

RUSTENBURG

LOCAL MUNICIPALITY

DIRECTORATE: PLANNING AND HUMAN SETTLEMENT

P O Box 16, Rustenburg, 0300, North West Province, South Africa

Tel: (014) 590 3798/3071/3084 Fax: (014) 590 3070 Email mmotsisi@rustenburg.gov.za;
brankudu@rustenburg.gov.za; bbarnard@rustenburg.gov.za



PROPOSED AMENDMENTS ON THE RUSTENBURG LOCAL MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW 2015

To amend the Rustenburg Local Municipality Spatial Planning and Land Use Management By-law, 2015 so as to delete, substitute and insert certain definitions, sections and sub-sections.

To delete the following writing:

~~(PUBLISHED IN PROVINCIAL GAZETTE EXTRAORDINARY NO DATED)~~

Amendment of the *table of contents* so as to include page numbers

CHAPTER 1

Amendments of the following *definitions*:

- **“appeal authority or body”** means an appeal authority contemplated in ~~Section 26 of this By-law, as established by Council Resolution, in terms~~^(deleted) of Section 51 ~~of the Act~~^(deleted) and Regulations 20 **of the Act** ^(inserted).
- **“applicant”** means a person who submits a land development application or combination of land development applications contemplated in terms of ~~Section 18~~^(deleted) of this By-law and includes a municipality and an organ of state as an owner of land or under which the control and management of the land falls, within the jurisdiction of the Municipality read with Section 45 of the Act;
- ~~“application” means an application submitted to the Municipality in terms of Section 18 of this By-law and a land development application shall have a corresponding meaning;~~ ^(deleted)

- ~~“Code of Conduct” means the Code of Conduct approved and adopted by Council to which the members of the Municipal Planning Tribunal or Municipal Planning Appeals Tribunal established in terms of Sections 35 and Section 51 of the Act and or any official appointed for purposes of considering land development applications shall be bound, as contemplated in Section 19(2) read with Schedule 23 of this By-law;~~ ^(deleted)
- “**council**” means the municipal council of the municipality. ^(Substituted with definition of Councillor as defined in the Municipal Systems Act 32 of 2000) 'councillor' means a member of a municipal council;
- ~~“deviation” in relation to a spatial development framework, means an approval which departs from the provisions of the municipal spatial development framework contemplated in Section 22(2) of SPLUMA; a deviation from the provisions of the municipal spatial development framework or local spatial development framework authorised by Section 9(1) of this By-Law; or and “deviate” has a corresponding meaning;~~ ^(deleted)
- “**draft Land Use Scheme**” means a scheme prepared in terms of Section 24(1), 27 and 28 of the Act and ~~Sections 11 up to 14~~ ^(deleted) **as contemplated in Chapter 3** ^(SUBSTITUTED) of this By-law, for submission to a decision-making person or body, for approval to commence public participation in terms of Section 26(5) of the Act and this By-law, and shall be referred to as a draft land use scheme until adopted by the Municipal Council.
- ~~“land area and land development area” shall have a corresponding meanings;~~ ^(deleted)
- “**land development application approval**” means a decision to approve an application in terms of **the Act and** ^(inserted) this By-law or relevant legislation by a decision making person or body and includes any conditions under which the approval was granted, ~~in terms of Sections 18(1)(s), 18(7)(d) and 19(11)(d)(xi) of this By-law but not adopted or proclaimed and which has not come into operation in terms of this By-law or the said legislation.~~ ^(deleted)
- “**land development officer**” means the authorized official **in terms Section 35(2) of the Act** ^(SUBSTITUTED), ~~defined in regulations 1 of the Regulations~~ ^(deleted)

- **“land Use Scheme”** means the documents referred to in ~~Chapter 4 and~~ ^(deleted) Chapter 5 of the Act including any amendment scheme to the Land Use Scheme; and Town Planning Scheme and Land Use Scheme Regulations shall have the same meaning;
- **“memorandum of Understanding”** means a service level agreement as entered into in terms of regulation 19 of the Act. ^(inserted)
- **“mining and Mining Rights”** means mining as contemplated in the definitions of the ~~Rustenburg Land Use Management Scheme 2005 or a Land Use Management Scheme~~ ^(deleted) **Rustenburg land use scheme applicable** ^(SUBSTITUTED) in terms of the Act, as may be amended from time to time read with the Mineral Petroleum Resources Development Act, 2002 (Act 28 of 2002) as may be amended from time to time;
- **“municipal Planning Tribunal”** means a Municipal Planning Tribunal referred ~~to in the Act and any reference in this By-law and is established in terms of Section 19 of the By-Law~~ ^(deleted) **to in Section 35 of the Act read regulation 3 of the Act.** ^(SUBSTITUTED)
- **“municipal Planning Tribunal/Appeal registrar, ~~municipal planning appeals tribunal registrar or Tribunal Registrar~~”** ^(deleted) means a registrar appointed to serve as registrar to the Municipal Planning Tribunal or any person so designated in the administration of the Municipality to perform the duties of a Municipal Planning and Appeals Tribunal registrar in terms of any delegations or sub-delegations in terms of Section 59 of the Municipal Systems Act, 2000 , by a Municipality for purposes of the Act; Registrar shall have a corresponding meaning;
- **“notice”** ~~means to a written notice as contemplated in Section 18(1)(d) of this By-law. and “notify” means to give notice in writing which notice may include it being sent by electronic means or where the context requires a notice published in terms of this By-laws in the Provincial Gazette, local newspapers, site notice and a notice by way of a registered posts or by hand to the adjacent owners.~~ ^(Deleted) **Means a written notification as contemplated in terms of Schedule 12 of this By-law.** ^(SUBSTITUTED)

