

MPUMALANGA PLANNING BILL 2013

[Final Version dated 4 March 2013 to be submitted to Project Steering Committee]

MPUMALANGA PLANNING ACT, 2013

To provide for the introduction, adoption and implementation of an efficient and uniform system of land development and land use management consisting of development principles, norms and standards that must guide land development; the preparation, adoption and application of provincial and municipal Spatial Development Frameworks; land use schemes; procedures, processes and formats for the preparation, submission and consideration of land development applications and related processes; support for municipalities as contemplated in section 154(1) of the Constitution and measures to promote the integration of provincial policies, frameworks and plans with national and municipal frameworks, policies and plans, and for matters in connection therewith.

PREAMBLE

WHEREAS the land use management system in Mpumalanga still reflects the pre-constitutional era;

WHEREAS the need exists to introduce a land use management system based on development principles, norms and standards that reflect constitutional values of democracy, equality, human dignity, transparency and accountability; and

WHEREAS an efficient, effective, inclusive and integrated system is required;

BE IT THEREFORE ENACTED by the legislature of the Province of Mpumalanga as follows: –

ARRANGEMENT OF SECTIONS

CHAPTER 1 INTRODUCTORY PROVISIONS

1. Definitions.

2. Use of definitions
3. Application of the Act
4. Objects of the Act

CHAPTER 2 DEVELOPMENT PRINCIPLES, NORMS AND STANDARDS AND SPATIAL DEVELOPMENT FRAMEWORKS

5. Legislative framework
6. Provincial development principles and norms and standards
7. Spatial Development Frameworks
8. Provincial and Municipal Spatial Development Frameworks

CHAPTER 3 CO-OPERATIVE GOVERNANCE

9. Support and monitoring
10. Role of provincial executive authority

CHAPTER 4 LAND USE SCHEMES

11. Purpose of a land use scheme
12. Preparation, adoption and amendment of a land use scheme by a municipality
13. Form and content of a land use scheme
14. Legal effect of a land use scheme
15. Monitoring of a land use scheme
16. Review of a land use scheme
17. Continued use of land and buildings

CHAPTER 5 LAND DEVELOPMENT

18. Municipal council structures
19. Professional assessment
20. Land development application
21. Applications for development and use of land

22. Parties to land development applications
23. Development application procedure
24. Public notice and participation
25. Amendment of pending development application
26. Change of ownership
27. Determination of application
28. Conditions of establishment
29. Amendment of approved land development
30. Effect of the total or partial cancellation of general plan
31. Notification to Surveyor-General and Registrar of Deeds
32. Caveat on transactions
33. Prohibition of certain contracts

CHAPTER 6 APPEALS

34. Establishment of the Appeal Board
35. Composition of the Appeal Board
36. Functions of the Appeal Board
37. Powers of the Appeal Board
38. Disqualification from membership of the Appeal Board
39. Conflicts of interest and conduct at hearings
40. Termination of membership of the Appeal Board
41. Nature of appeal
42. Appeal procedure
43. Notification of appeal
44. Hearing of appeal
45. Determination of appeal

46. Procedure after appeal

47. Reasons

CHAPTER 7 ENGINEERING SERVICES AND DEVELOPMENT CONTRIBUTIONS

48. Provision of engineering services

49. Development contributions

50. Land for parks and open space

51. Municipal streets

52. General matters relating to the provision of services

CHAPTER 8 ENFORCEMENT

53. Enforcement of land use scheme

54. Contravention notices

55. Civil enforcement of Act

56. Offences and penalties

57. Misconduct by officials acting in official capacity.

CHAPTER 9 GENERAL PROVISIONS

58. Regulations

59. Records

60. Correction of errors

61. Provision of information

62. Hearings open to public

63. Fees

64. Exemptions

65. Delegations

66. Repeal of laws

- 67. Transitional arrangements
- 68. Short title and commencement

CHAPTER 1 INTRODUCTORY PROVISIONS

1. Definitions

In this Act unless the context indicates otherwise –

“Appeal Board” means the Appeal Board referred to in Chapter 6;

“beneficial owner in law” means a person who is not the registered owner of the land, but a person who holds a lawful right in or to land;

“communal land” means land under the jurisdiction of a traditional council determined in terms of section 6 of the Mpumalanga Traditional Leadership and Governance Act, 2005 (Act No. 3 of 2005) and which was at any time vested in–

- (a). the government of the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or
- (b). the government of any area for which a legislative assembly was established in terms of the Self-Governing Territories Constitution Act, 1971 (Act No. 21 of 1971); or
- (c). the government of the former Republic of Bophuthatswana;

“district municipality” means a municipality referred to in section 155(1)(c) of the Constitution and situated in the Province;

“engineering services” means a system for the provision of water, sewerage, electricity, streets, storm water drainage, gas and solid waste collection and removal required for the purpose of land development as referred to in Chapter 7;

“existing scheme” means any land use scheme approved in terms of legislation repealed by this Act or any land use scheme approved in terms of any other repealed Act and

“town planning scheme” has the same meaning;

“external service” means an engineering service situated outside the boundaries of a land development and which is necessary to serve the use and development of that land area;

"incremental upgrading area" means an area defined on a Spatial Development Framework or land use scheme for which specific policies have been made for incremental upgrading;

“informal settlement” means the informal occupation of land by persons none of whom are the registered owner of such land for primarily residential purposes with or without the consent of the registered owner of the land;

“internal services” means engineering services within or outside the boundaries of land which is the subject of a land development application and which are necessary, as prescribed, for the internal use and development of the land and which is not to be owned and operated by or on behalf of the Municipality or any service provider acting on behalf of the Municipality, and includes any link services linking such internal services to the external services;

“land” means—

- (a).a portion of land registered or capable of being registered in a deeds registry established in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) including a servitude or lease; or
- (b).the area of communal land to which a household holds an informal right recognized in terms of the customary law applicable in the area where the land to which such right is held is situated and which right is held with the consent of, and adversely to, the registered owner of the land;

“land development” means the erection of buildings or structures on land or the change of the use of land, including township establishment, the subdivision or consolidation of land or any amendment of or deviation from the land use or uses permitted in terms of an applicable land use scheme;

“land development application” means an application referred to in section 21 and

“application” has the same meaning;

“land use management system” means the system of regulating and managing land use and conferring land use rights through the use of schemes and land development applications and “land use management” has the same meaning;

“land use scheme” means the instrument for the zoning, regulation and control of land referred to in Chapter 4;

“Minister” means the Minister of Rural Development and Land Reform;

“municipal council” means a municipal council as defined in section 1 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any structure established by a municipality in terms of section 18;

“municipality” means a municipality envisaged in section 155(1)(a) and (b) of the Constitution and situated within the Province and, for the purposes of this Act, includes a municipal department and a municipal entity;

