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**GAUTENG PLANNING AND DEVELOPMENT ACT, 2012**

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**GAUTENG PLANNING AND DEVELOPMENT REGULATIONS**CONTENTS

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**Definitions**

- 1 In these regulations, unless the context indicates otherwise, a word or expression defined in the Act has the same meaning in these regulations; and
- (a) “Act” means the Gauteng Planning and Development Act, 2011;
  - (b) “adjoining owner” means the owner of land which is contiguous to the land area in any application including land which is only separated by a road from such land area.
  - (c) “farm land” for the purposes of Regulation 37 means land which is a farm as defined in the Act and which is shown as the land use category “Agriculture” on the land use scheme map.

**Long-Term Development Plan**

- 2 (1) After publication of the notice referred to in section 6(3) of the Act, any person may at any time submit any comments on the long-term development plan to the Premier.
- (2) The Premier shall consider any comments received and may from time to time recommend any amendment of the long-term development plan to the Executive Council as may be considered appropriate or necessary.

**Provincial Integrated Development Plan**

- 3 (a) After publication of the notice referred to in section 7(6) of the Act any person may at any time submit any comments on the provincial integrated development plan to the Premier.
- (b) The Premier shall consider any comments received and may from time to time recommend any amendment of the provincial integrated development plan to the Executive Council as may be appropriate.

**Provincial Spatial Development Framework**

- 4 (1) All bodies to which the draft provincial spatial development framework or any amendment thereof has been referred in terms of section 12 of the Act shall submit any comments to the Premier within 56 days.
- (2) The Premier shall consider any comments received and may from time to time recommend any amendment of the provincial spatial development framework to the Executive Council as may be considered appropriate or necessary.

**Municipal Spatial Development Frameworks**

- 5 (1) In terms of section 13 of the Act, a municipal spatial development framework must indicate:

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- (a) where the estimated population growth over at least the next 5 years is expected to be located in various parts of the municipal area;
  - (b) the number of housing units of various socio-economic categories required in different parts of the municipal area to provide for the estimated population growth;
  - (c) the location and extent to which the municipal spatial development framework provides for the necessary land uses for population growth and housing.
  - (d) an estimate of employment growth in the municipal area over at least the next 5 years and the areas where such employment should be located.
  - (e) the location and extent to which the municipal spatial development framework provides for the necessary land uses for employment growth;
  - (f) the location and extent to which the municipal spatial development framework provides land use for private and public services necessary in relation to population growth and residential land use including, but not limited to:
    - (i) shopping facilities;
    - (ii) open space and recreation;
    - (iii) education facilities;
    - (iv) health facilities; and
    - (v) other social facilities.
- (2) A municipal spatial development framework must indicate in relation to proposed land uses and land use densities whether or not engineering services are available and, if not available, whether such services can be made available within the next 5 years.

- (3) A municipal spatial development framework must indicate where additional engineering services are to be made available in terms of the strategies, objectives and programmes of the relevant integrated development plan of the municipality.

### **Preparation and adoption of a land use scheme**

- 6 The preparation of a land use scheme shall have regard to the provisions of any existing scheme applicable to the area of the land use scheme and shall as far as possible:
  - (1) ensure that the land use categories in a land use scheme are not more restrictive than the zoning in an existing scheme;
  - (2) ensure that the procedures provided for in a land use scheme are more efficient than those of an existing scheme;
  - (3) reflect and are consistent with the land use policies contained in any spatial development framework

### **Content of a land use scheme**

- 7 (1) The content of the written document referred to in section 17(1)(a) of the Act shall include the matters in the form contained in Schedules 1, 2, 3 and 4 to these regulations and may include any other matters considered necessary.
- (2) The zoning map referred to in section 17(1)(b) of the Act shall contain the land use categories and notation set out in Schedules 3 and 4 to these regulations.
- (3) The registers referred to in section 17(1)(c), (d) and (e) of the Act shall be in the form set out in Schedules 5, 6, and 7 and may provide for any further information considered necessary.
- (4) The content of a land use scheme shall be in accordance and consistent with any guidelines issued by the Premier.