- ~~“non-Profit Company or NPC” means a non-profit company as contemplated in section 25(13) of the Company’s Act, 2008(Act 71 of 2008), read with Section 44 of this By-law, which includes a section 21 company that was established as a result of any land development application in terms of any legislation or conditions relating to land development on a property or properties;~~^(deleted)
- **“objector”** means a body or person who has ~~lodged~~^(deleted) **registered**^(SUBSTITUTED) an objection with the Municipality to a draft municipal spatial development framework, draft land use scheme or a land development and land use application.
- **“owner”** means the person registered in a deeds registry as the owner of land or beneficial owner in law. ~~and includes a Municipality or any other organ of state as an owner or where properties have been vested and is under the control and management of the Municipality in terms of Section 63 of the Local Government Ordinance, 1939 (Ord. 17 of 1939) for purposes of Chapter 4 of this By-law read with the definition of a Land Use Scheme in terms of the Act and as may be amended from time to time;~~^(deleted)
- **“proclamation Notice”** – a ~~Notice~~^(deleted) **publication**^(SUBSTITUTED) that is placed in terms of the North West Gazette giving effect to a notice ~~to the land use applied for~~^(deleted) in terms of this By-Law.
- ~~“publish” means the publication of a general notice in the Gazette.~~^(deleted)
- ~~“registered planner” means a person registered as a professional planner or a technical planner contemplated in Section 13 of the Planning Profession Act, 2000 (Act 36 of 2000), unless the South African Council for Planners has reserved the work to be performed by a registered planner in terms of Section 16 of the said Act, in which case a registered planner shall mean that category of registered persons for which such work has been reserved.~~^(deleted)
- **“subdivision”** means a subdivision as contemplated in section ~~16(13)~~^(deleted) **18(15)**^(SUBSTITUTED) of this By-law which provisions shall apply *mutatis mutandis* to a division of farm land or a portion of farm land read with the Division of Land Ordinance, 20 of 1986;

- **“town planning inspector”** means a person designated or appointed as an inspector under Section 32(3) of the Act and ~~Section 52~~ ^(deleted) **Chapter 9** ^(SUBSTITUTED) of this by-law to perform duties as indicated therein and any other relevant legislation pertaining to the inspection of land and or buildings in order to enforce compliance with this By-law, land use conditions or Land Use Scheme or any other legislation under the jurisdiction of the Municipality
- **“~~traditional communities~~** ^(deleted) **traditional authority areas** ^(SUBSTITUTED)” means communities recognized in terms of Section 3 of the North West Traditional Leadership and Governance Act, 2005.
- **“by-law”** means any section, **pro-forma** ^(SUBSTITUTED) and ~~Regulation,~~ ^(deleted) schedules ~~and maps-forms~~ ^(deleted) within the Rustenburg Local Municipality Spatial Planning and Land Use Management By-Law,2015.
- **SPLUMA** means the Spatial Planning and Land Use Management Act, 2013 (Act no 16 of 2013). ~~Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters 2015 and any subsidiary legislation or other legal instruments issued in termsthereof.~~ ^(deleted)

Amendment of Section 2 (1)

- This By-law applies to all land within the geographical area **or jurisdiction** ^(inserted) of the Municipality, including land owned by the state.

Amendment of Section 3(3)(b)

- Lapse at the expiry of a period of 15 ~~years~~ ^(deleted) **months** ^(SUBSTITUTED) calculated from the date contemplated in Section 3(2) in which case no compensation shall be payable.

Amendment of Section 3(3)(d)

- Where a period of 15 ~~years~~ ^(deleted) **months** ^(SUBSTITUTED) has, in terms of Section 3(3), commenced to run from a particular date in the opinion of the Municipality in respect of any land or building, no regard shall, for the purposes of those subsections, be heard to an approved scheme which comes into operation after that date.
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Amendment of Section 3(3)(h)

- If the geographic area **or jurisdiction** ^(inserted) of the Municipality is demarcated to incorporate land from another municipality then the Land Use Scheme applicable to that land remains in force until the Municipality amends, repeals or replaces it subject to Sections 11 and 15 of this By-law.
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CHAPTER 2

Amendment of Section 5(2) (c)

- monitor progress and to ensure that the drafting **of the** ^(inserted) Municipal Spatial Development Framework or amendment of the municipal spatial development framework is progressing according to the approved process plan;
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Amendment of Section 9(1) (a) and Section 9(1) (b)