“owner” in relation to land, means the person in whose name land is registered in a deeds registry or who is the beneficial owner in law of such land or the holder of an indigenous right to land, and includes the holder of a registered servitude over land or the lessee under a lease registered in terms of section 77 of the Deeds Registries Act, 1937 (Act No. 47 of 1937) and any successor in title of any such a person;

“prescribe” or “prescribed” means prescribed in this Act or by regulation in terms of this Act or any other legal instrument relevant to the performance of any act, function or duty in terms of this Act;

“Province” means the Province of Mpumalanga;

“public participation” means a process whereby all the members of a community or those directly or indirectly affected by any issue, are informed of the issue in such a manner that reasonably and necessarily enables them to understand and appreciate the essential elements of such issue in order to make an informed decision thereon, so that their rights may be protected;

“registered planner” means a person registered as a professional planner or a technical planner contemplated in section 13 of the Planning Profession Act, 2002 (Act No. 36 of

2002), unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of section 16 of the Planning Profession Act, 2002 (Act No. 36 of 2002), in which case a registered planner shall mean that category of registered persons for which the work has been reserved;

“service provider” means a person lawfully appointed by a municipality or other organ of state to carry out, manage or implement any service or function on behalf of or on the direction of such municipality or organ of state;

“this Act” means the Mpumalanga Planning Act 2013 (Act XX of 2013) and includes the regulations made in terms of this Act;

“township” means a township as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

“township register” means a register opened in terms of section 46(1) of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

2. Use of definitions

The definitions contained in section 1 must be applied in the interpretation of this Act, the regulations, any policy or guidelines issued by the Premier in terms of this Act, Spatial Development Frameworks and land use schemes.

3. Application of the Act

This Act is legislation adopted in terms of section 104(1)(b) of the Constitution.

4. Objects of the Act

The objects of this Act are to provide for–

- (1).the making and review of provincial policies and frameworks;
- (2).the introduction, adoption and implementation of an efficient and uniform system of land development and land use management consisting of the following components:
 - (a).the preparation, adoption and application of provincial and municipal Spatial Development Frameworks;

- (b).development principles, norms and standards that must guide land development and land use management;
- (c). land use schemes;
- (d). procedures, processes and formats for the preparation, submission and consideration of land development applications and related processes;
- (e).support for municipalities as contemplated in section 154(1) of the Constitution; and
- (f). measures to promote the integration of provincial policies, frameworks and plans with national and municipal frameworks, policies and plans.

CHAPTER 2 DEVELOPMENT PRINCIPLES, NORMS AND STANDARDS AND SPATIAL DEVELOPMENT FRAMEWORKS

5. Legislative framework

All land development and land use management are subject to applicable national legislation as well as this Act.

6. Provincial development principles and norms and standards

- (1).The Premier may, after consultation with the Minister and after following a public participation process, adopt and apply development principles or norms and standards not inconsistent with development principles or norms and standards contained in applicable national legislation.
- (2).The Premier may from time to time, after following the same public participation process as contemplated in subsection (1), amend or repeal such development principles or norms and standards.
- (3).Any development principles or norms and standards adopted in terms of subsection (1) and any amendment or repeal thereof in terms of subsection (2) must be published in the *Provincial Gazette* and any other media as prescribed and comes

into force on the date of such publication in the *Provincial Gazette*.

7. Spatial Development Frameworks

- (1). National legislation that provides for the preparation, adoption and implementation of Spatial Development Frameworks must inform the preparation, content, adoption and legal effect of all provincial and municipal spatial development frameworks.
- (2). Every municipality, including every district municipality, must ensure that every Integrated Development Plan prepared and adopted by it in terms of section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) is aligned and not inconsistent with any Spatial Development Framework prepared and adopted by the national, provincial or local sphere of government for the area of such municipality in terms of any other national legislation.
- (3). The Premier must, in the exercise of his or her powers in terms of section 32 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) promote and ensure compliance with subsection (2).

8. Provincial and Municipal Spatial Development Frameworks

The Premier may, after consultation with the Minister and in terms of the prescribed public participation process, by notice in the *Provincial Gazette*, prescribe provisions for the preparation, adoption, content and implementation of Provincial and Municipal Spatial Development Frameworks not inconsistent with similar provisions contained in national legislation applicable in the Province to reflect requirements peculiar to the Province.

CHAPTER 3

CO-OPERATIVE GOVERNANCE

9. Support and monitoring

- (1). The Premier must monitor–

- (a).compliance with the development principles, norms and standards;
- (b).the progress made by municipalities and compliance with this act in the adoption, implementation and review of Spatial Development Frameworks and land use schemes;
- (c).the quality and effectiveness of Spatial Development Frameworks and land use schemes, and the capacity of municipalities to implement their constitutional obligations.

(2).The Premier may–

- (a).determine that a municipality requires the support and assistance contemplated in this section and provide such support and assistance to the municipality,
- (b).facilitate the co-ordination and alignment of–
 - (i). the land use management systems of different municipalities; or
 - (ii). the land use management system of a municipality with the plans, frameworks, development strategies and programmes of national and provincial organs of state.
- (c).take appropriate steps to resolve differences and disputes in connection with the preparation, adoption or revision of Spatial Development Frameworks and land use schemes.

(3).On the request of a local municipality, the district municipality, provincial government and national government must, in this order, and within available resources, provide planning support and assistance to a local municipality.

(4).The Premier may prescribe guidelines or minimum standards for municipal planning capacity and may develop criteria according to which the capacity can be measured.

(5).The Premier must develop mechanisms to support, monitor and strengthen the capacity of municipalities to adopt and implement an effective land use management system.

10. **Role of provincial executive authority**

The Premier may, after consultation with the municipalities and district municipalities in the Province adopt and implement provincial planning policy providing guidance to municipalities in respect of municipal planning.

CHAPTER 4 LAND USE SCHEMES

11. **Purpose of a land use scheme**

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

(2).The provisions of a land use scheme must promote–

(a).economic growth;

(b).social inclusion;

(c).harmonious and compatible land use pasterns;

(d). efficient land development;

(e).minimal impact on public health, the environment and natural resources;
and

(f). aesthetic considerations;

(g).sustainable development and densification; and

(h). the accommodation of cultural customs and practices of traditional communities in land use management.

12. **Preparation, adoption and amendment of a land use scheme by a municipality**

(1).Every municipality must, within three years of the coming into operation of this Act, or such longer period as the Premier may allow, prepare and adopt a single land use scheme in terms of this Act for the whole area of its jurisdiction.

