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**LIMPOPO SPATIAL PLANNING AND LAND USE MANAGEMENT BILL 2012****ACT**

To introduce planning and development principles for land development and spatial planning in the province; to set out the responsibilities of the municipality, provincial department and traditional authorities with regards to spatial planning and land use management; to establish a system for provincial and municipal spatial planning and land use management in the province; to provide for the preparation and adoption, purpose, review and amendment of land use schemes; to introduce the establishment of a municipal planning tribunal and the Planning and Development Appeal Tribunal; to provide for the various land development applications and application procedures, the establishment of a settlement; to establish a system of appeal; to provide for the provision of engineering services and payment of development contributions; to provide for the control and enforcement of land use and development measures; and to provide matters incidental thereto.

**PREAMBLE**

**WHEREAS** it is necessary that—

- a uniform and comprehensive system of spatial planning and land use management be established throughout the Province to promote orderly planning and optimum development of land which is a scarce resource;
- the system of spatial planning and land use management promotes economic growth and access to government services; and
- procedures and structures be developed to facilitate and promote cooperative government and intergovernmental relations in respect of spatial development planning and land use management systems;

**AND WHEREAS** parts of our urban and rural areas currently do not have any applicable spatial planning and land use management legislation and are therefore excluded from the benefits of spatial development planning and land use management systems;

**AND WHEREAS** informal and traditional land use development processes are poorly integrated into formal systems of spatial planning and land use management;

**AND WHEREAS** spatial planning is insufficiently underpinned and supported by infrastructural investment;

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

**AND WHEREAS** provincial planning is within the functional areas of exclusive provincial legislative competence, and municipal planning is primarily the executive function of the local sphere of government;

**AND WHEREAS** municipalities must participate in national and provincial development programmes; and

**WHEREAS** planning and development decisions must be taken by local government, with appeals being resolved by an independent tribunal of experts appointed by the Premier of the Province,

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

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SCHEDULE 1

## CHAPTER 1 INTRODUCTION

### Definitions

1 In this Act, unless the context indicates otherwise-

“**adjacent property**” means all properties that share a border (be it a straight or corner border) with another property, and all properties that would have shared a border with another property, had they not been separated by a road, a railway line, a servitude, a river or a similar feature;

“**agricultural holding**” means an agricultural holding as contemplated in the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919;

“**amendment scheme**” means any amendment of a clause of a land use scheme;

“**Appeal tribunal**” means the Limpopo Planning and Development Appeal Tribunal established by Section 26 of this Act;

“**appellant**” in relation to an appeal, means the person or institution who is lodging an appeal in terms of this Act;

“**applicant**” in relation to an application, means the owner of the land concerned or a person who makes an application on behalf of the property owner;

“**application**” means an application by an applicant –

- (a) to establish a township on an agricultural holding or farm land;
- (b) to amend a clause of the land use scheme in operation;
- (c) to amend or grant consent in terms of a scheme;
- (d) to subdivide or consolidate land;
- (e) to phase or cancel an approved layout of a township;
- (f) to amend, suspend or remove a restrictive condition in a Title Deed of a property which relates to the use and development of land;
- (g) to establish a settlement; and
- (h) to close a municipal road or a public open space that is accessible for use by the public;

“**building**” means-

- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with-
  - (i) the accommodation or convenience of human beings or animals;
  - (ii) the manufacture, processing, storage, display or sale of any goods;
  - (iii) the rendering of any service;
  - (iv) the destruction or treatment of refuse or other waste materials; and
  - (v) the cultivation or growing of any plant or crop;
- (b) any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;

- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c);
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building;

“**building regulations**” means the building regulations in the National Building Regulations and Standards Act, 103 of 1977;

“**bulk infrastructure**” relates to storage and distribution systems of external engineering services that serves a wide area and include *inter alia* waste water treatment works, water purification works, electricity substations and bulk water storage facilities which are critical for the provision of internal engineering services;

“**by-law**” means legislation passed by the council of a municipality binding in the municipality on the persons to whom it applies;

“**condonation**” means the rectification of a procedural incorrect process and include *inter alia* the late lodging of an appeal contemplated in this Act;

“**consent use**” means a land use permitted in terms of a particular zoning with the approval of a municipality;

“**consolidate**” means the amalgamation of two or more adjoining erven and consolidation has the same meaning;

“**Constitution**” means the Constitution of the Republic of South Africa, 108 of 1996;

“**contravention notice**” means a contravention notice contemplated in Section 68;

“**conveyancer**” means a conveyancer as defined in Section 102 of the Deeds Registries Act, 47 of 1937;

“**day**” means a calendar day and include Saturday and Sunday, but exclude a public holiday or any day from 16 December to 7 January, and the period concerned must be calculated exclusive of the first and inclusive of the last day;

“**delegation**” in relation to a duty, includes an instruction to perform the duty, and delegate has a corresponding meaning;

“**develop**” in relation to land means the erection of buildings on land, the change of the permitted use of land, the subdivision of land, or to prepare land for such action and includes the installation of engineering services on land for which approval is required in terms of this Act;

“**development**” means sustainable development and includes integrated social, economic, environmental, spatial, infrastructural, institutional, organisational and human resources upliftment of a community aimed at—

- (a) improving the quality of life of its members with specific reference to the poor and other disadvantaged sections of the community; and
- (b) ensuring that development serves present and future generations;

“**development contribution**” means the payment required to be made by an applicant to the municipality in respect of an external engineering service, refuse site or parks or open space as provided for in Section 58;

“**Deeds Registries Act**” means the Deeds Registries Act, 47 of 1937 and Regulations;

“**deeds registry**” means a deeds registry established in terms of Section 1(1)(a) of the Deeds Registries Act 47 of 1937;

“**diagram**” means a document as defined in Section 1 of the Land Survey Act, 8 of 1997 and approved by the Surveyor General and which contains geometrical, numerical and verbal representations of a single piece of land, or any line, feature or area, which forms the basis for the registration of a real right in the deeds registry;

“**district municipality**” means a category C municipality contemplated in Section 155 of the Constitution of the Republic of South Africa 108 of 1996;

“**dwelling**” means a building or structure used as a permanent or a temporary residence with its own kitchen or with access to a communal kitchen;

“**engineering services**” means infrastructure (external or internal) required for development, which include *inter alia* infrastructure and networks for roads, water provision, electricity provision, sewerage, storm water drainage, telecommunication and solid waste disposal;

“**environment**” has the meaning as contemplated by the National Environmental Management Act, 107 of 1998 or any subsequent legislation which has the same or similar effect and can be defined as the surrounding within which humans exist and that are made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the inter-relationships among and between them;  
and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“**erf**” means an area of land in a township shown on a general plan or diagram as an erf, lot, plot or stand and registered in a deeds registry;

“**exercise**” in relation to a land use right, means to utilise land in accordance with the land use right;

“**existing scheme**” means a town planning scheme in terms of the Town Planning and Townships Ordinance, 15 of 1986, Annexure F of the Black Communities Development Act, 4 of 1984, or any other similar system for determining and regulating the use and development of land;