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- (5) The secondary purposes for which land may be used and developed as referred to in Schedule 3 shall be determined by the municipality.
- (6) The provisions in a land use scheme providing for the relaxation or variation of conditions shall include matters relating to:
- (a) building lines;
  - (b) the provision of parking;
  - (c) the height and coverage of buildings;
  - (d) access or egress restrictions;
  - (e) any other matters considered appropriate.
- (7) A land use scheme may not include any provision for the relaxation or variation of:
- (a) the floor area or floor area ratio of buildings; and
  - (b) the density or intensity of development.
- (8) A land use scheme may not conflict with any matters prescribed in terms of the Act.

### **Adoption of a land use scheme**

- 8 (1) Notice of a draft land use scheme referred to in section 16(5) of the Act shall be in the form of Schedule 8 and shall be given in the Provincial Gazette and in any other manner in order to make known the draft land use scheme as widely as possible.
- (2) The notice referred to in sub-regulation (1) shall invite any objections or representations to be submitted to the municipal manager within 90 days of the date in the notice or such longer period as the municipality may allow.

- (3) Any objections or representations made in respect of a draft land use scheme shall be in the form of Schedule 9 and shall be submitted to the municipal manager.
- (4) The notice referred to in section 16(10) of the Act shall be in the form of Schedule 10.

### **Review of a land use scheme**

- 9 (1) The report on the review of a land use scheme contemplated in section 20(2) shall include:
  - (a) the extent to which the land use scheme has facilitated the objectives of the municipal spatial development framework;
  - (b) a record of the number of development applications and land use applications received during the previous 5 years;
  - (c) the number of development applications and land use applications approved;
  - (d) any provisions of the land use which should be amended in order to make its operation more effective and efficient;
  - (e) the number of applications taken on appeal against a decision of the municipality;
  - (f) any other matters relevant to the management of land use in the municipality.
- (2) The report on the review of a land use scheme shall be submitted to the Premier not less than 90 days before it is considered by the municipal council.
- (3) The Premier may comment on the report not later than 56 days after its receipt from the municipality and such comments shall be referred to the municipal council for consideration together with the report on the review of the land use scheme.

- (4) If the municipality decides to amend its land use scheme in terms of section 20 of the Act the municipal manager shall publish a notice thereof in the form of Schedule 11.

### **Amendment of a land use scheme by a municipality**

- 10 (1) Notice of a draft amendment of a land use scheme in terms of section 21(3) of the Act shall be given in the Provincial Gazette and in any other manner considered appropriate by the municipal manager.
- (2) The notice referred to in sub-regulation (1) shall be in the form of Schedule 11.
- (3) Any objections or representations in respect of any proposal in terms of section 21 of the Act shall be submitted within 56 days of the date of such notice in the form of Schedule 14.
- (4) Notice of the decision of the municipality referred to in section 21(6) of the Act shall be by registered post to all persons who submitted objections or representations.
- (5) Any person requesting the reasons for the decision of the municipality shall do so in writing within 14 days of being informed of such decision and the municipal manager shall provide such reasons within 14 days of the date of the request.
- (6) Notice of an amendment of a land use scheme in terms of section 21(9) of the Act shall be given in the form of Schedule 12.

### **General**

- 11 (1) The municipality shall maintain two printed original copies of the approved land use scheme documents referred to in section 17 of the Act.
- (2) One original copy of the land use scheme documents referred to in sub-regulation (1) shall, at all reasonable times, be available for inspection by the public.

- (3) The provisions or conditions of an amendment scheme only amend the corresponding provisions or conditions of a land use scheme and do not alter or repeal any other provisions or conditions of the land use scheme unless the context of the amendment scheme clearly so requires.

### **Development applications**

12 (1) A development application:

- (a) shall be in the form set out in Schedule 12;
  - (b) must include the documents set out in Part B of Schedule 12 where applicable and the documents shall be numbered as indicated in Part B; and
  - (c) must be accompanied by the prescribed fees;
- (2) A development application shall include the establishment of a township on any farm or agricultural holding where any part of the land area is to be zoned as a land use category other than Public Services, Open Space, Recreation, Transportation, Mining or Agriculture or in any other circumstances provided for in a land use scheme.

### **Development application procedure**

- 13 (1) The municipal manager shall acknowledge receipt of a development application as indicated on a copy of the application form.
- (2) The municipal manager shall register a development application within 14 days of the date of acknowledgement of receipt of the application.
  - (3) The registration of a development application shall be recorded in the development application register in the form contained in Schedule 5.
  - (4) If the municipal manager refuses to register a development application as contemplated in section 32 of the Act, he or she shall inform the applicant of

such refusal with the reasons therefor by registered post not later than 14 days of the date of acknowledgement of receipt of the application.

