

REGULATIONS RELATING TO TOWNSHIP ESTABLISHMENT AND LAND USE

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I, Jan Christiaan Heunis, Minister of Constitutional Development and Planning, do hereby, by virtue of the powers vested in me by section 66(1) of the Black Communities Development Act, 1984 (Act 4 of 1984), make the regulations contained in the accompanying Schedule, which regulations shall come into operation on 15 September 1986.

J.C. HEUNIS,

Minister of Constitutional Development and Planning.

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SCHEDULE

CHAPTER I (reg 1)

1 Definitions

In these regulations, unless the context otherwise indicates -

"administrator" means, except where an Administrator acts under the Black Local Authorities Act, 1982 (Act 102 of 1982), as contemplated in regulation 3, or under any law other than the Act, an administrator in

whom the assets, liabilities, rights, duties and obligations of a board vest as contemplated in section 3(1)(a) of the Abolition of Development Bodies Act, 1986 (Act 75 of 1986), and includes a public authority to which such assets, liabilities, rights, duties and obligations have passed as contemplated in section 3(2) of that Act;

"approved application" means an application for the establishment of a township that has been approved by the Minister in terms of regulation 16 but where the land in question has not yet become an approved township;

"approved township" means land in respect of which a notice has been published by the Minister in the *Gazette* as contemplated in regulation 23 declaring that the township has been approved;

"authorised officer" means any person designated as such by the Minister or his authorised representative;

"land availability agreement" means an agreement that has been concluded between the body making land available as contemplated in section 34(9) of the Act and the person or body to whom the land is made available and that has been approved by the Minister as contemplated in regulation 4;

"land use conditions" means the conditions of title or township conditions contemplated in section 57B of the Act and contained in Annexure F to these regulations, and includes any town planning scheme that has replaced such prescribed conditions as contemplated in that section;

"Registrar" means the relevant registrar;

"relevant authority" means the relevant authority referred to in regulations 26;

"services agreement" means an agreement concluded between a township applicant who is not a local authority and the relevant authority, in terms of which the relative responsibilities of the two parties are determined for the provision of internal and external engineering services and the level of such services as contemplated in regulation 27;

"services arbitration board" means a board established by the Minister in terms of regulation 31;

"Surveyor-General" means the relevant surveyor-general as defined in section 49 of the Land Survey Act, 1927 (Act 9 of 1927);

"the Act" means the Black Communities Development Act, 1984 (Act 4 of 1984);

"township applicant" means -

(a) an administrator, local authority or township developer who is the owner or the duly authorised agent of the owner of the land that is the subject of the application for approval as a township, or who has the consent of such owner to establish a township on such land in his own name;

(b) an administrator, local authority or township developer to whom the land that is the subject of the application for approval as a township has been made available as contemplated in section 34(9) of the Act, in terms of a land availability agreement;

"transfer", in relation to the transfer of land, includes a grant of a right of leasehold as contemplated in section 52(1) of the Act, and the subsequent transfer of such leasehold by a leaseholder to a competent person.

CHAPTER II
GENERAL (regs 2-5)

2 Application of Regulations

A township may be established only by a township applicant and only as contemplated in these regulations:
Provided that -

(a) any person may use land for the residential purposes of employees of a mining undertaking, where in respect of such use -

(i) a surface right permit has been issued in terms of the Mining Rights Act, 1967 (Act 20 of 1967), in consultation with the authorised officer;
or

(ii) a permit contemplated in section 6(1) of the Physical Planning Act, 1967 (Act 86 of 1967), has been issued for the erection of dwellings;

(b) the Minister may, on such terms and conditions as he may determine, exempt from any or all of the requirements of these regulations -

(i) a statutory body,

(ii) any person engaged in *bona fide* mining operations,

(iii) an owner or occupier of land the development or layout of which, in the opinion of the Minister, constitutes or will constitute a holiday resort, public resort or similar resort,

(iv) a co-operative as defined in section 1(1) of the Co-operatives Act, 1981 (Act 91 of 1981),

(v) a welfare organisation registered in terms of section 13 of the National Welfare Act, 1978 (Act 100 of 1978),

(vi) an administrator or a township developer who establishes a township outside a local authority area as contemplated in regulation 3(b),

(vii) any person who establishes, develops or improves an informal settlement in circumstances expressly allowed by the Minister or allowed by or under any other law,

(viii) in any case where the Minister considers that such exemption would facilitate speedy development and that such development would be in the public interest, any other person or body;

(c) any person engaged in *bona fide* farming operations may use the land on which he is so engaged for the housing of any persons who may lawfully reside on such land, including *bona fide* full-time employees in his service on such land and the dependants of such employees;

(d) if the State establishes a township, it shall not be bound by these regulations and the township shall be deemed to have been established as contemplated in section 35(1) of the Act, upon a layout plan and a general plan having been prepared and approved.

3 Land

A township may be established only in a development area, and the land concerned must also be in a local authority area: Provided that -

(a) the Minister may approve a township in a part of a development area that is not yet in a local authority area, but which, in the opinion of the Minister, will or is likely to be incorporated into a local authority area by an Administrator as contemplated in section 2(2) of the Black Local Authorities Act, 1982 (Act 102 of 1982);

(b) an administrator of a township developer acting under an exemption contemplated in regulation 2(b)(vi), or the State, may establish a township on land in a development area which is outside a local authority area: With the proviso that -

(i) the township shall, upon becoming an approved township, be administered by an administrator as contemplated in section 31 of the Act, and such administrator or, subject to the provisions of the said section, the Minister, or any body or person designated by the Minister, shall also exercise control over the land in the township until a local authority is constituted which can in the opinion of the Minister exercise jurisdiction in respect of such township, and the land comprising the township has been incorporated into the relevant local authority area by an Administrator as contemplated in section 2(2) of the Black Local Authorities Act, 1982;

(ii) if land is to be transferred to or will vest in a local authority by virtue of the fact that it constitutes public places, or by way of an endowment, or an amount of money is to be paid in lieu of such transfer as contemplated in regulation 16(2), then such land shall be transferred to or shall vest in, or such amount shall be paid to the administrator, the Minister or the person or body designated by the Minister referred to in subregulation (1), pending the incorporation of the relevant land into a local authority area by an Administrator, as contemplated in subparagraph (i), and upon such incorporation the relevant land or amount shall be transferred to or vest in, or be paid over to, as the case may be, the relevant local authority by the Minister, the relevant administrator, or such person or body.

4 Land availability agreement

The terms and conditions on which land has been made available to any person or body in terms of section 34(9) of the Act shall be contained in a land availability agreement concluded in writing between the body making available the land and the person or body to whom the land is made available, and which -

(a) complies substantially with the guide-lines set out in Annexure A, or such other or additional guide-lines as may be issued generally by the authorised officer from time to time, or determined by him in any particular case; and

(b) has been submitted to and approved by the Minister.

5 Transition

Township establishment procedures for the approval of a layout plan or a general plan commenced, but not yet completed, by an administrator (whether or not acting through a local authority or a private developer on his behalf) in terms of section 35(1) as read with sections 36(1) and 41(2) of the Act prior to the dates on which the Black Communities Development Amendment Act, 1986 (Act 74 of 1986), and these regulations came into force, whichever is the later date (in this regulation referred to as "the effective date"), shall be dealt with as follows:

(1) If on the effective date any person or body, including a local authority or township developer, is conducting the development of the relevant land in terms of an agreement with an administrator or a local authority, including any such agreement that was, where necessary, approved by the Minister as contemplated in the Act prior to the effective date, the provisions of such agreement shall take precedence over the provisions of these regulations, to the extent that the provisions of these regulations and the terms of such agreement are mutually inconsistent: Provided that -

(a) the provisions of these regulations shall as far as reasonably possible be complied with in the manner and at the stages contemplated in subregulation (2);

(b) if it is shown to the satisfaction of the authorised officer that any provision of these regulations not consistent with an agreement as contemplated in this subregulation is nevertheless clearly inappropriate or that it is in the public interest that such provision should not be applied in respect of the relevant application, he may direct that such provision shall not apply to the relevant application.

(2) Subject to the provisions of subregulation (1) -

(a) if on the effective date an application for the approval of a layout plan has been lodged with the Minister but not yet approved by him, the provisions of Chapter III shall, save to the extent otherwise directed by the authorised officer, not apply in respect of the application, and the application shall be deemed to be an approved application upon the Minister having approved the relevant layout plan: Provided that -

(i) the provisions of regulation 16 and 17 shall be applied *mutatis mutandis* in respect of the application;

(ii) with effect from the date on which the application is deemed to be an approved application as contemplated in this paragraph, the provisions of Chapter IV, V and VI shall apply to the application, *mutatis mutandis*, except to the extent otherwise indicated in any condition of establishment referred to in regulation 16, or otherwise directed by the authorised officer; and

(iii) any layout plan submitted to a local authority for approval prior to the effective date, but on that date not yet lodged with the Minister as contemplated in this paragraph, shall be deemed to have been lodged with the Minister as intended in this paragraph: Provided that, if by a date four months after the effective date such layout plan has not yet been approved by the local authority and actually lodged with the Minister, the relevant application shall be treated as a new application in terms of Chapter III;

(b) if on effective date a layout plan has been approved in respect of the proposed township, but a general plan has not yet been approved, the application shall be deemed to have become an approved application on the date on which the layout plan was approved by the Minister, and the provisions of Chapter IV, V and VI shall apply in respect of the application, *mutatis mutandis*, save to the extent otherwise directed by the authorised officer; or

(c) if on the effective date a layout plan as well as general plan has been approved in respect of the proposed township -

(i) the application shall be deemed to have become an approved application on the date on which the layout plan was approved by the Minister; and

(ii) the provisions of regulations 23, 24 and 25, as well as of Chapter V and VI, shall apply in respect of the application, *mutatis mutandis*, save to the extent otherwise directed by the authorised officer.

CHAPTER III **APPLICATION FOR TOWNSHIP ESTABLISHMENT (regs 6-17)**

6 Application of Chapter

Subject to regulations 2 and 5 this Chapter applies to applications for township establishment made by all township applicants: Provided that, if the township applicant is a local authority, the provisions of regulation 9(1)(a) shall not be applicable.

7 Application to Authorised Officer

(1) A township applicant shall submit a written application to the authorised officer which includes at least -

(a) where such agreement has not yet been submitted to the Minister as contemplated in regulation 4(b), a copy of a land availability agreement, if applicable;

(b) draft conditions of establishment complying with the guideline as set out in Annexure B;

(c) proposed title conditions, including an indication of the extent to which the land use conditions will apply to the township;

(d) a draft layout plan;

(e) a duly completed application form and two copies, substantially in the form of Annexure B, together with such additional documents and information as are referred to therein and are relevant to the application; and

(f) an explanatory memorandum substantiating the application.

(2) The authorised officer shall immediately upon receipt of the application referred to in subregulation (1) acknowledge receipt of the application form referred to in subregulation (1)(e), and the documents attached thereto, by signing and dating the form of acknowledgement on the applicant's copy of the application form

or, if the township applicant is unable to collect his copy of such form from the authorised officer, by posting such form or a similar written acknowledgement of receipt to the township applicant.

8 Investigation of Mineral Rights

(1) If -

(a) the rights to minerals in respect of the land on which the township applicant wishes to establish a township have been severed from the ownership of the land;

(b) the owner of the land on which the township applicant wished to establish a township has granted a lease of the rights to minerals or has entered into a prospecting contract, either or both of which is or are registered in terms of the Deeds Registries Act, 1937 (Act 47 of 1937), or has executed a notarial deed contemplated in section 8 of the Precious Stones Act, 1964 (Act 73 of 1964), or section 19(1) of the Mining Rights Act, 1967, which notarial deed is registered or deemed to be registered; or

(c) the land on which the township applicant wishes to establish a township is proclaimed land as contemplated in the Mining Rights Act, 1967,

the township applicant shall include in the application contemplated in regulation 7 the information referred to in subregulations (2) and (3).