- it must motivate **unique** ^(inserted) ~~site specific~~ ^(deleted) circumstances that may justify the deviation;
 - In determining whether the **unique** ^(inserted) ~~site specific~~ ^(deleted) circumstances exist in terms of Sections 9(1)(a) and 9(1)(b), the Municipality must have regard to the land development application or applications which have been submitted and any other relevant considerations;
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CHAPTER 3

Amendment of Section 13(3), Section 13(5), Section 13(5)(b)(ii), Section 13(7) and Section (13)(8)

- the Municipality may for purposes of public engagement arrange **within the period 60 days as contemplated in Section 13(2)(c) (i):** ^(inserted)
- After the public participation process contemplated in Sections 13(1) to 13(3) within a period of 60 days, the Directorate responsible for spatial planning and land use management ^(inserted) **ment** ~~mentor~~ ^(deleted) as the case may be shall:
- if the Municipal Manager or anybody or person duly delegated elects in terms of Section 13(5)(b)(i) above to conduct an objection(s) proceedings; all persons and or bodies that made submissions shall be notified of the time, date and place of the hearing as may be determined by the Municipality not less than ~~30~~ ^(deleted) **21 days** ^(SUBSTITUTED) prior to the date determined for the hearing, by ~~means of registered mail~~ ^(deleted) **any means of communication as determined by the Municipality** ^(SUBSTITUTED);
- The Directorate responsible for spatial planning and land use management ^(inserted) **ment** ~~mentor~~ ^(deleted) as the case may be shall where required, and based on the submissions made during public participation, make final amendments to the draft Land Use Scheme, provided that; if such amendments are in the opinion of the Municipality materially different to what was published in terms of Section 13(2), the Municipality must follow a further consultation and public participation process in terms of Section 13(2) of this by-law, before it is adopted by the Municipal Council;
- The Directorate responsible for spatial planning and land use management ^(inserted) **ment** ~~mentor~~ ^(deleted) as the case may be, shall through a report; or a report from the Municipal Planning Tribunal, submit the draft Land Use Scheme and all relevant supporting documentation to the Municipal Council with a recommendation for approval and adoption;

Amendment of Section 14, Section 14(3)

- The contents of a Land Use Scheme developed and prepared by the Municipality must include all the essential elements as contemplated in ~~Chapter 5~~^(deleted) **Section 24 and 25**^(SUBSTITUTED) of the Act and provincial legislation and must contain:
 - ~~provisions for public participation that may be required for purposes of any consent, permission or relaxation in terms of an approved Land Use Scheme;~~^(deleted)
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CHAPTER 4

Amendment of Section 17(2) (a),Section 17(2)(c),Section 17(2)(e), Section 17(3)

- ~~All land development and land use applications on which objections have been received. after public participation; and or~~^(deleted) . **All land development and land use applications on which negative comments or objections have been received.**^(SUBSTITUTED)
 - All land development applications deviating from Spatial Development Framework **and other land development policies.**^(inserted)
 - ~~All land development applications on which negative comments or objections have been received.~~^(deleted)
 - ~~Category 1 land development applications referred to the Municipal Planning Tribunal must be in the form of a written report by the Directorate responsible for spatial planning and land use management as explained in terms of Section 20(a) of this by-law.~~^(deleted)
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Amendment of Section 18(1)(d),Section 18(1)(d)(ii),Section 18(1)(d)(iii), Section 18(1)(d)(iv), Section 18(1)(e),Section 18(1)(j)(iii), Section 18(1)(o)(i), Section 18(1)(o)(iii), Section 18(1)(p), Section 18(1)(t), Section 18(1)(u), Section 18(1)(v)(i)

- When the applicant submits an application to the Municipality, he /she shall give notice as follows **and provide proof thereof** ^(inserted)
- by posting a notice in such form as may be prescribed in a conspicuous place to the satisfaction of the Municipality, on his/her land as prescribed in Schedule 12 as the case may be, and he/she shall maintain such notice for a period of 30 consecutive days from the date of the first publication of the notice as contemplated in Section 18(1) (d)(i) above; **a sworn affidavit accompanied by photo of the site notice that the notice was indeed posted and maintained for the said period must be submitted to the Local Authority.** ^(inserted)
- by delivering a notice **as prescribed in Schedule 12,by way of** ^(inserted) ~~obtain the comments of surrounding property owners, and/or send~~ ^(deleted) registered post and/or **hand delivery** ^(inserted) ~~of the application as prescribed in Schedule 12~~ ^(inserted) to all the adjoining property owners of the property on which the application is brought; provided that adjoining owners in relation to their property shall mean any property that shares a common boundary, touches the corners of the land and includes properties that are separated by a road, or roadway or right of way servitude;
- in terms of Section 18(1)(d)(iii) copies of the notice are delivered to adjoining owners and such owners which form part of a body corporate, a registered letter must be sent to the body corporate and/or **home** ^(inserted) owners association where the trustees, can be identified to the satisfaction of the Municipality;
- where the applicant has been notified of any defects or the incompleteness of his / her application he/she shall:

rectify the defects or provide the documentation as ~~prescribed~~ ^(deleted) **requested** ^(SUBSTITUTED) within ~~420~~ ^(deleted) **60** ^(SUBSTITUTED) days of having been notified by the Municipality thereof. Failing which the Municipality shall not process the application, and the application for purposes of it being registered as a land development application in terms of this By-law, shall deemed not to have been submitted,