- (5) A refusal by the municipal manager to register a development application shall, in the reasons referred to in sub-regulation (4), state which, if any, prescribed documents have not been included in the development application.

### **Notice of development application**

14 (1) An applicant shall give notice of a development application in the form set out in Schedule 13 in the following manner:

- (a) by publishing the notice;
  - (b) by serving a copy of the notice on every adjoining owner; and
  - (c) by posting a copy of the notice on every street boundary of the land area which is the subject of the application.
- (2) The notice referred to in sub-regulation (1)(b) and (c) shall be effected not later than the date of publication of the notice in terms of Regulation 14(1)(a).
- (3) The applicant shall provide proof to the municipal manager of the notification of the application to all persons prescribed and the posting of the notice referred to in sub-regulation (1)(c) as follows:
- (a) by providing a copy of the record of the registered posting of notices to adjoining owners; or
  - (b) by providing proof of delivery of the notices to adjoining owners or where no such proof is possible, by affidavit certifying such delivery; and
  - (c) by affidavit certifying that the notice was posted on all street boundaries of the land area.

**Objections**

- 15 (1) Any person or body who wishes to object to or make representations in terms of section 33(4) in respect of a development application shall do so not later than 60 days of the date of publication of the notice.
- (2) Any objection or representation shall be submitted to the municipal manager and the applicant in the form of Schedule 14 and shall state:
- (a) the name of the person or body concerned;
  - (b) the address at which the person or body concerned will accept notice or service of any documents;
  - (c) the interest of the person or body in the matter;
  - (d) the reasons for any objections or representations.
- (3) The reasons for any objections or representations referred to in sub-regulation (2)(d) shall be set out in sufficient detail in order to:
- (a) indicate the facts and circumstances which explain the objections or representations;
  - (b) demonstrate any undesirable effects which the application will have on the development of the area in which the application is situated;
  - (c) demonstrate any aspects of the application which are not considered consistent with municipal development policy; and
  - (d) enable the applicant to reply to the objections and representations.

**Circulation**

- 16 (1) On registration of the application the municipal manager shall provide the applicant with a schedule which sets out every municipal department and

service provider to which a copy of the notice of a development application must be circulated by the applicant.

- (2) The schedule in sub-regulation (1) shall indicate which relevant application documents, if any, shall be included with the notice of the application to each municipal department or service provider concerned.
- (3) The organs of state and parastatal bodies to which notice of a development application must be given are set out in Part C of Schedule 13.
- (4) The applicant shall circulate the notice of the application to the bodies referred to in sub-regulations (1) and (3) not later than the date of notification of the application.
- (5) The applicant shall provide proof to the municipal manager of the circulation of the application not later than 14 days after the date of publication of the notice in regulation 14(1).

### **Comment**

- 17 (1) Any municipal department, organ of state or parastatal body shall submit its comments within 60 days of the date of notice of the application.
- (2) The comments of a municipal department, organ of state or parastatal body shall, where applicable, include:
  - (a) any requirements or conditions of the municipal department, organ of state or parastatal body concerned in any approval of the development application.
  - (b) any reason why, in its opinion, the development application should not be approved;
  - (c) where applicable, a statement of the external engineering services which will be required in any approval of the development application;

- (d) where applicable, the amounts of any services contributions required in any approval of the application.
- (3) The comments of an organ of state may in addition to the matters in sub-regulation (2), object to the development application.
- (4) If the applicant intends to reply to any objections, representations or comments he or she shall do so within 14 days after the period referred to in sub-regulation (1).

### **Consideration of an application**

- 18 (1) After a proposed approval of an application has been submitted to the applicant in terms of section 35(3) of the Act the applicant may submit any comments thereon to the municipal manager within 14 days, failing which it shall be deemed that the applicant is prepared to accept the proposed approval.

### **Approval of a development application**

- 19 (1) After the approval of or determination of an application as referred to in sections 36 or 38(2) as the case may be, the municipal manager shall inform the applicant and any interested parties within 14 days of the date of such approval or decision.
- (2) After a development application has been approved and no appeal has been lodged the municipal manager shall publish a notice thereof in the form of Schedule 15.