“**external engineering service**” means an engineering service situated outside the boundaries of an erf, agricultural holding or farm portion and which forms part of the bulk infrastructure of the municipality and is necessary to serve the use and development of that land area and include “bulk services”;

“**farm**” means an area of land suitable for the production of food (produce, grains, or livestock);

“**general plan**” means a plan representing the relative positions and dimensions of two or more pieces of land, which has been approved by the Surveyor General in terms of the Land Survey Act, 8 of 1997, and which forms the basis for the registration of real rights in the deeds registry;

“**integrated development plan**” means a municipality’s integrated development plan contemplated in Section 25 of the Municipal Systems Act, 32 of 2000;

“**interested party**” in relation to a land use scheme or an application means any person or body which has submitted comment, representations or has opposed the approval of an application in terms of this Act or a land use scheme in accordance with any procedures prescribed in this Act or land use scheme;

“**internal engineering service**” means an engineering service within the boundaries of an erf, agricultural holding or farm portion and comprise the design, provision, installation and commissioning of all service networks and associated installations and accessories and include “link services” which are regarded as all new services necessary to link the internal services to the external or bulk services;

“**inspector**” means a person authorised by a municipality to enter upon land for the purpose of inspecting it, as contemplated in this Act;

“**land**” means an erf, lot, stand, agricultural holding or farm portion with or without improvements or buildings and which is registered or capable of being registered in a deeds registry which may include a servitude or real right;

“**Land Survey Act**” means the Land Survey Act, 8 of 1997 and Regulations;

“**land surveyor**” means a person registered as a professional land surveyor in terms of the Professional and Technical Surveyors Act, 40 of 1984, whose name is entered in the register referred to in that Act;

“**land use**” means the purpose for which land is developed or used or may be developed or used in terms of a land use scheme including any conditions relating to such land use;

“**land use planning**” means spatial planning and land use development management;

“**land use right**”, in relation to land, means the right to utilise land in accordance with its zoning, including any departure, consent or condition of approval which limits the rights to utilise the land

“**land use scheme**” means the written document, zoning map and registers referred to in Section 17 as amended from time to time and includes annexures or schedules to the land use scheme;

“**layout plan**” means a plan showing the locations of erven, public places and open spaces, or roads, on land intended for development or subdivision and the purposes for which the erven are intended to be used;

“**Less Formal Township Establishment Act**” means the Less Formal Township Establishment Act, 113 of 1991 and Regulations;

“**local economic growth**” means to build up the economic capacity of a local area to improve its economic future and the quality of life of its inhabitants, by *inter alia* creating job opportunities.



**“local spatial development framework”** means a local spatial development framework contemplated by Section 14(5);

**“long term lease”** means an agreement in terms of which a property is leased for a period of ten years and more;

**“low-cost housing”** means housing provided with the assistance of state subsidy;

**“map”** means the illustration of a plan reflecting land coordinates and physical attributes of land;

**“Minister”** means the Provincial Minister responsible for spatial and land use planning and related matters;

**“municipal area”** means the area of jurisdiction of the municipality in terms of the Local Government: Demarcation Act, 27 of 1998;

**“municipal council”** means a municipal council referred to in Section 157 of the Constitution.

**“Municipal Demarcation Act”** means the Local Government: Municipal Demarcation Act, 27 of 1998 and Regulations;

**“municipal department”** means any department or division of a municipality under the direction of the municipal manager and includes a municipal entity as contemplated in the Local Government: Municipal Systems Act, 32 of 2000;

**“municipal official”** means a person in the employ of the municipality who has been delegated to perform any function of the municipality or any function for which the municipality is responsible;

**“municipal road”** means a road, street or similar public thoroughfare shown on a General Plan or diagram or a road established by law which is owned by or which vests in a municipality including a servitude for such road purposes;

**“municipal spatial development framework”** means a municipal spatial development framework contemplated by Section 12;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 117 of 1998 and Regulations;

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 32 of 2000 and Regulations;

**“municipality”** means a category A and B municipality contemplated in Section 155 of the Constitution of the Republic of South Africa 108 of 1996 and for the purposes of this Act includes a municipal department and a municipal entity;

**“need”** in terms of a land development applications means a land use is required or wanted or is regarded as a necessity;

**“NEMA”** means the National Environmental Management Act, 107 of 1998 and Regulations;

**“notify”** means giving notice to the general public and any specified person or body as contemplated in this Act in the manner prescribed and “notice” has a similar meaning;

**“objection”** means any comment or representation, other than by a municipal department, which in whole or in part opposes the approval of an application in terms of this Act and “objector” has a similar meaning;

“**open space**” in relation to a land area means an open area of land set aside or to be set aside for use as an area for recreation, social or similar purposes, irrespective of the ownership of such land;

“**oppose**” means any matter to which objections have been lodged, or in respect of which representations or comments have been made which oppose the approval of that matter;

“**organ of state**” means an organ of state as defined in Section 239 of the Constitution and include-

- (a) any department of state or administration in the national or provincial sphere of government; or
- (b) any other functionary or institution exercising a public power or performing a public function in terms of any law;

“**owner**”, in relation to land, means the person in whose name that land is registered on the title deed, and may include the holder of a registered servitude, a deed of grant or long term lease in terms of a valid lease agreement, or any similar right registered in the deeds registry and any successor in title of such a person and includes any person authorised by Power of Attorney to act as such by the owner;

“**parastatal**” means an organisation, other than an organ of state, established by law to perform a function or provide a service on behalf of national, provincial or municipal government;

“**person**” means any natural or juristic person including an organ of state;

“**presiding officer**” means a member who is legally qualified, appointed by the chairperson of the appeal tribunal to preside over the hearing of an appeal contemplated in Chapter 7;

“**priority application**” means a process which deviation from the set of rules of a municipality applicable to land use and land development set out in this Act;

“**Promotion of Administrative Justice Act**” means the Promotion of Administrative Justice Act, 3 of 2000 and Regulations;

“**property**” means any piece of land registered in the deeds registry, including an erf, a sectional title unit, a lot, a plot, a holding, a stand a farm and a portion of piece of land registered in the deeds registry;

“**Province**” means the Province of Limpopo;

“**Provincial Department**” means that department within provincial government responsible for spatial and land use planning and related matters;

“**provincial plan**” means the provincial long-term plan, provincial integrated development plan or provincial spatial development framework as contemplated in Chapter 3.