(2) The township applicant shall in his application in the circumstances contemplated in subregulation (1) indicate whether -

(a) the holder or lessee of the rights to the minerals or the holder of the rights in terms of the prospecting contract or notarial deed has consented to the establishment of the township, or cannot be traced, despite reasonable efforts to trace him;

(b) the applicant has requested the relevant Administrator as contemplated in section 4 of the Expropriation of Mineral Rights (Townships) Act, 1969 (Act 96 of 1969), to expropriate the right to minerals;

(c) the proclaimed and contemplated in regulation 8(1)(c) has been reserved for the purposes of a township in terms of section 184 of the Mining Rights Act, 1967, or is not used for mining purposes or purposes incidental thereto and the owner of the land, with the written consent of the Government Mining Engineer referred to in section 1 of the Mining Rights Act, 1967, has been requested to consent to or has consented to a township being established on the land;

(d) any other steps have been taken in respect of such land.

(3) If any or all of the steps contemplated in paragraph *(a)*, *(b)* or *(c)* of subregulation (2) have not been taken, are not likely to be completed prior to the application becoming an approved application or, in the opinion of the township applicant, cannot be taken without causing substantial delay to the development of the township, then the township applicant shall indicate in his application referred to in subregulation (1) whether he requests that the Minister approve the application as contemplated in regulation 16(1) notwithstanding the fact that such steps have not yet been taken or are not likely to be completed prior to such approval, and, if so the application shall also state the conditions, if any, that the township applicant requests the Minister to impose in this connection at the risk of the township applicant as contemplated in regulation 16(1).

9 Notice to certain bodies

(1) As soon as possible after lodging his application with the authorised officer as contemplated in regulation 7, the township applicant shall give written notice substantially in the form of Annexure C, enclosing two copies of the application and accompanying documents lodged with the authorised office in terms of regulation 7, together with a copy of acknowledgement of receipt contemplated in regulation 7(2), to -

(a) the local authority, if any, in whose local authority area the land forming the subject to the application is situated; and

(b) any person or body designated in terms of subregulation (2) who should in the opinion of the authorised officer receive such notice as a party interested in the application.

(2) The authorised officer shall inform the township applicant of and shall determine the parties who shall be served with the notice contemplated in subregulation (1)(b) and the authorised officer's determination may either generally or in any particular case include -

(a) any provincial road department, any other department or division of the relevant provincial administration, any Government department which or any person who, in the opinion of the authorised officer, may be interested in the application;

(b) any local authority or local government body whose local authority powers, duties or functions will, in the opinion of the authorised officer, be affected by the township, if approved;

(c) any local authority or local government body, regional services council or other body that will provide any engineering service contemplated in Chapter V to the land in respect of which the application will be made;

(d) the Registrar.

(3) The township applicant shall as soon as possible having given the notices contemplated in subregulation (1) lodge with the authorised officer such proof of notices given to the persons or bodies contemplated in that subregulation and of the date of the receipt of such notices by such persons or bodies as the authorised officer may require, and the authorised officer shall indicate the manner of such proof required by him to the township applicant at the same time as he informs the township applicant of the matters contemplated in subregulation (2).

10 Public Notice

(1) A township applicant shall, as soon as possible after having lodged his application with the authorised officer as contemplated in regulation 7, give notice of the application by publishing for two consecutive weeks a notice substantially in the form of Annexure D in one Afrikaans and one English daily newspaper normally circulated in or near the development area in which the land that forms the subject of the application is situated.

(2) The township applicant shall cause the notice referred to in subregulation (1) to be displayed on the official notice board of the local authority, if any, within whose local authority area the township will or is likely to be established for the same two-week period contemplated in subregulation (1).

(3) The township applicant shall, as soon as possible after having published the notices referred to in subregulation (1), deliver to the authorised officer acceptable proof of the publication and the dates thereof.

11 Objections or representations

(1) A person or body given notice and copies of the application as contemplated in regulation 9 may, within a period of 30 days from the date on which such notice was given to such person or body, lodge a written objection with or make representations in writing to the authorised officer in respect of the application: Provided that, if such person or body is unable to lodge such objection or make such representations within the said 30-day period, or sufficiently to investigate the application within that period, it may, within that period, request the authorised officer in writing to extend the said period, and any such request shall set out the period within which it requests the authorised officer to allow it to lodge the objection or submission, as well as the nature of the objection or representations that such person or body intends to or, upon further investigation of the application, might or is likely to lodge or make.

(2) Any person may, within a period of 30 days from the date of the first publication of the public notice contemplated in regulation 10, lodge a written objection with or make representations in writing to the authorised officer in respect of the application.

(3) After the 30-day periods for lodging objections, representations or request as contemplated in subregulations (1) and (2) have expired, the authorised officer shall forward to the township applicant a copy of any such objection or representation lodge with him and also of every request contemplated in subregulation (1) that has been received by him.

(4) Any person or body lodging an objection or making representations as contemplated in subregulation (1) shall, together with his representations or objection, deliver to the authorised officer one of the copies of the application enclosed with the notice contemplated in regulation 9(1).

(5) After the 30-day periods for lodging objections or representations contemplated in subregulations (1) and (2) have expired, and if no objection or representations were received by the authorised officer from any person or body contemplated in subregulations (1) and (2), it shall be deemed that such person or body has no objection to or representations in respect of the application: Provided that -

(a) the authorised officer may, if, upon consideration of any written request referred to in subregulation (1), or on any other ground, he is satisfied that any person or body to whom notice was given in terms of regulation 9 wishes to or should lodge an objection or make representations but is unable to do so within the 30-day period allowed in subregulation (1) and that such objection or representations will, if upheld, materially affect or effectively preclude or are likely, if upheld, materially to affect or effectively to preclude establishment of the township, subject to the provisions of regulation 12, extend the period allowed for the lodging of such objection or the making of representations by such period or periods of time as he may deem appropriate, and the authorised officer shall inform the township applicant accordingly;

(b) the authorised officer may, if, subject to the provisions of regulation 12, he is satisfied that the application may proceed, either wholly or in part, while any objection or representation is awaited, allow the provisions of these regulations to be applied in respect of the application or any part thereof, *mutatis mutandis*, on such conditions as he may determine;

(c) it shall not be deemed as contemplated in this subregulation that a person or body contemplated in subregulations (1) and (2) has no objection to or representations in respect of the application, unless the authorised officer has received the proof that notice

was given to such person or body as contemplated in regulation 9(3) or in regulation 10(3), as the case may be.

12 Reply to township applicant

(1) The township applicant any, within 14 days or such longer period as the authorised officer may allow, after the receipt by the township applicant of the copies of objections, representations and requests as contemplated in regulation 11(3), or after the expiry of any period of extension as contemplated in regulation 11(5)(a), as the case may be, deliver in writing to the authorised officer -

(a) his reply to any objection or representations delivered to him as contemplated in regulation 11(3); and

(b) his comments on the desirability of the authorised officer applying regulation 11(5)(a) or (b) in respect of the application or any part thereof.

(2) If the township applicant does not deliver his reply or comments within the period allowed by or in terms of subregulation (1), he shall forfeit the right to do so.

(3) For the purposes of reaching a decision on whether or not to allow any extension of time for the lodging of an objection or the making of representations, or to allow the provisions of these regulations to be applied in respect of any part of the application, while any objection of representation is awaited, as contemplated in regulation 11(5)(a) or (b), the authorised officer may conduct any inspection, investigation or interview, *mutatis mutandis*, as contemplated in regulation 13.

13 Consideration by authorised officer

After the period afforded the township applicant for making his reply or comments by or in terms of regulation 12(1) has expired, the authorised officer shall consider the application, having regard to every objection or representation lodged and to any reply or comments made by the township applicant, and he may for that purpose -

(a) conduct any inspection or institute any investigation (including any consultations with such persons as the authorised officer may determine) which he may deem expedient; and

(b) interview any person or body who or which lodged an objection or made representations or comments, including the township applicant,

and the township applicant shall be entitled to be present at any such inspection, investigation or interview.

14 Amendment before approval of application

At any time after his application has been lodged with the authorised officer but before such application has become an approved application, the township applicant may -

(a) of his own accord and with the consent of the authorised officer; or

(b) at the request of the authorised officer,

amend the application: Provided that where the amendment is, in the opinion of the authorised officer, a substantial one, the authorised officer shall give such notice of the amendment or discuss the amendment with such persons or bodies as he may deem necessary, or, where the amendment is, in the opinion of the

authorised officer, so substantial that it constitutes a new application, the authorised officer may give such directions to the township applicant relating to the lodging of a new application and the giving of notices as he may deem appropriate.

15 Recommendation to Minister

Within 60 days after the period allowed the township applicant to lodge his reply or comments contemplated in regulation 12 has expired, the authorised officer shall submit the application to the Minister, together with his report in which he makes his recommendation to the Minister regarding the application.

16 Decision of Minister

(1) On receipt of an application accompanied by the authorised officer's report contemplated in regulation 15, the Minister may approve the application or any part thereof relating to a portion of the relevant land only, or refuse it or any part thereof, or postpone a decision thereon either wholly or in part: Provided that, where the land concerned is subject to any rights or is proclaimed land as contemplated in regulation 8(1)(a), (b) or (c), the Minister may approve the application subject to such conditions, if any, regarding the rights of the holder or lessee of mining rights, the deproclamation of the land under the Mining Rights Act, 1967, or the reservation of the land in question for township purposes as contemplated in section 184 of that Act, as he may determine after consultation, if deemed necessary by him, with the Minister of Mineral and Energy Affairs or his duly appointed representative.

(2) When the Minister approves an application, he may, in addition to any condition contemplated in subregulation (1), impose any condition he may deem expedient, including a condition requiring the provision of an endowment in kind or in cash: Provided that such an endowment may relate only to the transfer to or vesting in the local authority or any other person or body, or an administrator, as contemplated in regulation 3, of land designated for use as a public open space on the layout plan, or the payment of an amount of money in lieu of such transfer or vesting.

(3) After the Minister has approved an application or any part thereof, the authorised officer shall in writing notify the township applicant, the registrar, the Surveyor-General and the local authority, if any, whose local authority area will include the approved township of such approval, and of any condition by the Minister.

(4) If the Minister has refused the application or postponed a decision thereon either wholly or in part, or has imposed conditions under subregulation (2) that are materially different from the conditions submitted in the township applicant's application contemplated in regulation 7, the authorised officer shall, on the township applicant's written request, forward a copy of the Minister's written reasons for his decision to the township applicant.

(5) After the township applicant has been notified that his application has been approved, but before a registration or endorsement has taken place as contemplated in regulation 21(1), the Minister may amend or delete any condition imposed by him or add any further condition, and the provisions of subregulation (4) shall apply, *mutatis mutandis* in respect of such amendment or deletion.

17 Amendment after approval of application

(1) A township applicant who has been notified that his application has been approved as contemplated in regulation 16 may, at any time prior to the general plan relating to the proposed township having been approved as contemplated in regulation 19, apply to the Minister in such manner as the authorised officer may determine for the amendment of the layout plan relating to the proposed township, or for the division of the township into two or more separate townships.

