rural development
& land reform
Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE REGISTRAR OF DEEDS, PRETORIA, PRIVATE BAG X 183, CORNER PRETORIUS AND BOSMAN STREETS, PRETORIA, 0001.TEL: (012) 338 7000, FAX: (012) 338 7103

REGISTRAR'S CIRCULAR of 2014

1. PURPOSE

To provide clarity regarding the procedure to be followed for the establishment of townships, the following guidelines are provided in order to create a uniform practice and to prevent unnecessary rejections. See the attached checklists (Annexure A) that set out the requirements for the different Acts as well as for the Ordinance. An example of draft conditions of establishment is annexed for guidance (Annexure B).

2. APPLICATION

Application should be lodged in terms of Section 46 of Act 47 of 1937. Application must be made for the Opening of the Township register as well as for the registration of the General Plan, Amending General Plan and Re-layout plan.

3. COMPLIANCE with ACT 70 OF 70

As Township Establishment takes place on Farm property, Act 70 of 70 needs to be complied with -See CRC 6 of 2002.

No consent or letter in terms of Act 70 of 1970 is required when a township is established on FARM land which is immediately preceded by an excision or where proof is furnished that the township is established on land which was previously excised

or if any Act excludes compliance (eg. Section 3(3) of Act 113 of 1991).

4. GENERAL PLAN

4.1 Reference should be made that the township shall consist of erven and streets indicated on the General Plan.

4.2 Reference should be made to the property and the small scale diagram on which the Township is to be established.

4.3 Reference should be made to Amended/ Re-layout plans (if applicable).

4.4 Servitude notes should correspond with the Conditions of Establishment:

4.4.1 The erven or streets affected should be mentioned.

4.4.2 The deed of creation of Existing servitudes should be reflected (K S nr/Title nr).

4.4.3 The nature of servitudes should be mentioned.

4.4.4 Each servitude should be dealt with by a separate servitude note.

4.5 The right bottom corner should reflect if it is a Johannesburg/Pretoria township. The jurisdictions may not overlap. If it is the case, bonds needs to be dealt with - See Section 49(3) of the Deeds Registries Act 47/1937.

4.6 Regulation 20(2) Act 8/97: The Surveyor General cannot approve provisional plans any more as section 14 does not prescribe a time within which a provisional plan should be finalized (RCR 63 of 2013).

5. CANCELLATION/REMOVAL OF CONDITIONS

Some conditions need to be cancelled/removed because it is either a condition to be complied with prior to the opening of the township register and declaration of the township as an approved township

or it is a condition not to the advantage/ benefit of Township Establishment as stated in a statute

or it is a condition that is in conflict with Township Establishment.

5.1 Excision of agricultural holdings:

Conditions to be removed in terms of Section 6(1) of the Agricultural Holdings Act, Act 22 of 1919.

5.2 Provided for by Act:

The applicable Act and procedure must be used to cancel these conditions eg.

- Section 11(9) of The Advertising on Roads and Ribbon Development Act, Act 21 of 1940;
- application in terms of section 49(6)(a) of The South African National Roads Agency Limited and National Roads Act, Act 7 of 1998 accompanied by the Agency's consent;
- application in terms of section 48(9) of The Gauteng Transport Infrastructure Act, Act 8 of 2001 accompanied by the Member of the Executive Council of the Province;
- Section 7(7) of the Upgrading of Land Tenure Rights Act, Act 112 of 1991;
- Sections 3(2), 12(1), 19(5) and 19(6A) of the Less Formal Township Establishment Act, Act 113 of 1991 etc.

5.3 By Court Order:

Certain conditions may only be removed by a Court Order eg a Water Court Order, or a condition in favour of the general public

5.4 Cognizance must be taken of CRC 2 of 2000 pertaining to the abolition of certain title conditions in terms of Act 43 of 1999.

5.5 Title conditions which lapse by virtue of an operation of law shall be endorsed to that effect without the cancellation thereof being specifically applied for, for example, conditions prohibiting the subdivision of agricultural land (section 5(1) of Act 67 of 1979 - CRC 5 of 1979), racially based conditions (section 2(1) Act 43 of 1999), discriminating conditions (section 28 Act 101 of 1969), outspan servitudes (section 53 of Act 22 of 1957), etc. The examiner will endorse the title deed regarding the cancellation of these conditions.

5.6 Conditions in favour of the National Government *eg* "Die regte van die Staatspresident soos in artikel 34 van die Kroongrond Nedersettings Wet 1912 bepaal" must be cancelled by application by the Department of Public Works in terms of section 2 (2A) of the State Land Disposal Act 48 of 1961.

5.7 Removal of Restrictions Act, Act 84 of 1967 and Gauteng Removal of Restrictions Act, Act 3 of 1996:

Conditions created for the benefit of 3rd parties and conditions created by statute (unless the statute has its own provision).

