from the date of the notice envisaged in subsection (3) above, or such further period as the Municipality may allow, submit to the Municipality such plans, diagrams, or other documents, and furnish to it such information as it may require in respect of each separate township.
- (5) On receipt of the documents or information as envisaged in subsection (4) above, the Municipality shall forthwith notify the Surveyor-General and the Registrar in writing of the consent granted in terms of subsection (2) and such notice shall be accompanied by a copy of the plan of each separate township.
- (6) The granting of consent in terms of subsection (2) above and the notice envisaged in subsection (3) above shall, in respect of each separate township, be deemed to be the approval of an application as envisaged in section 27(1) above and a notice envisaged in section 28(3) above.
- (7) The provisions of sections 27(4) to (18), 28(1) to (3) and 29 shall apply mutatis mutandis to such phased townships.

31. EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP

- (1) An owner of land as envisaged in **section 49 of the Deeds Registries Act** who wishes to have the boundaries of an approved township extended to include his land may submit an application to the Municipality (Refer to Schedule 1.6).
- (2) The provisions of section 25(3) to (10) shall apply mutatis mutandis to an application envisaged in subsection (1) above and any reference to an application to establish a township shall be construed as a reference to an application to extend the boundaries of a township as envisaged in subsection (1) above.

- (3) After the provisions of section 25(3) to (10) have been complied with, the application may be approved, either wholly or in part, or refused or a decision thereon may be postponed.
- (4) Where the Municipality approves an application as envisaged in subsection (1) above, it may impose any condition it may deem expedient.
- (5) Whether a decision was taken on the complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision in writing by registered post, by hand or by any other means available without delay.
- (6) Where the Municipality approves an application envisaged in subsection (1) above, it may-
- (a) apply all or any of the conditions set out in the schedule envisaged in section 27(15) on which the township concerned was declared an approved township;
 - (b) impose a condition that the applicant shall pay to the Municipality an amount of money in respect of the provision of the engineering services envisaged in terms of **section 45(1)** where it will be necessary to enhance or improve such services as a result of the approval of the application envisaged in subsection (1) above.
- (7) Any condition imposed in terms of subsection (4) and (6) above shall be set out in a schedule to the proclamation envisaged in section 49 of the Deeds Registries Act.

PART 4: SUBDIVISION AND/OR CONSOLIDATION OF AN ERF IN AN APPROVED TOWNSHIP AND THE SUBDIVISION OF ANY OTHER LAND AND MATTERS RELATED THERETO

32. SUBDIVISION AND/OR CONSOLIDATION OF LAND

- (1) An owner of -
- (a) an erf/erven/farm portion in the jurisdiction of the Municipality who wishes to subdivide such erf/erven/farm portion (Refer to Schedule 1.9);
 - (b) two or more erven/farm portion in the jurisdiction of the Municipality who wishes to consolidate such erven, may submit an application, simultaneously or separately, as the case may be, to the Municipality as provided for in its land

use scheme and at the same time lodge a plan with the Municipality setting out the proposed subdivision and/or consolidation (Refer to Schedule 1.8).

(2) Only an application for subdivision in respect of land zoned "Residential (uMuzi)" as envisaged in subsection (1) above shall comply with the following procedure:

(a) A letter, accompanied by a plan showing the proposed subdivision and/or consolidation, shall be dispatched in writing and by registered post, by hand or by any other means available, to the owners/occupiers of all contiguous erven, including those on the opposite side of a street or lane, setting out the following:

- i. Full details of the application including, but not limited to, the street address, the name of the township, a clear erf description of the erf concerned and the nature and general purpose of the application;
- ii. The name, postal address, telephone number, fax number and e-mail address of the person submitting the application; and
- iii. That any objection, comment or representation in regard thereto must be submitted timeously to both the Municipality and the person mentioned in subsection (ii) above in writing by registered post, by hand, by facsimile or by e-mail within a period of 30 days from date of receipt of the letter.

(b) Proof of compliance with subsection (2)(a) above in the form of a written affidavit must be submitted to the Municipality within 14 days from date of expiry of the date contemplated in subsection (2)(a)(iii) above.

(3) Where objections, comments and/or representations have been received as a result of subsection (2)(a)(iii) above, the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application to the Municipal Planning Tribunal for a decision subject to the provisions of section 56 below.

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

(5) Subject to section 17(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the consideration phase as contemplated in section 55(4) below.

- (6) Such subdivision and/or consolidation application may be refused or approved subject to any condition the Municipality may deem fit which may include conditions to be registered against the relevant erf's title deed.
- (7) With a subdivision application, such condition may include a condition that the owner shall comply with Section 45(1);
- (8) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties of the decision in writing by registered post, by hand or by any other means available without delay.
- (9) The Municipality shall keep a proper record of all subdivision and consolidation decisions.
- (10) An application that has been approved in terms of subsection (6) above shall automatically lapse if not registered with the Surveyor-General and the Registrar within 12 months from date of approval or within such further period as the Municipality may allow.
- (11) An application for an extension of time as envisaged in subsection (10) above shall be made prior to the expiry of the 12-month period stated in that subsection and if granted, may not exceed a further 12 months.
- (12) The owner of land shall within 3 months after the Surveyor General has approved the diagram of the subdivision or the plan for consolidation in terms of the provisions of the Land Survey Act submit two (2) clear legible photocopies of the approved diagram or plan to the Municipality.

33. CANCELLATION AND AMENDMENT OF CONDITIONS/PLAN, ENDORSEMENT OF CERTAIN DOCUMENTS BY REGISTRAR AND ACCESS

- (1) The Municipality may, in consultation with the owner of land, or on application by the owner of land himself, prior to the registration of the subdivision and/or consolidation approval with the Surveyor-General and the Registrar as envisaged in section 32(10) above and, -
- (a) cancel the approval of an application submitted in terms of section 32(1) above;

- (b) amend or delete any condition imposed in terms of section 32(6) above or add any conditions to those already imposed; and
 - (c) approve an amendment of the plan setting out the proposed subdivision and/or consolidation.
- (2) The Municipality may not approve an application envisaged in section 32(1) above if it will bring about a result which is in conflict with-
 - (a) any condition set out in the schedule as envisaged in section 27(15) on which the township concerned was declared an approved township;
 - (b) a condition of title imposed in terms of any law;
 - (c) a provision of a land use scheme or an approved amendment scheme applicable to the erf or erven in question.
- (3) The Municipality may not approve an application envisaged in section 32(1) above unless the Municipality is satisfied that each subdivided portion has satisfactory vehicular access to a public street, which access may be provided by means of a panhandle or a servitude.
- (4) If access to a public street is to be provided to more than one proposed subdivided portion by means of a single panhandle, the Municipality shall, when it approves the application for the subdivision of the erf concerned, impose a condition that the applicant shall cause a servitude of right of way in favour of each portion, other than the portion of which the panhandle forms part, to be registered over the latter portion.
- (5) The owner of land shall, before he submits a deed of transfer or certificate of registered title in respect of the subdivided portion to the Registrar for registration in terms of the Deeds Registries Act have the power of attorney in respect of the transfer or the application for such certificate endorsed by the authorised official of the Municipality to the effect that the owner of land has complied with the conditions imposed in terms of section 32(6) above or that arrangements in respect of such compliance, including the furnishing of guarantees in respect of any condition requiring payment of an amount of money as envisaged in section 32(7) above, have been made to the satisfaction of the Municipality.
- (6) The Registrar shall not issue a certificate of consolidated title in respect of a consolidation unless the Municipality has confirmed in writing that the owner of land has complied with the conditions imposed in terms of section 32(6) above.