(2) On receipt of an application referred to in subregulation (1) the Minister may -

(a) where the documents contemplated in regulation 19 have not yet been lodged with the Surveyor-General; or

(b) where the documents contemplated in regulation 19 have been lodged with the Surveyor-General but not yet approved by him as intended in that regulation, after consultation with the Surveyor-General,

consent to an amendment to the layout plan or to a division of the township referred to in subregulation (1) subject to any conditions that the Minister may deem expedient.

(3) Where the consent contemplated in subregulation (2) has been granted, the authorised officer shall notify the township applicant in writing thereof and of any condition imposed.

(4) The granting of a consent in terms of subregulation (2), and the notice by the authorised officer referred to in subregulation (3), shall be deemed to be an approval and a notice, as the case may be, in respect of an application for the amended township or of each separate township, as contemplated in regulation 16.

CHAPTER IV PROCEDURE FOR DECLARING AN APPROVED TOWNSHIP (regs 18-25)

18 Prohibition of conflicting use

(1) With effect from the date of the Minister's approval of a township application as contemplated in regulation 16, the owner of the land concerned, the relevant administrator, any person or body charged with the administration of such land, or the local authority, if any, whose local authority area will include the approved township shall not grant any consent, approval or authority that would be in conflict with the land use conditions or any other use conditions that will apply to the township, as contemplated in regulation 32.

(2) If a local authority, the relevant administrator, or any person or body charged with the administration of the relevant land is of the opinion that the provisions of the conditions referred to in subregulation (1) would be contravened if -

(a) the erection or alteration of or addition to any building is undertaken or proceeded with;

(b) the subdivision of any land is undertaken or proceeded with;

(c) any work is performed, undertaken or proceeded with; or

(d) any particular use is made of any land or building,

the local authority, such administrator or such person or body may by written notice prohibit such erection, alteration, addition, subdivision, work or use: Provided that this provision shall not apply to the erection or alteration of or addition to a building undertaken or proceeded with in accordance with an approved building plan or in terms of an approval granted in terms of any other law.

19 Submission of plans to Surveyor-General

(1) A township applicant who has been notified in terms of regulation 16 that his application has been approved by the Minister or that an amendment or division has been approved as contemplated in

regulation 17, as the case may be, shall, within a period of 12 months from the date of such notice, or such further period as the authorised officer may allow, lodge for approval with the Surveyor-General such plans, diagrams or other documents as the Surveyor-General may require, and if the township applicant fails to do so, the application shall lapse: Provided that the authorised officer may, where appropriate, allow the township applicant to lodge such plans, diagrams or other documents with the Surveyor-General at a stage prior to the relevant application having become an approved application: Provided further that, in such event, the layout plan relating to the proposed township shall have been first approved by the Minister as contemplated in the Act, if necessary separately from other aspects of the application being considered by the Minister in terms of regulation 16.

(2) As soon as possible after lodging the plans, diagrams or other documents referred to in subregulation (1), the township applicant shall inform the authorised officer of the date of such lodging.

(3) If the township applicant fails, within a reasonable time after he has lodged the plans, diagrams or other documents referred to in subregulation (1), to comply with any requirements the Surveyor-General may lawfully lay down, the Surveyor-General may notify the authorised officer accordingly, and if the authorised officer is satisfied, after hearing the township applicant, that the township applicant has failed to comply with any such requirement without sound reason, the authorised officer shall notify the applicant that he is so satisfied, and thereupon the application shall lapse: Provided that, if any right of leasehold in respect of unsurveyed premises as contemplated in section 52(5) of the Act and regulation 20 has been registered in respect of land in the proposed township, the authorised officer may declare that the application shall not lapse, or has not lapsed, and he shall be entitled to cause the requirements of the Surveyor-General to be complied with at the expense of the township applicant.

(4) After the Surveyor-General shall have been satisfied that the required plans, diagrams or documents have been lodged with him, he shall deal with such plans, diagrams or documents in accordance with the Land Survey Act, 1927.

(5) A general plan approved by the Surveyor-General, acting as contemplated in subregulation (4), or any general plan approved under the Act prior to the coming into force of the Black Communities Development Amendment Act, 1986, may be amended or partially or totally cancelled by the Surveyor-General or the land shown on such general plan may be consolidated or subdivided, on such terms and conditions as the Minister may approve or direct.

(6) The township applicant shall be responsible for submitting any application for the amendment or partial or total cancellation of a general plan referred to in subregulation (5) to the Surveyor-General, together with any approval or direction referred to in that subregulation, and such amending general plan shall comply with the requirements of the Land Survey Act, 1927.

(7) Any term or condition approved or directed by the Minister as contemplated in subregulation (5) may include any condition as to the payment of compensation, if any, or the closing of any public place.

(8) After the general plan relating to the township, or any part thereof has been approved by the Surveyor-General, the township applicant shall be responsible for making such consequential amendments to the relevant layout plan as may be dictated by the form in which the general plan was approved, and it shall not be necessary for any new or additional application to be made or approval to be granted in respect of a layout plan so amended.

(9) The township applicant shall, within a period of three months after the date on which the Surveyor-General has approved the plans and diagrams submitted to him, lodge a certified copy or tracing of the general plan of the township, together with a copy of the layout plan, amended as contemplated in subregulation (8), with the authorised officer and, if the approved township will be within the local authority area of any local authority, also with that local authority.

20 Leasehold in terms of section 52(5) of the Act during township establishment

(1) Notwithstanding anything to the contrary contained in these regulations, including, but not limited to -

(a) the requirement that the Registrar must in the ordinary course deal with relevant title deeds relating to a proposed township in terms of Chapter IV of the Deeds Registries Act, 1937, as contemplated in regulation 21(1);

(b) the requirement that the Registrar shall in the ordinary course of events not register any transactions in respect of the land situated in a proposed township in circumstances other than those contemplated in regulation 21(3); and

(c) the fact that certain requirements must be met before the land in a proposed township becomes registrable in a registration office as contemplated in regulation 25(2), the Registrar shall register a right of leasehold in respect of premises not yet shown on a general plan, as contemplated in section 52(5) and (9) of the Act: Provided that the site concerned shall have been identified by reference to a draft general plan or draft diagram submitted to the Surveyor-General as contemplated in regulation 6(4).

(2) The person contemplated in regulation 6(3)(b) of the Leasehold Regulations, 1985 shall not allocate a reference number to a draft general plan for the purposes of a registration as contemplated in subregulation (1) unless he is satisfied that -

(a) a contract as contemplated in regulation 24(4) has been duly entered into in respect of the land concerned, or may be entered into in respect of such land, in that -

(i) the relevant application has become an approved application as contemplated in regulation 24(4)(a); and

(ii) if the township applicant is not a local authority providing all engineering services to the township as contemplated in regulation 30, such township applicant and the relevant authority have both fulfilled their service responsibilities or have both delivered undertakings or guarantees as contemplated in regulation 24(4)(b), or, if the township applicant is a local authority as contemplated in regulation 30, such township applicant has installed and provided all engineering services in respect of the relevant land as contemplated in regulation 24(4)(c); and

(b) the plans, diagrams and other documents referred to in regulation 19(1) have been duly lodged with the Surveyor-General as contemplated in that regulation, in respect of the land concerned, but have not yet been approved as contemplated in regulation 19.

(3) This regulation shall not be construed as requiring the provisions of subregulation (2) to be compiled with, or prohibiting the Registrar from registering a right of leasehold as contemplated in section 52(5) of the Act, in a case where a township is not being established under these regulations or where the Minister has exempted any person or body from the provisions of these regulations as contemplated in regulation 2(b): Provided that, if a township applicant has lodged an application with the authorised officer in terms of regulation 7 or has lodged or is deemed to have lodged a layout plan with the Minister as contemplated in regulation 5(2)(a), any registration of a leasehold in terms of section 52(5) of the Act shall take place only in the manner contemplated in this regulation.

21 Lodging of plans, diagrams and deeds with registrar

(1) The township applicant shall lodge the relevant plans and diagrams, together with the relevant title deeds, with the Registrar, to be dealt with in terms of Chapter IV of the Deeds Registries Act, 1937: Provided that the Registrar shall not allow any registration or endorsement to take place in terms of that chapter until such time as he is informed in writing by the authorised officer that the following requirements have been met to the satisfaction of the authorised officer, whether in respect of the whole township or of any part thereof:

(a) The application for the establishment of a township has become an approved application in so far as it relates to the land in question.

(b) If the township applicant is not a local authority providing all engineering services to the township as contemplated in regulation 30, such township applicant and the relevant authority have concluded a services agreement or, alternatively, the service responsibilities of the parties have been determined by a services arbitration board in the circumstances contemplated in regulation 26(3).

(c) The township applicant has complied with such conditions of establishment as the Minister has required in terms of regulation 16(2) to be fulfilled prior to his declaring the township to be an approved township.

(2) The relevant plans, diagrams and title deeds shall be lodged by the township applicant as contemplated in subregulation (1) within three months of the date of the approval of the plans and diagrams as contemplated in regulation 19, or within such further period as the authorised officer may allow, failing which the application shall lapse: Provided that, if any right of leasehold in respect of unsurveyed premises as contemplated in section 52(5) of the Act and in regulation 20 has been registered in respect of land in the proposed township, the authorised officer may declare that the application shall not lapse, or has not lapsed, and he may cause the necessary plans, diagrams and title deeds to be prepared and delivered to him and to be lodged with the Registrar at the expense of the township applicant.

(3) As soon as the Registrar has dealt with the title deeds as contemplated in subregulation (1), he shall notify the authorised officer of the relevant endorsements or registrations and thereafter the Registrar shall, save for the transfer of a public open space as contemplated in regulation 25(1)(a), not register any further transactions in respect of any land situated in the proposed township until such time as he has received the written notice from the authorised officer referred to in regulation 25(2): Provided that this subregulation shall not be construed as prohibiting the registrar from registering a right of leasehold in respect of unsurveyed premises in the proposed township as contemplated in section 52(5) of the Act and in regulation 20.

22 Continuation of application by new application

(1) If the ownership of land in respect of which an application for the establishment of a township has been made has changed or the land concerned has been made available to a person or body as contemplated in section 34(9) of the Act, other than the one to whom the land was originally made available, or a person other than the original township applicant has become the agent of the owner or has been granted his consent to establish a township on the land, and the new owner of the land or new person or body to whom the land was made available, or the new agent or consent holder notifies the authorised officer in writing that he wishes to continue with the application, the authorised officer may, if the application has not lapsed, consent to the continuation of the application by such on any condition he may deem expedient.

(2) A township applicant who continues with an application in terms of subregulation (1) shall, for the purposes of these regulations, be deemed to be the township applicant who originally made the application.

23 Notice declaring township an approved township

(1) After the Registrar has dealt with the relevant title deeds as contemplated in regulation 21(1), and if the Minister is satisfied that the township is situated within a local authority area or that regulation 3(a) or (b) applies to the land in question, the Minister shall declare the township an approved township by notice in the *Gazette*: Provided that the Minister may, if the requirements contemplated in regulation 21(1) and in this subregulation have been complied with in respect of one or more portions of the land affected by the application only, declare an approved township in respect of such portion or portions only, and he may at any time or times thereafter, when such requirements have been complied with in respect of the remaining portions of the land, declare such portions to be included in the approved township.

(2) With effect from the date of publication of the notice referred to in subregulation (1), the ownership of any public places, excluding any public open space to be transferred as an endowment as contemplated in regulation 25(1) in the township concerned shall, subject to the provisions of regulation 3(b), *ipso facto* vest in the local authority within whose local authority area the township is situated, and such vesting shall be recorded by the Registrar subject to any law governing the practice of his office in such manner as he may deem appropriate.