- any internal department of the Municipality, which in the opinion of the department responsible for ~~development planning~~ ^(deleted) **spatial planning and land use management** ^(SUBSTITUTED) or as the case may be, may have an interest in the application;
- the objections will have proof of payment **and the special power of attorney** **where applicable** ^(inserted) to the effect;
- only objections with the necessary contact details as contemplated in Section 18(1)(~~e~~) ^(deleted) **(n)** ^(SUBSTITUTED) shall be regarded as a valid objection; and
- The applicant may within a period of 30 days from the date on which he/she has received copies of the objections and ~~comment~~ ^(Deleted) **notification** ^(SUBSTITUTED) from the Municipality, reply to any objection and or comment; provided that if no reply is received within the prescribed period it shall be deemed by the Municipality that the applicant has waived his/her right of reply to the objection and or comments;
- The ~~Authorized official~~ ^(deleted) **Municipality** ^(SUBSTITUTED) shall notify the applicant of the decision of the Municipality on the said application.
- An applicant shall within a period of ~~6~~ ^(deleted) **3** ^(SUBSTITUTED) month or such further period that the Municipality may allow, in terms of an application brought in terms of Section 18(1), provide proof to the satisfaction of the Municipality that he has complied with the conditions which the Municipality has determined in terms of Section 18(1)(s) and the land use rights will come into operation in terms of Section 18(1)(v); failing which the application shall lapse.
- **the municipality or the applicant shall publish a notice** ^(inserted) as prescribed in terms of form DOC/F31 in the Provincial Gazette, whereupon the land use rights shall come into operation;

Amendment of Section 18(3)(b), Section 18(3)(c), Section 18(3)(h) and Section 18(3)(l)

- Any owner of land who intends to apply to the Municipality for a special consent for the erection of a building(s) and / or use of land, for the purposes as set out in Schedule 5 shall submit such application including fees to the Municipality in writing **in** ^(inserted) terms of Schedule 6 of this By-Law.

- the applicant shall at his / her own expense give notice of the intended application. Such notice shall be advertised once in one Official Language commonly spoken within the area of jurisdiction as prescribed in terms of form DOC/F15 ^(deleted) 6 ^(SUBSTITUTED) and obtain the comments from the surrounding owners as per Schedule 26 or by means of a registered post.
- Where the Municipality imposes a condition in terms of Section 18(3) ~~(h)(i)~~ ^(deleted) (g) ^(SUBSTITUTED) requiring the payment of an amount of money to it, it shall notify the person concerned in writing thereof, which notification may be done simultaneously with the notification of the decision on the application, and such amount of money shall:
- The ~~Authorized official~~ ^(deleted) Municipality ^(SUBSTITUTED) shall notify the applicant and any person or body which in the opinion of the Municipality requires notification of the decision of the Municipality on the said application;

Amendment of Section 18(4)(b)(iv), Section 18(4)(b)(ix), Section 18(4)(b)(xii)

- erection of an additional (second) dwelling unit **and amendment thereof;** ^(inserted)
- ~~amendment of~~ ^(deleted) site development plan **and amendment thereof;** ^(inserted)
- **renewal of special consent** ^(Inserted)

Amendment of Section 18(5) (f), Section 18(5) (h) and Section 18(5)(j),

- that Sections 18 (1)(a) to (t) ~~of this~~ ^(deleted) of this By-Law shall apply *mutatis mutandis*.
- Where the Municipality imposes a condition in terms of Section 18(5) ~~(h)(i)~~ ^(deleted) (g) ^(SUBSTITUTED) requiring the payment of an amount of money to it, it shall notify the person concerned in writing thereof, which notification may be done simultaneously with the notification of the decision on the application, and such amount of money shall:

- The ~~Authorized official~~ ^(deleted) **Municipality** ^(SUBSTITUTED) shall notify the applicant and any person or body which in the opinion of the Municipality requires notification of the decision of the Municipality on the said application;
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Amendment of Section 18 (6)

- **Application procedures within the ~~urban edge of tribal authority~~ ^(deleted) traditional authorities areas shall.** ^(SUBSTITUTED)

Inserted Section 18(6)(1)

- **be dealt with in terms of the Rustenburg Land Use Scheme read with regulation 19 of the Spatial Planning and Land Management Act 16 of 2013.** ^(Inserted)

Deleted Sections 18(6)(a) to (e)

- ~~The application procedure set out in Section 18(6)(b) shall apply to all properties located within the urban edge of the following areas:~~
 - ~~(i) Berseba~~
 - ~~(ii) Bethanie~~
 - ~~(iii) Koankweng~~
 - ~~(iv) Makolokwe~~
 - ~~(v) Maumong~~
 - ~~(vi) Modikwe~~
 - ~~(vii) Wonderkoppies~~
 - ~~(viii) Royal Bafokeng~~
- ~~an applicant intending to apply to the Municipality for the erection of buildings and / or use of land for a purpose set out in Schedule 5, shall submit such application in writing in a manner as indicated on the Schedule also adhering to the By-Law.~~
- ~~the applicant shall lodge such application on the prescribed form and shall lodge such~~