- (2). Any land use scheme prepared and adopted must be consistent with—
 - (a). applicable policies, norms and standards;
 - (b). the Provincial Spatial Development Framework; and
 - (c). the relevant Municipal Spatial Development Framework.
- (3). On the request of and in agreement with constituent local municipalities and with the approval of the Premier, a district municipality may—
 - (a). prepare a land use scheme covering the municipal areas of the local municipalities; and
 - (b). administer such land use scheme on behalf of the local municipalities.
- (4). After a land use scheme has been prepared and before its adoption, the municipality must follow a public participation process as prescribed.
- (5). Simultaneously with the public participation process the municipality must submit the land use scheme to the Premier for comment.
- (6). Any interested and affected party may submit an objection against or representation on the land use scheme and the municipality must consider the objections and representations submitted.
- (7). The municipality may adopt the land use scheme with or without amendments.
- (8). A land use scheme adopted by a municipal council must promptly be given notice of in the *Provincial Gazette* and in such other manner as may be prescribed.
- (9). After notice has been given in terms of subsection (8), any party who submitted an objection or representation in terms of subsection (6) and who is aggrieved by the provisions of the land use scheme may lodge an appeal as provided for in Chapter 6 of this Act.
- (10). Where the boundaries of a municipal area are altered by the Municipal Demarcation Board established by section 2 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998) the land use scheme applicable on the land incorporated into a municipality as a consequence of such boundary change shall, subject to subsection (11), continue to apply to such land until the

municipality into whose jurisdiction such land is incorporated amends such land use scheme.

(11). The municipality into whose area land is incorporated is, on such incorporation, deemed to be the municipality responsible for the administration, application and enforcement of such land use scheme.

(12). A municipality that wishes to amend its land use scheme must apply the provisions and follow the procedures of Chapter 5 of this Act.

13. **Form and content of a land use scheme**

(1). A land use scheme must, as a minimum, include, in the form prescribed, in respect of the area of jurisdiction of the municipality–

- (a). scheme clauses containing the written provisions, procedures and conditions relating to the use of, rights in and development of land;
- (b). a scheme map; and
- (c). a record of all approved amendments to a land use scheme, including any annexures or schedules relating to an amendment of the land use scheme, which shall be known as a land use scheme register.

(2). A land use scheme may include provisions relating to–

- (a). the purposes for which land may be used or developed;
- (b). the purposes for which land may be used or developed with the consent of the municipality;
- (c). the relaxation or variation of conditions of a land use scheme;
- (d). development restrictions and controls;
- (e). aesthetic considerations;
- (f). applications and procedures in terms of the land use scheme other than any applications and procedures in terms of this Act;
- (g). the persons or bodies to whom a copy of a land use application must be circulated;

- (h). the progressive introduction of land use management and regulation on communal land;
- (i). the incremental upgrading and progressive introduction of land use management and regulation in informal settlements, slums and areas not previously subject to a land use scheme;
- (j). land use and development incentives to promote the effective implementation of the Spatial Development Framework and other development policies; and
- (k). any other matter relevant to land use management.

14. **Legal effect of a land use scheme**

(1). An approved land use scheme—

(a). comes into effect—

- (i). on the date as stipulated in the publication of a notice in the *Provincial Gazette* as contemplated in section 12(8); and
- (ii). when all appeals on the land use scheme have been disposed of in terms of this Act.

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

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

(2). Land may be used only for the purpose or purposes permitted by—

(a). a land use scheme;

(b). an existing scheme, until such scheme is replaced by a land use scheme; or

(c). as provided for in section 67.

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

15. Monitoring of a land use scheme

- (1).Every municipality must forthwith, after adoption of its first land use scheme in terms of section 12(8), and every five years thereafter, or upon request by the Premier, submit its land use scheme to the Premier for purposes of monitoring.
- (2).Should the Premier identify any non-compliance of the scheme with any applicable principles or norms and standards or with the provisions of any national, provincial or municipal Spatial Development Framework the municipality must forthwith rectify such non-compliance.

16. Review of a land use scheme

- (1).A municipality may at any time review its land use scheme.
- (2).Where national legislation requires a municipality to review its Spatial Development Framework, immediately on its completion, the municipality must proceed with the review of its land use scheme.
- (3).Where national legislation does not require a municipality to review its Spatial Development Framework, the municipality must review its land use scheme at least once in every period of five years.
- (4).The municipality must prepare a report on the review of its land use scheme and submit the report to the Premier for monitoring and comment and to the municipal council for consideration.
- (5).After consideration of the report and any comments received, the municipal council may adopt the recommendations of the report in whole or in part and with or without amendment.
- (6).Where the municipal council has adopted any recommendation to amend its scheme, the municipality must make such amendments to the land use scheme as are required.
- (7).Where the boundaries of a municipal area are altered, the affected municipalities must, within one year of the alteration or such longer period as the Premier may allow, simultaneously amend their land use schemes to align the land use schemes

with the altered municipal areas.

17. Continued use of land and buildings

(1).Where, on the date of the coming into effect of a land use scheme in terms of section 14(1) or an amendment of a land use scheme in terms of section 12(12), any land or building is being used for a purpose that is not allowed by the provisions of the land use scheme, but which is otherwise lawful and not subject to any prohibition in terms of this Act, the use for that purpose may, subject to the provisions of subsection (2), be continued after that date.

(2).The right to continue using any land or building by virtue of the provisions of subsection (1), shall–

(a).where the right is not exercised for a continuous period of twelve (12) months, lapse at the expiry of that period;

(b).lapse at the expiry of a period of fifteen (15) years from the date contemplated in subsection (1).

CHAPTER 5

LAND DEVELOPMENT

18. Municipal council structures

A municipality must, in accordance with Chapter 4 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), establish any necessary structures and procedures for the management of land development, the determination of applications and the administration of any other matters required in terms of this Act which structures and procedures must not be in conflict with the provisions of this Act.

19. Professional assessment

(1).A municipal council shall not consider any application in terms of this Act unless it has first obtained the written recommendation of a registered planner.

(2).The written recommendation, as contemplated in subsection (1), must include such

registered planner's evaluation of the proposal confirming that, in his or her opinion, the application complies with the procedures required by this Act, with the applicable principles and norms and standards, any applicable Spatial Development Framework and any applicable land use scheme; or if, in his or her opinion, the application does not comply, state in what respect the application does not comply.

20. Land development application

- (1). Subject to section 23, where the development and use of land requires approval in terms of this Act or a land use scheme, an application, which shall include any land development proposal by a municipality, for such approval must be submitted and be dealt with as provided for in this Act and any regulations made in terms of this Act.
- (2). Every application referred to in subsection (1) must be submitted to the municipal manager of the municipality in whose area the land is situated, provided that the municipal manager may designate an officer in the service of the municipality for that purpose.
- (3). Where a land development includes land situated in the area of more than one municipality, then, provided that such land is contiguous, the application in respect of such development must be submitted to the municipal managers of both applicable municipalities who must deal with such application in accordance with regulations made in terms of sub-section (1).
- (4). A land development proposal by a municipality must follow the procedures as provided for in this Chapter.