34. SUBDIVISION OF ANY OTHER LAND

- (1) Subject to any other law that may be applicable to such land, an owner of land, excluding land as envisaged in section 32(1) above, who wishes to divide such land may apply in writing to the Municipality and such application shall be accompanied by such plans, diagrams and other documents as may be required.
- (2) The provisions of section 20(2) to (9) shall apply mutatis mutandis to an application envisaged in subsection (1) above.
- (3) Subject to compliance with subsection (2) above, the application envisaged in subsection (1) above may be approved, either wholly or partly, or it may be refused, or a decision thereon may be postponed.
- (4) Where an application has been approved in terms of subsection (3) above, the Municipality may impose any condition it may deem expedient.
- (5) Whether a decision was taken on the complete application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties (including the Surveyor-General and the Registrar) of the decision and of any condition imposed in terms of subsection (4) above in writing by registered post, by hand or by any other means available without delay.
- (6) After the owner of land has been notified in terms of subsection (5) above that his application has been approved, but before any portion of land is transferred, the Municipality may, in consultation with the applicant, amend or delete any condition imposed in terms of subsection (4) above or add any further condition.
- (7) After an owner of land has been notified in terms of subsection (5) that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as may be required by the Surveyor-General and if the applicant fails to do so the approval will automatically lapse.
- (8) An application for an extension of time as envisaged in subsection (7) above shall be made prior to the expiry of the 12-month period stated in that subsection which if granted, shall not exceed a further 12 months.
- (9) Where the owner of land fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (7) above, to comply with any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall

notify the Municipality accordingly and where the Municipality is satisfied, after consulting the applicant, that the applicant has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.

(10) An owner of land who has been notified in terms of subsection (5) above that his application has been approved, may-

(a) where the documents envisaged in subsection (7) above have not yet been lodged with the Surveyor-General; or

(b) where the documents envisaged in subsection (7) above have already been lodged with the Surveyor-General, in consultation with the Surveyor-General, submit a further application to the Municipality for the amendment of such approval unless:

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

(II). the amendment is not regarded as material but that it warrants notice of the amendment to be given as envisaged in subsection (2) above, and subsections (3) and (4) of this section shall apply mutatis mutandis to such application.

(11) Upon receipt of the notice envisaged in subsection (5) above and after compliance with subsection (7) above, the Registrar shall endorse the deeds registry copy of the title deed under which the land concerned is held to the effect that an application for the division of such land has been approved by the Municipality and if the copy of the title deed of the owner is thereafter, for whatever reason, lodged with the Registrar, he shall endorse it in like manner.

(12) An endorsement in terms of subsection (11) above shall be brought forward as a condition of title in any subsequent deed of transfer of the whole or the remainder of the land concerned, and any succeeding owner of such whole or remainder shall be bound by the conditions imposed by the Municipality in terms of subsection (4) above.

(13) The Registrar shall-

(a) after the land envisaged in subsection (11) above has been divided;

(b) when he is notified that the application has lapsed,

cancel any endorsement made by him in terms of subsection (11) above.

(13) Where the owner of land is required to transfer land to the Municipality or any other organ of state by virtue of a condition imposed in terms of subsection (4) above, the land shall be so transferred at the expense of the owner of land within a period of 6

months from date of the issuing of the certificate as contemplated in section 36(1) below.

- (14) Any external engineering services contribution levied in terms of section 45(1) in relation to an application in terms of subsection (1) above shall become due and payable before the registration of a deed of transfer with the Registrar.

35. FAILURE TO COMPLY WITH REQUIREMENTS OF THE MUNICIPALITY

Where an applicant has, for a period of one year from the date he was requested in writing to comply with any requirement of the Municipality in respect of an application envisaged in section 34(1) above, failed to comply, the application shall automatically lapse.

36. PROHIBITION OF REGISTRATION OF CERTAIN DEEDS OF TRANSFER

- (1) The Registrar shall not register a deed of transfer of any portion of land where an application for the subdivision of land was approved by the Municipality as envisaged in section 34(3) above unless the Municipality certifies that-
- (a) that any condition imposed in terms of section 34(4), excluding any condition dealing with the transfer of land as envisaged in section 34(14) above, have been complied with;
 - (b) the provisions of section 34(14) in respect of the transfer of land to the Municipality or any other organ of state (if applicable) have been complied with; and
 - (c) subject to section 34(15) above, all outstanding external engineering services contributions in respect of the land have been paid in full.
- (2) No building plans shall be approved, and no occupancy certificate shall be issued in terms of the provisions of the National Building Regulations and Building Standards Act unless the certificate contemplated in subsection (1) above has been issued.

PART 5: ALTERATION, AMENDMENT, OR CANCELLATION OF GENERAL PLAN

37. ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION

- (1) Any person who wishes to have the general plan of an approved township or an approved SG diagram of a subdivision of land (if any) altered, amended, or totally or partially cancelled by the Surveyor-General in terms of the Land Survey Act may subject to the provisions of section 38(3) below, apply in writing to the Municipality for approval (Refer to Schedule 1.10).

- (2) An application for the alteration, amendment or totally or partially cancellation of a general plan envisaged in subsection (1) above shall comply with the following procedures:
- (a) Notice of the application shall be given once by simultaneously publishing a notice in the Local newspaper that circulates within the area of jurisdiction of the Municipality in English or Isizulu;
 - (b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;
 - (c) Such notice shall reflect full details of the application including, but not limited to, the name of the township concerned and the nature and general purpose of the application;
 - (d) Such notice shall further reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
 - (e) Such notice shall further reflect that the application and its accompanied documents will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment, or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 30 days from the date of publication of the notice as envisaged in subsection (a) above.
- (3) Proof of compliance with subsection (2) above must be submitted to the Municipality in the form of a written affidavit within 14 days of expiry of the date contemplated in subsection (2)(e) above.
- (4) The Municipality shall forward a copy of each objection, comment and representation received in terms of subsection (2)(a) above in respect of the application to the applicant and the applicant may respond in writing thereto to the Municipality within 14 days of date of receipt of such objection, comment and/or representation where after the Municipality shall refer the application without delay to the Municipal Planning Tribunal for a decision subject to section 57 below.
- (5) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (6) Subject to section 17(3), in the instance of an unopposed complete application, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days of date of expiry of the consideration phase as contemplated in section 56(4) below.

38. ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION APPROVAL AND POST DECISION PROCEDURES

- (1) The Municipality may approve an application envisaged in section 37(1) above either wholly or in part, or refuse it or postpone a decision thereon, either wholly or in part, provided that the Municipality shall not approve such application unless-
 - (a) the applicant has the unencumbered ownership of all the land within the area affected by the alteration, amendment, or cancellation of the general plan other than land transferred in terms of section 34(14) and subject to sections 27(17) above;
 - (b) where the land envisaged in subsection (a) above is subject to a mortgage bond, the bondholder has consented in writing to the alteration, amendment, or cancellation of the general plan.
- (2) Where the Municipality approves the application envisaged in subsection (1) above, the Municipality may-
 - (a) impose any condition it may deem expedient;
 - (b) amend or delete any condition set out in the schedule envisaged in section 27(15) above on which the township concerned was declared an approved township.
- (3) The provisions of section 37 shall not apply to an alteration or amendment of a general plan of an approved township which is necessary as a result of the closing of any public place or street or any portion thereof or diversion of a street or a portion of such street in terms of section 44(1) of this By-law.
- (4) Whether a decision was taken on the application by the authorised official or his/her duly authorised delegate or the Municipal Planning Tribunal, the Municipality shall notify all relevant parties, including the Surveyor-General, of the decision, and where the application has been approved, state any condition imposed in terms of subsection (2)(a) above, in writing by registered post, by hand or by any other means available without delay.
- (5) After an applicant has been notified in terms of subsection (4) above that his application has been approved, the applicant shall within a period of 12 months from the date of such notice, or such further period as the Municipality may allow, lodge with the Surveyor-General for approval such plans, diagrams or other documents as the Surveyor-General may deem necessary to effect the alteration, amendment or cancellation of the general plan, and if the applicant fails to do so the approval will automatically lapse.
- (6) Where the applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents as envisaged in subsection (5) above, to comply with

any requirement the Surveyor-General may lawfully impose, the Surveyor-General shall notify the Municipality accordingly and where the Municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without good cause shown, the approval will automatically lapse.