“**provincial integrated development plan**” means an integrated development plan to be compiled by the Province of Limpopo and as is contemplated by Section 8;

“**provincial spatial development framework**” means a spatial development framework to be compiled by the Province of Limpopo and as is contemplated by Section 9;

“**provisional general plan**” means a general plan which is provisionally approved in terms of Section 14 of the Land Survey Act, 8 of 1997;

“**public place**” means any open or enclosed place, municipal road or thoroughfare, square, park, recreation ground, garden, commonage or other similar area of land –

- (a) shown on a general plan or diagram;
- (b) registered in the deeds registry as land set apart for the use and benefit of the general public;
- (c) of which the ownership vests in the municipality, or under the control or management thereof by law for the use and benefit of the public, or which the public has the right to use; or
- (d) to which the public or the inhabitants of a township have a common right in accordance with a record filed in the deeds registry;

“**public open space**” means any park, square, garden or similar open area of land for use by the public which is owned by or which vests in the municipality but excludes a street, road or thoroughfare;

“**public street**” means any land in respect of which the ownership vests in a municipality and to which the broader public has access;

“**real right**” means the right a person has over the property of another and include *inter alia* a long term lease, servitude, bond;

“**region**” means a geographical area, consisting of the areas, or parts thereof, of more than one municipality;

“**Registrar of Deeds**” means the Registrar of Deeds of the Province as contemplated by the Deeds Registries Act, 47 of 1937;

“**regulation**” means a regulation made in terms of this Act;

“**rezoning**” means-

- (a) to amend a land use scheme in respect of a specified property;
- (b) to change the category of land use in a land use scheme; or
- (c) a change to any rights, obligations or conditions applicable to land irrespective of whether or not the category of land use is changed;

and “rezone” will have a corresponding meaning;

“**refuse site**” means an area of land used by the municipality and general public for the disposal of refuse or solid waste;

“**restrictive condition**” means any condition registered against the title deed of land restricting the use, development or subdivision of the land concerned;

“**road**” means a municipal road and any public road or thoroughfare including a servitude for public road purposes and a road established by law;

“**Removal of Restrictions Act**” means the Removal of Restrictions Act, 84 of 1967 and Regulations;

“**Schedule of Rights**” means the schedule of rights applicable to an erf, holding or farm portion allocated in terms of the provisions of a land use scheme;

“**scheme**” means a land use scheme contemplated in this Act and adopted by a municipality and includes –

- (a) approved amendments thereto; and
- (b) permissions in terms thereof;

**“Sectional Titles Act”** means the Sectional Titles Act, 95 of 1986 and Regulations;

**“serve”** means-

- (a) to deliver by hand a notice or other document to a person personally;
- (b) to leave a notice or other document at a person’s place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) to post a notice or other document by registered or certified mail to a person’s last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
- (d) to deliver or post a notice or other document to a person’s agent or representative, if a person’s address is unknown;
- (e) to place a notice in an Afrikaans and English newspaper circulating in the area if a person’s or his/her agent or representative’s address is unknown;

**“service provider”** means the body responsible for the provision of an engineering service where the engineering service concerned is not provided by the municipality.

**“settlement”** means an area of land which is not a township and which is occupied or to be occupied by a group of persons mainly for residential purposes and has been declared as such in terms of this Act;

**“significant”** as contemplated in Section 16(3) means having or likely to have a major effect or is important;

**“spatial plan”** means a provincial spatial development framework or a municipal spatial development framework, as contemplated in this Act;

**“spatial planning”** means the planning of land use on a macro scale;

**“subdivision”** in relation to land, means the division of land into two or more erven in order to create additional land units, whether through the Land Survey Act, 8 of 1997 or the Sectional Titles Act, 95 of 1998, or the physical preparation of land for such subdivision;

**“subdivision map”** means a map showing the subdivision of land and which is part of an application in terms of this Act;

**“sustainability”** has the meaning of sustainable development as contemplated by the National Environmental Management Act, 107 of 1998;

**“title deed”** means any deed registered in a deeds registry recording the ownership of and any real right applicable to the land;

**“this Act”** includes the regulations made in terms of this Act.

**“township”** means the layout of a piece of land into various erven and may include public places and roads, which are surveyed and appeared on a general plan, which are provided with infrastructure and are registered in the deeds registry and may include-

- (a) a group of pieces of land, or of subdivisions of a piece of land, which are combined with public places and are used mainly for residential, industrial or similar purposes, or are intended to be so used;

- (b) any combination of such groups which is suitable for registration in one register; and
- (c) any township established, approved, proclaimed or otherwise recognized as such under any law;

“**township register**” means the register held by the Registrar of Deeds in terms of the Deeds Registries Act, 47 of 1937 and which contains *inter alia* the conditions in terms of which a township is established as contemplated in Section 44(2)(b);

“**transfer**” means the registration or transfer of ownership of land in terms of the Deeds Registries Act, 47 of 1937;

“**use zone**” means a category of land use or an area of land to which particular conditions apply in terms of a land use scheme;

“**utilisation**”, in relation to land, means the use of land for a purpose or the improvement of land, whether lawful or not;

“**zoning**” means a category of directives regulating the use and development of land and setting out–

- (a) the purposes for which land may be used; and
- (b) the development parameters applicable to that category of directives, as determined by the relevant land use scheme.

### **Planning and Development Principles for land development and spatial planning**

- 2 (1) The following principles shall apply to the actions of every applicant, Municipality, Tribunal and Provincial Department dealing with land development and spatial planning in the Province and shall be applicable to all policies, strategies, spatial plans, applications, frameworks and other documents dealing with land development and spatial planning–
- (a) Policy, administrative practice and laws should facilitate land development and spatial planning by eliminating unnecessary administrative delay and regulatory control in the land development process;
  - (b) Policy, administrative practice and laws should be coordinated and aligned with the provincial or municipal integrated development plans, spatial frameworks and policies;
  - (c) Policy, administrative practice and laws should promote land development and spatial planning that create economic opportunities and create jobs;
  - (d) Policy, administrative practice and laws should promote the availability of residential and employment opportunities in close proximity to or integrated with each other;
  - (e) Policy, administrative practice and laws should optimise the use of existing resources including such resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities;

- 
- (f) Policy, administrative practice and laws should promote a diverse combination of land uses, also at the level of individual erven or subdivisions of land in both urban, rural and land under the control of traditional authorities;
  - (g) Policy, administrative practice and laws should encourage the participation of members of the communities to participate in the processes of land development and spatial planning;
  - (h) Policy, administrative practice and laws should promote land development and spatial planning practices that encourage sustainable development;
    - (i) by utilising materials and processes that uses alternative means for provision of infrastructure;
    - (ii) by redeveloping land within an existing township and existing bulk infrastructure.
  - (i) Land development and spatial planning should result in security of tenure, provide for the widest possible range of tenure alternatives, including individual and communal tenure, and in cases where land development takes the form of upgrading an existing settlement, not deprive occupiers of homes or land or interests in such land; and
  - (j) Policy, administrative practice and laws should promote speedy land development;
  - (k) Spatial planning and land development shall have due regard to any principles established in national planning and development legislation.
- (2) Guidelines issued in terms of subsection (1) shall be referred to and used by a land use applicant, municipality and the appeal tribunal with discretion in any particular case and shall not be interpreted as being prescriptive.

### **Application of the Act**

- 3 This Act constitutes legislation in terms of Section 104(1)(b) of the Constitution and applies to the planning, use and development of all land in the province.

## **CHAPTER 2 RESPONSIBILITIES OF PROVINCIAL GOVERNMENT, TRADITIONAL AUTHORITIES AND MUNICIPALITIES**

### **Responsibilities of the municipality**

- 4 (1) A municipality is responsible for the activities involved in conducting all aspects of spatial planning and development management in its municipal area, except those activities defined as responsibilities of the Provincial Government in terms of Sections 5 and 6.