5.8 Notarial Deed - by agreement:

- Section 68(2) Act 47 of 1937 - where a personal servitude is cancelled.
- Section 76(1) bis Act 47 of 1937 - where a praedial servitude has lapsed.
- If a praedial servitude is cancelled.
- If a praedial servitude is abandoned (RCR 10 of 1987).
- Any condition by a Local Authority which was not imposed in terms of a Municipal Ordinance on Establishment of a Township.

5.9 Section 68(1) Act 47 of 1937 application:

- Where a personal servitude lapses for any reason (RCR 15 of 2007).
- Where a personal condition was renounced (RCR 39 of 1972).

All existing title conditions to be cancelled prior to the Opening of the Township Register should be cancelled at the expense of the applicant / owner. These conditions must be listed verbatim. Mere reference to a particular number of a condition in the title deed will not be accepted.

6. CONDITIONS OF ESTABLISHMENT

6.1 HEADING OF CONDITIONS OF ESTABLISHMENT

The heading should refer to the following:

6.1.1 The correct name of the owner;

6.1.2 The Ordinance /Act in terms of which the application was approved;

6.1.3 The correct property description:

6.1.3.1 Where the township is established on more than one property, all the properties must be referred to. RCR 34 of 2009 read with RCR 2 of 2013 prohibits the opening of a township by more than 1 owner each on his own property.

6.1.3.2 Where the township is established on an agricultural holding, the property description after excision must be referred to.

6.1.3.3 Where the township is established on subdivided or consolidated land, the property description as it appears on the subdivisional or consolidation diagram must be referred to. If components have to be consolidated examiners must ensure that such consolidation is registered simultaneously with or prior to the opening of the township register.

6.2 CONDITIONS TO BE COMPLIED WITH PRIOR TO THE OPENING OF THE TOWNSHIP REGISTER AND DECLARATION OF THE TOWNSHIP

Except for Conditions to be cancelled (dealt with in clause 5 above) and servitudes still to be registered, the Registrar of Deeds does not concern him/ herself with this as everything takes place outside the deeds office.

All Conditions of Establishment should make reference to these conditions. If there are none, it should be mentioned us such under this heading.

The Authorizing Authority though will lodge a letter of compliance indicating that the conditions to be complied with prior to the opening of the township register and declaration of the township have been complied with.

6.3 CONDITIONS OF ESTABLISHMENT

6.3.1 The name of the township must be disclosed.

6.3.2 The correct General Plan number as approved by the Surveyor General should be referred to. Where reference is made to a layout plan, the layout plan should be filed in the township file. Examiners should check if the General Plan lodged is in accordance to the layout plan.

6.3.3 Under this heading one would also encounter other clauses regarding precautionary measures, access, removal or replacement of municipal services / demolition of buildings and structures, compliance with conditions imposed by Provincial Department for Agriculture Conservation and Environment, environmental management, receiving and disposal of stormwater, erection of fences, removal of litter, removal and/or replacement of Eskom Power Lines and/or Telkom Services, Telkom and other services, obligations with regards to engineering services and restrictions regarding the alienation of erven, etc. The Registrar of Deeds does not concern him/ herself with these conditions.

6.3.4 Conditions to be registered affecting erven:

Mention will probably be made if it is a requirement that erven should be tied or consolidated.

Mention will probably be made if it is a requirement that a specific erf be transferred to a Non Profit Company (NPC). The wording of the condition will determine whether transfer of other erven must be registered prior to or simultaneous with the transfer of the erf to the NPC. Unless it is specifically stated that transfer to the NPC must be registered prior to or simultaneously with the transfer of the rest of the erven in the township, the Registrar can and will not enforce registration of these erven prior to registration of other erven in the township. If registration is a requirement, it must be dealt with under the heading "Conditions of Title –Conditions in favour of 3rd parties to be registered". A caveat must be noted by the Examiner and the Township section must indicate on the flyleaf whether the tie/consolidation must take place before the other erven in the township can be transferred/registered.

6.3.5 Conditions to be complied with before erven in the township become registerable:

6.3.5.1 Where endowment is payable, proof of payment must be lodged prior to or simultaneously with the first transfer of any erf in the township (see section 82(b)(ii)(bb) of Ordinance (Transvaal) 15 of 1986).

6.3.5.2 Endowment erven to be transferred to the local authority should be listed. All endowment erven must be transferred prior to or simultaneously with the first transfer of any erf in the township.

6.3.5.3 Installation of internal and external services: Proof of compliance is required. A certificate issued in terms of section 82 of the Town Planning and Townships Ordinance (Ordinance (Transvaal) 15 of 1986) must be lodged with the first transfer or with any other act of registration such as the issuing of a Certificate of Title. The section 82 certificate sometimes deals with endowment erven.

6.3.6 Disposal of existing conditions of title:

All conditions applicable on the farm title must be set out and dealt with under this heading.

New servitudes to be registered over the farm property and indicated on small scale diagrams (prior to opening of the township register) should be disclosed

under the heading “Conditions to be complied with prior to the opening of the township register and declaration of the township”. These conditions will not appear as existing conditions on the farm title. These conditions need to be registered before the opening of the Township register and dealt with under this heading and **not** under the heading of “Conditions of Title”.