21. Applications for development and use of land

- (1). An application contemplated in section 20 includes an application for—
 - (a). the amendment of a land use scheme;
 - (b). the removal, alteration or cancellation of servitudes or restrictive conditions in the title deed of property;
 - (c). a consent required in terms of a land use scheme;

- (d). the subdivision of land;
- (e). the consolidation of land;
- (f). the establishment of a township;
- (g). the closure of any public place or municipal street;
- (h). the formalization or incremental upgrading of an informal settlement;
- (i). the amendment or cancellation of an approved land development;
- (j). the extension of the boundaries of a township;
- (k). the division or phasing of the establishment of a township;
- (l). the excision of any agricultural holding referred to in the Agricultural Holdings (Transvaal) Act, 1919 (Act No. 22 of 1919); or
- (m). any other application to develop land.

(2). An application in terms of section 20 may consist of more than one of the applications referred to in subsection (1).

(3). Whenever the approval of the establishment of a township, extension of boundaries of a township, the amendment or cancellation of a general plan or the formalization or incremental upgrading of an informal settlement results in a change of the provisions of the land use scheme, the land use scheme shall be deemed to be amended consistent with such approval.

(4). Every land development application must comply with this Act and any regulations made in terms of this Act, failing which a municipality may reject such application, provided that it has provided the applicant a reasonable opportunity to rectify the non-compliance.

22. **Parties to land development applications**

(1). A land development application may only be lodged by–

- (a). an owner or owners of the land concerned, including the municipality, provincial and national government;
- (b). a person acting as the duly authorized agent of the owner or owners of the

land; or

- (c). a person to whom the land concerned has been made available for development in writing by an organ of state or such person's duly authorized agent.

23. Development application procedure

(1).The municipal manager must, as prescribed, on receipt of a land development application–

- (a).acknowledge receipt of the application; and
- (b).register the application; or
- (c). subject to subsection (2) refuse to register the application; or
- (d). subject to subsection (3), reject, with reasons, an incomplete or incorrect application.

(2).The municipality may, within the time period prescribed, request an applicant to provide supplementary information reasonably necessary to support the land development applied for.

(3).The municipality must, within the time period prescribed, request an applicant to complete or correct an incorrect or incomplete application.

24. Public notice and participation

(1).After a development application has been registered in terms of section 23(1)(b), the applicant must give notice of the application in the prescribed manner and within the prescribed timeframes.

(2).The applicant must submit proof of such notice and relevant documents referred to in subsection (1) to the municipality as prescribed.

(3).If the applicant fails to deliver the notice within the period prescribed or fails to comply with the procedure prescribed, the municipality shall be entitled to reject the application.

(4).Any application rejected in terms of subsection (3) may be resubmitted in terms of

section 20.

- (5).Subject to sub-section (6), any organ of state, parastatal body and any other person on whom a copy of the notice has been delivered in terms of sub-section (1) or any person who has an interest in or may be affected by the application may object to an application or submit representations in writing as prescribed.
- (6).Any organ of state, parastatal body and any other person referred to in subsection (5) may, within the period provided in such notice, request the municipality to register themselves as interested and affected parties to the application.
- (7).The municipality must, if it is satisfied that such organ of state, parastatal body and any other person is an interested and affected party to the application concerned, register such party accordingly and thereafter such party shall be entitled to—
 - (a).object to and make representations on such application;
 - (b).receive all relevant correspondence and documents reasonably and necessarily associated with such application, including a copy of the application and any documents or information provided in terms of subsection (1); and
 - (c).be entitled to be given written notice of and to attend and make representations at any public hearing, public meeting or site inspection.
- (8).On registration of every interested and affected party the municipality must provide the applicant with the names and contact details of such interested and affected parties and the applicant must thereafter deliver a copy of every supplementary document or evidence submitted in support of the application to such registered interested and affected parties.
- (9).The applicant may, as prescribed, reply to any objections, representations or comments and must submit such reply to the municipality and to all registered interested and affected parties.
- (10). The municipal council must direct which parties must incur the costs of the delivery of every notice or other document to be delivered in terms of this section.

25. Amendment of pending development application

- (1).With the consent of the municipality, and subject to sub-sections (2) to (4), an applicant may amend a land development application at any time prior to a decision being made thereon in terms of section 27(4) but, in the case of an opposed application, not later than 28 days prior to any hearing by the municipal council at which such decision is made.
- (2).An amendment of a land development application may not include any increase in the extent, intensity, density or change in the nature of the land development applied for.
- (3).Notice of an amendment of an application must be given by the applicant at his or her cost in the prescribed manner and within the prescribed timeframes, provided that where such amendment is, in the opinion of the municipality, not substantial and made on reasonable grounds, the municipality may dispense with such notice.
- (4).In addition to the notice referred to in sub-section (3), the applicant must, at its expense, give notice to every registered interested and affected party who may make representations in regard thereto either in support thereof or objecting thereto.
- (5).Any delay caused by the amendment of the land development application must be excluded from the time periods prescribed.
- (6).If the amendment of a development application requires notification in terms of subsection (3) any applicable time periods must be calculated from the date of notification of the amended application.
- (7).An applicant may at any time, prior to the determination of the application, inform the municipal council that he or she is prepared to accept a partial approval of the development application and such proposed partial approval shall not constitute an amendment of the application.

26. Change of ownership

- (1).If the ownership of land being the subject of a land development application is transferred, the new owner must forthwith inform the municipal council and the new owner shall be the applicant from the date of transfer of the land.

(2).The new owner must assume all the rights and responsibilities of the applicant.

27. Determination of application

(1).After the periods prescribed in terms of sections 23 to 25 have expired, the municipal council must consider the application.

(2).A municipal council may consider the application–

(a).on a consideration only of the documentation submitted by the applicant and any registered interested and affected party;

(b).after hearing oral representations by or on behalf of the applicant and any registered interested and affected party at a hearing; or

(c). after a public meeting called by the municipality for which public notice as prescribed has been given and at which both the applicant and any registered interested and affected parties or their representatives are given an opportunity to address such meeting and members of the public are given an opportunity to comment.

(3).A development application must be considered and decided upon by the municipal council and communicated to the affected parties within the prescribed time period, provided that the applicant, interested and affected parties and the municipal council may agree to a longer period.

(4).In deciding an application the municipality may–

(a).approve the application in whole or in part;

(b).approve the application with amendments;

(c). approve the application subject to any conditions it deems necessary;

(d). refuse the application; or

(e).postpone a decision on the application, either wholly or in part.

(5).Where the municipal council approves an application it may impose any condition requiring the payment of an endowment provided that it must state the purpose for which such endowment is required.

(6).The decision of the municipal council becomes final on the last of the following occurrences:

- (a).upon the satisfaction of the relevant conditions of establishment;
 - (b).on the date on which any right of appeal against such decision in terms of this Act lapses; or
 - (c).on final determination of any appeal;
- as the case may be.