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- (2) The activities referred to in subsection (1) include, *inter alia* adopting a by-law or policy document, to –
- (a) regulate the development, adoption, amendment and review of a spatial development framework for the area of the municipality;
  - (b) regulate the development, adoption, amendment and review of a land use scheme for the area of the municipality;
  - (c) regulate the procedure in terms of which the municipality receives, considers and decides on land development applications;
  - (d) regulate the procedure in terms of which the municipality facilitates public participation in its consideration of land development applications and spatial planning;
  - (e) determine the criteria for deciding on land development applications and spatial planning; and
  - (f) determine the criteria for investigating contraventions of *inter alia* the policy documents, land use schemes and by-laws of the municipality pertaining to spatial planning and development.

### **Responsibilities of the Provincial Department**

- 5 The Provincial Department is responsible for –
- (a) compiling, reviewing or approving a provincial spatial development framework;
  - (b) compiling, reviewing or approving a provincial integrated development plan;
  - (c) monitoring the financial and human resources capacity of municipalities to perform their land use planning and spatial planning functions;
  - (d) monitoring the impact of municipal land use planning on existing or proposed development on land use;
  - (e) monitoring the impact of municipal land use planning and spatial planning on the environment;
  - (f) monitoring the impact of municipal land use planning on existing municipal infrastructure and municipal road networks;
  - (g) supporting municipalities to perform their land use and spatial planning functions; and
  - (h) monitoring the coordination, integration and alignment of municipal plans, policies and strategies with national and provincial plans, policies and strategies relating to spatial planning and development.

### **Responsibilities of the Traditional Authorities**

- 6 Traditional Authorities are responsible for –

- (a) providing an input in all policies, by-laws, spatial frameworks and other documents relating to land use and spatial planning applicable to that traditional area under the management of a traditional authority; and
- (b) providing an input in all land development applications applicable to that traditional area under the management of a traditional authority;

### **CHAPTER 3 SPATIAL PLANNING**

#### **Provincial plans**

- 7 (1) The Provincial Department shall compile, review and amend a provincial integrated development plan regulating *inter alia* the strategic development objectives for the province and coordinates and integrates the plans, strategies and land development programmes of all provincial departments as well as the allocation of funding for purposes of spatial planning, development and infrastructure development in the province.
- (2) The Provincial Department shall compile, review and amend a provincial spatial development framework regulating *inter alia* development and spatial planning in the province.
- (3) In the event of an inconsistency between the provincial integrated development plan or spatial development framework and the municipal integrated development plan or spatial development framework, the municipal integrated development plan or spatial development framework will prevail.

#### **Municipal Spatial Planning**

- 8 A municipality and a district municipality must draft a municipal spatial development framework in terms of a process set out in this Act.

### **CHAPTER 4 LAND USE SCHEMES**

#### **Land use scheme for area of jurisdiction**

- 9 (1) Every municipality must within 5 years of the commencement of this Act adopt a single, inclusive land use scheme for its area of jurisdiction.



- (2) A district municipality may provide support with regards to the preparation of a land use scheme for a local municipality within the area of the district municipality with the agreement or at the request of its constituent local municipalities.
- (3) Where a municipality advises the Premier that it is unable to prepare or it fails to prepare a land use scheme as prescribed, the Premier may-
  - (a) request a district municipality to draft a land use scheme on behalf of a local municipality that falls in an area of that district municipality, or
  - (b) agree to make applicable a land use scheme of a neighbouring municipality to the jurisdiction area of that municipality.

### **Transitional arrangements - Existing town planning schemes and scheme regulations**

- 10 (1) Despite the repeal of the Ordinance in terms of Schedule 1—
- (a) a town planning scheme in existence in terms of Section 18 of the Ordinance immediately before the commencement of this Act remains in force and the relevant sections of the Ordinance apply to that scheme, as if not repealed;
  - (b) any lawful zonings applicable in terms of these schemes remain in force.
- (2) Where the boundaries of a municipal area are altered in accordance with the Demarcation Act, the municipality shall within 1 year or such longer period as the Premier may allow, prepare and adopt an amendment of its land use scheme in order to include the new land area.

## **CHAPTER 5**

### **LAND DEVELOPMENT MANAGEMENT**

#### **Establishment of municipal planning tribunal**

- 11 (1) A municipality shall establish a municipal planning tribunal for the management of land use, the determination of applications and the administration of any other matters required in terms of this Act.
- (2) The stipulations pertaining to the composition of the municipal planning tribunal, the term of office of members of municipal planning tribunals, determination of matters before municipal planning tribunals and other matters applicable to the municipal planning tribunal is regulated by the stipulations of the Regulations to this Act and shall be *mutatis mutandis* applicable to the establishment and functioning of the municipal planning tribunal established in terms of subsection (1).

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- (3) Notwithstanding the requirement in subsection (1), a municipality may delegate authority to consider certain land development applications on behalf of the municipality to an official in the employ of the municipality.
  - (4) Land development applications to be considered and determined by a municipal official include *inter alia*-
    - (a) land development applications which are in line with municipal policies, land use scheme and municipal spatial development framework; and
    - (b) land development applications which are not subject to any objection or comment from any person, department, organ of state, municipality or organisation.
  - (5) Where a municipal official is authorised in terms of subsection (3) to consider and determine a land development application, the provisions of Sections 14, 15, 16, and 18 and Regulations 35, 36(5), 36(6), 36(9), 37 and 40 shall apply *mutatis mutandis* to such an official or action of that official.
  - (6) A district municipality may provide support to a local municipality within the area of the district municipality with regards to the establishment of a municipal planning tribunal with the agreement or at the request of its constituent local municipalities.
  - (7) Where a municipality advises the Premier that it is unable to establish a municipal planning tribunal as prescribed, the Premier may-
    - (a) request a district municipality to establish a district planning tribunal to deal with applications and matters prescribed on behalf of a local municipality that falls in an area of that district municipality.
  - (8) The stipulations pertaining to the composition of the district planning tribunal, the term of office of members of a district planning tribunals, determination of matters before a district planning tribunals and other matters applicable to the district planning tribunal is regulated by the stipulations of the Regulations to this Act and shall be *mutatis mutandis* applicable to the establishment and functioning of the district planning tribunal established in terms of subsection (7).

### **Internal appeals**

- 12 (1) A person whose rights are affected by a decision taken by an official contemplated in Section 11(3) may appeal against that decision by giving written notice of the appeal and

reasons thereof to the municipal manager within 21 days of the date of notification of the decision.

- (2) The municipal manager must within a prescribed period submit the appeal to the appeal authority of the Municipality.

### **Establishment of the Planning and Development Appeal Tribunal**

- 13 (1) An appeal tribunal is hereby established for the Province, to be called the Limpopo Planning and Development Appeal Tribunal.
- (2) The appeal tribunal has jurisdiction to hear and decide any matter brought before it on appeal in terms of this Act.