### **Land use applications**

- 20 (1) A land use application:
- (a) shall be set out in the form of Schedule 16;
- (b) must include the documents set out in Part B of Schedule 20 and the documents shall be numbered as indicated in Part B; and

- (c) must be accompanied by the prescribed application fee.

### **Application procedure**

- 21 (1) The municipal manager shall acknowledge receipt of a land use application as indicated on a copy of the application form.
- (2) The municipal manager shall register the application within 14 days of the date of acknowledgement of receipt of the application.
- (3) If the municipal manager refuses to register a land use application as contemplated in section 47 of the Act, he or she shall inform the applicant with the reasons for such refusal by registered post within 7 days of the date of acknowledgement of receipt of the application.
- (4) If the municipal manager refuses to register a land use application the applicant may, within 14 days, re-submit the application with any corrections or documents required by the municipal manager subject to the payment of any applicable fees.
- (5) If the municipal manager refuses to register the land use application after its re-submission in terms of sub-regulation (4) he or she shall notify the applicant within 7 days of such re-submission together with the reasons for such refusal.

### **Circulation**

- 22 (1) On registration of a land use application the municipal manager shall provide the applicant with a schedule which sets out every municipal department and service provider and any other person to which a copy of the land use application must be circulated by the applicant.
- (2) The schedule referred to in sub-regulation (1) shall indicate which relevant application documents, if any, shall be included with the copy of the application to each municipal department or service provider concerned.

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- (3) The organs of state and parastatal bodies to which copies of a land use application must be given are set out in Part C of Schedule 17.
- (4) In addition to the bodies referred to in sub-regulation (1) a copy of the application shall be circulated to any other persons as may be specified in the land use scheme and such notice shall be:
- (a) sent by registered post to the address of the person recorded by the municipality; or
  - (b) delivered by hand to that person.
- (5) The applicant shall circulate copies of the application to the bodies referred to in sub-regulations (2) and (3) and the persons referred to in sub-regulation (4) within 7 days of the date of being notified of registration of the application.
- (6) Any person, municipal department, service provider, organ of state or parastatal body to which the application has been circulated shall submit its comments to the municipal manager and to the applicant within 30 days of receipt of notice of the application.
- (7) The comments of a municipal department, service provider, organ of state or parastatal body shall, where applicable, include:
- (a) any requirements or conditions to be included in any approval of the application;
  - (b) any reason why, in its opinion, the land use application should not be approved;
  - (c) where applicable, a statement of any external engineering services which will be required in the approval of the application;
  - (d) where applicable, the amounts of any development contributions required in any approval of the application.

**Application for the declaration of a settlement area**

- 23 (1) An application for the declaration of a settlement area shall be in the form set out in Schedule 17..
- (2) The application shall be accompanied by the documents listed in Part B of Schedule 17.

**Notice of application**

- 24 (1) The notice referred to in section 51 of the Act shall be in the form set out in Schedule 18.
- (2) The notice contemplated in sub-regulation (1) shall be published in the Provincial Gazette.
- (3) The applicant or the municipal manager as the case may be shall deliver by hand or send by registered post a copy of the notice in sub-regulation (1) to every adjoining land owner.
- (4) where service of the notice in sub-regulation (3) is not possible the notice may be given by any other means considered appropriate by the municipal manager.

**Notice of declaration of a settlement area**

- 25 The notice of the declaration of a settlement area referred to in section 52 shall be as set out in Schedule 19.

**Development and land use by a municipality**

- 26 (1) A notice of the proposed development and land use by a municipality shall be in the form of Schedule 20.
- (2) Objections or representations to the proposed development and land use by a municipality shall be in the form of Schedule 21.

- (3) Notice of the approval of the development and land use by a municipality shall be in the form of Schedule 22.

### **Notice of appeal**

27 (1) Notice of an appeal shall be in writing to the secretary of the appeal tribunal.