(7).Notice of a decision on an application must be given as prescribed by the municipality at its expense.

28. **Conditions of establishment**

(1).In approving a land development application a municipality may, as prescribed, impose any condition of establishment relating to–

- (a).the provision of engineering services;
- (b).the payment of development contributions for external engineering services;
- (c).the provision and transfer of land to any competent authority for use as public open space, or the payment of an endowment in lieu thereof;
- (d). the provision of streets;
- (e).the suspension of restrictive conditions of title or servitudes affecting the land;
- (f). the registration of servitudes and conditions of title;
- (g).the provision of land for educational or other social facilities, or the payment of an endowment in lieu thereof; or
- (h). any other matter considered necessary by the municipality.

(2).In imposing conditions of establishment the municipality must distinguish between conditions–

- (a).that must be completed to its satisfaction prior to the issue of a certificate in

terms of subsection (3); or

(b).that must be complied with after the issue of such certificate, which shall include conditions to be inserted in any title deeds or certificates issued in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Sectional Titles Act, 1986 (Act No. 95 of 1986).

(3).The municipality must, upon satisfaction of conditions of establishment referred to in subsection (2)(a), issue to the applicant a certificate to that effect.

29. Amendment of approved land development

(1).If, in the opinion of the municipal manager, an amendment of an approved land development in terms of section 21(1)(i) will have a substantial effect on the approved land development or any representation on or objection against the application, the municipality must direct the applicant to give notice of the amendment as it deems necessary.

(2).Any party to whom notice has been given in terms of subsection (1) may oppose the amendment as prescribed.

(3).The municipality must, after consultation with the Surveyor-General and Registrar of Deeds as the case may be, approve or refuse any amendment with or without conditions and must notify the applicant and all other interested parties thereof.

(4).Any endowments and development contributions paid by the applicant must be offset from the endowments and development contributions payable.

(5).The provisions of this section may apply to the amendment of a land development approved prior to the commencement of this Act.

30. Effect of the total or partial cancellation of general plan

(6).Upon total or partial cancellation of the general plan of a township–

(a).the township or part thereof shall cease to exist as a township; and

(b).the ownership of any public place or street shall revert in the township owner.

31. Notification to Surveyor-General and Registrar of Deeds

- (1).The municipality must forthwith after a land development application is approved notify the–
 - (a).Registrar of Deeds in whose office the subject land is recorded; and
 - (b).Office of the Surveyor-General where such approval affects a diagram or general plan filed in that office;of such approval and conditions of establishment.
- (2).The applicant must, within 3 years from the date of approval of a land development, or such further period as the municipality may permit, lodge for approval with the Surveyor-General and Registrar of Deeds such plans, diagrams and other documents as may be required.
- (3).Should the applicant fail to comply with the provisions of subsection (2), the land development application shall lapse.
- (4).The applicant must forthwith upon the approval of a general plan or diagram by the Surveyor-General submit a copy of such document at the municipality.

32. Caveat on transactions

- (1).Until a certificate in terms of section 28(3) is submitted to the Surveyor-General or Registrar of Deeds to the effect that the applicable conditions of establishment have been complied with to the satisfaction of the municipality–
 - (a).no act permitted under the Deeds Registries Act, 1937 (Act No. 47 of 1937), the Sectional Titles Act, 1986 (Act No. 95 of 1986) or the Land Survey Act, 1997 (Act No. 8 of 1997) initiated by or on behalf of the owner of the land which is the subject of the approval may be dealt with in accordance with such Acts save as permitted by this Act;
 - (b).the municipality shall not approve the erection of any building in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) on the land which is the subject of any land development application save in accordance with such approval.

(2).The Registrar of Deeds shall not register any transaction in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937) or the Sectional Titles Act, 1986 (Act No. 95 of 1986) submitted by or on behalf of the owner of the land which is the subject of an approval under this Act and arising as a consequence of such approval unless the documents evidencing such transaction include any conditions of title imposed by the municipality in terms of section 28(2)(b).

33. Prohibition of certain contracts

(1).After a land development application to subdivide or consolidate land or to establish a township on land is registered in terms of section 23(1)(b), no person shall–

(a).enter into any contract for the sale, exchange or alienation or disposal in any manner of any erf arising from such subdivision or consolidation or in the proposed township;

(b).grant an option to purchase or otherwise acquire an erf arising from such subdivision or consolidation or in the township until–

(i) such time as the relevant conditions of establishment have been satisfied; and

(ii) a certificate in terms of section 28(3) to that effect has been issued by the municipality.

(2).The provisions of subsection (1) must not be construed as prohibiting any person from purchasing land on which he or she wishes to establish a township subject to a condition that upon the declaration of the township as an approved township, one or more of the erven therein will be transferred to the seller.

(3).Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.

CHAPTER 6

APPEALS

34. Establishment of the Appeal Board

- (1).An Appeal Board is hereby established which is an inter-municipal appeal board.
- (2).The Appeal Board must be appointed jointly by all the municipalities in the Province.
- (3).On the coming into operation of this Act, every municipality must prepare a list of the names of not more than six persons to be considered for appointment as members of the Appeal Board and must submit such list to the Premier, taking into account the requirements of subsection (6).
- (4).In addition to the persons referred to in subsection (3) the Premier may identify such other persons as he or she considers appropriate for appointment as members of the Appeal Board taking into account the requirements of subsection (6).
- (5).The Premier must prepare a schedule of the names of all the persons referred to in subsections (3) and (4) and must submit such schedule to the municipalities for consideration.
- (6).The Premier and all municipalities must ensure that the Appeal Board comprises–
 - (a).at least three members who are legally qualified;
 - (b).at least three registered planner members;
 - (c).at least two who are professional engineers registered in terms of section 19(2)(a) of the Engineering Profession Act, 2000 (Act No. 46 of 2000);
 - (d). at least two who are professional land surveyors as defined in section 1 of the Professional and Technical Surveyor's Act, 1984 (Act No. 40 of 1984);
 - (e).at least two who are professional architects registered in terms of section 19(2) of the Architectural Profession Act, 2000 (Act No. 44 of 2000); and
 - (f). persons with practical experience and expertise in planning and development matters or environmental management and the fields of social and economic sciences.
- (7).In consultation with the municipalities the Premier must record the names of as many of the persons as considered necessary and must, on behalf of the

municipalities, give notice of the names of such persons in the *Provincial Gazette*.

(8). On publication of the notice referred to in subsection (7) the persons whose names appear in the notice must be the members appointed to the Appeal Board.

(9). The Premier may, in consultation with the municipalities in the Province, establish District Appeal Boards in place of a single Appeal Board and allocate the members referred to in subsection (7) to such District Appeal Boards on an equitable and just manner to enable such members effectively to execute the function of an appeal board as provided for in this Act.