## **CHAPTER 6**

### **DEVELOPMENT AND LAND USE**

#### **Land development applications**

- 14 (1) A land development application must be lodged with a municipality in whose area that land is situated for purposes of—
  - (a) (i) the establishment of a township; or
  - (ii) the extension of the boundaries of a township; or
  - (iii) the division of a township into two or more separate townships;
  - (b) the rezoning of a property;
  - (c) the general amendment of a land use scheme;
  - (d) the removal, amendment or suspension of a restrictive condition registered in the title deed of the property;
  - (e) the amendment or cancellation of a general plan of a township;
  - (f) the permanent closure of a municipal road or public place;
  - (g) the subdivision or consolidation of land;
  - (h) the simultaneous subdivision and consolidation of land; and
  - (i) consent from the municipality in terms of a land use scheme.
- (2) A single land development application may include more than one of the processes in subsection (1). The applicant shall be entitled to give notice of both applications in a consolidated form which shall contain the essential elements of all applications.
- (3) A land development application may be submitted by—
  - (a) the owner or owners, including the state and municipality, of the land concerned;

- (b) a person acting as the duly authorized agent on behalf of the owner or owners;
- (c) the holder of a registered real right in the property; or
- (d) 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.

### **Land development application procedure**

- 15 (1) A land development application must be lodged with a municipality in whose area that land is situated.
- (2) A municipality must accept the application if all the documents contemplated in Section 14(8) forms part of the application, but may refuse to accept the application if two or more of the documents referred to in Section 14(8) is not included in the application and must—
- (a) acknowledge receipt of an application in writing on the day of receipt; and
  - (b) notify the applicant in writing within 14 days after receipt of an application –
    - (i) that the application is complete; or
    - (ii) that additional plans, documents, other information or fees contemplated in Section 14(9) are required; and
    - (iii) that the application does not comply with the land use scheme, municipal spatial development framework or land use policies.
- (3) An applicant must provide the municipality with the information contemplated in Section 14(8) but may provide additional information contemplated in Section 14(9) requested by the municipality within 30 days, or such further period as agreed upon in writing, which may not be more than 60 days from the request for information.
- (4) The applicant may decline in writing to provide the additional information set out in Section 14(9) in which case the municipality must proceed with the processing of the application.
- (5) A municipality may refuse an application on the ground that the information which was not provided after the municipality requested it, was necessary in order to make an informed decision as contemplated in Section 6(2)(e)(iii) of the Promotion of Administrative Justice Act.
- (6) An application lapses if an applicant failed to submit in the prescribed timeframe plans, documents or information contemplated in Section 14(8) to a municipality.
- (7) A municipality must notify the applicant in writing within 14 days after receipt of the additional plans, documents or information required by it –

- (a) that the application is complete; or
- (b) that the additional plans, documents or information do not meet the requirements of the municipality.

(8) An application is regarded as complete if a municipality did not notify the applicant in writing within 21 days that the application is complete or that the additional plans, documents or information do not meet the requirements of the municipality.

### **Public notice**

16 (1) Only a complete application may be advertised.

(2) An applicant must give public notice of an application after being notified that an application is complete or after an application is regarded as complete.

(3) Public notice is not required for an application for the amendment or cancellation of a general plan of a township except if such an amendment is regarded as significant and constitutes more rights as initially applied for.

### **Comments, objections and representation**

17 (1) Any person or body who has an interest in or may be affected by the land development application may object or submit representations in writing to the municipality within the prescribed timeframes.

(2) If any municipal department, organ of state, parastatal body or service provider fails to submit its comments within the prescribed timeframes, it shall be deemed that it has no comments or requirements.

### **Public hearing**

18 The municipality shall refer the land development application together with all objections and comments to the municipal planning tribunal in order to conduct a public hearing, after –

- (a) expiry of the timeframes contemplated in Section 15(3), if no additional information is received;
- (b) expiry of the timeframes in Regulation 30(6) for the applicant to provide proof of the notices contemplated in Section 16(2), if the applicant did not provide the proof;
- (c) receipt of the applicant's reply contemplated in Regulation 33(1);
- (d) receipt of the waiver of the right to reply by the applicant referred to Regulation 33(2)
- (e) receipt of an amendment to the land development application contemplated in Regulation 34 or

- (f) or any other process to be heard by the municipal planning tribunal in terms of this Act.

### **Submission of documents to the Surveyor General and Registrar of Deeds**

- 19 A Municipality must, within the prescribed period after approval of a land development application, notify the—
- (a) Registrar of Deeds in whose office the deed or document is filed of such approval; and
  - (b) office of the Surveyor-General, where such approval affects a diagram or general plan filed in that office.

### **Priority applications**

- 20 (1) A municipality may, of its own accord or upon application by an applicant, identify any land development application as a priority application in terms of this Act.
- (2) A land development application will qualify as a priority application if it materially impacts on—
- (a) matters within the exclusive functional area of the national sphere in terms of the Constitution;
  - (b) strategic national policy objectives, principles or priorities, including food security, international relations and co-operation, defence and economic unity; or
  - (c) land use for a purpose which falls within the functional area of the national sphere of government.
- (3) An application shall be declared a priority application, if the municipality is satisfied that the application complies with the following criteria-
- (a) the proposed land use is for housing which is subsidised or to be subsidised by government and which will have a significant impact on housing delivery and addressing the housing backlogs in the province;
  - (b) the proposed land use will benefit the whole area that is under the jurisdiction of a district municipality;
  - (c) the proposed land use is for a public purpose or in the public interest;
  - (d) local economic growth and development;
  - (e) the provision of much needed infrastructure, including a cemetery or refuse site;
  - (f) the proposed land use is in line with the municipality's development priorities and objectives, the development strategies contained in the integrated development plan of the municipality, the land use scheme, municipal spatial development framework and land use policies; and
  - (g) the location and extent of the proposed land use area is reasonably in accordance with the intentions of the spatial development framework of the municipality.

**Reasons for decisions**

- 21 (1) An applicant or any interested party may, after being notified of any decision of a municipality in terms of this Act, request the municipality for the reasons for such decision.
- (2) The municipality shall, within the prescribed period provide the reasons for a decision referred to in subsection (1).

**General**

- 22 Where the development or use of land or establishment of a settlement requires any approval in terms of the Less Formal Townships Establishment Act, 113 of 1991, the Black Communities Development Act, 4 of 1984 or the Agricultural Holdings (Transvaal) Registration Act, 22 of 1919, or where a condition of title, a condition of establishment of a township or existing scheme provides for the consent or approval of a Minister, the Administrator, an MEC, a controlling authority or the townships board, a reference to a minister, the administrator, an MEC, the controlling authority or townships board shall be deemed to be a reference to the municipality as the context requires.