~~application at the relevant Tribal Office or at the Municipality~~

- ~~the designated Land Officer within the tribal authority shall consider the application and the application as well as the resolution taken by the tribal authority be referred to the Municipality Planning Tribunal for the final consideration.~~
- ~~In accordance with Schedule 2 of the is By-Law , the Municipality shall keep a complete register of amendments, approvals and consents approved as well as conditions imposed shall be forwarded to the Municipality of the inclusion thereof~~

Amendment of Section 18(7)(a), Section 18(7)(b),Section 18(7)(b)(iv), Section 18(7)(e) and Section 18(7)(h)

- An owner of land who wishes to establish a township on his or her land or for the extension of the boundaries of an approved township, may, in such form and subject to such requirements as the Municipality ~~may~~ ^(deleted) prescribed in Schedules 9 and 10, **may** ^(inserted) apply in writing to the Municipality in whose jurisdiction the establishment of a township **is** ^(inserted) **in.** ^(inserted)
- An application contemplated in Section 18(7) (a) shall be accompanied by such plans, diagrams, technical reports and other documents as may be prescribed by the Municipality ~~as prescribed~~ ^(deleted) Schedules 9 and 10 and the applicant shall:
- Obtain a Township Name **and a scheme number** ^(inserted) through a request for reservation.
- Where the Municipality ~~ity~~ ^(deleted) Planning Tribunal approves an application in terms of Section 18(7)(d), it may impose any condition it may deem expedient including requiring the payment of Development Charges and charges for parks and open spaces **(as prescribed in schedule 19(1))** ^(inserted) either in cash or in lieu or both;
- The ~~Municipal Planning Tribunal~~ ^(deleted) **Municipality** ^(substituted) shall notify the applicant and any person or body, which in the opinion of the Municipality requires notification of its decision in terms of Sections 18(7)(d) and 18(7)(g).

Amendment of Section 18(9)(d) and Section 18(9)(e)

- On the receipt of the notice contemplated in ~~with~~ Section 18 (9) (c), the ~~Municipality~~ ^(deleted) **Applicant** ^(substituted) must publish a notice in the provincial gazette declaring that the general plan has been altered, amended or totally or partially cancelled ~~and the Municipality set out the conditions in post or the amendment or deletion of any conditions, where applicable.~~ ^(deleted)
- **On receipt of the notice contemplated in Section 18(9) (d)** the Municipality must provide the register of deeds and **Surveyor General** with a copy of the notice ~~as contemplated in Section 18(9)(d).~~

Amendment of section 18(12)(a)

- Where in terms of Section 18(7) (d) the Municipal Planning Tribunal has approved an application for township establishment, the conditions as required in terms of Section 18(7)(g)(v) shall contain the conditions to be incorporated into the Land Use Scheme by means of an amendment scheme read with Section 18(7)(b) **(iv)**. ^(inserted)

Amendment of Section 18(15) (d) and Section 18(15) (g) (ii),

- After the provisions of Sections 18(15)(a) to 18(15)(c) have been complied with the Municipality shall consider the application and it may approve or refuse it. ~~and where the Municipality fails to approve or refuse an application to consolidate two or more erven as contemplated in Section 18(15)(a)(ii) within a period of 60 days from the date contemplated in Section 18(15)(c), it shall be deemed that the Municipality has approved the application.~~ ^(deleted)
- open spaces or parks, and such amount shall be determined by the Municipality in terms of an approved policy which policy shall determine the formula for calculation of the land

provided for parks and open space and the monies in lieu thereof with due in accordance with Schedule 19⁽¹⁾ ^(inserted)

Amendment of Section 18 (19) (i), Section 18(19)(I)(ii)

- Where the applicant fails, within a reasonable time after he or she has lodged the plans, diagrams or other documents contemplated in subsection 18(19)(g), to comply with any requirement the Surveyor-General may lawfully lay down, and notify the municipality accordingly, and where the municipality is satisfied, after hearing the applicant, that the applicant has failed to comply with any such requirement without sound reason, ~~the municipality must notify the applicant~~ ^(deleted) and thereupon the application lapses.
 - The ownership of any public place or street shall remain vested in the ^{name of the} ^(inserted) Municipality ~~revest in the township owner~~ ^(deleted)
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Amendment of Section 18(20)(c), Section 18(20)(d)(ii), Section 18(20)(d)(iii)

- This application will then be referred to the Municipality ^(deleted) ^{Planning} ^(inserted) Tribunal for the necessary approval.
- by posting a notice in such form as may be prescribed in a conspicuous place to the satisfaction of the Municipality, on the land applicable and as prescribed in Schedule 12 as the case may be, and he shall maintain such notice for a period of at least 30 days from the date of the first publication of the notice contemplated in Section 18(20) (d)(i) Provided that the Municipality may, in its discretion, grant exemption from compliance with the provisions of this subsection, ^{a sworn affidavit accompanied by photo of the site notice that the notice was indeed posted and maintained for the said period must be submitted to the} ^{Local Authority} ^(inserted)
- by delivering a notice ~~of the application~~ ^(deleted) as prescribed in Schedule 12, ^{by way of} ^{registered post and/or hand delivery} ^(inserted) to all the adjoining property owners of the

property on which the application is brought; provided that adjoining owners in relation to their property shall mean any property that shares a common boundary, touches the corners of the land and includes properties that are separated by a road, or roadway or right of way servitude;