24 Contracts and options

(1) Subject to the provisions of subregulation (4), no person shall, after a township applicant has taken steps to establish a township -

(a) enter into a contract for the sale, exchange, alienation or disposal in any other manner of land in the proposed township;

(b) grant an option to purchase land in the proposed township,

until such time as the authorised officer has notified the Registrar in terms of regulation 25(2) that the land in the township or in the relevant portion thereof has become registrable by virtue of the fact that the requirements contemplated in that regulation have been met: Provided that the provisions of this subregulation shall not be construed as prohibiting -

(i) any person from purchasing land on which he wishes to establish a township subject to a condition that upon the land in the township or any part thereof becoming registrable in a registration office, as contemplated in regulation 25(2), one or more of the erven in such township or part thereof will be transferred to the seller;

(ii) any person from concluding a land availability agreement; or

(iii) any township applicant from ceding or delegating the right and obligation to develop any land owned by such township applicant to a township developer, or in the case of any land being developed by such township applicant as the duly authorised agent or with the consent of the owner, to any person or body to whom such cession or delegation may take place in terms of such authority or consent, or, in the case of land made available to such township applicant as contemplated in section 34(9) of the Act, to any person or body to whom such cession or delegation may take place in terms of a land availability agreement.

(2) Any person who disposes of land in contravention of subregulation (1) shall be guilty of an offence.

(3) For the purposes of subregulation (1) -

(a) "steps" includes steps preceding an application contemplated in regulation 7;

(b) "any contract" includes a contract that is subject to any condition, including a suspensive condition.

(4) Notwithstanding the provisions of subregulation (1), a township applicant or any other person or body who or which would have been entitled to dispose of land in the proposed township were it not for the provisions of subregulation (1) may enter into a contract as contemplated in that subregulation, including a contract for a grant of a right of leasehold in respect of premises that have not yet been surveyed, as contemplated in section 52(5) of the Act and regulation 20, if -

(a) the application for the establishment of a township has become an approved application in so far as it relates to the land to which the contract contemplated in subregulation (1) relates; and

(b) in the case of a township applicant who is not a local authority providing all engineering services to the township as contemplated in regulation 30, such township applicant and the relevant authority have both fulfilled their service responsibilities in terms of a services agreement or the determination by a services arbitration board as contemplated in regulation 31 in respect of the land to which the contract contemplated in subregulation (1) relates, or, alternatively -

(i) the township applicant has, in respect of such land, delivered to the authorised officer a guarantee by a bank, building society or other financial institution, or any other guarantee acceptable to the authorised officer, which shall be expressed to be payable to the relevant authority, in an amount sufficient to cover the costs of completion of the services for which the township applicant is responsible as contemplated in this paragraph, in the event of the township applicant not having fulfilled his obligations in respect of such services by a date stated in the guarantee; and

(ii) the relevant authority has, in respect of such land, delivered to the authorised officer an undertaking by the State or any statutory body, or a guarantee by a bank, building society or other financial institution, or any other guarantee acceptable to the authorised officer, which shall be expressed to be payable to the township applicant, in respect of the relevant authority's service responsibilities contemplated in this paragraph, *mutatis mutandis* in the form intended in subparagraph (i);

(c) in the case of a local authority providing all engineering services to the township as contemplated in regulation 30, such township applicant has installed and provided all engineering services in respect of the land to which the contract contemplated in subregulation (1) relates,

and a certificate issued by the authorised officer to the effect that paragraphs (a) and (b) or (a) and (c), as the case may be, have been complied with in respect of the relevant land shall serve as *prima facie* proof for all purposes in terms of these regulations that the requirements set out in paragraphs (a) and (b) or (a) and (c), as the case may be, have been met: Provided that nothing contained in this regulation shall detract from the provisions of regulations 21(3) and 25 (2).

(5) Notwithstanding the provisions of subregulation (4), nothing contained in these regulations shall be construed as requiring subregulation (4) to be complied with in the case of or prohibiting a grant of a right of leasehold in respect of premises which have not yet been surveyed, as contemplated in section 52(5) of the Act, where a township is not being established under these regulations or where the Minister has exempted any person or body from the provisions of these regulations as contemplated in regulation 2(b).

25 Endowments and registration in registration office

(1) Where a township applicant is required to -

(a) transfer land designated on the layout plan for use as a public open space to a local authority; or

(b) pay an endowment in cash to the local authority in lieu of the transfer of such land, by virtue of a condition of establishment refer to in regulation 16, the land shall be so transferred at the cost of the township applicant or the endowment shall be paid, as the case may be, within a period of six months from the date of publication of the notice contemplated in regulation 23 or within such further period as the authorised officer may allow.

(2) As soon as -

(a) the land or any portion thereof has been declared an approved township in terms of regulation 23(1);

(b) subject to subregulation (2)(c) or (d), all conditions of establishment imposed by the Minister in terms of regulation 16 have been complied with, including the transfer of public open spaces, or the payment of an amount in cash in lieu of such transfer, by way of an endowment; and

(c) in the case of a township applicant who is not a local authority providing all engineering services to the township as contemplated in regulation 30, such township applicant and the relevant authority have both fulfilled their service responsibilities or, alternatively, have delivered guarantees or undertakings, *mutatis mutandis* as contemplated in regulation 24(4)(b); or

(d) in the case of a township applicant who is a local authority providing all engineering services in respect of the township as contemplated in regulation 30, such township applicant has installed and provided all such engineering services,

the authorised officer shall notify the Registrar that the relevant land has become registrable in that the requirements of paragraphs (a), (b) and (c) or (a), (b) and (d), as the case may be, have been met, and shall also identify the land in the township in respect of which such requirements have been met, and the Registrar may, with effect from the date of such notice, proceed to register transactions in respect of the relevant land: Provided that, if the land identified in the authorised officer's notice to the Registrar as contemplated in this subregulation relates to a portion only of the proposed township, the authorised officer may, from time to time after having given such notice to the Registrar, notify the Registrar when land in the remaining portions of the township becomes registrable.

CHAPTER V ENGINEERING SERVICES (regs 26-31)

26 Provision of engineering services

(1) Subject to the provisions of regulation 30, every township established under these regulations shall be provided with such engineering services as may be agreed in a services agreement between the township applicant and the local authority, if any, within whose local authority area the approved township will be included or, in the absence of such local authority, the authorised officer acting as the representative of the

Minister, the relevant administrator, or the person or body designated by the Minister contemplated in regulation 3(b)(i) (such person, authority or officer being referred to as "the relevant authority").

(2) Any services agreement contemplated in subregulation (1) shall -

(a) comply substantially with the guide-lines set out in Annexure E, or such other or additional guide-lines as may be issued by the authorised officer from time to time, or determined by him in any particular case; and

(b) be submitted to and approved by the authorised officer: Provided that, if the authorised officer is the relevant authority, no such submission or approval shall be required.

(3) If the parties required to conclude the services agreement are able to reach agreement on any matter to be included in the agreement, or at all, such matters as the parties are unable to agree shall be referred to a services arbitration board by the authorised officer, as contemplated in regulation 31.

27 Classification and level of engineering services

(1) Every engineering service to be provided for a township shall, in the case of a township applicant who is not a local authority -

(a) be classified in a services agreement; or

(b) in the absence of such an agreement, be classified by a services arbitration board,

as an internal or external engineering service in accordance with the guidelines set out in Annexure E, such services so classified being referred to in this Chapter as "internal engineering services" and "external engineering services" respectively.

(2) Every engineering service to be provided for a township shall be of such a standard as is appropriate for the provision of engineering services in the township for the community concerned: Provided that, if a dispute regarding the engineering design standards should arise between the parties responsible for the provision of such services, then such dispute may be referred by the authorised officer to a service arbitration board for decision.

28 Responsibility for installation and provision of engineering services

(1) Subject to the provisions of regulation 30 -

(a) the township applicant shall be responsible for the installation and provision of internal engineering services; and

(b) the relevant authority shall be responsible for the installation and provision of external engineering service.

(2) Notwithstanding the provisions of subregulation (1) -

(a) the relevant authority may, at the request and at the expense of the township applicant, install and provide any internal engineering service or cause such service to be installed and provided;

(b) the township applicant may, at the request and at the expense of the relevant authority, install and provide any external engineering service or cause such service to be installed and provided; or

(c) the township applicant may install and provide any external engineering service of which the relevant authority is not the supplier, and the costs of such installation and provision shall not be borne by the relevant authority.

29 Engineering services to be to satisfaction of relevant authority

Subject to the provisions of regulation 30, the internal and any external engineering services installed or provided by the township applicant shall be installed and provided in accordance with the services agreement or the decision of the services arbitration board, as the case may be, to the satisfaction of the relevant authority, and for that purpose the township applicant shall lodge with the relevant authority such reports, drawings and specifications as the relevant authority may require.

30 Of township applicant is local authority

If the township applicant is a local authority, it shall be responsible for the installation and provision of all engineering service to be provided in respect of the township.

31 Services arbitration boards

(1) The Minister may, from time to time, by appointment in writing establish one or more services arbitration boards to investigate any matter referred to them, and the authorised officer may refer any particular question or general matter which he considers appropriate or which in terms of these regulations may be determined by such a board to such a board for decision.

(2) A services arbitration board shall consist of the following members appointed by the Minister on such terms and conditions as he may determine:

(a) A president, who shall be an advocate or an attorney or a retired judge or magistrate.

(b) One person registered as a professional engineer in terms of the Professional Engineers' Act, 1968 (Act 81 of 1968).

(c) One person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951).

(d) One person with experience in local government affairs.

(3) A services arbitration board may make its own rules regarding its procedure and proceedings.

(4) A member of a services arbitration board shall be paid such fees and allowances as the Treasury may from time to time determine, either generally or specifically.

(5) Any party to a matter being considered by a services arbitration board may appear before the board in person or may be represented by any other person.

(6) A services arbitration board may make such decision regarding costs of proceedings as it may deem just, and where it decides that costs shall be awarded against any party it shall, in its discretion, also determine the amount thereof.

(7) As soon as a services arbitration board has reached its decision on any matter referred to it in terms of this regulation, it shall forthwith inform the authorised officer and the parties to the dispute of such decision, and thereupon such decision shall become final and binding on the parties to the dispute.

(8) A services arbitration board shall at the written request of any party to any matter in respect of which such board has made a decision as contemplated in subregulation (7), furnish its reasons for such decision in writing to such party and also to any other party to the dispute.

CHAPTER VI LAND USE (regs 32-33)

32 Land use conditions

(1) Whether or not a township has been registered in terms of these regulations, the conditions of title or township conditions that may be imposed by the State, an administrator, a local authority or a township developer and registered as contemplated in section 57B of the Act shall be as set out in Annexure F.

(2) The land use conditions contemplated in subregulation (1) shall as far as possible be incorporated by reference into a deed of grant, a first deed of transfer of ownership or a certificate referred to in section 57B of the Act, and reference to such conditions in such deed of grant, deed of transfer or certificate shall be made substantially in the manner prescribed in paragraph 7 of the application form contemplated in regulation 7, which is set out in Annexure B, and as contemplated in Annexure E to the Leasehold Regulations, 1985.

(3) Notwithstanding the provisions of subregulations (1) and (2), the State, an administrator, a local authority or a township developer shall not be obliged to impose and register the land use conditions contemplated in the said subregulations, but may, instead, impose and register emended or substituting conditions relating to the use of the land in question, substantially in the alternative forms set out in paragraph 7 of Annexure B.

33 Title

These regulations may be cited for all purposes as the Township Establishment and Land Use Regulations, 1986.