**CHAPTER 7****APPEALS****Types of appeals**

- 23 (1) The following persons may lodge an appeal with the appeal tribunal against a decision of a municipality —
- (a) a person aggrieved by a decision taken in terms of this Act provided that where the matter concerned was advertised, only an applicant, or a person who by the date stated in the notice calling for representations or objections, has objected to and made written representations regarding the matter, or a municipality's failure to respond, within 60 days, to a land development application, may lodge an appeal with the tribunal;
  - (b) a municipality in respect of a decision taken by a neighbouring municipality or by the Minister in terms of this Act;
  - (c) the Minister in respect of a decision taken by a municipality in terms of this Act; and
  - (d) any person who is aggrieved by the failure of a municipality or the Minister to take a decision or to heed a decision taken within a required period or to follow a required procedure.
- (2) An appeal may be lodged for:-
- (a) the refusal or failure by the municipality to register a land development application;

- (b) the refusal of any application in terms of this Act or a land use scheme or existing scheme by the municipality;
- (c) any conditions of approval of an application including any development contributions imposed by a municipality in the approval of an application;
- (d) any requirements or standards laid down by the municipality for the provision or installation of internal engineering services in the approval of an application;
- (e) any condition or requirement relating to the provision of engineering services or services contributions;
- (f) any other decision by a municipality provided for in this Act or in a land use scheme or existing scheme; or
- (g) the failure of a municipality to decide an application within the time periods prescribed.

### **Notice of appeals**

- 24 (1) An appellant who has lodged an appeal shall simultaneously give notice of the appeal, after being requested in terms of Regulation 48(3)(a)(iii) by the Secretariat to do so-
- (a) to the municipality;
  - (b) to every interested party who opposed the initial land development application; and
  - (c) to the applicant of the initial land development application, if the appellant is not the applicant of the land development application.

## **CHAPTER 8**

### **ENGINEERING SERVICES AND DEVELOPMENT CONTRIBUTIONS**

#### **Provision of engineering services**

- 25 (1) The approval of a land development application and priority application shall be subject to conditions for the provision of engineering services for the development or land use concerned, as prescribed.
- (2) Every land area subject to a land development application shall be provided with the engineering services agreed upon between the applicant and the municipality body in a services agreement complying with the prescribed guidelines.
- (3) The applicant shall be responsible for the provision and installation of internal engineering services as prescribed.
- (4) The municipality shall be responsible for the provision of external engineering services as prescribed.



- 
- (5) Where the municipality is not the provider of an engineering service, the applicant shall satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of such service.
  - (6) The applicant shall install the internal engineering services in accordance with any guidelines provided by the municipality.
  - (7) The municipality or service provider shall, subject to the payment of any relevant development charges, install the external engineering services in accordance with any guidelines issued by the Premier from time to time.
  - (8) The applicant may, with the agreement of the municipality or service provider, install any external engineering service *in lieu* of the payment of the applicable development contributions.
  - (9) The installation of external engineering services by the applicant in terms of subsection (7) shall not be subject to the provisions of the Local Government: Municipal Finance Management Act 56 of 2003.

#### **Development contributions**

- 26
- (1) The applicant shall pay development contributions to the municipality or service provider, as the case may be, in respect of the provision and installation of external engineering services as prescribed.
  - (2) The external engineering services for which development contributions are payable by the applicant, shall be as prescribed and the amounts payable shall be calculated in accordance with guidelines issued by the Premier from time to time.
  - (3) The applicant shall pay a development contribution to the municipality in respect of the provision of land for the purpose of refuse sites as prescribed.
  - (4) The amounts payable by an applicant in respect of refuse sites shall be calculated in accordance with any guidelines issued by the Premier from time to time.

#### **Land for parks and open space**

- 27
- (1) The approval of a land development application which provides for the use of the land concerned for residential purposes shall, subject to subsection (5), be subject to the provision of land for parks or open space as prescribed.

- (2) The land required for parks or open spaces shall be provided within the land area of the land development application, or may be provided elsewhere within the municipal area at the discretion of the municipality.
- (3) The area of land to be provided for parks or open space shall be as prescribed.
- (4) The land provided as parks, or open space which is intended as public open space shall, as prescribed, be transferred to the municipality.
- (5) Where a land development application in subsection (1) is approved without the required provision of land for parks or open space, the applicant shall pay a development contribution to the municipality *in lieu* of such provision of land as prescribed.

### **General matters**

- 28 (1) No land which is the subject of a land development application may be transferred in a Deeds Registry-
- (a) before a certificate by the municipality has been issued to the Registrar of Deeds to the effect that-
    - (i) any relevant development contributions have been paid by the applicant; and
    - (ii) any conditions to be met prior to the transfer of land have been complied with.
  - (b) prior to the transfer of any land required for parks or open spaces referred to in Regulation 56(4);
- (2) Any land transferred to the municipality in terms of subsection (1)(b) may not be sold or alienated by the municipality within a period of 30 years of such transfer except with the written consent of the Premier.
  - (3) The roads in an approved township which are to be municipal roads shall vest in the municipality from the date of the first transfer of any erf in the township.
  - (4) The amounts of any development contribution shall be determined by the municipality from time to time in accordance with any guidelines issued by the Premier and shall be paid within 12 months after publication of the notice contemplated in Regulations 36(9), 37(6) and 48(10).
  - (5) Any amounts of money paid as a development contribution shall only be used for the purpose for which such contribution was paid.

- (6) The municipality shall annually prepare a report on the amounts of development contributions paid to the municipality together with a statement of the expenditure of such amounts and the purposes of such expenditure and shall submit such report and statement to the municipal council.

## CHAPTER 9

### PERMANENT CLOSURE OF MUNICIPAL ROADS AND PUBLIC PLACES

#### Ownership of Public Streets and Places

- 29 The ownership of all public streets and public places vests in the municipality.

#### Transfer of ownership without compensation

- 30 The ownership of all land designated for public streets and public places at the approval of a subdivision or township establishment application by a municipality, vests in that municipality without compensation upon placement of the notice contemplated in Regulations 36(9), 37(6) and 48(10), if the provision of the said public streets and public places is based on the normal need therefor arising from the said subdivision or township establishment.

#### Application for the permanent closure of municipal road or public place

- 31 (1) A municipality may initiate the permanent closure of a municipal road or a public place.
- (2) An application to a municipality for the permanent closure of a municipal road or a public place may be lodged by any other person and any person may continue with such an application.
- (3) The provisions of Sections 14(1), 14(2), 14(8), 14(9), 15 and Regulations 35 to 36, 44 and 47 to 51 shall apply *mutatis mutandis* to any application contemplated in subsections (1) and (2).

## CHAPTER 10

### ENFORCEMENT

#### Offences and penalties in relation to use of land

- 32 (1) A person who –
- (a) uses, develops, subdivides or consolidates land contrary to a provision of a land use scheme or without prior approval in terms of this Act;
  - (b) phases or cancels a layout plan without prior approval in terms of this Act;

- 
- (c) uses or develops a municipal road or a public place for a purpose that is not reconcilable with a municipal road or a public place;
  - (d) erects a structure or building without approved building plans;
  - (e) fails to disclose that land is not registrable as contemplated in Regulation 41(3); or
  - (f) fails to comply with a prohibition order,
- is guilty of an offence.
- (2) A person who is convicted of an offence under subsection (1) may be sentenced to a fine not exceeding R1 000 000 or imprisonment for a period not exceeding five years, or to both a fine and a period of imprisonment.
- (3) Any person who-
- (a) contravenes any provision of this Act or a land use scheme;
  - (b) wilfully furnishes a municipality, municipal development tribunal, or the appeal tribunal with false information;
  - (c) fails to produce any document or information in his or her possession when lawfully required to do so;
  - (d) fails to attend any hearing after being issued with a subpoena; or
  - (e) wilfully disrupts the proceedings of a municipal planning tribunal, or the appeal tribunal or in relation to such proceedings does anything which, if done in relation to a court of law, would constitute contempt of court; shall be guilty of an offence.
- (4) A person convicted of an offence in subsection (3) shall be liable on conviction to be sentenced to a term of imprisonment for a period not exceeding one year or to a fine calculated according to the ratio for such imprisonment in terms of the Adjustment of Fines Act, 101 of 1992, or both such fine and imprisonment.
- (5) The levying of rates in accordance with the use of a property as contemplated in Section 8(1) of the Local Government: Municipal Property Rates Act, 6 of 2004 does not render the use of the property lawful for the purposes of this Act.