Note: Whether the servitudes are over farm properties (existing servitudes over the former property on which the township is established) or to be created for the first time over erven (which need to be dealt with under the heading of “Conditions of Title”), will depend on the property description on the servitude diagrams and the servitude notes on the General Plan.

A condition dealt with under this heading **cannot** be repeated under “Conditions of Title”.

These conditions should be set out **verbatim**. Reference to the number/s of title conditions will not be allowed. Existing servitudes however can be described with reference to the servitude number and the nature of the servitude if it is not set out verbatim. Newly created servitudes should be described with regard to the figure, diagram and nature of the servitude in a way that it is clearly identifiable as no reference number for these documents exists as yet. All these conditions should be dealt with under the following sub-headings:

All erven shall be made subject to existing conditions and servitudes, if any;

(i) excluding the following servitudes which do not affect the township due to its locality/location/situation

(ii) excluding the following servitudes which affect erven ## and ## in the township only

(iii)including the following servitudes which affect all erven in the township/ Including the following entitlements which must be passed onto all erven in the township.

6.3.6.1 **Subject** conditions:

The erven should be made subject to these conditions or else the conditions need to be cancelled.

It can notjust be stated that conditions to which the farm property is subject to, should not be brought over onto the erven or that it does not affect the erven due to locality. If the farm property is subject to the conditions and the Township is opened on the full farm property, the township is automatically affected by all the same conditions. Conditions/ servitudes that do not affect the property due to location should already have been removed by subdivision if the conditions/ servitudes do not affect the property due to location.

All erven should be made subject to servitudes /conditions in general terms eg. The property is obliged to receive stormwater *or* conditions referring to soilconditions *or building restrictions* etc.

These conditions should be dealt with under the heading “*including the following servitudes which affect all erven in the township”*

6.3.6.2 **Entitlement** conditions:

Should entitlements not be passed on to township erven, it must be disclosed as follows: “*The following Entitlements/Rights will not be passed on to the erven in the Township”*.

Should entitlements be passed on to the erven in the Township, it must be disclosed as follows: *"Including the following entitlements which must be passed onto all erven in the township".*

6.3.6.3 **Water court orders**:

It should be brought over onto the erven. These conditions should be dealt with under the heading "*including the following servitudes which affect all erven in the township*"

6.3.6.4 Servitudes with **ancillary rights:**

If the servitudes do not affect erven in the township due to their location, the servitude holder must lodge a consent with the Local Authority/ Authorizing Authority indicating that the erven are not subject to the servitudes in the township due to their location.
These conditions should be dealt with under the heading "*excluding the following servitudes which do not affect the township due to its locality*"

Or if no such consent is lodged, or the consent states that the servitude affects the township area, then the servitudes should be brought over onto the erven.
These conditions should be dealt with under the heading "*including the following servitudes which affect all erven in the township".*

NB The Deeds Office will not require proof that a Servitude holder's consent has been submitted to the Local Authority. It will be the responsibility of the Local Authority to ensure they have the required consent.

6.3.6.5 **Servitude notes** on General Plan:

Existing servitudes reflected on the general plan affecting only specific erven should be dealt with under the heading "*excluding the following servitudes which affect erven ## and ## in the township only".*

7. CONDITIONS OF TITLE

These servitudes will be indicated on the general plan without reference to a prior diagram.

Only registrable conditions may be imposed. Conditions that do not comply with Section 63 of Act 47 of 1937 may not be imposed.

All servitudes which appear on the General Plan except pre-existing servitudes affecting the farm title must be set out as conditions of title.

7.1 CONDITIONS IMPOSED BY THE AUTHORIZING AUTHORITY IN TERMS OF…

Reference should be made which erven will be subject thereto

7.1.1 The 3 omnibus conditions:

- The erf …
- No building …
- The Local Authority …

7.1.2 Conditions imposed by statute:

The statute/ Act in terms whereof the condition is enforceable should be stated and the condition should then be referred to eg.Conditions of Title

imposed by the Departement of Mineral Resourses in terms of the Mineral Act, Act 50 of 1991:

As this erf forms part of land which may be undermined and which may be liable to cracking… where liability is accepted due to settlement and shock.

7.1.3 Conditions imposed by the Local Authority:

Geo-Technical conditions even though strictly speaking do not form a subtraction of dominium but are inserted for the protection of the public eg.

7.1.3.1 Certain erven in the township lie in an area where soil conditions can affect and damage buildings and structures. Building plans submitted to the local authority for consideration shall indicate measures to be taken, to limit possible damage to buildings and structures as a result of detrimental foundation conditions. These measures shall be in accordance with the recommendations contained in the Geo-technical report for the township, unless it is proved to the local authority that such measures are unnecessary or that the same purpose can be achieved by other more effective means.
The NHBRC classification for foundations is considered as C2.

7.1.3.2 Certain erven in the township lie in an area with soil conditions that can cause serious damage to buildings and structures. In order to limit such damage, foundations and other structural elements of buildings and structures must be designed by a competent professional engineer and erected under his supervision unless it can be proved to the local authority that such measures are unnecessary or that the same purpose can be achieved by other more effective means.