- (7) After the Surveyor-General has in terms of the Land Survey Act altered or amended the general plan or has totally or partially cancelled it, he shall notify the Municipality thereof without delay.
- (8) On receipt of the notice envisaged in subsection (7) above, the Municipality shall forthwith give notice thereof by publishing a notice in the Provincial Gazette declaring that the general plan has been altered, amended or totally or partially cancelled and the Municipality shall in a schedule to the notice set out the conditions imposed in terms of subsection (2)(a) above or the amendment or deletion of any condition envisaged in subsection (2)(b) above, where applicable.
- (9) The Municipality shall forthwith provide the Registrar with a copy of the notice and schedule envisaged in subsection (8) above.

39. EFFECT OF ALTERATION, AMENDMENT, OR CANCELLATION OF GENERAL PLAN

- (1) Where the general plan of an approved township established in terms of the provisions of legislation other than this By-law, is cancelled in whole or in part, or altered or amended or cancelled in part, any public place or street which vested in trust in the Municipality by virtue of section 62 of the Local Government Ordinance, 1939, the ownership thereof shall revert in the township owner.
- (2) Where a general plan is cancelled in whole, the township shall cease to exist as a township.
- (3) Where a general plan is cancelled in part, that portion of the township to which the cancellation of the general plan relates, shall cease to exist as a portion of the township.
- (4) Where such original township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, the ownership of such public places or streets shall then automatically vest in the Municipality.

**PART 6: AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE
CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS AND MATTERS RELATED
THERE TO**

**40. AMENDMENT, SUSPENSION, OR REMOVAL OF RESTRICTIVE OR OBSOLETE
CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF
LAND**

- (1) This part of the By-law refers to any restriction, obligation, servitude, or reservation which relates to the subdivision of the land or the purpose for which the land may be used or to the requirements to be complied with or to be observed in connection with the erection of structures or buildings on or the use of the land, which is binding on the owner of the land arising out of (Refer to Schedule 1.11)-
- (a) any restrictive condition or servitude which is registered against the title deed or leasehold title of such land; or
 - (b) a provision of a by-law or of a town-planning scheme; or
 - (c) the provisions of a title condition contained in the schedule to the proclamation of a township; or
 - (d) the provisions of a law relating to the establishment of townships or town planning.
- (2) The Municipality may only amend, suspend, or remove a restriction or obligation where the Municipality is satisfied that-
- (a) to do so would promote the preparation and approval of a general plan, the establishment of a township or the development of any area;
 - (b) the affected land is required for public purposes by the State, the Province, or the Municipality;
 - (c) the affected land is required for the use or construction of a building or other structure by the State, the Province, or the Municipality;
 - (d) the affected land is required for purposes incidental to any purpose envisaged in subsections (a) to (c) above.
- (3) The provisions of subsection (1) above shall not apply to-
- (a) any building line restriction which has been imposed by or under the provisions of any applicable legislation pertaining to roads, whether national or provincial unless consent has been obtained in writing from the relevant roads authority;
 - (b) any condition relating to mining or mining rights;

- (c) any condition imposed in respect of land transferred to a beneficiary in terms of any provincial small farmer settlement programme or any similar land reform programme relating to the circumstances under which such land may be alienated or encumbered; or
 - (d) any condition relating to the risk of development on land which has been undermined.
- (4) An owner of land who wishes to have any restriction, obligation, servitude, or reservation as envisaged in subsection (1) above amended, suspended, or removed, may lodge an application to the Municipality in terms of this By-law for consideration.
- (5) Notwithstanding subsection (4) above, the Municipality may of its own accord amend, suspend, or remove any restriction or obligation envisaged in subsection (1) above in respect of any land.
- (6) An application envisaged in subsection (4) above may be submitted simultaneously with any other application envisaged in **sections 18, 19, 20 and 32** above.
- (7) If an application is made only for the amendment, suspension or removal of any restriction, obligation, servitude, or reservation as envisaged in subsection (1) above whether by an owner of land or by the Municipality, the provisions of **section 20(2)** to (7) above shall mutatis mutandis apply to such application.
- (8) Where simultaneous applications are submitted as envisaged in subsection (6) above, the applicant shall comply with all the essential elements of the procedures as set out in this section as well as **sections 18, 19, 20 and 32**, as the case may be, in a consolidated form.
- (9) Subject to **section 17(3)**, in the instance of an unopposed complete application envisaged in subsection (4) or (5) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-delegate within 30 days before the date of expiry of the consideration phase as contemplated in section 55(4) below.
- (10) Subject to **section 17(3)**, in the instance of unopposed complete applications submitted simultaneously as envisaged in subsection (6) above, a decision on the application shall be taken by the authorised official or his/her duly authorised sub-

delegate within 30 days before the expiry of the time periods mentioned in sections 19, 20, 21 and 33 above, whichever section is relevant.

(11) The provisions of **section 20(9)** above shall also apply mutatis mutandis to an application envisaged in subsections (4), (5) and (6) above.

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

(13) For purposes of this section, where a condition of title, a condition of establishment of a township or an existing scheme provides for a purpose with the consent or approval of the township owner and such township owner is no longer in existence or, in the case of a Company, has been deregistered, as the case may be, such consent may be granted by the Municipality and such reference to the township owner shall be deemed to be a reference to the Municipality.

41. DECISION AND POST-DECISION PROCEDURES

(1) An application envisaged in section 40(4), (5) or (6) above may be approved subject to any condition the Municipality deems fit or it may be refused.

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

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

(4) Only where the Municipality has approved an application as envisaged under section 40(4), (5) or (6) above and after the expiry of the time period envisaged in section 49(1) of this By-law, it shall give notice thereof in the Provincial Gazette and state in the notice that a copy of the application as approved will lie for inspection at all reasonable times at its office and thereupon the application shall be deemed to be an approved application.

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

- (6) The provisions of section 23 shall also mutatis mutandis apply to an approval envisaged in subsection (1) above if it was in relation to a simultaneous application as envisaged in section 40(6) above and such simultaneous application included the amendment of a land use scheme as envisaged in section 20(1) above.

42. ENDORSEMENTS IN CONNECTION WITH AMENDMENTS, SUSPENSIONS OR REMOVALS OF RESTRICTIONS OR OBLIGATIONS

- (1) After the coming into operation of any approved application as envisaged in section 40(4), (5) or (6) above, the owner of land shall as soon as practically possible deliver the original title deed to the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the notice envisaged in section 41(4) above.
- (2) Upon receipt of such original title deed as envisaged in subsection (1) above, the Registrar shall not register any further transactions relating to the land in question until the entries and endorsements envisaged in subsection (1) above have been effected and shall impound the title deed for the purpose of such entries and endorsements whenever it may for any reason be lodged in his or her office.

43. CONTRIBUTIONS TO EXTERNAL ENGINEERING SERVICES

Where applicable, the provisions of section 18(7)(e), section 24 and section 32(7) shall mutatis mutandis apply to an approval envisaged in section 41(1) above, as the case may be.

PART 7: PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET

44. PERMANENT CLOSING OF A PUBLIC PLACE OR DIVERSION OF A STREET

- (1) The Municipality may, either of its own accord or upon a written application by any person, permanently close a public place or divert any street or portion of a street (Refer to Schedule 1.12).
- (2) A written application for the closing of a public place or diversion of a street or portion of a street shall be accompanied by a plan showing the public place to be closed or showing the boundaries of the street or portion of the street proposed to be closed or diverted.
- (3) When the Municipality intends to exercise the power envisaged in subsection (1) above or upon receipt of a written application, it shall comply with the following procedures:

- (a) Notice of the application shall be given once by simultaneously publishing a notice in the local newspaper that circulates within the area of jurisdiction of the application site in English / Zulu;
- (b) Such notice shall clearly reflect in terms of which section of this By-law the application is made;
- (c) Whether it is a written application submitted by any person or an application initiated by the Municipality, such notice shall reflect the name, postal address, telephone number, fax number and e-mail address of the person submitting the application;
- (d) Such notice shall reflect full details of the application including, but not limited to, the relevant street or portion of street to be closed or diverted (if applicable), the name of the applicable township, a clear erf description of the public place to be closed (if applicable) and the nature and general purpose of the application;
- (e) Such notice shall further reflect that the application and its accompanied plan will lie open for inspection at specified times and at specified places at the Municipality's offices and that any objection, comment, or representation in regard thereto must be submitted timeously to the Municipality in writing by registered post, by hand, by facsimile or by e-mail within a period of 30 days from the date of publication of the notice as envisaged in subsection (a) above.
- (f) A site notice that contains the same detail as envisaged in subsections (b) to (e) above shall be displayed on the land under consideration or on or near the street or portion of the street to be closed or diverted in English / Zulu;
- (g) Such notice shall be displayed on the land from the same date as the date of the publication of the notice mentioned in subsection (a) above;
- (h) Such notice shall be in the format as determined by the Municipality;
- (i) Such notice shall be displayed in a conspicuous place on the land in question or on or near the street or portion of street to be closed or diverted where it would be best and easily visible and can be easily read from each and every adjacent public street or other adjacent public place; and
- (j) Such notice shall be maintained in a clearly legible condition for a period of not less than 30 days from the date of publication of the notice mentioned in subsection (a) above.
- (k) In addition to the requirements in subsections (a) and (f) above, a letter containing the same detail as envisaged in subsections (b) to (e) above shall also be dispatched on or before the date of publication of the notice

envisaged in subsection (a) above by hand or by any other means available to the owners or reputed owners, lessees or reputed lessees and the occupiers of all properties abutting upon the public place or the street or portion of the street which it is proposed to close or divert, provided that if any such property has more than one lessee, reputed lessee or occupier, a copy of the said letter may be posted on the principal door of the main building or in another conspicuous place on such property, except where such property is a sectional title development, in which case the notice shall also be served on the owners of each such unit that constitutes the Body Corporate.

- (4) No decision shall be taken on the application unless due regard has been given to each objection, comment and/or representation lodged timeously.
- (5) Whether by the Municipal Planning Tribunal, the authorised official or his duly authorised delegate, a permanent closure of a public place or closure or diversion of a street or portion of a street as advertised in subsection (3) above may be approved, subject to any conditions the Municipality may deem fit, or it may be refused and all relevant parties shall be notified of the decision by registered post, by email / hand or by any other means available without delay.
- (6) After the closure or diversion as envisaged in subsection (1) above has been approved and has been carried out, the Municipality shall notify the Registrar and the Surveyor General in order for them to make the appropriate entries and endorsements on a relevant register, title deed, diagram or plan in their respective offices as may be necessary to reflect the effect of the approval envisaged in subsection (5) above and that it has been carried out properly in accordance with the provisions of this By-law.
- (7) The notification envisaged in subsection (6) above to the Registrar and the Surveyor General shall include a Land Surveyor's diagram to enable them to make such necessary entries and endorsements as envisaged in that subsection.
- (8) Such entries and endorsements envisaged in subsection (6) above do not require a formal application as envisaged in section 37(1) above.
- (9) For purposes of this section the word "street" shall include a road, thoroughfare, footpath, sidewalk, or lane.

(10) Where any public place or street or any portion thereof has been closed by virtue of an approval envisaged in subsection (5) above, the township owner shall, without any claim to compensation, be divested of all rights of ownership in the land comprising such public place, street or portion and such rights shall vest in the Municipality and the Registrar shall do whatever is necessary to record such ownership in its registers.

(11) Notwithstanding the above provisions of this section, the Municipality may, by giving written notice in a newspaper that circulates within the area of jurisdiction of the relevant public place:

- (a) temporarily close any public place; or
- (b) permanently or temporarily close any street, road, or thoroughfare for any particular class of traffic, procession or gathering or temporarily for all traffic; or
- (c) divert temporarily any street, road or thoroughfare contemplated in subsection (b) above,

and any public place temporarily closed in terms of subsection (a) above may be let temporarily or the use thereof may be granted temporarily to any person on such terms and conditions as the Municipality may deem fit.

CHAPTER 6: ENGINEERING SERVICES AND ENGINEERING SERVICES CONTRIBUTIONS

45. EXTERNAL ENGINEERING SERVICES

- (1) Every township approved in terms of the provisions of this By-law shall be provided with such engineering services as the Municipality deem necessary for the proper development of the township; and subject to any conditions, including conditions relating to;
- a. the applicant shall obtain a confirmation of external engineering services availability regarding the property in question within the District Municipality; or
 - b. enter into an engineering services agreement with the District Municipality and such agreement shall contain every reasonable detail relevant to the engineering services to be installed and comprehensive detail on the different roles, duties, and responsibilities of the respective parties.
 - c. any proposal related to installation of external engineering should be reviewed or/and approval by District Municipality as Water and Sanitation Authority;
- (2) No building plans may be approved by the Municipality in terms of the National Building Regulations and Building Standards Act until the external engineering services agreement has been concluded with the District Municipality.

46. INTERNAL ENGINEERING SERVICES

- (1) Subject to section 45 above, the owner of the land in question shall be responsible for the provision, installation and costs of internal engineering services required for a development when an application is approved, as contemplated in section 49(1) of the SPLUMA.

CHAPTER 7: APPEAL AUTHORITY AND PETITION TO INTERVENE

47. INTERNAL APPEALS

- (1) An owner of land, any person that submitted an objection and any person who's petition to intervene has been granted as envisaged in **section 48 below**, whose rights may be adversely affected by a decision taken by the Municipal Planning Tribunal, the authorised official or any of its sub-delegates in respect of-
- (a) any land development application envisaged in Chapter 5 of this By-law;
 - (b) a change of circumstances application envisaged in **section 23(2) and 41(6)** above;

- (c) any engineering services contributions imposed or levied in terms of any provision of the District By-law,
may appeal against that decision to the Municipal Manager by giving written notice of the appeal, including comprehensive grounds of appeal, within 30 days of the date of receipt of such notification of the decision or of date of receipt of the notification of such engineering services contributions imposed or levied.
- (2) The Municipal Manager shall within a period of 7 days after the expiry of the pre-hearing process submit the appeal to the Municipality's executive authority as the appeal authority for a decision and the pre-hearing process may not exceed 180 days.
- (3) The Municipality's executive authority may delegate its appeal authority in terms of section 56 of SPLUMA read with section 59 of the Municipal Systems Act to-
- (a) a body or institution outside of the Municipality to assume the obligations of an appeal authority; or
 - (b) to a Member of the Executive Committee or Mayoral Committee, as the case may be,
provided that such appeal authority may not be delegated to an official in the employ of the Municipality who originally made the decision on the application or who is a member of the uMsinga Municipality's Municipal Planning Tribunal.
- (4) An appeal is invalid if it is not lodged within the time period contemplated in subsection (1) above or does not comply in any other manner with this section.
- (5) If an owner of land lodges an appeal in terms of subsection (1) above, the owner of land shall give notice of the appeal to any person who validly opposed the application and who has been granted intervenor status as envisaged in **section 48 below**.
- (6) The notice must be given in accordance with **section 115 of the Municipal Systems Act** and notice may be given by hand, by registered post or by any other means available.
- (7) The appellant must provide the Municipality with proof of notification, envisaged in subsection (5), within 14 days of the date of notification.
- (8) If an objector or any intervening party as envisaged in subsection (1) above lodges an appeal, the Municipal Manager must give notice of the appeal to the applicant and

any other person who validly opposed the application or who has been granted intervenor status as **envisaged in section 48 below**, if any, within 14 days of receipt thereof.

- (9) Any person who has received notice of the appeal in terms of either subsections (5) or (8) may comment on or oppose the appeal within 21 days of date of receipt of such notice.
- (10) If opposition to or comment on the appeal is not lodged with the Municipality within the time period envisaged in subsection (9) above, the objection or comment will be invalid, and the appeal authority will be under no obligation to entertain such opposition or comment.
- (11) Any comment or objection received as envisaged in subsection (9) above shall be forwarded to the appellant to reply thereto within 14 days from date of receipt thereof.
- (12) The relevant Municipality department must draft a report in which it assesses the appeal and all comments, objections and replies received, if any, and submit it to the Municipal Manager to enable the Municipal Manager to comply with the time frame as envisaged in subsection (2) above.
- (13) The appeal authority shall consider the appeal within 30 days from the date of receipt of the appeal documents from the Municipal Manager.
- (14) The appeal authority may confirm, vary, or revoke the decision appealed against.
- (15) Parties to the appeal must be notified, in writing, of the decision of the appeal authority within 14 days from the date of the decision as contemplated in subsection (13) above by registered post or by any other means available.
- (16) An appeal lodged under this section suspends any decision taken under the provisions of this By-law and any post-decision procedures, as the case may be, until the appeal has been finalised.