ANNEXURE A GUIDE-LINES FOR LAND AVAILABILITY AGREEMENT

A land availability agreement as contemplated in regulation 4 shall comply *inter alia* with the following guidelines:

1 Parties

The names of the parties to the agreement and their business addresses must be stated.

2 The land

There should be an adequate definition of the land to which the agreement relates, with reference to, for example, any title deed under which the land is held, a diagram prepared by a registered land surveyor or any general plan that has been prepared in respect of that land.

3 Conditions

3.1 If the agreement is made subject to the fulfilment of any conditions, these conditions must be clearly stated. They may include, for instance, conditions relating to -

3.1.1 the Minister's approval on the terms on which the land is made available,

3.1.2 the Minister's approval of the fact that the terms on which the land is made available are as set out in the land availability agreement,

3.1.3 the approval by the Minister of the right of the person or body to whom the land is made available to cede or delegate any of its rights and obligations in terms of the agreement (if appropriate),

3.1.4 the establishment of a township on the land,

3.1.5 the incorporation of the land into the area of jurisdiction of any body or authority.

3.2 If any conditions as contemplated in paragraph 3.1 were imposed, the agreement must state clearly what the effect would be if any such conditions are not fulfilled.

4 Town planning matters and application for township establishment

4.1 If a township has not yet been established on the land concerned, or if the relevant town-planning and land survey work has not yet been completed, the agreement must state which of the parties will be responsible for having this done and also within what period of time.

4.2 If the parties so agree, the person or body to whom the land is made available may be appointed by the body making the land available to it to have the necessary town planning and land survey work done and to make application for the establishment of a township on the land.

4.3 The agreement should regulate matters relating to the manner in which the township will be established, e.g. the proposed conditions of establishment that must be fulfilled.

5 Services

5.1 If the land concerned has not yet been provided with services, and if the person or body making the land available is also the relevant authority referred to in regulation 26(1), the agreement must address the relative responsibilities of the parties to provide services to the land, *mutatis mutandis* in accordance with the guidelines in respect of services agreements contained in Annexure E to these regulations, and also the time period within which services must be completed.

5.2 If the land concerned is being made available by a person or body other than the relevant authority referred to in paragraph 5.1, it is not necessary for the services to be described in detail, and a summary indicating the level or levels of such services will be sufficient.

6 Erection of improvements

6.1 The relative responsibility of the parties to erect improvements on the land concerned must be clear from the agreement.

6.2 Having regard to the provisions of regulation 24, it should be clear from the agreement when contracts for the disposal of the land may be concluded.

6.3 The standard of any improvements to be constructed must be clear from the agreement.

6.4 It must be stated when the construction of improvements will commence and when such improvements shall have been completed.

6.5 The agreement should as far as possible provide a flexible time framework, allowing the person or body to whom the land is made available the discretion to determine the phases, if any, in which the development will take place.

7 Disposal

7.1 It must be clear from the agreement which person or what number or categories of persons, if any, the person or body to whom the land is made available, is obliged or entitled to dispose.

7.2 The agreement should define the manner in which the parties propose to deal with certain legal requirements, for example -

7.2.1 the capacity of the person or body to whom the land is made available in granting a right of leasehold or transferring any of the land to purchasers;

7.2.2 the manner in which the parties propose to deal with the conversion of rights of leasehold to ownership as contemplated in section 57A of the Act.

7.3 The parties may describe the manner in which township developers (including employers who wish to house their staff) other than the person or body to whom the land is made available may become involved in the development, for example the relevant person or body may be allowed to cede or delegate its rights and obligations in terms of the land availability agreement to such cessionaries or categories of cessionaries as are described in the agreement. However, if such a cession or delegation or a similar transaction is to take place, the agreement should clearly provide that the person or body to whom the land is made available should clearly provide that the person or body to whom the land is made available should itself take at least the next succeeding step in the development of the land, depending on the stage of development at which the land is made available to it, e.g.-

7.3.1. the town planning and land survey work have been completed;

7.3.2 the application for township establishment has become an approved application;

7.3.3 the proposed township has become an approved township;

7.3.4 the installation and provision of services have been completed;

7.3.5 improvements in the form of dwellings have been constructed.

7.4 Provisions may be included relating to various categories of purchasers to whom erven will be disposed of, for example -

7.4.1 persons who will have their dwellings constructed by the person or body to whom the land is made available;

7.4.2 persons who will acquire erven from the relevant person or body but will have their dwellings constructed by other contractors;

7.4.3 persons who will erect their dwellings under a self-help housing scheme or any other scheme conducted by the relevant person or body.

7.5 Where appropriate, the agreement can deal with the question whether preference will be given to purchasers who are registered on any official housing waiting-list and the manner in which such preference will be regulated.

7.6 The agreement should as clearly as possible provide a date by which the person or body to whom the land is made available shall have disposed of the erven referred to in paragraph 7.1 and should regulate the rights of the parties in the event of such person or body being unable to dispose of such erven in time such as providing that such person or body shall have the right to let such erven.

8 Liability for local authority and service charges

Provision should be made for the payment to the relevant local authority of local authority charges, service charges and other imposts by the person or body to whom the land is made available, if appropriate, and by purchasers.

9 Terms of deeds of disposal

(All sites other than sites intended for business or industrial purposes)

9.1 Provision should be made for the person or body to whom the land is made available to enter into a written deed of disposal complying with any relevant law with any person to whom it alienates a site (other than a business or industrial site) pursuant to the land availability agreement, prior to or upon the allocation to that person of a provisional grant of leasehold in respect of the erf or prior to the registration of transfer of that erf into the name of such person.

9.2 Provision should be made for a disposal price in any deed of disposal referred to in paragraph 9.1.

9.3 It should be clear what portion of the disposal price referred to in paragraph 9.2 the person or body to whom the land is made available shall be entitled to retain for its own account, or how such portion is to be determined.

9.4 It should be clear what portion of the disposal price referred to in paragraph 9.2 shall be payable by the person or body to whom the land is made available to the person or body making the land available to it, or how such portion is to be determined, and it shall also be stated in what manner and when such balance shall be payable. Such portion shall not be less than the portion contemplated in regulation 3(1) of the Public Land Price

Regulations, 1986, together with the costs incurred by the person or body making the land available, if any, in respect of *inter alia* township establishment and the provision of services relating to the site in question.

9.5 Provision may be made for inclusion of a clause in every deed of disposal drawing the attention of any person acquiring an erf in terms of that deed to the fact that he shall be liable for the local authority charges, metered and unmetered service charges and service inspection fees determined in accordance with the relevant by-laws and/or regulations in force from time to time.

9.6 Provisions may be included in the land availability agreement regarding the terms of any deed of disposal that should be used in respect of any special housing scheme to be conducted by the person or body to whom the land is made available (including a self-help housing scheme) dealing *inter alia* with the following:

9.6.1 The preparation and submission to the relevant local authority of building plans.

9.6.2 The financing of the building works.

9.6.3 The appointment of architects, quantity surveyors, engineers, building contractors and subcontractors.

9.6.4 The supervision and administration by the person or body to whom the land is made available of building works.

9.6.5 Measures to ensure that the building works are completed in good time.

9.6.6 The erection of temporary structures while construction is in progress.

10 Disposal of business and industrial sites

Provision should be made for the manner and terms of disposal by any of the parties of any erven intended for business or industrial purposes. The following should be borne in mind:

10.1 There should be a written deed of disposal as contemplated in paragraph 9.1, and the guidelines in paragraphs 9.2 and 9.3 should also be followed. However, the Minister would not have determined a land price in respect of a business or industrial site, as contemplated in regulation 3 of the Public Land Price Regulations, 1986.

10.2 It is not necessary for the land to be disposed of by way of public tender as contemplated in the Public Land Price Regulations, 1986. However, the method of public tender is not excluded, and may be used.

11 Breach of contract

The agreement may contain such terms and conditions relating to breach of contract or termination as the parties may agree and as are not inconsistent with the provisions of section 34(9) of the Act: Provided that the agreement shall expressly provide that a failure by any person to complete town-planning and land survey work within the time period contemplated in paragraph 4.1, the installation and provision of service within the time period contemplated in paragraph 5.1, and the erection of improvements within the period

contemplated in paragraph 6.4 shall be regarded as a breach of the terms on which the land was made available as contemplated in section 34(9)(c)(i) of the Act and that thereupon the land thus made available may be withdrawn and dealt with in terms of that section.

12 General

There may be such other term and conditions not inconsistent with these guidelines as the parties may agree.

**ANNEXURE B
APPLICATION FOR TOWNSHIP ESTABLISHMENT**

(Application in terms of regulation 7 of the Township Establishment and Land Use Regulations, 1986)

**PART I
ACKNOWLEDGEMENT OF RECEIPT**

TO:

..

.....

..

.....

..

(applicant to insert his name and address)

I hereby acknowledge receipt of the original and two copies of Parts II and III of this form, together with the documents referred to below (township applicant to insert description of documents) and I hereby allocate the reference number to this applicant.

1.
- ..
2.
- ..
3.
- ..
4.
- ..
5.
- ..
6.
- ..
7.
- ..
8.

9.

10.

Authorised Officer Date of receipt

**PART II
APPLICATION**

The Authorised Officer

.....
.....
.....
.....

(Insert address)

Township applicants address:.....

.....
.....
.....

Tel No.....

Township applicant's reference:

Sir

PROPOSED TOWNSHIP:

SITUATED ON:

I, the undersigned

being -

*the registered owner of the land described herein,

OR

*the duly authorised agent of the registered owner of the land described herein,

OR

*the person or body with the consent of the registered owner of the land described herein to establish a township on such land in my own name,

OR

*the person or body to whom the land described herein has been made available as contemplated in section 34(9) of the Black Communities Development Act, 1984, hereby apply for permission to establish a township on the land described herein and submit the particulars that appear hereafter.

Date

Signature

1 DOCUMENTS INCLUDED IN APPLICATION

YES NO N/A

(Please make a cross in the appropriate columns)

1.1 Two copies of completed application form, each accompanied by the documents as indicated below

1.2 A print of the proposed township layout

1.3 A copy of the memorandum in support of the application

1.4 A copy of the title deed(s)

1.5 A copy of any deed of servitude that applies to the land

Footnotes

*Delete that which is not applicable.

YES NO N/A

1.6 A copy of any mortgage bond(s) relating to the land

1.7 A copy of the mineral rights certificate or mineral rights cession

1.8 A copy of the owner's consent of power(s) of attorney, if applicable

1.9 A copy of the township applicant's company resolution, if applicable

1.10 A floodline certificate indicating whether the land is or is not subject to a 1 in 50 year flood

1.11 A copy of the mortgagee's consent, if applicable

1.12 A copy of the mineral right holder's consent, if applicable

1.13 Proof of reservation for township purposes in terms of section 184 of the Mining Rights Act, 1967, if applicable

1.14 A copy of a geotechnical report

1.15 A certificate from a land surveyor, town planner or attorney stating that the conditions of title or servitude(s) recorded in the title deed(s) do not affect the proposed township, or stating the manner in which each servitude is to be cancelled or amended

1.16 A copy of the land availability agreement, if any

1.17 A copy of the services agreement, if any

1.18 An application for designation as a development

area in terms of section 33 of the Black Communities Development Act, 1984, if required

1.19 If the answer is "no" or "not applicable" in respect of any of the foregoing documents, give reasons (lengthy explanations can be attached as annexures)

.....
.....
.....

1.20 Other documents attached

.....
.....
.....

2 SPECIFIC INFORMATION REGARDING PROPOSED TOWNSHIP

2.1 Name of proposed township (also indicate whether name has been approved by the appropriate authority and, if so, by whom:.....