7.1.3.3 As this erf form part of land which may be undermined and which may be liable to cracking … where liability is accepted due to settlement and shock (If not imposed by statute).

7.1.3.4 The condition where the erf may not be transferred without the consent of the Local Authority unless the transferee has accepted certain power restrictions to the erf.

7.1.3.5 Any other condition that is not a substraction from the dominium in accordance to Section 63 is **not** registrable. This will include conditions dealing with building plans, building restrictions, pollution, re-zoning etc.

7.1.4 Servitude notes on General Plan:

Servitudes affecting pieces of land adjacent to the Township should be dealt with under the sub-heading of “Servitudes in favour of third parties to be registered”.

Praedial Servitudes should be avoided **except** where servitudes are over and in favour of erven in the same township. Servitudes reflected on the general plan affecting only specific erven in the Township should be dealt with. eg.

- Erf 1 is subject to a right of way as indicated on the General Plan in favour of erf 2.
- Erf 2 is entitled to a right of way over erf 1.

7.1.5 Conditions not on General Plan:

Conditions that are more general of nature which is not reflected on the General Plan and do **not** require registration but affect erven, should be dealt with under this heading eg. Erf 1 may only be alienated with the consent in writing of the Local Authority.

7.2 SERVITUDES IN FAVOUR OF THIRD PARTIES TO BE REGISTERED

These conditions must be clearly separated from the Conditions of Title imposed in favour of the Authorizing Authority (eg. Conditions in terms of the provisions of the Town Planning and Townships Ordinance) under a separate paragraph number under this heading ("Conditions of Title").

Clearly indicate in whose favour the servitudes are to be registered.

Conditions must be set out and there must be an indication to which erven are affected by the servitudes.

Ensure that there is a clear indication to the erven / farms / entities / individuals in favour of whom the servitudes are to be registered.

7.2.1 Conditions in favour of a NPC (Non Profit Company) will be dealt with under this heading.

No servitudes may be imposed in favour of the local authority as well as the Home Owners Association. It is imperative that conditions in favour of the local authority and the Home Owners Association are separated and clearly indicated by a separate paragraph number.

As a special concession the servitudes in general terms which are not depicted on the General Plan may be created in the Power of Attorney with acceptance by the Section 21(NPC) Home Owners Association (section 65(1) of DRA). It is therefore not necessary to create it notarially.

Other servitudes as depicted on the General Plan to be registered over Home Owners Association properties may be imposed for example, servitudes for refuse purposes and right of way servitudes to provide access to erven in the township in favour of all other erven in the township (save for those to be transferred to the HOA). These servitudes will be imposed as praedial servitudes as envisaged in para 7.1.4 supra..

Section 21 Company(NPC) conditions ("... each and every owner of an erf in the township shall on transfer automatically become a member of the Home Owners Association ..."): These conditions must be created in the Power of Attorney to Transfer and Section 65(1) must be complied with: Written acceptance by the Home Owners Association must be lodged.

The Section 21 Company (NPC) company can be referred to in the Conditions of Establishment without reference to the name of the NPC company. The Proclamation, deeds and documents however must refer to the correct full name and registration number of the Section 21 Company Home Owners Association.

7.2.2 Servitudes in favour of ESKOM, GASKOR etc must be registered by Notarial Deed.

7.2.3 Servitudes affecting an erf and an adjacent piece of land eg Erf 1 is subject to a right of way in favour of Portion 21 of the farm …This condition must be registered by Notarial Deed
or created in the Power of Attorney with compliance to Section 76 of Act 47 of 1937.

7.3.4 Servitudes can be created in favour of owners or occupiers from time to time of all or certain erven (section 65(1) of DRA). Make sure that there is a clear indication of the entity / individual in whose favour the servitudes are to be created.

NB Examiners must note a caveat against all affected erven in the township prohibiting transfer/registration of the relevant erven unless the servitudes/conditions in favour of third parties (eg Eskom, Gaskor or Section 21 Company (NPC) etc) are registered simultaneously.

8. PROCLAMATION

If Proclamation is required in terms of Act/Ordinance, the Proclamation needs to take place in accordance to the Conditions of Establishment which was approved at registration of the Township. If the Proclamation deviates from the Conditions of Establishment, the Authorizing Authority needs to inform the Deeds office of the deviation. The deviation would only be acceptable if it is in accordance with all registration requirements.

First transfer of erven needs to take place in accordance to the Proclamation.

9. TOWN PLANNING SCHEME CONDITIONS

These conditions (eg. section 125 conditions) must not be brought forward into the new deeds of transfer.

10. DATE OF EFFECT

This Circular will be effective immediately and withdraw RC 3 of 2012.