48. HEARING BY APPEAL AUTHORITY

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

- (2) Notwithstanding subsection (1) above, the appeal authority may decide that a formal oral hearing be conducted if the appeal authority is of the opinion that the issues to be determined is of such a nature that it justifies the parties to the appeal to be heard in person.
- (3) Where the appeal authority decides that an oral hearing be held as envisaged in subsection (2) above, the provisions of section 56 shall apply mutatis mutandis to such a hearing and the appeal authority may designate a committee of officials to conduct the oral hearing and to make a recommendation to the appeal authority.
- (4) The appeal authority shall decide the appeal within 30 days of date of the formal oral hearing.
- (5) Sections 47(14) to (16) shall also apply mutatis mutandis to a formal oral hearing.

49. RECORD OF DECISIONS

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

50. PETITION TO BE GRANTED INTERVENER STATUS

- (1) Where an application has been submitted to a Municipal Planning Tribunal, authorised official or any of its sub-delegates or an appeal has been lodged to the appeal authority, an interested person may, at any time during the proceedings, but within seven (7) days of becoming aware of the proceedings, petition the Municipality in writing to be granted intervener status.
- (2) The petitioner must submit together with the petition to be granted intervener status a full motivation in support of the petition and an affidavit stating that he or she –
 - (a) does not collude with any applicant, objector, or appellant; and
 - (b) is willing to deal with or act in regard to the application or appeal as the Municipality may direct.
- (3) The Municipality must determine whether the requirements of this regulation have been complied with and must thereafter provide a copy of the petition referred to in subsection (1) to the parties to the application or appeal.

- (4) Where the Municipality, either through its Municipal Planning Tribunal, authorised official or any of its sub-delegates or the appeal authority, must determine whether a petitioner qualifies as an interested person as contemplated in section 45(4) of the SPLUMA, it may consider the following:
- (a) whether such person has a pecuniary or proprietary right or interest in the matter;
 - (b) that such person's right or interest has been affected by the decision of the Municipal Planning Tribunal or authorised official or that his or her rights may be adversely affected by the decision of the Municipal Planning Tribunal or authorised official and might therefore be adversely affected by the decision of the appeal authority;
 - (c) that the petitioner represents a group of people who have a direct concern in the proceedings;
 - (d) the ability of the petitioner to protect his or her interest would be impeded by the decision of the Municipal Planning Tribunal, authorised official or appeal authority and that his or her interest is not adequately represented by the current parties to the proceedings;
 - (e) the petitioner will provide a different perspective on the issues before the Municipal Planning Tribunal, authorised official or appeal authority, without expanding those issues.
 - (f) A determination by the Municipal Planning Tribunal, appeal authority or authorised official whether a petitioner qualifies as an interested person is final and shall not be subject to an appeal as envisaged in section 47(1) above and must be communicated to the petitioner and the parties to the proceedings in writing without delay.

CHAPTER 8: GENERAL PROVISIONS

51. SECTIONAL TITLE SCHEMES

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

52. APPROVAL OR ADOPTION OF AMENDMENT SCHEME UNDER CERTAIN CIRCUMSTANCES

- (1) Where-

- (a) a notice is or has been published in terms of section 27(15) above declaring a township an approved township; or
 - (b) a proclamation envisaged in section 49 of the Deeds Registries Act is or has been published extending the boundaries of an approved township; or
 - (c) a notice is or has been published in terms of section 38(8) above declaring that the general plan of an approved township or a division of land has been altered, amended, or totally or partially cancelled;
- the Municipality may, by notice in the Provincial Gazette declare that it has adopted an amendment scheme relating to the same land as the land envisaged in subsection (a) to (c) above and that a copy of the scheme will lie open for inspection at all reasonable times at the office of the Municipality and that thereupon the scheme shall be deemed to be an approved scheme.

(2) In respect of an amendment scheme envisaged in subsection (1) above-

- (a) any provision of this By-law;
 - (b) any other provision,
- which the Municipality may prescribe shall apply.

53. DOCUMENTS, PLANS AND DIAGRAMS AND ANY OTHER INFORMATION TO BE SUBMITTED WITH LAND DEVELOPMENT APPLICATIONS UNDER THE PROVISIONS OF THIS BY-LAW

- (1) The documents, plans, diagrams, reports, and any other information as set out in **Schedule 1 to this By-law** shall be submitted with any land development application under any provision of this By-law.
- (2) All the necessary reports where required as **per Schedule 1 to** this By-law shall be certified by a professional competent person.
- (3) The applicant must, within 60 days or such further period as the Municipality may allow, provide the Municipality with such additional information which the Municipality may require and as provided for in **Schedule 1**.
- (4) If the applicant does not timeously provide the additional information and does not submit an appeal to the appeal authority, the Municipality may close the application and notify the applicant in writing.
- (5) Where the Municipality closes the application -

- (a) the application is deemed to be refused;
- (b) the application fee is not refundable; and
- (c) the applicant may submit a new application and must pay a new application fee.

54. CONTINUATION OF APPLICATION BY NEW OWNER

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

55. TIME FRAMES FOR LAND DEVELOPMENT APPLICATIONS

- (1) An application is regarded as a complete application only if the Municipality has received the application fee, all information necessary for the Municipality to assess the application as envisaged **in Schedule 1** to this By-law and the information submitted is compliant with all information specifications.
- (2) For the purposes of this section, a land development application under the provisions of this By-law shall be subject to an **administrative phase**, a **consideration phase**, and a **decision phase**.
 - (a) The administrative phase commences only after a land development application is regarded as complete as envisaged in subsection (1) above and such phase may not be longer than **90 days**.
 - (b) The **consideration phase** may not be longer than **60 days**.
 - (c) The **decision phase** shall be subject to the time frames as set out in the relevant sections of this By-law provided that any decision by the Municipal Planning Tribunal shall be made **within 30 days** of the consideration phase.

- (3) The **administrative phase** is the phase during which all public participation notices must be published and responded to, parties must be informed, public participation processes finalised, intergovernmental participation processes finalised, and the application referred to the Municipal Planning Tribunal or authorised official for consideration and decision-making.
- (4) The **consideration phase** is the phase during which the Municipal Planning Tribunal or authorised official must consider the application, whether it be a written or oral proceeding, and undertake investigations, if required.
- (5) If there is non-compliance with the time frames as contemplated in subsections (4) and (5) above, it shall be regarded as unreasonable delay for purposes of this By-law and the owner of land may lodge an appeal in terms of the provisions of section 47(1) above to the appeal authority for a decision on the application.
- (6) Such non-performance shall also be reported to the Municipality Manager, who must in turn report it to the Municipality's executive authority and adequate steps shall be taken to ensure compliance with the prescribed time frames in terms of the Municipality's Performance Management System.
- (7) Failure by **an organ of state** to comment on a land development application within the timeframe specified -
- (a) An organ of state may refuse to comment on an application for municipal planning approval, if a separate application for its approval is required in terms of a law administered by it.
 - (b) The Municipal Planning Registrar may proceed with the processing of an application for municipal planning approval, if an organ of state failed to provide comment on a proposed application for municipal planning approval within the timeframe specified, or such further period as agreed upon with the organ of state, unless –
 - i. the use or development of land is dependent on an engineering service that must be provided by the organ of state;
 - ii. the organ of state refused to comment on the application because a separate application for its approval is required in terms of a law administered by it; or
 - iii. another law prohibits the Municipal Planning Registrar from proceeding with the application.