### **Additional penalties**

- 33 (1) When the court convicts a person of an offence contemplated in Section 32(1), it may –
- (a) at the written request of the municipality, summarily enquire into and determine the monetary value of any advantage which that person may have gained as a result of that offence; and

(b) in addition to the fine or imprisonment contemplated in Section 32(2), order an award of damages, compensation or a fine not exceeding the amount specified in subparagraph (a).

(2) The court may sentence a person who fails to pay a fine imposed under this section to imprisonment for a period not exceeding two years.

### **Prosecution of corporate bodies and partnerships**

- 34 (1) A person is personally guilty of an offence contemplated in terms of this Act if –
- (a) the offence was committed by –
    - (i) a corporate body established in terms of any law; or
    - (ii) a partnership;
  - (b) the person was a member of the board, executive committee, close corporation or other managing body of the corporate body or the partnership at the time that the offence was committed; and
  - (c) the person failed to take reasonable steps to prevent the offence.

### **Contravention notice served on persons suspected of certain offences under Act**

- 35 A municipality must serve a contravention notice on a person if it has reasonable grounds to suspect that the person is guilty of an offence contemplated in Section 32(1)(a) to (f).

### **Power of entry for enforcement purposes**

- 36 (1) An inspector appointed by the municipality may, with the permission of the occupier or owner of land, and during normal business hours, enter upon land or enter a building for the purposes of ensuring compliance with this Act or the municipality's scheme.
- (2) An inspector must be in possession of a certificate signed by the municipal manager, stating that he or she has been designated as an inspector for the purposes of this section.
- (3) An inspector must produce the certificate on the request of any person being affected by the exercising of a power in terms of this section.
- (4) An inspector may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.
- (5) An inspector may question any person on that land who, in the opinion of the inspector, may be able to furnish information on a matter to which this Act relates.

- (6) An inspector must leave the land or building as effectively secured against trespassers as the inspector found it, if the owner or occupier is not present.
- (7) A person who wilfully obstructs an inspector, or any person lawfully accompanying such inspector, from entering upon land or entering a building as contemplated in this section, is guilty of an offence, and is liable on conviction to a fine or to a period of imprisonment not exceeding six months, or both.

### **Offence and misconduct by an official employed by a municipality or an organ of state**

- 37 (1) An official is guilty of an offence and misconduct –
- (a) when approving the development, subdivision or consolidation of land contrary to a provision of a scheme;
  - (b) when approving the subdivision or consolidation of land without proper processes followed in terms of this Act;
  - (c) when approving the development of land without proper processes followed in terms of this Act;
  - (d) when approving the phasing or cancellation of an approved layout plan without proper processes followed in terms of this Act;
  - (e) upon certifying that the conditions of approval have been complied with before a person may use a property or erect a structure on a property, construct a building on a property, occupy a building on a property or register a property as contemplated in Section 44 when the conditions have not been complied with; or
  - (f) an official is guilty of an offence in terms of this section, irrespective of whether or not the official was aware that prior approval is required for the erection of buildings in terms of this Act.
- (2) An official who is guilty of an offence in terms of this section may be sentenced to a fine or imprisonment for a period not exceeding two years, or to both a fine and a period of imprisonment.
- (3) An official who is guilty of misconduct under this section may be disciplined in accordance with the disciplinary code and procedures of the public service or the official's profession.

## **CHAPTER 11**

### **GENERAL PROVISIONS**

#### **Proposed subdivided portions to have satisfactory vehicular access to public street.—**

- 38 (1) No application contemplated in Section 14(1) shall be approved unless the municipality is

satisfied that each proposed subdivided portion has satisfactory vehicular access to a public street, which access may be provided by means of a panhandle or a servitude.

### **Consultation and public participation**

- 39 (1) Participation by the local community in spatial planning and land use management must take place through—
- (a) political structures for participation in terms of the Municipal Structures Act;
  - (b) the mechanisms, processes and procedures for participation in municipal governance;
  - (c) other appropriate mechanisms, processes and procedures established by the municipality;
  - (d) councillors;
  - (e) traditional authorities; and
  - (e) generally applying the provisions for participation.
- (2) The municipality must take into account the special needs of—
- (a) people who cannot read or write;
  - (b) people with disabilities;
  - (c) women; and
  - (d) other disadvantaged groups.
- (3) When anything must be notified by a municipality through the media to the local community it must be done—
- (a) in the local newspaper or newspapers of its area;
  - (b) in a newspaper or newspapers circulating in its area and determined by the municipality as a newspaper of record; or
  - (c) by means of radio broadcasts covering the area of the municipality.
- (4) Any such notification must be in the official languages determined by the municipality, having regard to language preferences and usage within its area.
- (5) A copy of every notice that must be published in the Provincial Gazette or the media must be displayed at the municipal offices.
- (6) When the municipality invites the local community to submit written comments or representations on any matter before the municipality, it must be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the municipality named in the invitation will assist that person to scribe that person's comments or representations.

- (7) A Traditional Council may, subject to the provisions of Section 81 of the Municipal Structures Act and the Traditional Leadership and Governance Framework Act 41 of 2003 participate in the development, preparation and adoption or amendment of a municipal spatial development framework, municipal integrated development plan, land use scheme and any land development application contemplated in this Act.

### **Decisions**

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

### **Condonation**

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

### **Delegation**

- 42 (1) The Premier may delegate any power or duty conferred or imposed on him or her by this Act to one or more than one Member of the Executive Council or to any official in the provincial administration subject to subsection (2).
- (2) The Premier may not delegate his or her power to make regulations.



- (3) A delegation under subsection (1) does not prevent the Premier from exercising the power or performing the duty concerned.
- (4) Subject to the provisions of the Municipal Structures Act, 117 of 1998, a municipal council may delegate any power or duty conferred or imposed on it by this Act to a committee of the municipal council, the municipality or any official in the municipal administration.

### **Application fees**

- 43 (1) The Premier may determine by notice in the Provincial Gazette fees payable to the provincial administration in respect of any appeal.
- (2) The municipality may determine by notice in the Provincial Gazette fees payable to the municipality in respect of any land development application.