REGISTRAR OF DEEDS
DEEDS REGISTRY
PRETORIA
DATE

Annexure A

CHECKLISTS FOR DIFFERENT ACTS AND ORDINANCE

Ordinance 15 of 1986

	J/E	S/E
Conditions contrary to Township had been cancelled/removed		
Act 70/70 complied with or letter of exemption filed		
Caveat noted (Private owner: Section 82 caveat) (Local Authority Owner: Section 113(1)(c) caveat)		

GENERAL PLAN

1) General Plan approved on:		
2) General plan extended till: (General Plan must be lodged within 12 months of date of approval by SG NB Not applicable if Local Authority is owner)		
3) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
4) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB)		
Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Notification of approval of application (conditions of establishment will accompany notification -Private owner: Section 98(4), Local Authority Owner: Section 109(3)(a))		
2) Section 101(1) certificate lodged (Stating Conditions of Establishment complied with **NB** Not applicable if Local Authority is owner)		
3) Heading refer to owner in Title		
4) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion…)		
5) Heading refer to Ordinance 15 of 1986		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		
7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General		

Plan		
11)Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Section 3 Act 113 of 1991

	J/E	S/E
Conditions contrary to Township had been cancelled/removed		
NB Act 70/70 not applicable		
Official Gazette lodged in which land is designated for less formal Township Establishment (Section 3(1)). If Gazette refers to suspension of Conditions in terms of Section 3(2), endorse title that Conditions are suspended and that it will take effect when the register is opened (Section 6(b)) **NB** Endorse Title on which Township is to be opened		
Township Title endorsed in terms of Section 6(c) (Public Places vest in the Local Authority from the date when the register is opened) **NB** Refer to erven		

GENERAL PLAN

1) General Plan approved on: **NB** No notice of Extension needed		
2) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
3) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB)		
4) Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Conditions of Establishment lodged		
2) Heading refer to owner in Title		
3) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion…)		
4) Heading refer to Chapter I, Section 3 of Act 113 of 1991		
5) Proof lodged that pre-establishment conditions have been complied with		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		

7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General Plan		
11) Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Section 11 Act 113 of 1991

	J/E	S/E
Conditions contrary to Township had been cancelled/removed		
Act 70/70 complied with or letter of exemption filed		
Official Gazette lodged in which Premier gives notice that application was received for Township Establishment (Section 11(2)). If Gazette refers to suspension of Conditions in terms of Section 12(1), endorse title that Conditions are suspended and that it will take effect when the register is opened **NB** Endorse Title on which Township is to be opened		
Premiers notice of approval of application lodged (Section 14(2) – The notice may refers to conditions under which the application was approved)		
Section 13(1) caveat noted: Transactions Invalid (Local Authority Owner: No disposal of property between date of Section 11(2) gazette and Opening of Township. Private Owner: No disposal of property between date of Section 11(2) gazette and Section 14(1)(a) gazette that services had been provided.)		
Township Title endorsed in terms of Section 17(c) (Public Open Spaces vest in the Local Authority from the date when the register is opened) **NB** Refer to erven		

GENERAL PLAN

1) General Plan approved on: **NB** No notice of Extension needed		
2) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
3) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB)		
4) Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Conditions of Establishment lodged		
2) Heading refer to owner in Title		
3) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion…)		
4) Heading refer to Chapter II, Section 11 of Act 113 of 1991		
5) Proof lodged that pre-establishment conditions have been complied with		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		
7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General Plan		
11) Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Section 19 Act 113 of 1991

	J/E	S/E
Conditions contrary to Township had been cancelled/removed		
Act 70/70 complied with or letter of exemption filed		
Official Gazette lodged in which Premier gives notice of intention to Establish a Township (Section 19(4)). If Gazette refers to suspension of Conditions in terms of Section 19(5) & Section 19(6A), endorse title that Conditions are suspended and that it will take effect when the register is opened **NB** Endorse Title on which Township is to be opened		
Township Title endorsed in terms of Section 19(10)(c) (Public Places vest in the Local Authority from the date when the register is opened) **NB** Refer to erven		

GENERAL PLAN

1) General Plan approved on: **NB** No notice of Extension needed		

2) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
3) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB)		
4) Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Conditions of Establishment lodged by Premier (Section 19(8))		
2) Heading refer to owner in Title		
3) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion…)		
4) Heading refer to Chapter II, Section 19 of Act 113 of 1991		
5) Proof lodged that pre-establishment conditions have been complied with		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		
7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General Plan		
11) Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Section 22 Act 113 of 1991

	J/E	S/E
Conditions contrary to Township had been cancelled/removed		
Act 70/70 complied with or letter of exemption filed		
Official Gazette lodged in which Premier grants permission to usage as communal land (Section 22(2))		
Certified copy of Tribunal Resolution lodged (Section 25(2)		

GENERAL PLAN

1) General Plan approved on: **NB** No notice of Extension needed		

2) All pages of General Plan lodged **NB** Section 23(1)		
3) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB)		
4) Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Conditions of Establishment lodged by Premier (Section 19(8))		
2) Heading refer to owner in Title		
3) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion…)		
4) Heading refer to Chapter III, Section 21 of Act 113 of 1991		
5) Proof lodged that pre-establishment conditions have been complied with		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		
7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General Plan		
11) Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Section 35(1) Act 4 of 1984