56. HEARING OF SUBMISSIONS, OBJECTIONS, COMMENTS OR REPRESENTATIONS

- (1) Where in terms of any provision of this By-law a land development application is referred to the Municipal Planning Tribunal for a decision, the Municipality shall forthwith determine a day, time, and place for such hearing.
- (2) The person making the application and any other person, who timeously submitted an objection, comment, or representation in terms of any provision of this By-law, including an interested person who has been granted intervener status for purposes of section 50 above, shall receive 14 days clear notice of such day, time, and place of the hearing.
- (3) At such hearing contemplated in subsection (1) above the parties envisaged in subsection (2) above may appear in person and set out their motivation in support of the application or their grounds of objection or representation, as the case may be, and adduce any evidence in support thereof or authorise any other person to do so on their behalf.
- (4) A hearing contemplated in subsection (1) above shall be open to the public unless otherwise directed by the Chairperson of the Municipal Planning Tribunal.
- (5) Where an objection, comment or representation has been submitted in the form of a petition, the Municipality will only be obliged to give notice of such hearing to the main petitioner.
- (6) The hearing may be preceded at the discretion of the Municipal Planning Tribunal by a site inspection.
- (7) The Municipal Planning Tribunal shall determine its own procedure in accordance with the objectives of administrative justice.

57. REASONS FOR A DECISION

- (1) Unless otherwise provided for in this By-law, the Municipality shall be obliged to provide adequate written reasons on any decision if requested to do so in writing by any party whose rights may be adversely affected by such decision taken in terms of any provision of this By-law.

- (2) Such reasons shall be requested within 30 days of date of receipt of the notice of the decision and shall be provided in writing within 14 days of date of receipt of the request for reasons and it shall be provided by the Chairperson of the Municipal Planning Tribunal, the authorised official or its sub-delegate who made the decision, or the appeal authority, as the case may be.

58. NAMING AND NUMBERING OF STREETS

- (1) If as a result of the approval of a land development application, streets or roads are created, whether public or private, the Municipality must approve the naming of the street and must allocate a street number for each of the erven or land units located in such street or road.
- (2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision and township establishment in terms of the provisions of this By-law.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies relating to street naming and numbering.
- (4) The Municipality must in writing inform the Surveyor-General of the approval of new street names as a result of the approval or amendment of subdivision plans as envisaged in subsection (1) above and a street name which is indicated on an approved general plan within 30 days of the approval thereof.
- (5) The owner of land must erect the street names according to the Municipality's standards.
- (6) No person may alter or amend a street name as approved in terms of subsection (1) above without the approval of the Municipality.
- (7) An owner of land to which a street number has been allocated as envisaged in subsection (1) above shall ensure that the number as approved for that land unit is displayed and remain displayed.
- (8) No person may alter or amend or use another street number unless approved by the Municipality.

(9) The Municipality may, by written notice direct the owner of a land unit to display the number allocated to the land unit and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such land unit shall, within 30 days of the date of such notice, affix the allotted number on the premises in accordance with such notice.

(10) The Municipality may direct any owner to replace or repaint any digit of such number which has become illegible, obliterated, or defaced.

59. TARIFF OF CHARGES

(1) The Municipality may determine tariff of charges in respect of-

- (a) any act, matter, or application in terms of this By-law;
- (b) anything required or authorised to be done in terms of this By-law.

(2) Such tariff of charges shall be published in the **Provincial Gazette** for information.

60. OFFENCES AND PENALTIES

(1) A person who –

(a) uses land, subdivides land, consolidates land, establishes a township, notarially tying adjacent land or erect buildings on a land without municipal planning approval, if municipal planning approval is required in terms of this By-law;

(b) offers or pays a reward for –

- i. the written support of an organ of state in support of an application for municipal planning approval or a non-material amendment to Municipality's decision;
- ii. the written support of a Traditional Council for an application for municipal planning approval or a non-material amendment to Municipality's decision; or
- iii. the approval or refusal of an application for municipal planning approval or a non-material amendment to Municipality's decision;

(c) requests or accepts a reward for –

- i. the written support of an organ of state in support of an application for municipal planning approval or a non-material amendment to Municipality's decision;
- ii. the written support of a Traditional Council for an application for municipal planning approval or a non-material amendment to Municipality's decision; o

- iii. the approval or refusal of an application for municipal planning approval or a non-material amendment to Municipality's decision,
- (2) An owner who permits land to be used in a manner contemplated in subsection (1)(a) and who does not cease that use or take reasonable steps to ensure that the use ceases is guilty of an offence.
- (3) A person convicted of an offence in terms of this section is liable on conviction to a fine not exceeding R1 000 000 or to imprisonment for a period not exceeding 1 year or to both such a fine and such imprisonment.
- (4) A person convicted of an offence under this By-law who, after conviction, continues with the conduct in respect of which he or she was so convicted, shall be guilty of a continuing offence and liable on conviction to a term of imprisonment for a period not exceeding three months or to a fine not exceeding R 10 000 or to both a fine and such imprisonment in respect of each day on which he or she so continues or has continued with such conduct.
- (5) The levying of rates in accordance with the use of land as contemplated in section 8(1) of the Municipal Property Rates Act does not render the use of the land lawful for the purposes of this By-law.
- (6) .

61. LAW ENFORCEMENT

- (1) The Municipality may adopt a By-law aimed at enforcing the provisions of its land use scheme.
- (2) The Municipality may designate an official or officials under its employ as a law enforcement officer(s) to investigate any non-compliance with the provisions of this By-law and its land use scheme and, subject to subsection (4) and (5) below, such official(s) may enter upon any premises at all reasonable times to give effect to this section.
- (3) The provisions of section 32(5) of the SPLUMA shall apply mutatis mutandis to such law enforcement officers envisaged in subsection (2) above.
- (4) An inspection of a private dwelling may only be carried out by a law enforcement officer at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building and after obtaining the consent of the owner or lawful occupier or person in control of the building, or with a warrant issued in terms of subsection (5).

- (5) A judge or magistrate for the district in which the land is situated, may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the-
- (a) law enforcement officer has been refused entry to land or a building that he or she is entitled to inspect;
 - (b) prior permission of the occupier or owner of land on which a private dwelling is situated as envisaged in subsection (4) above cannot be obtained after reasonable attempts;
 - (c) the owner, occupier, or person in control of a private dwelling has refused consent; or
 - (d) the purpose of the inspection would be frustrated by the prior knowledge thereof.
- (6) The Municipality may apply to a court for an order-
- (a) interdicting any person from using land in contravention of any provision of this By-law, its land use scheme, or any other town planning scheme still in operation;
 - (b) authorising the demolition of any structure erected on land in contravention of any provision of this By-law, its land use scheme without any obligation on the Municipality or the person carrying out the demolition to pay any compensation; or
 - (c) authorising any other appropriate relief.

62. NATIONAL AND PROVINCIAL INTEREST

- (1) The Municipality shall forward a land development application to the relevant Minister or MEC for comment where such application will materially affect an exclusive functional area of the National or Provincial sphere as per Schedules 4- and 5-Part A of the Constitution.
- (2) Subject to section 52(6) of the SPLUMA, the relevant Minister or MEC, as the case may be, may submit its comments on the application to the Municipality within 60 days from date of receipt of the application, failing which, it shall be deemed that such Minister or MEC has no comment to make.

63. TRANSITIONAL PROVISIONS

- (1) The repeal of the legislation referred to in Schedule 3 of the SPLUMA or by a provincial legislature in relation to provincial legislation dealing with municipal planning shall not affect the validity of anything done in terms of that legislation.
- (2) All applications, appeals or other matters pending before the Municipality at the commencement of this By-law, that have not been decided or otherwise disposed of, shall be continued, and disposed of in terms of the provisions of this By-law.
- (3) Any tariff of charges adopted, approved, and published in terms of any other legislation dealing with municipal planning prior to this By-law coming into operation, shall remain in force and shall apply mutatis mutandis to the provisions of this By-law until new tariff of charges have been approved and published in terms of this By-law.