### **Certification of compliance with conditions**

- 44 (1) A municipality must certify that the conditions contemplated in Section 43 have been complied with before a person may-
- (a) use a property or erect a structure on a property in accordance with the approval;
  - (b) construct a building on a property;
  - (c) occupy a building on a property; and
  - (d) transfer a property.
- (2) The prohibition on the use and occupation of a property before compliance with the conditions of approval does not prohibit the use and occupation of the property for the purposes that it was lawfully used or occupied before the approval of a land development application on the property, unless a municipality directed otherwise in its conditions of approval.
- (3) An agreement for the alienation of a subdivided or consolidated property that was approved by a municipality, but for which the municipality has not issued a certificate that the owner has complied with the conditions of approval that must be complied with before it may be registered, must contain a clause disclosing that the property is not registrable as contemplated in Section 1 of the Alienation of Land Act, 68 of 1981.

### **Enforcement**

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

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- (2) A municipality may compile land use policies which will be a guideline document that may assist the municipality in the evaluation of land development applications.
  - (3) The municipal land use policies must be reviewed at least every five years, and the approval thereof must coincide with the adoption of a municipal spatial development framework.
  - (4) The municipal land use policies must be subjected to consultation and public participation as set out in Regulation 64 which must at least include publishing a notice of the proposed draft in an Afrikaans and English newspaper circulating in the Province and consultation with all traditional authorities and municipalities in the Province.
  - (5) Subsequent to the process referred to in subsection (4), the municipality must submit the draft municipal land use policies to the municipal council for approval.
  - (6) After the adoption or amendment of the municipal land use policies the municipality shall publish notice thereof in a newspaper and give notice in any other manner considered appropriate.

#### **Provision of information**

- 46 (1) The municipality shall make available all information pertaining to the zoning, height, coverage, density and other stipulations of the land use scheme applicable to a property within the jurisdiction area of a municipality, to a person who request such information in order to include same in a land development application.
- (2) 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 or secretary, as the case may be, provided that:
  - (a) the copy of the document or information shall be provided within 7 days of the date of such copy of the document or information being requested in writing;
  - (b) the person requesting a copy of the document or information shall pay the reasonable cost of printing or reproducing such copy.

#### **Hearings**

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

**Correction of errors**

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

**Land use sensitive areas**

- 49 (1) The Premier may, within the confines of provincial constitutional competency, by notice in the Provincial Gazette, declare any area in the Province, defined in that notice, as a land use sensitive area, or revoke such declaration.
- (2) A land use sensitive area may only be declared, in exceptional circumstances, in order to-
- (a) prevent significant and irreversible damage to —
    - (i) the heritage value of an area, building or structure; or
    - (ii) the ecological value of an area; or
  - (b) prevent an existing application for national or international cultural or environmental heritage status from being compromised by development activities that contradict such desired status.
- (3) A land use sensitive area may only be declared-
- (a) upon application by any person, heritage or environmental group or institution or a municipality or on the initiative of the Premier;
  - (b) in consultation with the affected municipality or municipalities; and
  - (c) after an investigation into the application of the criteria contemplated in subsection (2).
- (4) All land development applications submitted in terms of this Act, should have due regards to the National Heritage Resources Act 25 of 1999 and environmental legislation and any other legislation that might have an impact or bearing on a land development application or application in terms of this Act.

**Alignment of authorisations**

- 50 (1) Where an activity requiring authorisation in terms of this Act is also regulated in terms of another law, the municipality, municipal planning tribunal, appeal tribunal and the organ of state empowered to authorise the activity in terms of the other law, may exercise their respective powers jointly by issuing—
- (a) separate authorisations; or
  - (b) an integrated authorisation.
- (2) An integrated authorisation contemplated in subsection (1)(b) may be issued only if—
- (a) the relevant provisions of all applicable legislation have been complied with; and
  - (b) the integrated authorisation specifies the—
    - (i) provisions in terms of which it has been issued; and
    - (ii) relevant authorities that have issued it.

**Regulations**

- 51 (1) The Premier may make regulations not inconsistent with this Act in regard to—
- (a) any matter which may be prescribed in terms of this Act;
  - (b) determining the fees payable in respect of a land development application or other application referred to in this Act; and
  - (c) any other matter deemed necessary for achieving the objects of this Act.
- (2) Any regulations made in terms of subsection (1) shall come into effect on the date of publication of a notice thereof or such other dates as provided for in such notice.
- (3) Before the publication of a notice in terms of subsection (2), the Premier shall by notice in the Provincial Gazette and by any other means considered appropriate, invite any persons or bodies to submit comments or representations in respect of the draft regulations.

**Transitional arrangements**

- 52 (1) Any application submitted or any other pending matter in terms of any law repealed by this Act not disposed of prior to the commencement of this Act shall be dealt with and finalised as if this Act had not come into operation.
- (2) Any appeal or other matter pending before the Townships Board or Services Appeal Board in terms of any law repealed by this Act not disposed of prior to the coming into operation of this Act shall be dealt with and finalised by the Townships Board or Services Appeal Board as the case may be as if this Act had not come into operation.

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- (3) For the purposes contemplated in subsection (2) the Premier shall extend the term of office of any members and secretarial staff of the Townships Board or the Services Appeal Board serving on the date on which this Act comes into operation on such terms and conditions as may be necessary under the circumstances.
  - (4) A reference to the Townships Board in any law not repealed by this Act shall be a reference to the Planning and Development Appeal Tribunal for the purposes of that other law.
  - (5) Any appeal to the MEC or the Townships Board or any matter to be decided by the Townships Board in terms of any other law which is submitted after the date of the coming into operation of this Act shall be dealt with by and decided by the Planning and Development Appeal Tribunal.
  - (6) Where necessary, any notice, certificate or other document or any consent or approval issued, or anything lawfully done in terms of any law repealed by this Act shall be deemed to comply with the provisions of this Act.
  - (7) On the coming into operation of this Act a reference to the Administrator or the Director in the Town Planning and Townships Ordinance, 25 of 1965, the Town Planning and Townships Ordinance, 15 of 1986, or in the Division of Land Ordinance, 20 of 1986, shall be deemed to be a reference to a municipality except where such reference relates to an appeal.

### **Repeal of laws**

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

### **Short title and commencement**

- 54 (1) This Act is called the Limpopo Spatial Planning and Land Use Management Bill, 2012.
- (2) The Act comes into operation-
- (a) on the date determined by the Premier in publication of notice thereof; or
  - (b) on different dates in respect of different provisions of the Act determined by the Premier in publication of a notice thereof.

**SCHEDULE 1**

LAWS REPEALED Ordinance/Act		Title	Extent
1	Ordinance 17 of 1939	Local Government Ordinance, 1939	Sections 67 and 68
2	Act 21 of 1940	Advertising on Roads and Ribbon Development Act, 1940	The whole
3	Ordinance 20 of 1943	Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943	The whole
4	Act 4 of 1984	Black Communities Development Act, 1984	The whole
5	Ordinance 15 of 1986	Town Planning and Townships Ordinance, 1986	The whole
6	Ordinance 20 of 1986	Division of Land Ordinance, 1986	The whole
7	Act 113 of 1991	Less Formal Township Establishment Act, 1991	The whole
8	Act 84 of 1967	Removal of Restrictions Act	The whole
9	Act 38 of 1927	Black Administration Act	The whole
10	Act 70 of 1970	Subdivision of Agricultural Land Act	The whole