CHAPTER 5

Amendment of Section 19(8) (b), Section 19(8)(d), Section 19(9)(c)(ii),Section(19)(9)(f), Section 19(11)(b), Section 19(11)(d)(x),Section 19(11)(k), Section 19(11)(m)

- After appointment of the members to the Municipal Planning Tribunal, the Council must designate a chairperson and a deputy chairperson as contemplated in section 19 **(3)** ^(inserted) (c) read with section 36(4) of the Act, from the members so appointed.
- The Municipal Manager must, when he or she publishes the notice of the commencement date of the operations of the first Municipal Planning Tribunal contemplated in Section 13, publish the names of the members of the Municipal Planning Tribunal and their term **of** ^(inserted) office in the same notice.
- a member contravenes the code of conduct contemplated in ~~Schedule 23;~~ ^(deleted) **Schedule 3 of the Regulation of the Act** ^(substituted)
- All members of the Municipal Planning Tribunal must sign the Code of Conduct contained in ~~Schedule 23~~ ^(deleted) **Schedule 3 of the Regulation of the Act** ^(substituted) before taking up a seat on the Municipal Planning Tribunal.
- Where in terms of any provision of the Act ~~a Municipal Planning Tribunal~~ ^(deleted) read with Chapter 6 of the Act **a Municipal Planning Tribunal** ^(inserted) shall hear oral **and/or written**, ^(inserted) representation of objections lodged or representations made, in terms of Sections 19(11)(d)(xi),30 **and 31** ^(inserted) of this by-law, it shall determine a day, time and place for the hearing.

- the Municipal Planning Tribunal shall conduct the hearing substantially in accordance with the Code of Conduct and Operational Procedures document as prescribed in ~~schedule 23~~^(deleted) **Schedule 3 of the Regulation of the Act read with Schedule 23** ^(substituted) and for that purpose the Chairperson contemplated in Section 36(4) of the Act, may issue directives to the Municipal Planning Tribunal members in that regard;
- A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of the members **appointed.** ^(inserted) ~~Appointed for that decision meeting and present at that decision meeting.~~ ^(deleted)
- Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the **Municipality** ^(substituted) ~~chairperson of the Municipal Planning Tribunal~~ ^(deleted) in accordance with the operational procedures of the Municipal Planning Tribunal but meetings must be held at least once per month, if there are applications to consider.

Amendment of Section 20(1), Section 20(1)(a),Section 20(1)(a)(vii),Section 20(1)(b), Section 20(1)(c) and Section 20(1)(d)

- General criteria for consideration and determination of application by Municipal Planning Tribunal or Land Development Officer/**Authorised Official** ^(inserted)
- When the Municipal Planning Tribunal or Land Development Officer considers an application it ~~must~~ ^(deleted) **may** ^(substituted) have regard to the following:
- a written assessment by **a Town Planner of the Municipality.** ^(Substituted) ~~professional planner as defined in Section (1) of the Planning Profession Act in respect of land development applications to be considered and determined by the Municipal Planning Tribunal.~~
- ~~The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan—~~
 - ~~(i) is consistent with the development rules of the zoning;~~

- ~~(ii) — complies with the conditions of approval; and~~
- ~~(iv) — complies with this By-law.~~ ^(Deleted)
- ~~When a site development plan is required in terms of development parameters or conditions of approval —~~
 - ~~(i) — the Municipality must not approve a building plan if the site development plan has not been approved; and~~
 - ~~(ii) — the Municipality must not approve a building plan that is inconsistent with the approved site development plan.~~ ^(Deleted)
- The written assessment of a ~~professional~~ ^(deleted) **Town** ^(substituted) Planner of the Municipality contemplated in Section 20 (1)(a)(viii) ~~must~~ ^(deleted) **may where applicable** ^(inserted) include such ~~registered~~ ^(deleted) planner's evaluation of the proposal confirming that the application complies with the procedures required by this By-law, the spatial development framework, the land use scheme; applicable policies and guidelines; or if the application does not comply, state to what extent the application does not comply.

Amendment of Section 21(10) and Section 21(11)

- ~~If the Municipal Planning Tribunal or An Authorised Official approves a land development or use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.~~ ^(deleted)
- ~~The Municipal Planning Tribunal or An Authorised Official may, on its, his or her own initiative or on application, amend, delete or impose additional conditions after due notice to the owner and any persons whose rights may be affected.~~ ^(deleted)

Amendment of Section 22(1)

- The Municipal Manager ~~must~~ ^(deleted) **may** ^(substituted) designate an employee as the administrator for the Municipal Planning Tribunal.