2.2 Name of township applicant:.....

2.3 Property:

Title deed description of every portion of the farm/smallholding* on which the proposed township is to be established:

.....
.....
.....

(i) Title Deed
No.:

(ii) Title Deed
No.:

(iii) Title Deed
No.:

2.4 Full name of registered owner of the land:

.....

2.5 The land is/is not* mortgaged and particulars of the relevant mortgage bonds are as follows:

2.5.1
Property:.....

(i) Bond No.in favour
of.....

(ii) Bond No.in favour
of.....

(iii) Bond No.in favour
of.....

2.5.2
Property:.....

(i) Bond No.in favour
of.....

(ii) Bond No.in favour
of.....

(iii) Bond No.in favour
of.....

2.6 Mineral rights have/have not* been served from the ownership of the land and are held by:

.....under Certificate No.

.....under Certificate No.

.....under Certificate No.

2.7 A lease of the rights to minerals has/has not* been granted/ A prospecting contract has/has not* been entered into, the particulars of which are as follows*:

.....
.....

2.8 Status of land in terms of the provisions of the Mining Rights Act, 1967:

2.8.1 The land has/has not* been proclaimed in terms of the Act (furnish details):

.....
.....

2.8.2 The land has/has not* been reserved for township purposes in terms of section 184 of the Act (furnish details):

.....
.....
.....

2.8.3 The land has/has not* been mined for precious metals or base metals as defined in section 1 of the Act (furnish details):

.....
.....
.....

2.9 The township applicant proposes still to take the following steps in respect of the position set out in paragraphs 2.6, 2.7, 2.8.1, 2.8.2 and 2.8.3 above [indicate full particulars of the steps that the township applicant proposes to take and when they are likely to be completed, as contemplated in regulation 8(2)]:

.....
.....
.....

2.10 The township applicant requests that the Minister approve the application notwithstanding the fact that the steps referred to in paragraph 2.9 above have not yet been taken, and further requests that the Minister imposes the following conditions in this regard, as contemplated in regulation 1-6 (1):

.....
.....
.....

2.11 The proposed township -

2.11.1 is situated within the municipal or local authority area of

2.11.2 adjoins the following municipal or local authority areas:

.....
.....
.....

2.11.3 will be established on land that has been designated or that is deemed to have been designated as a development area as contemplated in section 33(1) or (4) of the Black Communities Development Act, 1984, under (state relevant *Gazette* reference):

2.12 The proposed township falls within the area of the town planning scheme/does not fall within the area of any town planning scheme*

2.13 Proposed land use(s) and total number of erven intended for each use:

Proposed use Number of erven

Residential

Business

Industrial

Community Facility

Municipal

Undetermined

Public open space

Other

2.14 Indicate in detail how each of the conditions and servitudes contained in the deed(s) of transfer of the properties affects the proposed township and how these conditions and servitudes are to be dealt with:

.....
.....
.....

(Where it is indicated that any conditions of title or servitude does not affect the proposed township, a certificate to this effect from a registered land surveyor or town planner or attorney shall be submitted.)

2.15 The land on which the township will be established -

*has been made available to the township applicant

by.....
.....

as contemplated in section 34(9) of the Black Communities Development Act, 1984, and the conditions on which the land has been so made available are contained in a land

.....

availability agreement, a copy of which is attached to this application/has been lodged with the authorised officer of approval

on

(state the date)*

OR

*will be developed by the township applicant on behalf
of

.....

(insert full name of owner) by virtue of a power of attorney, a copy of which is attached
to this application

OR

*will be developed by the township applicant on the land
of

.....

(insert full name of owner) in the township applicant's own name by virtue of a consent
granted by the mentioned owner, a copy of which is attached to this application

*Delete that which is not applicable.

**PART III
CONDITIONS OF ESTABLISHMENT**

[See regulation 7(1)(b). The Minister will use this part of the application as the basis for imposing
conditions of establishment in terms of regulation 16.1.]

3 SUMMARY OF TOWNSHIP PARTICULARS

(Paragraph 3 serves as a summary and check sheet. With the exception of paragraph 3.8
below, the township applicant must provide details.)

3.1 Proposed name of
township

3.2 Comprising (number of erven and
uses)

3.3 As shown on layout plan
No.

3.4 Situate
on
...

3.5 In the area of jurisdiction of (local
authority)

3.6 Deed(s) of Transfer
No.

.....

.....
.....
.....
3.7 Dated (state date of this application)

3.8 Amendments, if any (to be completed by authorised officer)

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

4 PROPOSED CONDITIONS TO BE COMPLIED WITH PRIOR TO THE TOWNSHIP BEING DECLARED AN APPROVED TOWNSHIP UNDER REGULATION 23

(The conditions stated in paragraph 4 are guidelines only and the township applicant may suggest amended and/or different conditions in appropriate cases)

4.1 CANCELLATION OF EXISTING CONDITIONS OF TITLE

The applicant shall at his own expense cause the following conditions and servitudes to be cancelled or otherwise dealt with as follows:

.....
.....
.....

4.2 CONSOLIDATION OF COMPONENT PORTIONS

The township applicant shall at his own expense cause the component portions comprising the township to be consolidated where necessary.

4.3 MINERAL RIGHTS

[Propose the conditions relating to mineral rights as contemplated in regulations 8(3) and 16(1).]

.....

.....

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.....

4.4 GENERAL

.....

.....

.....

.....

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.....

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.....

.....

5 CONDITIONS TO BE COMPLIED WITH BEFORE LAND BECOMES REGISTRABLE IN TERMS OF REGULATION 25(2)

(The conditions stated in paragraph 5 are guidelines only and the township applicant may suggest amended or different conditions in appropriate cases)

5.1 NAME

The name of the township shall be

5.2 DESIGN

The township shall consist of erven and streets as indicated on plan

5.3 DISPOSAL OF EXISTING CONDITIONS OF TITLE

All erven except the following erven shall be made subject to existing conditions and servitudes not cancelled or otherwise dealt with in terms of paragraph 4.1 above, if any including the reservation of rights to minerals:

.....
.....
.....

5.4 DEMOLITION OF BUILDINGS AND STRUCTURES

The township applicant shall at his own expense cause all existing buildings and structures situated within the side space and rear space or over common boundaries to be demolished to the satisfaction of the authorised officer when required by the authorised officer to do so.

5.5 REPOSITIONING OF ELECTRICAL CIRCUITS

If by reason of the establishment of the township, it should become necessary to reposition any existing circuits of the Electricity Supply Commission the cost thereof shall be borne by the township applicant.

5.6 PROVISION AND INSTALLATION OF SERVICES

5.6.1 The township applicant shall provide and install all internal services in the township, as provided for in the services agreement or by a decision of a services arbitration board, as the case may be.

5.6.2 The relevant authority referred to in regulation 26 shall provide and install all external services in the township, as provided for in the services agreement or by a decision of a services arbitration board, as the case may be.

5.7 OTHER CONDITIONS

(Insert other conditions to be complied with before the land becomes registrable, for example conditions relating to endowments or conditions in respect of mineral rights to be met after approval of the township.)

.....
.....
.....
.....

.....

.....

.....

.....

.....

.....

6 SUGGESTED LAND USES TO BE APPROVED BY MINISTER

(Insert the erf numbers as they appear on the layout plan. If the same erven eventually bear different numbers on a general plan approved by the Surveyor-General in terms of regulation 19, after the Minister has approved this application in terms of regulation 16, transfer may be given of such erven with reference to the numbers as they appear on the general plan.)

6.1 Residential: Erven
Numbers

6.2 Business: Erven
Number

6.3 Industrial: Erven
Numbers

6.4 Community facility: Erven
Numbers

6.5 Municipal: Erven
Numbers

6.6 Public open space: Erven
Numbers

6.7 Undetermined: Erven
Numbers

7 DRAFT CONDITIONS OF TITLE

(Refer to Land Use Conditions published in Annexure F to the Township Establishment and Land Use Regulations. If different conditions will apply to various categories of erven, the township applicant must indicate to which erven such conditions will apply.)

7.1 *The following conditions shall be included in the title deed of each erf (applicable only where township applicant wishes to apply the land use conditions without amendments):

The use of the aforesaid site shall

be

(insert the use for the relevant site approved by the Minister - see paragraph 6 above), as defined and subject to such conditions as are contained in the Land Use Conditions in Annexure F to the Township Establishment and Land Use Regulations, 1986, made in terms of section 66(1) of the Black Communities Development Act, 1984: Provided that on the date on which a town planning scheme relating to the site comes into force the rights and obligations contained in such scheme shall supersede those contained in the aforesaid Land Use Conditions, as contemplated in section 57B of the said Act.

OR

*The following conditions shall be included in the title deed of each erf (applicable only where the township applicant wishes to apply the land use conditions subject to certain amendments): The use of the aforesaid site shall be (insert approved use), as defined and subject to such conditions as are contained in the Land Use Conditions in Annexure F to the Township Establishment and Land Use Regulations made in terms of section 66(1) of the Black Communities Development Act; 1984: Provided that the following special conditions shall apply in addition to instead of * the said Land Use Conditions:

1.

2.

3.

Provided further that on the date on which a town planning scheme relating to the site comes into force the rights and obligations contained in such scheme shall supersede those contained in the aforesaid Land Use Conditions, and in these conditions, as contemplated in section 57B of said Act

OR

*The following conditions shall be included in the title deed of each site (complete if the Land Use Conditions in Annexure F to the Township Establishment and Land Use Regulations, 1986 will not be used):

.....
.....
.....
.....
.....

Provided that on the date on which a town planning scheme relating to the site comes into force the rights and obligations contained in such scheme shall supersede those contained in these conditions, which shall thereafter be of no force or effect.

7.2.1 The erf is subject to a servitude, 1 metre wide, in favour of the local authority, for sewerage and other municipal purposes, along any two boundaries other than a street

boundary and in the case of a panhandle erf, an additional servitude for municipal purposes 1 metre wide across the access portion of the erf, if and when required by the local authority: Provided that the local authority may waive compliance with the requirements of this servitude.

7.2.2 No building or other structure shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 metre thereof.

7.2.3 The local authority shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of the construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the local authority.

*Delete that which is not applicable.

ANNEXURE C
FORM OF NOTICE TO BE GIVEN TO CERTAIN PERSONS OR BODIES

[Regulation 9(1)]

PLEASE TAKE NOTICE THAT.....

.....

(the township applicant) has lodged an application for township establishment in the form of the enclosed two copies of the application with the authorised officer as contemplated in the Township Establishment and Land Use Regulations, 1986 made in terms of section 66(1) of the Black Communities Development Act, 1984.

PLEASE TAKE NOTICE FURTHER THAT you may within a period of 30 (Thirty) days from the date of this notice, lodge an objection with or make representations in respect of the application to the said authorised officer as contemplated in regulation 11 of the above-mentioned regulations or, if you are unable to lodge such objection or make such representations within such period, or sufficiently to investigate the application within that period, you may, within that period, request the said authorised officer in writing to extend the said period. stating the period within which you will be able to lodge an objection or make representations as well as the nature of the objection or representations that you intend to or, upon further investigation, might or are likely to lodge or make. PLEASE TAKE NOTICE FURTHER THAT any objection, representation or request for extension must be delivered to the office of the authorised officer at

.....

Township Applicant

Date

ANNEXURE D
FORM OF NOTICE TO BE PUBLISHED IN NEWSPAPER

[Regulation 10(1)]

PLEASE TAKE NOTICE THAT the township applicant mentioned below has lodged an application for the establishment of the township described below with the authorised officer as contemplated in the Township Establishment and Land Use Regulations, 1986, made in term of section 66(1) of the Black Communities Development Act, 1984.