	J/E	S/E
Land is situated in a Development area (If not ascertainable from our records, call for SG Certificate)		
Land Availability agreement lodged (Only if Land was made available in terms of Section 34(9) for the purpose of controlling compliance of conditions thereof)		
Conditions contrary to Township had been cancelled/removed		
NB Act 70/70 not applicable		
Regulation 25(2) caveat noted		
Government Gazette lodged cancelling certain conditions (Endorse title in		

terms of Section 7(7) Act 112/91)/delete if no Gazette lodged)		

GENERAL PLAN

1) General Plan approved on:		
2) General plan extended till: (General Plan must be lodged within 3 months of date of approval by SG NB Not applicable if Local Authority is owner)		
3) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
4) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB) If no mention made, PLOT		
5) Re-layout/Amending plan referred to		

CONDITIONS OF ESTABLISHMENT

1) Authorized officer notified Registrar of approval of Township establishment (conditions of establishment will accompany notification - Regulation16(3))		
2) Notice in terms of Regulation 21(1) lodged (Notice will state Regulation 21(1)(a), (b) and (c) have been complied with. Regulation 21(1)(a) -Township establishment application have been approved Regulation 21(1)(b) -A service agreement had been reached **NB** only if Local Authority is **not** applicant Regulation 21(1)(c) -Conditions of Establishment had been complied with)		
3) Heading refer to owner in Title		
4) Heading refer to Property in Title (Not necessary to refer to (a Portion of Portion…)		
5) Heading refer to Chapter III of the Township Development and Land Use Regulations, 1986, issued in terms of Section 66(1) of the Black Communities Development Act 4/84		
6) General Plan Number Corresponds with Plan lodged (If reference is made to a Layout plan, check that the Layout plan had been lodged)		
7) Conditions identified have been cancelled		
8) Conditions to be complied with prior to establishment have been complied with		
9) Existing conditions of title have been disposed of and correspond with servitude notes on General Plan		
10) Conditions of title correspond with servitude notes on General Plan		
11) Conditions in favour of 3rd parties are included under a separate heading and correspond with servitude notes on General Plan		

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Section 35(3) Act 4 of 1984

	J/E	S/E
Conditions contrary to Township had been cancelled/removed		
NB Act 70/70 not applicable		
Government Gazette lodged cancelling certain conditions (Endorse title in terms of Section 7(7) Act 112/91)/delete if no Gazette lodged)		

GENERAL PLAN

1) General Plan approved on: **NB** No notice of Extension needed		
2) All pages of General Plan lodged (If last page is not lodged, make note on cover - DATA: Note plan is only provisionally approved in terms of Section 14 Act 8 of 1997)		
3) Checked right bottom corner PTA/JHB (If JHB, Bond should be dealt with – NB: Bond can't be in both PTA and JHB) If no mention made, PLOT		
4) Re-layout/Amending plan referred to		

DOCUMENTS ON TOWNSHIP FILE

1) Notification by Provincial Administrator/Provincial Department of Housing lodged that land has been set apart as a town before the commencement of the Black Communities Development Act of 1986, and is therefore deemed to have been established as a township in terms of Section 35(3)		

NB NO Conditions of Establishment needed. Raise note to withdraw Conditions of Establishment if some is lodged

SECTION 46 APPLICATION

1) Application made for Opening of Township		
2) Application made for registration of General Plan and Re-layout/Amending plan		

Junior Examiner:

Senior Examiner:

Annexure B

DRAFT CONDITIONS OF ESTABLISHMENT

STATEMENT OF THE CONDITIONS UNDER WHICH THE APPLICATION MADE BY …… (HEREINAFTER REFERRED TO AS THE TOWNSHIP OWNER) UNDER THE PROVISIONS OF CHAPTER III OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION .. (A PORTION OF PORTION ..) OF THE FARM … IQ, GAUTENG PROVINCE HAS BEEN APPROVED.

1. CONDITIONS TO BE COMPLIED WITH PRIOR TO THE OPENING OF THE TOWNSHIP REGISTER AND THE DECLARATION OF THE TOWNSHIP AS AN APPROVED TOWNSHIP.

(1) CANCELLATION OF EXISTING CONDITIONS OF TITLE

The township owner shall at its own costs, cause the following restrictive conditions and/or servitudes to be cancelled or the township area to be freed therefrom:

(2) CONSOLIDATION OF COMPONENT PORTIONS

The township owner shall at its own costs, cause the component portions on which the township will be established, to be consolidated and to be known as Portion …….to the satisfaction of the local authority.

(3) DISPOSAL OF SURFACE RIGHT PERMITS

The township owner shall at its own costs and to the satisfaction of the Department: Mineral Resources, abandon, modify or suitably protect all registered surface right permits which affect the township.

(3) DISPOSAL OF SURFACE RIGHT PERMITS

The township owner shall at its own costs and to the satisfaction of the Department: Mineral Resources, abandon, modify or suitably protect the following surface right permits, which affect the township:

(4) REGISTRATION OF SERVITUDE

The township owner shall at its own costs, cause a servitude for ……. purposes to be registered over …… in favour of and to the satisfaction of the City of Johannesburg Metropolitan Municipality vide diagram S.G. No.