CHAPTER 6

Amendment of Section 23(2), Section 24(a)

- An appeal that is **not** ^(inserted) lodged within the applicable period in subsection 1 above or that does not comply with this section, or not based on the record of the hearing a *quo* will be invalid.
 - When the appeal authority receives a Notice of Appeal, it must screen such notice **in line with regulation 30 of the Act** ^(inserted) to determine whether:
-

Amendment of Section 29(1)(a) and Section 29 (2)

- The **presiding officer of the** ^(inserted) appeal authority must notify the parties of the date, time
 - ~~A hearing date:
A hearing will commence within 15 days after the completed Notice of Appeal has been delivered to the appeal authority, unless the parties and the presiding officer of the appeal authority consent to a later date~~ ^(deleted)
-

Amendment of Section 30(1) and Section 30(2)(b),

- An oral hearing must be held in a location within the area of jurisdiction of the Municipality. ~~but must not be held where the Municipal Planning Tribunal sits or the office of the Authorised Official whose decision is under appeal.~~ ^(deleted)
- The Appeal Authority having dealt with all points in limine, which may have been raised in terms of Section 30 **(2)(a)** ^(substituted) ~~(3)~~ ^(deleted) may determine that no further points in limine may be raised, having concluded the procedural issues prior to the consideration of the merits of the application.

Amendment of Section (31)(2)(d) and Section 31(4)(d)

- The Municipal Planning Tribunal or the Authorised Official has **21**^(substituted) ~~seven~~^(deleted) days in which to provide a submission in response.
- The appeal authority must issue a decision in writing to the parties and, if the submission is accepted, the other party will be **given 21**^(substituted) ~~seven~~^(deleted) days to provide a written submission in response.

Amendment of Section 32(3)

- The registrar must notify the parties of the decision of the appeal authority in terms of Section 32(2) of ~~his~~^(deleted) **this**^(inserted) by-law, together with the reasons therefor within ~~seven (7)~~^(deleted) days after the appeal authority handed down its decision.

CHAPTER 7

Amendment of Section 33(3)(b);

- the Municipality shall be responsible for the installation and provision of external engineering services **or request the developer to install the external engineering services on behalf of the Municipality**^(inserted) as provided for in the **service**^(inserted) agreement in terms of ~~sub-~~^(deleted) Section 34(9) ~~33(2);~~^(deleted) and

Amendment of Section 34(4)(c), Section 34(4)(e) substituted with the new Section 35, Inserted a new Section: Section 36,

- Nothing contained in this section shall oblige the Municipality to offset any costs incurred in the provision of external engineering services other than that which may have been agreed upon in the engineering services agreement contemplated in Section 34(9) (substituted) ~~(33)(2)~~. (deleted)
 - ~~should the amount exceed the amount of engineering services Development Charges then the Municipality may in its sole discretion refund the owner provided that the necessary funds are available on the Municipality's approved budget.~~ (deleted) Should the amount exceed of engineering services Development Charges, the developer shall bear the full cost of the exceeded amount. (substituted)
-

Section 36;

- To the extent of that the Local Authority may find it necessary in future, it shall be entitled to connect an area outside the township to any part of the external or internal services in order to provide services to the other areas. In such event the Local Authority will reimburse the Developer the pro rata shares of the cost of the bulk service installed by the Developer. (Inserted)
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Amendment of Section 34(7)(a), Section 34(8)(a), Section 34(8)(b)(iii), Section 34(9)(a),

Deleted Section 34(7)(b), Section 34(7)(c), Section 34(9)(g) and Section 34(15)

- ~~in the circumstances contemplated in Sections 34(7)(b) or 34(7)(c), allow payment of the Development Charge contemplated in Section 39(6) in installments over a period not exceeding 3 months; in circumstances contemplated in Section 34(7)(b) or 34(7)(c),~~ ^(deleted)

allow the developer to develop the development in phases. The development charges for each phase will be charge at the prevailing charges. ^(Substituted)
- ~~in any case, allow payment of the Development Charge becoming payable in terms of this By-law on signing of service agreements through a bank guarantee or cash payment to be postponed for a period not exceeding 3 months from the date upon which the owner or applicant is directed to pay the development charges, where security for the payment is given to Municipality's satisfaction;~~ ^(deleted)
- ~~(c) in exercising the power conferred by Sections 34(7)(a) or 34(7)(b), impose any condition, including a condition for the payment of interest.~~ ^(deleted)
- allow without compensation or the necessity of the registration of servitudes that the following be conveyed across his or her property in respect of other properties, **to the satisfactory of the Municipality:** ^(inserted)
- ~~service~~ ^(deleted) pillars **boxes;** ^(inserted)
- Where required by the municipality, an owner of a land development application and municipality must enter into an Engineering Services Agreement read with Sections 33(1) to (4) and **Section 18 (12).** ^(inserted)
- ~~If a service within the boundaries of the new land development is intended also to serve any other area within the jurisdiction of the Municipality, such service and the costs of provision thereof may be treated as an internal engineering service to the extent that it serves the land development and as an external engineering service to the extent that it serves any other development.~~ ^(deleted)