(2) The notice of appeal must:

- (a) be in the form set out in Schedule 23, 24 or 25 whichever is applicable;
- (b) be given within 35 days of the date on which:
  - (i) the appellant was notified of the decision of the municipality;  
or
  - (ii) the date on which the appellant was notified of the reasons for the decision in sub-paragraph (i);

whichever is the later

- (c) in the case of an appeal against the failure of the municipality to determine any application within the time period prescribed, be given not later than 56 days after the prescribed time period in which the application should have been determined.
- (d) where an appeal is lodged against the refusal or failure of the municipal manager to register a development application the appellant shall also simultaneously give notice of the appeal in the form set out in Schedule 27 in the following manner:
  - (i) by publishing the notice;
  - (ii) by serving a copy of the notice on every adjoining owner; and

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- (iii) by posting a copy of the notice on every street boundary of the land area which is the subject to the appeal.
- (3) Any person to whom a notice of appeal has been served may within 21 days give notice to oppose the appeal and shall do so in the form set out in Schedule 28 or 29 whichever is applicable to the secretary of the appeal tribunal.
- (4) A respondent to an appeal shall simultaneously serve a copy of the notice to oppose the appeal to:
- (a) the appellant; and
  - (b) the municipal manager.
- (5) A notice of appeal, other than an appeal referred to in sub-regulation (2)(c), must clearly indicate:
- (a) whether the appeal is against the whole decision or only part of the decision and if only a part, which part;
  - (b) whether the appeal is against any conditions of approval of an application and which conditions;
  - (c) the grounds of appeal including any findings of fact or conclusions of law in dispute; and
  - (d) a clear statement of the relief sought on appeal.
- (6) A notice to oppose an appeal shall be in the form of Schedule 26 or 27 whichever is applicable and shall clearly indicate:
- (a) whether the whole or only part of the appeal is opposed and if only a part, which part;
  - (b) whether any conditions of approval of an application are opposed and which conditions;

- (c) whether the relief sought by the appellant is opposed; and
  - (d) the grounds for opposing the appeal including any finding of fact or conclusions of law in dispute;
  - (e) a clear statement of relief sought on appeal.
- (7) An appellant may, within 7 days of receipt of a notice to oppose an appeal; amend the notice of appeal and shall submit a copy of the amended notice to the secretary of the appeal tribunal and to every respondent.

### **Hearing of an appeal**

- 28 (1) The secretary of the appeal tribunal shall, not later than 28 days after the date of notice of an appeal, determine the date, place and time for the hearing of the appeal and shall forthwith notify the appellant and every respondent.
- (2) The appellant shall make the necessary arrangements for a venue for the hearing of the appeal in the reasonable vicinity of the land area which is the subject of the appeal.
- (3) Notice of the date, time and place of the hearing shall be given by the secretary to all interested parties not less than 28 days prior to the date of the hearing.
- (4) Not less than 14 days prior to the date of the appeal hearing, the appellant and any respondents shall submit to the secretary of the appeal tribunal and to every other party to the appeal a written summary of its arguments including a statement of any evidence to be submitted at the appeal hearing.

### **Directives by the Presiding Officer**

- 29 (1) The presiding officer of an appeal hearing, designated in terms of section 27(5) of the Act, may:
- (a) determine any person who is required to attend the appeal hearing;

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- (b) whether any additional information or documentation must be furnished to the appeal tribunal by the appellant, any respondent, the municipal manager, or any organ of state or parastatal body.
  - (c) determine any person required to be summoned to attend the appeal hearing;
- (2) The secretary shall not less than 28 days prior to the date of the hearing issue any directives referred to in sub-regulation (1) to the persons concerned.
- (3) An appellant or any respondent may withdraw an appeal or opposition to an appeal; and
- (a) shall give notice of such withdrawal to the secretary of the appeal tribunal and all other parties to the appeal;
  - (b) may be subject to a costs order if such withdrawal is made less than 28 days prior to the date of the appeal hearing.
- (4) Any party to an appeal is entitled to be present and to be represented at the appeal hearing.
- (5) The hearing of an appeal shall be preceded by a site inspection of the land area if such site inspection is considered necessary or relevant by the appeal tribunal.

### **Determination of an Appeal**

- 30 (1) The appeal tribunal may in considering its decision request any further information from any party to the appeal hearing or conduct any investigation which it considers necessary.
- (2) The appeal tribunal shall after receiving any further information or conducting any investigation, issue its decision to the secretary within 7 days thereafter.
- (3) The secretary shall within 7 days of the decision of the appeal tribunal notify all parties to the appeal and the municipal manager of such decision.