64. EXEMPTION

- (1) The Municipality may in writing exempt any person from complying with any procedural provision of this By-law upon good cause shown.
- (2) An application for exemption shall be in writing setting out which section of the By-law exemption is being applied for accompanied by a full motivation why such exemption should be granted.
- (3) Such application shall be considered by the authorised official and a decision shall be made on the application within 14 days from date of receipt of such application and the applicant shall be informed in writing of such decision.

65. ADMINISTRATIVE LANGUAGE

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

66. VALIDITY OF OBJECTIONS

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

67. SHORT TITLE AND COMMENCEMENT

This By-Law is called the **uMsinga Municipal Planning By-Law, 2022**, and comes into operation on a date by proclamation in the Provincial Gazette.

CHAPTER 9: AGREEMENTS WITH TRADITIONAL AUTHORITY

- (1) The Municipality may conclude a service level agreement with a Traditional Authority with regards to processing of land development applications.
- (2) Should the Municipality conclude a service level agreement with the Traditional Authority as contemplated in subsection (1), that Authority must carry out its functions in its area in accordance with the provisions of the service level agreement.
- (3) An application for the allocation of land has been made to the Traditional Authority, the Traditional Authority is responsible for informing the Municipality and providing proof of the allocation of land rights in terms of the customary law applicable in that traditional area, in order to promote–
 - (a) economic growth;
 - (b) social inclusion;
 - (c) efficient land development;
 - (d) minimal impact on public health, the environment and natural resources; and
 - (e) the development principles of SPLUMA, within that traditional area.

SCHEDULE 1: LAND DEVELOPMENT APPLICATIONS REQUIREMENTS

DOCUMENTS, MAPS, DIAGRAMS, REPORTS AND ANY OTHER RELEVANT INFORMATION NECESSARY TO BE SUBMITTED WITH ANY LAND DEVELOPMENT APPLICATION ENVISAGED IN CHAPTER 5 OF THIS BY-LAW AND AS ENVISAGED IN SECTION 53 OF THIS BY-LAW

1. CONSENT USE APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) If the land is under the ownership of Ingonyama Trust Board (ITB) a signed copy of ITB form 2 and a proof of submission to ITB for lease-agreement will be sufficient.
- (10) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (11) Information on the existing development on the land;
- (12) Information on the proposed use on the land;
- (13) A locality map;
- (14) Proposed layout plan that includes the parking layout;
- (15) Subject to section 5 of this By-law, a **comprehensive motivational report** in support of the application; and
- (16) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

2. BUILDING LINE RELAXATION APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;

- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) If the land is under the ownership of Ingonyama Trust Board (ITB) a signed copy of ITB form 2 and a proof of submission to ITB for lease-agreement will be sufficient.
- (10) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (11) Information on the existing development on the land;
- (12) Information on the proposed use on the land;
- (13) A proposed building plan/site plan which shows the relevant building lines to be relaxed with the necessary elevations, where applicable;
- (14) Where it also affects a relevant Roads authority's building line, consent in writing from such relevant roads' authority;
- (15) Subject to section 5 of this By-law, a **comprehensive motivational report** in support of the application; and
- (16) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

3. AMENDMENT OF LAND USE SCHEME APPLICATION (REZONING)

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

specific person to appoint such agent in terms of a power of attorney for purposes of such application;

- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) If the land is under the ownership of Ingonyama Trust Board (ITB) a signed copy of ITB form 2 and a proof of submission to ITB for lease-agreement will be sufficient.
- (10) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (11) Information on the existing development on the land;
- (12) Information on the proposed use on the land;
- (13) A land use map of the surrounding immediate area;
- (14) A zoning map of the surrounding immediate area;
- (15) A locality map;
- (16) The proposed scheme clauses, schedules, maps, and annexures (where applicable);
- (17) Proposed site development plan, showing, inter alia, the parking lay out;
- (18) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (19) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

4. TOWNSHIP ESTABLISHMENT APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;

- (9) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A proposed lay-out plan of the proposed township indicating or containing-
- (a) contour lines, the values of which shall be based on a datum plane acceptable to the Municipality;
 - (b) existing buildings in the proposed township;
 - (c) streets and open spaces in the proposed township;
 - (d) the widths and names of streets envisaged in (c) above;
 - (e) all adjoining existing and adjoining proposed streets and roads with their names as well as erven in existing or proposed adjoining townships;
 - (f) water-courses, railways, pipelines, power lines, existing public roads and all servitudes in or abutting the proposed township;
 - (g) by means of a distinctive notation, the sites/erven in the proposed township proposed to be reserved for specific purposes;
 - (h) the boundaries of the proposed township;
 - (i) a table indicating the total number of erven in the proposed township, the number of erven for specific purposes and their numbers, the minimum size of the erven, the ruling size of the erven, the minimum and maximum gradient of the streets as a percentage of the total area of the township and the area of the parks and open spaces, if any, as a percentage of the total area of the township;
 - (j) the erven in the proposed township accurately drawn to a scale acceptable to the Municipality and numbered consecutively in each block;
 - (k) in an enclosure, the names of the persons responsible for the contour surveys and the design of the township and a reference to the datum plane on which the contour values are based;
 - (l) if the township is to be established on two or more farm portions or agricultural holdings, the boundaries and description of such farm portions or holdings;
 - (m) each registered servitude over the land in the proposed township with a reference to the notarial deed or approved diagram relating to such servitude and, where an alteration in the route of such servitude is contemplated, the proposed new route;
 - (n) Grid co-ordinates and a reference to the geodetic system used;

- (o) if the proposed township is subject to flooding, the 1:50 and 1:100-year flood lines or, if the land is not subject to flooding, a certificate by a qualified engineer to the effect that the land is not so subject, where required;
 - (p) a bar scale;
 - (q) the true North;
- (12) A locality plan, as an inset on the lay-out plan of the proposed township, accurately drawn to a scale acceptable to the Municipality indicating-
- (a) the situation of the proposed township on the farm portion or agricultural holding;
 - (b) the routes giving access to the nearest main road and the road network in the vicinity of the proposed township;
 - (c) the boundaries of the farm portion or agricultural holding on which the proposed township is to be established;
 - (d) a bar scale in respect of the locality plan;
 - (e) the true North in respect of the locality plan;
- (13) An outline scheme report in relation to any engineering service, where required;
- (14) A traffic impact study/statement, where required;
- (15) A ROD on any environmental impact assessment issued by the relevant authority, where required;
- (16) A geotechnical- and Radon report submitted by a professional Geotechnical Engineer, where required;
- (17) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (18) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

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

5. PHASING OF AN APPROVED TOWNSHIP

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

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

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

6. EXTENSION OF BOUNDARIES OF AN APPROVED TOWNSHIP

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

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

7. SUBDIVISION OF AN ERF/ERVEN IN AN APPROVED TOWNSHIP

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning and density on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A sketch plan of the erf concerned, and the cadastral information of such erf and each adjoining property signed by the owner of land and shall indicate the following:
 - (a) the name of the township in which the erf to be subdivided is situated and the delineation of the proposed subdivided portions accurately drawn to a scale acceptable to the Municipality;
 - (b) the true north;
 - (c) the scale to which the sketch plan is drawn;

- (d) a legend which identifies each proposed subdivided portion by means of a figure;
- (e) the number of the erf to be subdivided and each adjoining erf and if an adjoining erf is not situated within the same township as the erf to be subdivided, the name of that other township;
- (f) the approximate size of the erf to be subdivided and of each subdivided portion;
- (g) the situation of each building on the erf to be subdivided and the approximate distance between the street boundary and every other boundary of the erf and the nearest wall of the building nearest to such boundary as well as the approximate distance between the proposed subdivisional line and the nearest wall of the building nearest to such line;
- (h) the number of storeys in each existing building on the erf to be subdivided which is situated within 5 metres of a proposed subdivisional line;
- (i) the direction, by means of an arrow, of the slope of the roof of each building on the erf to be subdivided situated immediately adjacent to the proposed subdivisional line;
- (j) the nature of a building on the erf to be subdivided which fronts on and is within 10 metres of the proposed subdivisional line, the purpose for which any room on that side of a building which fronts on such line is used and the position of a door or window in a wall facing such line;
- (k) the approximate location of an existing conductor on the erf to be subdivided used for telephonic or electrical purposes or any transformer, structure or other obstruction relating thereto as well as any tree, fire hydrant or bus shelter on the street reserve adjoining the street frontage of such erf;
- (l) where the cross slope or longitudinal slope of the street reserve or the cross slope or longitudinal slope of any proposed access to the proposed subdivided portions is more than 1:5, contours with intervals of 1 metre or alternatively a longitudinal section of the access portion of the erf or portion, showing details of the profile of the natural ground level as well as the proposed access way in relation to the street which gives access to the newly created portion;
- (m) any building or portion thereof on the erf to be subdivided which the applicant intends demolishing;
- (n) any natural water course which traverses the erf to be subdivided;
- (o) where the erf to be subdivided is situated in an area which is subject to flooding, the 1:50 and 1:100-year flood line on the proposed subdivided portions.