- ~~Provision may be made for the manner in which the parties are to finance their relative responsibilities in terms of the engineering services agreement. Where appropriate, either party may undertake to provide bridging finance to the other party.~~^(deleted)
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CHAPTER 8

Amendment of Section 38(1)(a)

- The Municipality may require that new notice of an application as contemplated in Schedule 12 or other relevant schedules to this By-law be given if more than 18 months **has**^(substituted) ~~have~~^(deleted) elapsed since the first public notice of the application and if the application has not been considered by the Municipality.
-

Amendment of Section 39(5)

- Access for any land to a public street, as determined in terms of a land use application ~~including~~^(deleted) **including**^(substituted) a subdivision and or consolidation, shall be to the satisfaction of the Municipality and may be done by the registration of a servitude; provided that no property shall be provided with more than one access without the consent of the Municipality;
-

Amendment of Section 42(1)

- The Applicant shall be responsible for the excision of land from an Agricultural Holding register if required to do so either **out** ^(inserted) of his own accord or by the Municipality.
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Amendment of Section 45(1)(a) and Section 45(3)(a),

- Where the Municipality is of the opinion that any error or omission in an approved scheme, consent, removal of restrictive conditions or any land development application in the approval thereof have occurred, relating to land situated within its area of jurisdiction may be corrected without the necessity for a new application to be brought or the preparing **of** ^(inserted) an amendment scheme, it may, correct such error or omission by:
 - An applicant may, at any time prior to a decision being taken, withdraw an application at the Municipality or withdraw the power of attorney that authorized a person to make an application on his/her behalf. **It is the obligation of the applicant to inform all registered interested or affected parties, that the application has been formally withdrawn.** ^(inserted)
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Amendment of Section 46(2)

- nothing contained in this By-law or any other legislation shall prohibit the Municipal Manager from determining through its Schedules or Forms, or amendment thereof from time to time, processes and procedures to be complied with by the owner, applicant on any other person acting in terms of these By-laws; provided that in determining these processes and procedures it shall not do so if the determination materially, in the opinion of the ~~City Manager~~ ^(deleted) **Municipal Manager** ^(Substituted) amends this By-law as adopted.

CHAPTER 9

Amendments of Section 48(1), Section 48(1)(f),Section 48(2), Section 48(4), Section 48(4)(a), Section 48(4)(c), Section 48(4)(d),Section 48(5),Section 48(6),

- The Municipality may through its official ensure compliance by any person who contravenes municipal planning By-laws; Policies or any other legislations by first issuing a Compliance/**Legal**^(inserted) Notice in writing which shall contain the following:
- A warning further that:
 - If a registered owner admits to a transgression set out in the notice should be summarily liable to a fine as **determined by the relevant Authority** ^(substituted) ~~set out in the fine schedule~~ ^(deleted)
- The compliance notice to a person who contravenes Municipal By-laws, Policies and or relevant legislations or who uses any land or building or caused it to be used in manner contrary thereto to ~~instruction~~ ^(deleted) order such a person:
- The compliance/**Legal** ^(inserted) notice must instruct the occupier and owner to cease the unauthorised land use or activity or both, forthwith or within the time period determined by the Municipality and may include an instruction to:
- Entirely at his own expense demolish unauthorised building work and rehabilitate the land or restore the building, as the case may be, to its original form within 30 days or such other time period determined by the **Municipality** ^(substituted) ~~Municipal Manager~~ ^(deleted); or
- A person who has received a compliance notice with an instruction contemplated in Section 48 **(4)** ^(substituted) ~~(3)(a)~~ ^(deleted) may not submit an application in terms of Section 48 **(4)** ^(substituted) ~~(3)~~ ^(deleted) (b) .

- An application in terms of Section 48 **(4)**^(substituted) ~~(3)~~^(deleted)(b) shall not ipso facto be an approval.
 - Any person or owner who receives a **compliance**^(inserted) /legal notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance/**legal**^(inserted) notice in terms of Section 48.
 - If a person fails to comply with a **Compliance**^(inserted)/legal notice the Municipality may
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Amendment of Section 50(2)

- Where any person fails to comply with a compliance notice issued in terms of section 48(2), the municipality may whether or not a prosecution has been or will be instituted, remove the building or work or cause the building or other work to comply with the provisions of its land use scheme and recover all expense incurred in connection therewith **from**^(substituted) ~~from~~^(deleted) such a person or owner
-

Amendment of Section 52(2)(b)

- Enter without permission accompanied by Municipality Law Enforcement officer/s or member/s of the South African Police Services if there is a reasonable apprehension that the object of investigation or any matter or evidence may become dissipated if a warrant has **first**^(substituted) ~~first~~^(deleted) to be obtained.
-

Amendment of Section 58 Title:

- ~~SHORT~~^(deleted) TITLE AND COMMENCEMENT **OF THIS BY-LAW**^(inserted)

Amendment of Section 58(1)

- This By-law shall be known as the “Rustenburg Local Municipality Spatial Planning and Land Use Management By – Law ~~2015~~^(deleted)”

Amendment of Section 58(2)

- This By-law shall commence ~~on the date of proclamation.~~^(deleted) in compliance with Section 13 of the Municipal Systems Act ^(substituted)