PLEASE TAKE NOTICE FURTHER THAT the relevant plan(s), document(s) and information are available for inspection at the office of the township applicant (indicated below) for a period of 30 (Thirty) days from (insert date of first publication of this notice).

PLEASE TAKE NOTICE FURTHER THAT any person who desires to or make representations in respect of the granting of the application must deliver such objection or representation together with the granting of the application must deliver such objection or representation together with the reasons therefor to the authorised officer at his address set out below within the said period of 30 (Thirty) days.

Name of township.....
.....

Name of township applicant
.....

Address of township applicant where documents can be inspected
.....

Address of authorised officer
.....
.....

Number and zoning of erven
.....
.....

Localty and description of land

ANNEXURE E
***GUIDE-LINES FOR SERVICES AGREEMENT**

(*This agreement can also form part of the land availability agreement, where appropriate - see paragraph 5 of Annexure A.)

Any services agreement as contemplated in regulation 26 shall comply *inter alia* with the following guide-lines:

1. PARTIES

The names of the parties to the agreement and their business addresses must be stated.

2. THE LAND

There should be an adequate definition of the land to which the agreement relates with reference to, for example, any title deed under which the land is held, a diagram prepared by a registered land surveyor and any general plan that has been prepared in respect of the land. In addition, it should be recorded whether the township applicant is the owner or the agent of the owner of the land or acting in his own name with the consent of such owner or whether the land has been made available to him in terms of section 34(9) of the Act.

3. CONDITIONS

3.1 If the agreement is made subject to the fulfilment of any conditions, these conditions must be clearly stated. They may include, for instance, conditions relating to -

3.1.1 the inclusion of the land to be developed in a local authority area by an Administrator acting under the Black Local Authorities Act, 1982 (Act 102 of 1982), as read with the Promotion of Local Government Affairs Act, 1983 (Act 91 of 1983); or

3.1.2 tile application for township establishment becoming an approved application.

3.2 If any conditions as contemplated in paragraph 3.1 are imposed, the agreement must state clearly what the effect would be if any such conditions were not fulfilled.

4 CLASSIFICATION OF ENGINEERING SERVICES

4.1 The engineering services to be provided for the township should be classified as internal or external engineering services, as contemplated in regulation 27, on the basis that "external engineering services" consist of both "bulk services" and "link services";

4.2 "bulk services" means all the primary water, sewerage, electricity and stormwater services, as well as the road network in the system to which the internal services are to be linked;

4.3 "link services" means all new services necessary to link the internal services to the bulk services;

4.4 "internal services" means all services within the boundaries of the new township that are necessary for the establishment of serviced erven in accordance with the level of services agreed between the township applicant and the relevant authority contemplated in regulation 26(1);

4.5 if a service within the boundaries of the new township also serves any other township within the area of jurisdiction of the relevant authority referred to in regulation 26(1), such service and the costs of its provision shall be treated as an internal engineering

service to the extent that it serves the new township and as an external engineering service to the extent that it serves any such other township or development.

5 DEVELOPMENT RESPONSIBILITIES

5.1 Town planning and land surveying

As a general rule, the township applicant should be responsible for all land surveying, town planning and related work required for the purposes of registering the general plan relating to the new township, and he should recover all costs so incurred through the sale of serviced erven.

5.2 Responsibility for engineering services

There must be clear provisions recording the responsibilities of the relative parties to the services, agreement for the installation and provision of internal and external engineering services as contemplated in regulation 28(1): Provided that if any one of the parties is to provide and install an engineering service at the request and at the expense of the other, as contemplated in regulation 28(2), the services to be so installed and provided shall be clearly identified and the manner of determining the amount of any expense referred to in that subregulation be clearly set out.

5.3 Additional services

It should be clear whether additional bulk services are to be installed and provided by the relevant authority contemplated in regulation 26(1), and if so, such services should be identified.

5.4 Contribution to costs of services

The agreement should not provide for the township applicant to contribute to the installation and provision of external engineering services and conversely the agreement should also not provide for the relevant authority referred to in regulation 26(1) to contribute to the costs of the installation and provision of internal engineering services. The only exception to this guideline will be a case where the township applicant installs and provides external engineering services of which the relevant authority is not the supplier and elects to bear his own costs in this regard as contemplated in regulation 28(2)(c).

5.5 Service connections

It must be stated which party shall be responsible for the installation and provision of service connections to residential, business, industrial, community facility and municipal erven, or to any of such erven, as contemplated in the Land Use Conditions which form Annexure F to these regulations, and how the costs of such service connections shall be adequately defined in the services agreement, and may include all connections between the internal services concerned and the individual erf concerned, consisting of, for example -

5.5.1 a water-borne-sewerage pipe terminating at a sewer connection,

5.5.2 a water pipe terminating at a water meter,

5.5.3 an electricity house connection cable terminating on the relevant erf.

5.6 Level and standards of internal services

The level and standard of the internal services to be installed and provided by the township applicant should be clearly identified with reference to *inter alia* -

5.6.1 water reticulation-,

5.6.2 sewerage reticulation;

5.6.3 roads and stormwater drainage;

5.6.4 electricity reticulation (high and low tension); and

5.6.5 street lights, subject to the considerations referred to in regulation 27(2).

5.7 Completion of services

5.7.1 It must be clear or determinable when the township applicant and the relevant authority referred to in regulation 26(1) shall have commenced construction of internal and external engineering services, at what rate the construction of such services should proceed and when such services shall have been completed.

5.7.2 Provision must be made for the inspection and handing over internal engineering services to the relevant authority and for the date on which all risk and ownership in respect of such services shall pass to such relevant authority.

5.8 Maintenance of services

Provision should be made for the following responsibilities after the internal services have been handed over to the relevant authority contemplated in regulation 26(1):

5.8.1 When normal maintenance by that relevant authority shall commence.

5.8.2 The responsibility of the township applicant for the rectification of defects in material and workmanship, other than normal wear and tear.

5.8.3 The rights of such relevant authority where the township applicant has failed to rectify any defects within a reasonable period after having been requested to do so.

6 INSURANCE

Provision should be made for each of the parties to take out adequate insurance cover in respect of such risks as are insurable for the duration of the development of the new township

7. GUARANTEES

If it is contemplated that the township applicant will enter into contracts for the disposal of erven in the new township prior to the land in the township becoming registrable in a deeds registry as contemplated in regulation 25(2) and also before the completion of

either external or internal engineering services as contemplated in regulation 24(4)(b), provision should be made to regulate the relationship between the parties and their responsibilities for the provision of guarantees and undertakings as intended in regulation 24(4)(b)(i) and (ii), and such provisions may, in addition to the requirements set out in that subregulation, also state that any such guarantee or undertaking shall -

7.1 be irrevocable during its period of validity by the institution or body that issued the guarantee or undertaking,

7.2 be transferable by the person or body to whom such guarantee or undertaking is expressed to be payable.

8. SOURCES OF FINANCING

Provision may be made for the manner in which the parties undertake to finance their relative responsibilities in terms of the services agreement, and, where appropriate, the township applicant may undertake to provide any bridging finance to the relevant authority contemplated in regulation 26(1), on such terms and conditions as may be agreed between the parties and as may be normal and usual in commercial practice.

9. BREACH OF CONTRACT AND ARBITRATION

The agreement should clearly provide the manner in which any of the parties may terminate the services agreement (as a general rule, on adequate notice by the aggrieved party to the defaulting party) and the agreement may specifically record such terms as the parties may agree relating to *inter alia* -

9.1 the expenditure, finance and interest charges and other loss of damage that any one party shall be entitled to recover from the other in the event of a breach of the agreement by any party or the termination of the agreement for any other reason;

9.2 matters that may be referred to arbitration in the event of any dispute between the parties, and the details of the referral to arbitration as contemplated in the Arbitration Act, 1965 (Act 42 of 1965).

10 GENERAL

There may be such other terms and conditions not inconsistent with these guide-lines as the parties may agree.

ANNEXURE F LAND USE CONDITIONS

(Conditions of title or township conditions contemplated in section 57B of the Black Communities Development Act, 1984)

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Responsible authority

PART 2 SIDE AND REAR SPACE

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PART 3 BUILDING RESTRICTIONS AND USE OF LAND

Erection and use of buildings or use of land

Conditions applicable to all properties

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Special conditions applying to public garages

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Provision of parking

Restriction on coverage of buildings

PART 4 GENERAL AMENITY AND CONVENIENCE

General amenity and convenience

PART 5 MISCELLANEOUS

Serving of notices

Offences

Title

PART 1 LAND USE CONDITIONS

GENERAL

1 DEFINITIONS

In these conditions, unless the context otherwise indicates -

"building" includes a construction or structure of any nature;

"business purposes" means a use of a building and/or land for offices, showrooms, restaurants or any other business or commercial purposes other than for a place of instruction, a shop, a public garage, an industry, a noxious industry, a builder's yard or a scrapyards;

"coverage" means the area of a property covered by buildings measured over the external walls as seen vertically from above and expressed as a percentage of the area of the property;

"dwelling unit" means an interconnected suite of rooms, designed for human habitation that may contain a kitchen or scullery;

"floor area" means the sum of the areas covered by the building at the floor level of each storey,

"industry" means an activity on any premises amounting to the use of such premises as a factory as contemplated in the definition of that word in the General Administrative Regulations made in terms of section 35 of the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983), under Government Notice R2206 of 5 October 1984;

"institution" means a building designed or primarily used as a charitable institution, hospital, nursing home, sanitarium, clinic or any other institution, whether public or private;

"noxious industry" includes any industry or trade that by virtue of noise or effluents is dangerous or harmful to the health and welfare of the general public, such as but not limited to smelting ores and minerals, works for the production of sulphur dyes, or the sintering of sulphur-bearing materials;

"occupant" in relation to any building, structure or land, includes any person occupying such building, structure or land or legally entitled to occupy it, or anybody having the charge or management thereof, and includes the agent of such a person who is absent from the area of whose whereabouts are unknown;

"owner" in relation to a building or land, means -

(a) the registered owner,

(b) the registered holder of a right of leasehold as contemplated in the Black Communities Development Act, 1984;

(c) a person who administers the estate of any person mentioned in (a) or (b) above, whether as executor, administrator or guardian or in any other capacity;

(d) a person who receives payment from any occupant or a person who would receive payment should such building or land be let, whether for his own account or as agent for any person who is entitled thereto or who has an interest therein; and

(e) the duly authorised agent of a person contemplated in (a) to (d) above;

"place of instruction" means land used or a building designed or primarily used as a school, technical college, lecture hall, institute or other educational centre, and includes a creche, a convent or monastery, a public library, an art gallery, a museum and a gymnasium;

"place of public worship" means a building designed for use or primarily used as a church, chapel, oratory, house of worship, synagogue, mosque or other place of public devotion, and includes a building for public devotion, and includes a building designed for use and used as a place of religious instruction and an institution on the same property as and associated with any of the foregoing buildings that is intended to be used for social intercourse and recreation, but does not include a funeral chapel, which shall be deemed to be a "special purpose";

"property" means any portion of land or a land or a leasehold site that is registered as a separate unit in a deeds registry, and includes unsurveyed premises contemplated in section 52(5) of the Black Communities Development Act, 1984;

"public garage" means a building designed for or land used primarily for the maintenance, repair or fuelling of vehicles and purposes ancillary thereto;

"residential building" means a building designed or used primarily for human habitation and the uses permitted in terms of paragraph 8, which may include one or more dwelling units;

"responsible authority" means the authority referred to in paragraph 3;

"shop" means land used or a building designed or used primarily for the purposes of carrying on retail trade and the necessary accompanying storage and packaging, and includes any accompanying use on the same site that is incidental and subordinate to the conduct of the retail trade;

"social hall" means a building designed for use or used primarily for social assemblies, gatherings, meetings or recreational purposes;

"special purposes" means purposes for which land or buildings may be used that are not specified in these conditions;

"storey" means the space in a building between one floor level and the following floor level or between one floor level and the ceiling or roof above;

"use zone" means a zone that is subject to the restriction imposed on the erection and use of buildings or the use of land contained in Table A.