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**Notice of approval on appeal**

31 (1) When the decision of the appeal tribunal includes the approval of:

- (a) The establishment of a township;
- (b) The extension of the boundaries of a township;
- (c) The amendment of a land use scheme; and/or
- (d) The removal or amendment of of restrictive conditions of title:

the municipal manager shall publish a notice of such approval in the form of Schedule 15.

**External engineering services**

32 (1) External engineering services include the following services owned and provided by the municipality or service provider:

- (a) the existing reticulation network of water supply pipelines, reservoirs, water towers, pumping stations and water purification works;
- (b) the existing reticulation network of sewer pipelines, pumping stations and sewage disposal works;
- (c) the existing reticulation network of electricity distribution lines, electricity generation stations, substations and transformers;
- (d) the existing network of municipal roads;
- (e) the existing reticulation network of stormwater drainage; and
- (f) the existing land areas for refuse and solid waste disposal.

(2) The provision of the external engineering services referred to in sub-regulation (1) includes:

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- (a) the supply of any available spare capacity of the existing services;  
and/or
  - (b) the upgrading or increase in the capacity of the existing services;  
and/or
  - (c) the construction of new facilities additional to the existing services;  
and
  - (d) the provision and connection or link of any services to the land area  
referred to in sub-regulation (1).
- (3) External engineering services shall be provided for the development of:
- (a) a township;
  - (b) an increase in development as a result of a rezoning; and
  - (c) an increase in residential density whether or not the increase in density includes the subdivision of land
- approved in terms of this Act or a land use scheme.
- (4) The extent of the external services to be provided shall be limited to the capacity of the services required by the development referred to in subsection (3) and shall be determined in accordance with the guidelines issued by the Premier from time to time.

### **Internal engineering services**

33 (1) Internal engineering services include the following services which, after their construction by the applicant, are to be taken over, owned and operated by the municipality or service provider as follows:

- (a) the reticulation of water supply pipelines;

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- (b) the reticulation of sewer pipelines;
  - (c) the reticulation of electricity distribution lines, any substations and street lighting;
  - (d) the construction of roads; and
  - (e) the reticulation of stormwater drainage.
- (2) The extent of the internal services to be installed or constructed shall be limited to the capacity of the services required in the development of the land area.
- (3) The municipality or service provider may require an applicant to install or construct any internal service to a greater extent or capacity than is required for the development in which case the cost of the greater extent or capacity required shall be the responsibility of the municipality or service provider concerned and provided that such cost may be deducted from any services contributions or the municipality agrees in writing to pay such costs within one year of the date of approval of the plans and specifications referred to in sub-regulation (4)
- (4) Internal engineering services shall be designed and constructed or installed in accordance with plans and specifications submitted by the applicant to the satisfaction of and approved by the municipality or service provider.
- (5) The municipality shall issue to the applicant a statement of the conditions of installation and construction of any internal service including any conditions relating to the provision of any performance or maintenance guarantees required by the municipality or service provider until such time as the internal services are taken over by the municipality or service provider.

### **Development contributions**

- 34 (1) The development contributions in respect of external engineering services, excluding refuse sites, shall be determined and the amounts of such charges

shall be calculated in accordance with the guidelines issued by the Premier from time to time and:

- (a) in the case of an external service to be provided in terms of regulation 32(2)(a) the amount of the development contribution shall be the proportionate present day cost of installing or constructing the existing service;
- (b) in the case of an external service to be provided in terms of regulation 32(2)(b) or (c) the amount of the development contribution shall be the estimated actual cost of upgrading, the increased capacity of or additional facilities to the service.

### **Refuse sites**

- 35 (1) The development contribution in respect of refuse sites shall be determined in proportion to the estimated quantity of solid waste to be generated by the development and in accordance with any policies and guidelines issued by the Premier.
- (2) The amount of the development contribution shall be calculated in accordance with the land value of the area of land required to accommodate the quantity of solid waste referred to in sub-regulation (1) for a period of 20 years.

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

- 36 (1) Every township or development which will result in new or increased residential development shall provide land for parks and open space on the basis of 20m<sup>2</sup> of land for every additional residential unit which is greater than the number of residential units which could have been developed on the land before the approval of the township or development.
- (2) Any land area within a 1:50 year flood line or within 32 metres of the centre line of a natural water course shall be provided or reserved as a park or open space: Provided that the area of such park or open space shall be deducted from the area referred to in sub-regulation (1).