(4) REGISTRATION OF SERVITUDES

The township owner shall at its own costs, cause the following servitudes to be registered to the satisfaction of the City of Johannesburg Metropolitan Municipality:

(5) CANCELLATION OF SERVITUDE

The township owner shall, at its own costs cause the servitude for …… purposes registered in favour of …… in terms of Notarial Deed of Servitude No. … to be cancelled.

(5) CANCELLATION OF SERVITUDES

The township owner shall, at its own costs cause the following servitudes to be cancelled:

(6) OPENING OF TOWNSHIP REGISTER

The township register may only be opened after or simultaneously with that of ……

(7) GENERAL

(a) The holding on which the township is to be established, shall be excised and the description of the property as farmland, shall be submitted to the local authority

(b) The township owner shall, prior to approval of the General Plan, make arrangements with Corporate Geo-Informatics (CGIS) for the allocation of a street name to the public road (or street names to the public roads) in the township (to be indicated on the layout plan so that it forms part of the General Plan).

(b) The local authority shall, after approval of the General Plan, make arrangements with Corporate Geo-Informatics (CGIS) for the allocation of street numbers to the newly created erven in the township.

(c) The township owner shall, after approval of the General Plan, make arrangements with Corporate Geo-Informatics (CGIS) for the allocation/approval of a street name for the private road in the township (not for purposes of the General Plan) as well as the allocation of street numbers for the newly created erven in the township.

(d) A satisfactory geo-technical report (in triplicate) shall be submitted to the local authority and the Amendment Scheme shall not be considered/approved by the local authority until such time as the comments on the said report, have been obtained and included in the mentioned Amendment Scheme.

(e) The 1:100 year floodline certification, duly signed by a professional engineer, in respect of the property on which the township will be established, shall be obtained and indicated on the layout plan.

(f) A service scheme report prepared by a registered professional engineer, addressing the provision of roads and stormwater for the township, including stormwater management on site attenuation, to the satisfaction of Johannesburg Roads Agency (Pty) Ltd and/or the Department of Roads and Transport (Gauteng Provincial Government), shall be submitted for approval.

(g) Proof that the General Plan previously approved in respect of ……. had been withdrawn by the Surveyor General, shall be submitted to the local authority.

(h) Authorisation/exemption to establish the township in terms of the National Environmental Management Act (No 107 of 1998) shall be obtained (or re-obtained) from the Department of Agriculture and Rural Development and shall be submitted to the local authority.

(i) The comments of the South African National Roads Agency Limited on the establishment of the township, shall be obtained /re-obtained and shall be submitted to the local authority.

(j) The comments of the Department: Mineral Resources on the establishment of the township, shall be obtained/re-obtained and shall be submitted to the local authority.

(k) The comments of the Department of Roads and Transport (Gauteng Provincial Government) on the establishment of the township, shall be obtained/re-obtained and shall be submitted to the local authority.

(l) The comments of the Passenger Rail Agency of South Africa on the establishment of the township, shall be obtained/re-obtained prior to the approval of the General Plan of the township and shall be submitted to the local authority.

(m) A traffic impact study/ traffic engineering report/ traffic statement/traffic management report

shall be submitted to Johannesburg Roads Agency (Pty) Ltd for approval.

(n) Proof of the rehabilitation of the outcrops to the satisfaction of the Department: Mineral Resources, shall be submitted to the local authority.

(o) Clearance in terms of the Nuclear Energy Act, 1993, shall be obtained from the National Nuclear Regulator in respect of the Radon levels on the property on which the township is to be established and shall be submitted to the local authority.

(o) The township owner shall obtain an authority in terms of Section 51(1) of the Nuclear Energy Act, 1993 from the National Nuclear Regulator to establish the township.

(p) A copy of the Deed of Transfer reflecting the township owner as the new registered owner of the property on which the township is to be established, shall be submitted to the local authority as soon as same becomes available from the Registrar of Deeds.

(q) The township owner shall obtain and submit a certificate from ESKOM that electricity supply to the township, is available: Provided that if supply is not available and the township has been approved by the local authority 5 years or more than 5 years ago, a letter from ESKOM shall be submitted confirming that supply is not available.

(q) The township owner shall obtain and submit a certificate from City Power Johannesburg that electricity supply to the township, is available.