(10). The area of jurisdiction of every District Appeal Board contemplated in subsection (9) shall be the area of every District Municipality in the Province.

(11). In terms of sections 41(h) and 154(1) of the Constitution, the Premier must after consultation with the municipalities determine—

(a). the location of the office where the Appeal Board shall be situated;

(b). provisions for and the performance of all functions necessary to the operation of the Appeal Board;

(c). the terms and conditions of employment of members of the Appeal Board;

(d). the appointment and remuneration of officials to perform the administrative functions of the Appeal Board; and

(e). in consultation with the MEC for finance the payment of all expenses relevant to the operation of the Appeal Board.

(12). The Premier must appoint a secretary to the Appeal Board.

35. Composition of the Appeal Board

(1). A member of the Appeal Board must be appointed for a period of 5 years provided that on the expiry of the 5 year period such member may be re-appointed.

(2). Not more than one half of the members of the Appeal Board shall be persons who are in full-time employment of the Province or the municipalities.

(3). In consultation with the municipalities, the Premier must designate—

(a).a member of the Appeal Board as chairperson; and

(b).a member as deputy chairperson to act as chairperson when the chairperson is absent or unable to perform his or her functions.

(4).The chairperson must designate at least five members of the Appeal Board to hear, consider and decide a matter which comes before it and must designate one of such members as the presiding officer.

(5).Any appeal panel appointed in terms of subsection (4) must include such persons referred to in section 34(6) as must reasonably provide the knowledge and expertise that may be required in respect of any appeal allocated to such appeal panel.

(6).The members designated in terms of subsection (5) must include at least one member who is in the full-time employment of the Province or a municipality and one member who is not so employed.

(7).After the period of 5 years referred to in subsection (1) has expired the further appointment of members of the Appeal Board must be in accordance with the provisions of section 34.

36. **Functions of the Appeal Board**

(1).Subject to section 37, the Appeal Board must consider and determine all appeals and any other matters referred to it in terms of this Act.

(2).The Appeal Board must keep a record of all its proceedings.

(3).The Appeal Board must record its reasons for any decision or determination.

37. **Powers of the Appeal Board**

(1).Save in the case of appeals referred to in section 41(1) and subject to section 36, the Appeal Board may–

(a).make any decision which could have been made by a municipal council and may uphold or dismiss an appeal and impose any conditions with regard to the subject of an appeal;

(b).make any appropriate determination regarding all matters necessary or

incidental to the performance of its functions in terms of this Act;

- (c). conduct any necessary investigation;
- (d). give directions relevant to its functions to any person in the service of the provincial administration, a provincial public entity, provincial government business enterprise or a municipality relevant to matters referred to in this Act;
- (e). decide any question concerning its own jurisdiction;
- (f). subpoena any person to appear before it;
- (g). on its own initiative, obtain expert evidence or opinion;
- (h). determine any matters referred to it on the grounds of failure by a municipality to register or determine an application within the prescribed period;
- (i). determine appeals relating to engineering services, development contributions and other endowments payable;
- (j). determine compensation payable in terms of this Act;
- (k). from time to time appoint from its members one or more committees for any purpose which in the opinion of the Appeal Board would be better achieved by the establishment of such a committee;
- (l). determine costs as prescribed; and
- (m). make any order as to costs.

(2). The decision of the Appeal Board must be that of the majority of its members contemplated in section 35(5) and in the event of an equality of votes, the presiding officer shall have a casting vote in addition to his or her deliberative vote.

38. Disqualification from membership of the Appeal Board

(1). A person may not be appointed or continue to serve as a member of the Appeal Board, if that person—

- (a). is not a citizen of the Republic and resident in the Province;

- (b).is a member of parliament, a provincial legislature or a municipal council in terms of the Constitution;
- (c).is an un-rehabilitated insolvent;
- (d). is of unsound mind, as declared by a court;
- (e).has at any time been convicted of an offence involving dishonesty;
- (f). has at any time been removed from an office of trust on account of misconduct; or
- (g).has previously been removed from the Appeal Board for a breach of any provision of this Act.

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

39. **Conflicts of interest and conduct at hearings**

(1).A member of the Appeal Board–

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

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

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

municipality, organ of state or service provider which is a party to the appeal.

(3).The conduct of the Appeal Board at a hearing must be impartial and must not prejudice or promote the interests of any party to the hearing.

40. **Termination of membership of the Appeal Board**

(1).The Premier may, at any time, remove any member of the Appeal Board from office if, in the opinion of the Premier there are good reasons for doing so, after giving such a member an opportunity to be heard.

(2).The reasons for removal referred to in subsection (1) may include, but are not limited to–

(a).misconduct, incapacity or incompetence; and

(b).failing to comply with any provisions of this Act.

(3).If a member's appointment is terminated or a member resigns, the Premier may in consultation with the municipalities appoint a person to fill the vacancy for the unexpired portion of the vacating member's term of office.

(4).The functions of the Appeal Board shall not be affected if any member resigns or his or her appointment is terminated.

41. **Nature of appeal**

(1).An appeal against the adoption or amendment of a land use scheme must be determined solely on the merits of the hearing appealed against limited to the evidence or information on which the decision under appeal was given.

(2).An Appeal Board hearing any other appeal may admit such further evidence as it may deem desirable, including oral evidence as contemplated in section 37(1).

42. **Appeal procedure**

All appeals contemplated in this Act must be submitted to the secretary of the Appeal Board established in terms of section 34(12) of this Act.

43. Notification of appeal

- (1).An applicant who has lodged an appeal must simultaneously give notice of the appeal, as prescribed, to–
 - (a).the municipal council that issued the decision appealed against; and
 - (b).every registered interested and affected party.
- (2).Any registered interested and affected person who has lodged an appeal must simultaneously give notice of the appeal, as prescribed –
 - (a).to the municipality; and
 - (b).to the applicant.
- (3).Any person or body to whom a notice of appeal has been given may oppose the appeal as prescribed.
- (4).Any person other than the municipality who is a party to the appeal must, within the prescribed timeframe, deposit with the Appeal Board such amount of money as may be prescribed as security for the payment of any expenses and if such person fails to deposit the amount he or she shall cease to be a party to the appeal, provided that no person is prevented from exercising a right of appeal solely because of the provisions of this clause.

44. Hearing of appeal

After an appeal has been lodged, the secretary of the Appeal Board –

- (1).must refer the appeal to the Appeal Board and must determine a date and time for the hearing of the appeal in conjunction with the chairperson of the Appeal Board; and
- (2).must notify the appellant and every other party who has opposed the appeal of the date and time of the hearing of the appeal as prescribed.

45. Determination of appeal

- (1).An appeal must be finalized by the Appeal Board within the prescribed timeframe.
- (2).After the hearing of an appeal, the Appeal Board must determine the appeal.