(12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and

(13) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

8. CONSOLIDATION OF TWO OR MORE ERVEN IN AN APPROVED TOWNSHIP

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the erven are subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) Information regarding the existing zoning and density on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (10) Information on the existing development on the land;
- (11) A plan showing the cadastral information of the component erven;
- (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (13) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

9. SUBDIVISION OF ANY OTHER LAND

- (1) The prescribed application fee;
- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;

- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) If the land is under the ownership of Ingonyama Trust Board (ITB) a signed copy of ITB form 2 and a proof of submission to ITB for lease-agreement will be sufficient.
- (10) Information regarding the existing zoning on the land in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (11) Information on the existing development on the land;
- (12) A subdivisional plan indicating-
 - (a) contour lines, the values of which shall be based on a datum plane acceptable to the Municipality;
 - (b) the area of the land and distinctive numbers and areas of the portions;
 - (c) existing buildings on the land;
 - (d) roads, their names, widths and connections with existing streets or roads in adjoining areas;
 - (e) watercourses, railways, pipelines, power lines, existing public roads and all servitudes in or abutting the land;
 - (f) by means of a distinctive notation, the sites/erven proposed to be reserved for specific purposes;
- (13) A locality plan as an inset on the subdivisional plan showing-
 - (a) the locality of the land with the principal topographical features of the land and its environs, and its situation in relation to surrounding farms, farm portions and agricultural holdings and portions of agricultural holdings;
- (14) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (15) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

10. ALTERATION, AMENDMENT OR CANCELLATION OF A GENERAL PLAN APPLICATION

- (1) The prescribed application fee;
- (2) Full name of the owner of the land which would be affected by the application, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land which would be affected by the application;
- (4) If the owner of the land is represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land which would be affected by the application;
- (8) If the land which is affected by the application is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) If the land is under the ownership of Ingonyama Trust Board (ITB) a signed copy of ITB form 2 and a proof of submission to ITB for lease-agreement will be sufficient.
- (10) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (11) Information on the existing development on the land, if any;
- (12) A copy of the relevant sheet of the general plan which may be in a reduced format;
- (13) A copy of a plan of the township showing the proposed alteration or amendment or, if partial cancellation is applied for, the portion of the plan cancelled;
- (14) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (15) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

11. AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE OR OBSOLETE CONDITIONS OR OBLIGATIONS, SERVITUDES OR RESERVATIONS IN RESPECT OF LAND

- (1) The prescribed application fee;

- (2) Full name of the owner of the land, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the owner of the land;
- (4) If the owner of the land is represented by an agent, full name, telephone-and facsimile details, postal-, residential and e-mail address of such agent;
- (5) If owner of the land is represented by an agent, an original power of attorney authorising the agent to make such application on owner's behalf;
- (6) If owner of the land is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease agreement) relevant to the land;
- (8) If the land is subject to a mortgage bond, full details of such bond holder as well as the bond holder's consent relevant to the application;
- (9) If the land is under the ownership of Ingonyama Trust Board (ITB) a signed copy of ITB form 2 and a proof of submission to ITB for lease-agreement will be sufficient.
- (10) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (11) Information on the existing development on the land;
- (12) A list of the restrictive conditions or obligations, servitudes, or reservations to be amended, suspended or to be removed;
- (13) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application; and
- (14) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

If the application is submitted as an application submitted simultaneously with any other application as envisaged in section 40(6) of this By-law, any additional requirements which have not been listed under 11(1) to (13) above as set out in (1), (2), (3), (7) and (8) above shall mutatis mutandis apply to such an application.

12. PERMANENT CLOSURE OF A PUBLIC PLACE OR DIVERSION OF A STREET

- (1) The prescribed application fee;
- (2) Full name of the person making the application, including telephone- and facsimile details;
- (3) Postal-, residential- and e-mail address of the person making the application;
- (4) If the person is being represented by an agent, full name, telephone- and facsimile details, postal-, residential and e-mail address of such agent;

- (5) If the person is represented by an agent, an original power of attorney authorising the agent to make such application on such person's behalf;
- (6) If the person is a Company or a Close Corporation and represented by an agent, a relevant Company or Close Corporation Resolution which authorises a specific person to appoint such agent in terms of a power of attorney for purposes of such application;
- (7) Copy of registered title deed (or lease-agreement) relevant to the land which would be affected by the application, if any;
- (8) Information regarding the existing zoning on the land and in terms of which land use scheme or any other town planning scheme that might still be applicable;
- (9) Information on the existing development on the land, if any;
- (10) A plan showing the public place to be closed or showing the boundaries of the street or portion of the street proposed to be closed or diverted;
- (11) Where necessary, a Land Surveyor's diagram showing the street or portion of street to be closed or diverted;
- (12) Subject to section 5 of this By-law, a comprehensive motivational report in support of the application;
- (13) Subject to section 53(2) to (5) of this By-law, any other information deemed relevant to the application.

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

SCHEDULE 2: TOWN PLANNING MUNICIPAL TARIFFS



**uMSINGA MUNICIPALITY
UMKHANDLU WASEMSINGA**

PLANNING TARIFFS 2022/2023

NB: The Tariffs Below are all VAT inclusive.

NO.	MUNICIPAL TARIFFS	2021/2022	2022/2023
15.	TOWN PLANNING APPLICATIONS		
	TOWNSHIP		
15.1	Township Establishment	R4000.00	R4000.00
15.2	Extension of boundaries of an approved township	R4500.00	R4500.00
15.3	Amendment or Cancellation of a General Plan	R5000.00	R5000.00
15.4	Phasing of an approved township	R1500.00	R1500.00
15.5	Amendment of a layout plan	R2000.00	R2000.00
	LAND USE SCHEMES		
15.6	Adoption of a land use scheme	R4000.00	R4000.00
15.7	Amendment of a land use scheme (Rezoning)	R4000.00	R3000.00
15.8	Development of land outside the scheme	R4500.00	R4500.00
15.9	Consent-use as provided for in the uMsinga land use scheme	R2500.00	R2000.00
15.10	Issuing of Zoning certificate	R350.00	R200.00
	RESTRICTIVE CONDITIONS		

NO.	MUNICIPAL TARIFFS	2021/2022	2022/2023
15.11	Amendment, suspension, or removal of a restrictive or obsolete condition, obligation, servitude, or reservation registered against the title of land	R2000.00	R1500.00
SUBDIVISION AND CONSOLIDATIONS			
15.12	Subdivision and/or consolidation of land Basic fee	R5000.00	R3000.00
15.13	Subdivision per even in addition to Basic fees	R1500.00	R1500.00
15.14	Consolidation – 5 or more stands in addition to basic fee	R7000.00	R5000.00
RELAXATION			
15.15	Building Line Relaxation	R2000.00	R1000.00
15.16	Relaxation of a height restrictions	R1500.00	R1000.00
15.17	Municipal servitude	R500.00	R1000.00
CLOSURE OF PUBLIC SPACE			
15.18	Permanent closure of a public place or diversion of a street	R2000.00	R2000.00
15.19	Temporal Closure – Street (exclude funeral)	R500.00	R500.00
15.20	Temporal Closure of public place (Park)	R500.00	R500.00