2 APPLICATION OF DOCUMENT

2.1 These conditions shall apply to any property with a condition of title that refers to it in the manner contemplated in regulation 32 of the Township Establishment and Land Use Regulations, 1986.

2.2 The provisions of these conditions shall not render unlawful any existing building that has been lawfully erected in accordance with approved building plans: Provided that alterations other than minor alterations, or a change of use of such building shall be effected in accordance with these conditions.

3 RESPONSIBLE AUTHORITY

The local authority, or, if there is no such local authority, the person or body responsible for the control of that relevant land shall be the authority responsible for enforcing and administering the provisions of these conditions.

**PART 2
SIDE AND REAR SPACE**

4 SIDE AND REAR SPACE

4.1 No building other than boundary walls, fences or temporary buildings that are required in connection with building operations being conducted on the property shall be erected without a space, free of any building or structure, between it and one of the side boundaries and also between the building and the rear boundary of the property.

4.2 The space at the side of the building shall be a minimum of one metre wide.

4.3 The space at the rear of the building shall be a minimum of one metre wide.

5 RELAXATION OF SIDE AND REAR SPACE

5.1 On receipt of a written application, the responsible authority may permit the erection of a building within the side or rear space.

5.2 Any permission granted in terms of paragraph 5.1 shall be valid for the life of the building concerned.

**PART 3
BUILDING RESTRICTIONS AND USE OF LAND**

6 ERECTION AND USE OF BUILDING OR USE OF LAND

The purposes for which buildings and land in each of the use zones specified in column 1 of Table A may -

6.1 be erected and or used;

6.2 be erected and/or used only with the consent of the responsible authority; or

6.3 not be erected and or used, are shown in the second, third and fourth columns of Table A respectively.

TABLE A

Use zone	Permitted uses	Uses permitted only with the consent of the responsibility authority	Prohibited uses
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(1) (2) (3) (4)

Residential ...	Residential buildings ...	Places of public worship, social or sport and recreational purposes, institution, medical suites, special purposes	Uses not under column (2) places of instruction, halls, and (3)
-----------------	---------------------------	--------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------

Business Shops, business Noxious industries Uses not under
purposes, residential column (2)
buildings, places or (4)
of public worship, places
of instruction, social halls,
sports and recreational
purposes, institution

Industrial Industry, business, Noxious industries, special Uses not under purposes shops, public
garages, purposes column (2)
scrapyards, parking or (3)
areas....

Community Places of public worship, Residential buildings, Uses not under facility places of
instruction, special purposes column (2)
social hall, sports and or (3)
recreational purposes,
institutions

Municipal Municipal purposes Residential buildings, Uses not under special purposes
column (2)
or (3)

Undetermined Nothing Noxious industries. Uses not under column (4)

Public open Parks, sports and Residential buildings, Uses not under space recreational special
purposes column (2)
facilities and buildings used or (3)
in connection therewith

7 CONDITIONS APPLICABLE TO ALL PROPERTIES

7.1 Except with the written consent of the responsible authority and subject to such condition as it may impose neither the owner nor any other person shall -

7.1.1 have the right, except to prepare the erf for building purposes, to excavate any material therefrom;

7.1.2 have the right to sink any wells or boreholes thereon or abstract any subterranean water therefrom.

7.2 Where it is impracticable for stormwater to be drained from higher-lying properties direct to a public street, the owners of the lower-lying properties shall be obliged to accept and permit the passage over their properties of such stormwater: Provided that the owner of any higher-lying property the stormwater from which is discharged over any lower-lying property shall be liable to pay a proportionate share of the cost of any pipeline or drain that the owner of such a lower-lying property may find necessary to lay or construct for the purpose of conducting the water so discharged over the property.

7.3 The siting of buildings, including outbuildings, on any property and of entrances to and exits from a public street system shall be to the satisfaction of the responsible authority.

7.4 The owner shall be responsible for the maintenance of the entire development on the property.

8 ADDITIONAL USES PERMITTED IN RESPECT OF RESIDENTIAL PROPERTIES

8.1 The number of dwelling units and the size of a residential building that may be erected on a property shall be limited only by the height and coverage provisions of these conditions and by any applicable health and building regulations.

8.2. The occupants of a residential building may practise, *inter alia*, their social and religious activities and their occupations, professions, or trades, including retail trade, or the property on which such residential building is erected: Provided that -

8.2.1 the dominant use of the property shall remain residential;

8.2.2 the occupation, trade or profession or other activity shall not be noxious; and

8.2.3 the occupation, trade or profession shall not interfere with the amenity of the neighbourhood.

9 SPECIAL CONDITIONS APPLYING TO PUBLIC GARAGES

9.1 Nothing shall be stored and no repairs of any nature to vehicles or equipment shall be undertaken in a public garage, except in an area that is screened to the satisfaction of the responsible authority for such purposes.

9.2 The responsible authority may relax the restriction contained in paragraph 9.1 in a case where the property is adjacent to or surrounded by industrial uses.

10 CONSENT USE OR APPROVAL BY THE RESPONSIBLE AUTHORITY

10.1 Any application to the responsible authority for the approval of a consent use in respect of the relevant property that is listed in column 3 of Table A, shall be made by the owner of the land or building to which the application relates: Provided that the provisions of this paragraph 10 and of paragraphs 11 and 12 shall not apply to any application to or approval or consent by the responsible authority for any purposes in terms of these conditions other than those contemplated in column 3 of Table A.

10.2 The power of the responsible authority to grant its consent or its approval in terms of paragraph 10.1 shall include the power to refuse consent or approval and, if consent or approval has been granted, the power to impose any conditions that it may deem fit.

10.3 If the owner of the relevant property is in breach of a condition upon which any consent or approval was granted by a responsible authority as contemplated in paragraph 10.2, the responsible authority may serve a notice upon such owner or the occupant of the property concerned calling on him to remedy such breach, and if the relevant breach is not remedied as required in such notice such consent or approval may be terminated by the responsible authority concerned.

10.4 The notice referred to in paragraph 10.3 shall require that the breach be remedied within a specified period.

10.5 Any applicant who feels aggrieved by any decision of the responsible authority as contemplated in this paragraph may appeal to the authorised officer within twenty-eight days of the decision: Provided that, if the responsible authority refuses to give a decision on any application or delays unreasonably in giving a decision, the applicant may appeal to the authorised officer as if he were appealing against a decision of the responsible authority.

11 APPLICATIONS FOR CONSENT USE AND OBJECTIONS

11.1 Any owner intending to apply to the responsible authority for its consent as contemplated in paragraph 10.1 shall, prior to the submission of such application -

11.1.1 affix, display and maintain a notice of such application on the land or building to which it applies for a period of fourteen days; and

11.1.2 give fourteen days written notice to the owners of adjacent properties and of the properties directly across the street from the property that forms the subject of the application.

11.2 A notice referred to in paragraph 11.1 shall state that any person having any objection to the application may lodge such objection in writing with the responsible authority and with the applicant within fourteen days after the date of the last day on which the notice was displayed.

11.3 Proof of the display of the notice contemplated in paragraph 11.1.1 and a list of the owners contemplated in paragraph 11.1.2 and their address shall accompany the application to the responsible authority.

11.4 The responsible authority shall consider any objections received within the fourteen-day notice periods contemplated in paragraph 11.1 and shall, within 60 days after the expiry of such notice periods, notify the application and the objectors, if any, of its decision by delivering a copy of such decision to the persons concerned.

11.5 A decision by the responsible authority contemplated in paragraph 11.4 shall not take effect until the letters of notification to the applicant and objectors have been received by such persons as contemplated in paragraph 11.4 or, if an appeal is lodged in terms of paragraph 10.5, until a decision has been reached in respect of such appeal.

12 LAPSING OF APPROVAL OR CONSENT

If the rights obtained by virtue of the grant by the responsible authority of an approval or consent in terms of paragraph 10 are not exercised within twenty-four months of the grant of such approval or consent, or if the rights have been exercised but the use permitted thereunder is interrupted for a continuous period of eighteen months, the relevant approval or consent shall lapse, unless any condition upon which such approval or

consent was granted specifically provides otherwise or the owner proves to the satisfaction of the responsible authority that he intends to resume the exercise of his rights.

13 SUBDIVISION AND CONSOLIDATION OF PROPERTIES

No property shall be subdivided or consolidated except than in accordance with regulation 19(5) and (6) of the Township Establishment and Land Use Regulations, 1986, and any relevant provision of the Black Communities Development Act, 1984.

14 PROVISION OF PARKING

14.1 Sufficient parking space shall be provided in respect of the uses listed in Table B: Provided that such parking space shall be laid out to the satisfaction of the responsible authority.

14.2 The responsible authority may, on application by the owner of the relevant property, grant permission for a relaxation of the parking requirements set out in Table B.

TABLE B

Use Site Area Minimum parking requirements

Residential buildings Less than 2 000 m² Nil.
2 000 m² and over 1 Space per dwelling unit
Shops Less than 2 000 m² Nil.
2 000 to 2 999 m² 3 spaces per 100 m² of shopping floor area.
3 000 m² and over 4 spaces per 100 m² of shopping floor area.
Offices Less than 2 000 m² Nil.
2 000 m² and over 2 spaces per 100 m² of office floor area
Industry and business Less than 2 000 m² Nil.
purposes 2 000 m² and over 1 space per 100 m² of floor area.

15 RESTRICTIONS ON HEIGHT OF BUILDINGS

15.1 Buildings erected on properties in residential use zones shall not exceed two storeys without the consent of the responsible authority.

15.2 Buildings erected on properties in use zones other than residential use zones shall not exceed three storeys without the consent of the responsible authority.

15.3 The number of storeys contemplated in this paragraph shall include the storey at ground level but shall not include basement storeys that are below ground level.

16 RESTRICTIONS ON COVERAGE OF BUILDINGS

16.1 Buildings shall not exceed the coverage specified in table C: Provided that on written application the responsible authority may grant consent for a maximum of 10% additional coverage.

TABLE C

Use zone Permissible coverage

Residential 60%

Business 70%

Industrial 70%

Community facility 70%

Municipal

Public open space To the satisfaction of the
Undetermined responsible authority

PART 4 GENERAL AMENITY AND CONVENIENCE

19 GENERAL AMENITY AND CONVENIENCE

19.1 Notwithstanding anything to the contrary contained in these conditions, no person shall use or develop a property in such a way as will detract from the amenity of convenience of the area within which it is located.

19.2 The provisions of this paragraph shall be enforceable by the responsible authority or any other party against any lessee or registered owner of the relevant property as contemplated in paragraph 19.1.

PART 5 MISCELLANEOUS

20 SERVING OF NOTICES

Any notice required or authorised to be served in terms of these conditions may be served personally or -

20.1 by delivering the notice to any person or to his duly authorised agent;

20.2 by registered post.

21 OFFENCES

Any person who contravenes or fails to comply with any provision of these conditions shall be guilty of an offence.

22 TITLE

These conditions may be referred to for all purposes as the Land Use Conditions.