- (3).After the appeal has been determined, the secretary must inform the appellant, all parties who opposed the appeal and the municipal council who issued the decision appealed against of the decision of the Appeal Board.

46. Procedure after appeal

- (4).Where, in the determination of an appeal, a land development application is approved, the municipality must deal with all the provisions of the approval as if the said application was approved by the municipal council.

47. Reasons

- (1).Any party to an appeal may request the reasons for the decision of the Appeal Board within the prescribed timeframe.
- (2).The secretary must provide the reasons issued by the Appeal Board within the prescribed timeframe.

**CHAPTER 7 ENGINEERING SERVICES AND DEVELOPMENT
CONTRIBUTIONS**

48. Provision of engineering services

- (1).The applicant is responsible for the provision and installation of internal services.
- (2).Subject to subsection (3), the municipality is responsible for the provision and installation of external services.
- (3).Where the municipality is not the provider of an engineering service, the applicant must satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of such service.
- (4).The applicant must install the internal engineering services in accordance with the conditions of establishment.
- (5).The municipality or service provider must, subject to the payment of any relevant development contributions, install the external engineering services in accordance

with any guidelines issued by the Premier from time to time.

(6).An applicant may, with the agreement of the municipality or service provider, install any external engineering service to the standards of the municipality instead of payment of the applicable development charges and the fair and reasonable cost of such external services may be set off against development charges payable.

(7).If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) pertaining to procurement and the appointment of contractors on behalf of the municipality shall not apply.

49. Development contributions

(1).Subject to section 48(6), the applicant must pay development contributions to the municipality or service provider, as the case may be, in respect of the provision and installation of external engineering and link services.

(2).The development contributions that are payable by the applicant must be determined by the municipality according to guidelines as prescribed and the amounts payable must be calculated in accordance with the municipal guidelines.

50. Land for parks and open space

(1).The applicant must, upon the approval of an application, provide land for parks and open spaces, or pay a development contribution in lieu thereof.

(2).The land provided as parks or open space which is intended as public open space must be transferred to the municipality upon the opening of the township register.

51. Municipal streets

Upon the opening of a township register pursuant to an application all municipal streets shall vest in the municipality and a developer shall not be entitled to compensation therefor.

52. General matters relating to the provision of services

(1).Any development contributions payable as a result of an approved land

development must be paid prior to–

- (a).the use and development of the land; and
- (b).the approval of any building plans.

(2).Notwithstanding any provision to the contrary in this Chapter, where a development contribution or contribution for open space is paid to the municipality, such funds must, in terms of the provisions of the Municipal Finance Management Act (Act No. 56 of 2003), be kept separate and only applied by the municipality towards the improvement and expansion of the services infrastructure or the provision of open space or parking, as the case may be, to the benefit and in the best interests of the general area where the land area is situated or in the interest of a community that occupies or uses such land area.

(3).The municipality must annually prepare a report on the amounts of development contributions paid to the municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure, including the location of where it was spent, and must submit such report and statement to the Premier.

CHAPTER 8

ENFORCEMENT

53. Enforcement of land use scheme

(1).A municipality must, in a consistent manner, enforce the provisions of a land use scheme.

(2).A municipality may pass by-laws aimed at enforcing its land use scheme.

(3).A municipality may, in a consistent manner, apply to a court for an order–

- (a).interdicting any person from using land in contravention of its land use scheme;
- (b).authorising the demolition of any structure erected on land in contravention of its land use scheme, without any obligation on the municipality or the person carrying out the demolition to pay compensation; or

(c). directing any other appropriate preventative or remedial measure.

(4).A municipality may designate a municipal official or appoint any other person as an investigator to investigate any alleged transgression of its land use scheme as prescribed.

(5).Where a court authorizes a demolition it may order the costs to be recovered from the offender to pay for the costs of the demolition.

54. **Contravention notices**

(1).A municipality must serve a contravention notice, as prescribed, on a person if it has reasonable grounds to suspect that the person is guilty of an offence contemplated in section 56.

(2).If a person disputes the existence or the nature of the contravention to which the contravention notice relates, he or she must, within the prescribed time period, submit a written statement to the municipality concerned recording such dispute and the grounds therefor, within the prescribed period.

(3).A municipality may on written application or of its own accord, agree to the extension of the period within which comments in response to a contravention notice may be lodged.

(4).A municipality must consider any comments that have been lodged in response to a contravention notice.

(5).If the person fails to comply with the contravention notice, the municipality must take all further steps required to rectify the contravention.

(6).If, after considering any comments that have been lodged in response to a contravention notice, the municipality has reasonable grounds to believe that the person specified in the contravention notice is guilty of an offence contemplated in section 56, the municipality may, within the prescribed period apply to a court of law for an order restraining that person from continuing the illegal activity.

(7).Any application for the approval of a land development application required to remedy the contravention referred to in the contravention notice in terms of

subsection (1) must be lodged with the municipality within the prescribed timeframe.

(8).Any approval contemplated in subsection (7) shall only take effect after the payment of any contravention levy imposed has been paid.

55. Civil enforcement of Act

(1).Notwithstanding anything to the contrary contained in any law relating to a Magistrate Court, a magistrate shall have jurisdiction, on the application by way of civil proceedings by the municipality, to make an order–

(a).prohibiting any person from commencing or proceeding with the development or use of land that is in contravention of the Act;

(b).authorising the municipality, as the case may be, to demolish any structure or portion thereof,

(c).ordering a person to restore the land on the basis and conditions deemed fit by the presiding judicial officer; and authorizing the municipality to execute any order on behalf of the person against whom the order was granted and to award compensation to the Premier or the municipality for giving effect to such an order.

(2).The procedures provided for in terms of subsection (1) may be instituted at any time irrespective of whether any steps contemplated in section 54 have been commenced with.

56. Offences and penalties

(1).Any person who–

(a).contravenes any provision of this Act or a land use scheme;

(b).wilfully furnishes the municipality or Appeal Board with false information;

(c).fails to produce any document or information in his or her possession when lawfully required to do so;

(d). fails to attend any hearing after being issued with a subpoena; or

(e). wilfully disrupts the proceedings of a municipal council or Appeal Board or in relation to such proceedings does anything which, if done in relation to a court law, would constitute contempt of court;

shall be guilty of an offence.

(2). A person convicted of an offence in subsection (1) shall be liable on conviction to pay an appropriate fine not exceeding R5 million (5 million Rand) or to imprisonment for a period not exceeding 5 (five years) or both such fine and such imprisonment.

(3). A person convicted of an offence under the Act who, after conviction, continues with the conduct of which he or she was so convicted shall be guilty of a continuing offence and be liable on conviction thereof to a fine not exceeding R10 000.00 (Ten Thousand Rand) in respect of each day on which he or she continues or has continued with it.

(4). The provisions of section 341 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) shall apply mutatis mutandis with regard to the contravention of any provisions of this Act.