- (3) Where the number of residential units in a township or development is not specified in any approval, a residential unit shall be deemed to have a floor area of 80m<sup>2</sup>.
- (4) A municipality may refuse to accept an area of park or open space which is less than 1 000m<sup>2</sup> in area or of such proportions which it deems impractical for its intended purpose.
- (5) The provisions of sub-regulation (4) shall not apply to the land referred to in sub-regulation (2).

### **Determination of Land Value**

- 37 (1) The determination of the land value to be used in the calculation of the development contribution in respect of refuse sites shall be the average value of unimproved farm land zoned for agricultural purposes in the municipal area or in the vicinity of the land area.
- (2) The land value referred to in sub-regulation (1) shall be determined from time to time by the municipality and expressed as an amount per m<sup>2</sup> of land.
  - (3) The determination of the land value to be used in the calculation of any development contribution in respect of parks or open space as contemplated in section 73(5) of the Act shall be:
    - (a) in the case of township establishment, the average value of farm land zoned for agricultural purposes in the municipal area or in the vicinity of the land area; or
    - (b) in the case of any development or land use which does not involve township establishment, the average value of land zoned Residential 1 in the municipal area or in the vicinity of the land area.
  - (4) The land value referred to in sub-regulation (4) shall be determined from time to time by the municipality and expressed as an amount per m<sup>2</sup> of land.

### **Service of notice**

38 (1) Where any notice is required to be given by an applicant, any interested party, municipal manager or organ of state, service of the notice or information may be made or sent:

- (a) by hand;
- (b) by registered post;
- (c) by facsimile; or
- (d) by electronic mail;

Provided that in the case of paragraph (c) or (d) a copy of the notice or information shall simultaneously be sent by registered post or delivered by hand.

- (2) The person giving any notice shall be responsible for ensuring as far as possible that the person or body to whom the notice is address has been received by such person or body.
- (3) The notice to be posted on a street boundary in terms of regulation 14(1)(c) shall be printed in letters not less than 5mm in height and shall be of durable and weather-proof material.

### **Time periods**

39 If the last day of any time period referred to in the Act, these regulations or a land use scheme is a Saturday, Sunday or public holiday such last day shall be the following ordinary day which is not a Saturday, Sunday or public holiday.

### **Permanent closure of a public place**

40 (1) Where the land which is the subject of the permanent closure of a public place is to be alienated by the municipality, such alienation shall be subject to

the provisions of the Local Government: Municipal Finance Management Act, \_\_\_ of \_\_\_\_.

- (2) After the permanent closure and its alienation has been approved the municipal manager shall issue a certificate to that effect to the Surveyor General and to the Registrar of Deeds.
- (3) On receipt of the certificate referred to in sub-regulation (2) and any General Plan and diagrams required, the Surveyor General shall give effect to the amendment, approval or cancellation of such General Plan or diagrams as may be necessary in terms of the Land Survey Act, 8 of 1997.
- (4) On receipt of the certificate referred to in sub-regulation (2) and after receipt of the General Plan and diagrams referred to in sub-regulation (3), the Registrar of Deeds shall record the permanent closure of the public place as may be necessary in terms of the Deeds Registries Act, 47 of 1937.
- (5) The Registrar of Deeds shall not register the transfer of any closed public place except on receipt of a certificate issued by the municipal manager to the effect that the conditions of the alienation of the closed public place have been complied with.

#### **Access in townships other than by municipal roads**

- 41
- (1) Where a township is to be established with access to erven other than by means of a municipal road in the township such access shall be in the form of an erf which shall be referred to as an access erf.
  - (2) An erf for access purposes shall be laid out and be of such dimensions as specified by the municipality.
  - (3) Any access erf shall be constructed to such standards as determined by the municipality and where necessary shall include any servitudes in favour of the municipality for engineering services.
  - (4) An access erf shall be registered in the name of a body approved by the municipality subject to such conditions as the municipality considers

necessary and such registration shall take place prior to or simultaneously with the registration of transfer of any other erf in the township.

- (5) Any servitudes, conditions of title or other conditions applicable to an access erf shall be contained in the conditions of establishment of the township.