57. Misconduct by officials acting in official capacity.

(1). An official who acts in contravention of the provisions of this Act is guilty of misconduct.

(2). An official who is guilty of misconduct under this section may be disciplined in accordance with the relevant disciplinary code and procedures and may also be criminally prosecuted and sentenced to a fine or imprisonment for a period not exceeding 2 years or both such fine and imprisonment.

CHAPTER 9

GENERAL PROVISIONS

58. Regulations

(1). The Premier may, in consultation with municipalities and after public consultation, make regulations consistent with this Act prescribing any matter to be prescribed in

terms of this Act;

(2). Different regulations may be made for different categories of—

- (a). municipalities;
- (b). land use schemes;
- (c). land development applications; or
- (d). appeals.

(3). Until the Premier makes regulations in terms of this section, the regulations in force under any law repealed by section 66 must, despite the repeal and to the extent that such regulations can be applied and are not inconsistent with the provisions of this Act, continue to apply.

59. **Records**

(1). A municipality must keep and maintain a written record of all land development applications submitted to it and of all decisions and reasons therefor, and, subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), such record must be made available to members of the public during normal office hours at the municipality's central office.

(2). Subject to section 117 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the keeping, maintenance and preservation of the records referred to in sub-section (1) are governed by the Mpumalanga Archives Act, 1998 (Act No. 14 of 1998).

60. **Correction of errors**

(1). Where an error or omission has occurred in an approval, in any conditions of establishment, in any land use scheme or any amendment of a land use scheme or in any notice published in the *Provincial Gazette*, such error or omission may be corrected.

(2). A correction of an error or omission referred to in subsection (1) shall be limited to technical or administrative matters that do not materially affect the scope, extent or intention of such document, or to typographical or grammatical matters.

- (3).If a notice published in the *Provincial Gazette* is corrected, such correction notice must be published in the *Provincial Gazette*.

61. **Provision of information**

Subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) and the law relating to documentary privilege, any person shall be entitled to obtain a copy of any document or information relating to a land development application or any other document referred to in this Act from the municipality, provided that—

- (1).the copy of the document or information must be provided within seven days of the date of such copy of the document or information being requested in writing;
- (2).the person requesting a copy of the document or information must pay the reasonable cost of printing or reproducing such copy; and
- (3).any document containing confidential proprietary information may only be disclosed with the consent of the owner thereof.

62. **Hearings open to public**

Any hearing of an application or appeal by a municipality or the Appeal Board must be open to the public.

63. **Fees**

- (1).Subject to subsection (3), each municipality must promulgate a tariff of fees in accordance with the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) which shall be binding on all parties with regard to all actions in terms of this Act.
- (2).A municipality may from time to time promulgate an amended tariff of fees.
- (3).Prior to the promulgation of a tariff of fees or any amendment thereof, every municipality must submit such tariff or any amendment thereof to the Premier who may intervene in order to standardize such tariff amongst all municipalities and all municipalities shall be bound by such intervention.

64. **Exemptions**

(1).The Premier may temporarily, in consultation with the municipality and after taking into consideration any objections or representations by notice in the *Provincial Gazette*—

- (a).exempt a piece of land or area specified in the notice, from one or more of the provisions of this Act; and
- (b).substitute alternative provisions to apply in such a case; or
- (c). withdraw an exemption granted or amend the substituted provisions.

(2).The exemption or withdrawal contemplated in sub-section (1) may be made subject to such conditions, inclusive of directives relevant to the performance of any function by any organ of state or competent authority as the Premier deems appropriate after consultation with the said organ of state or competent authority.

(3).Before deciding an exemption the Premier must consider—

- (a).the degree to which the objects of the Act referred to in section 4 will be bypassed or avoided;
- (b).the degree to which the principles, norms and standards will be promoted or prejudiced by the exemption;
- (c). the degree of risk or potential risk posed by the exemption;
- (d). the impact on existing and surrounding land uses; and
- (e).the capacity of the municipality to administer and implement the substituted provisions and regulate the development on the land.

65. **Delegations**

Subject to section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), any power except the power to make regulations conferred in this Act upon a Premier, MEC or a municipality may, in general or in cases of a particular nature, be delegated by the person or body entrusted with that power to an official in the employ of the State, provided that any such delegation must be in writing and must specify the limitations of such a delegation.

66. Repeal of laws

The laws mentioned in Schedule 1 are hereby repealed to the extent indicated in the third column of that Schedule.

67. Transitional arrangements

- (1).The repeal of the laws referred to in section 66 does not affect the validity of anything done in terms of that legislation.
- (2).Any application submitted or any other pending matter in terms of any law repealed by this Act not disposed of prior to the commencement of this Act must be dealt with and finalised as if this Act had not come into operation.
- (3).Any appeal or other matter pending before a municipal planning body, appeal tribunal or Services Appeal Board in terms of any law repealed by this Act not disposed of prior to the coming into operation of this Act must be dealt with and finalised by the body or entity as the case may be as if this Act had not come into operation.
- (4).For the purposes contemplated in subsection (3) the Premier must extend the term of office of any members and secretarial staff of a municipal planning or appeal body or the Services Appeal Board serving on the date on which this Act comes into operation on such terms and conditions as may be necessary under the circumstances.
- (5).The Premier may prescribe a date by which all applications and appeals may be disposed of, and may prescribe arrangements in respect of such matters not disposed of by that date.
- (6).Where necessary, any notice, certificate or other document or any consent or approval issued, or anything lawfully done in terms of any law repealed by this Act shall be deemed to comply with the provisions of this Act.
- (7).Where a restrictive condition, a condition of establishment, or an existing scheme provides for a purpose with the consent or approval of the Administrator, a MEC, the townships board or any controlling authority, such consent may be granted by the municipality and such reference to the administrator, a MEC, the townships

board or controlling authority is deemed to be reference to the municipality.

68. Short title and commencement

(1).This Act is called the Mpumalanga Planning Act, 2013 and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

(2).The Premier may set different dates for different provisions of the Act to come into operation.

SCHEDULE 1: REPEAL OF LAWS

Number and year of legislation	Short title	Extent of repeal
Act 88 of 1967	Removal of Restrictions Act	The whole
Act 113 of 1991	Less Formal Township Establishment Act	The whole
Ordinance 17 of 1939	Local Government Ordinance	Sections 67, 68
Ordinance 20 of 1943	Transvaal Board for the Development of Peri-Urban Areas	The whole
Ordinance 15 of 1986	Town-Planning and Townships Ordinance	The whole
Act 1 of 1991	Kwandebele Town Planning Act	The whole
Act 10 of 1992	Kwandebele Town Planning Act	The whole

Number and year of legislation	Short title	Extent of repeal
GN R 1886	Township Development Regulations for Towns	The whole
GN R 1888 of 1990	Land Use and Planning Regulations	The whole