(r) A Non-profit Company (hereinafter referred to as 'the NPC') shall be incorporated for the township, in terms of the Companies Act, 2008 (Act 71 of 2008) as amended by the Companies Amendment Act, 2011 (Act 3 of 2011) (hereinafter referred to as 'the new Companies Act'), to the satisfaction of and in accordance with the requirements of the local authority. After reservation of the company's name, the incorporators shall submit the draft Memorandum of Incorporation to the local authority for approval, prior to the filing of the Notice of Incorporation with the Companies and Intellectual Property Commission. The incorporators shall ensure that the following conditions shall be included in the Memorandum of Incorporation:

(aa) The NPC shall consist of members and a person shall be a member if such person is the registered owner of an erf in the township. Provided that no member shall become a registered owner of an erf unless he/she/it has made application to be a member of the NPC and has agreed, to the satisfaction of the NPC, that:
- (i) On registration of transfer of an erf to him/her/it, he/she/it shall become a member and he/she/it shall remain a member as long as he/she/it remains the registered owner of an erf in the township; and
- (ii) he/she/it shall automatically cease to be a member when he/she/it ceases to be a registered owner of an erf in the township; and
- (iii) he/she/it shall be bound to the terms, conditions, rules and provisions contained in the Memorandum of incorporation as well as any rule made by the NPC from time to time.

(bb) The main object of the NPC shall not be amended without the written consent of the City of Johannesburg Metropolitan Municipality first having been obtained.

(cc) The NPC shall at all times comply with the legal requirements and/or provisions for the incorporation, existence and continuation of the company as a legal entity (a Non-profit Company as defined and contemplated in the above-mentioned Act).

(dd) The NPC shall not apply for de-registration at the Companies and Intellectual Property Commission without the written consent of the City of Johannesburg Metropolitan Municipality first having been obtained.

(ee) Erf/Erven ……(insert number of access erf/erven and/or private open space erf/erven) shall be transferred to the NPC and shall not be sold or transferred to any other person/entity and shall not be mortgaged.

(ff) The NPC shall undertake not to submit an application to rezone Erf ……. and/or Erf ……..

(insert number of access erf/erven and/or private open space erf/erven).

(gg) Each and every owner of an erf in …….. (insert name of the township) shall have free access over Erf …… (insert number of access erf) to afford them access to a public road.

(hh) Each and every owner of an erf in …… (insert name of the township) shall have free entrance to and usage of Erf …… (insert number of Private Open Space erf).

(ii) The Municipal Owned Entities and emergency services of the City of Johannesburg Metropolitan Municipality are guaranteed 24 hour access to Erf ….. (insert number of access erf) and Erf ……. (insert number of Private Open Space erf) to maintain, where applicable, the City of Johannesburg Metropolitan Municipality's installations and provide services to the residents in ……. (insert name of the township).

(jj) The NPC shall have full responsibility for the functioning and proper maintenance of Erf …… (insert number of access erf) and the engineering services within the said erf as well as Erf ……. (insert number of Private Open Space Erf) and the attenuation system(s) on the erf (if applicable), all to the satisfaction of the City of Johannesburg Metropolitan Municipality, failing which such maintenance shall be done by the City of Johannesburg Metropolitan Municipality at the costs of the NPC.

(kk) The NPC shall properly and clearly display the street name and street numbers allocated to the individual erven in …….. (insert the name of the township) and shall maintain such to the satisfaction of the local authority.

(mm) The Memorandum of Incorporation shall not be implemented and/or amended as far as such implementation and/or amendment relates to clauses (aa) to (ll) above and including this clause, without the written consent of the City of Johannesburg Metropolitan Municipality first being had and obtained.

(s) The Memorandum of Incorporation of …… (insert the name of the NPC) shall be amended as set out hereunder, to the satisfaction of the local authority and such amendments shall be submitted to the local authority prior to the registration thereof with the Companies and Intellectual Property Commission:

(i) ……

(ii) ……

(iii) ……..

(t) The township owner shall, after approval of the General Plan of the township, submit the relevant Amendment Scheme to the local authority for approval, in order that it can be published simultaneously with the declaration of the township as an approved township.

(u) The township owner shall comply with the provisions of sections 72(1), 75(1) and 101(1) of the Town Planning and Townships Ordinance, 1986.

(u) The township owner shall comply with the provisions of section 101(2) of the Town Planning and Townships Ordinance, 1986.

2. CONDITIONS OF ESTABLISHMENT.

(1) NAME

The name of the township is …**……**

(2) DESIGN

The township consists of erven and a road/ a street/a thoroughfare/roads/streets/thoroughfares as

indicated on General Plan S.G. No. ……

(3) PROVISION AND INSTALLATION OF ENGINEERING SERVICES

The township owner shall make the necessary arrangements with the local authority for the provision and installation of all engineering services of which the local authority is the supplier, as well as the construction of roads and stormwater drainage in and for the township, to the satisfaction of the local authority.

(4) ELECTRICITY

The local authority is not the bulk supplier of electricity to or in the township. The township owner shall in terms of Section 118(2)(b) of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) make the necessary arrangements with ESKOM, the licensed supplier of electricity for the provision of electricity.

(5) GAUTENG PROVINCIAL GOVERNMENT (DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT)

Should the development of the township not been commenced with before ……. the application to establish the township, shall be resubmitted to the Department of Agriculture and Rural Development for exemption/authorisation in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended.

(6) GAUTENG PROVINCIAL GOVERNMENT (DEPARTMENT OF ROADS AND TRANSPORT)

(a) Should the development of the township not been completed before ……. the application to establish the township, shall be resubmitted to the Department of Roads and Transport for reconsideration.

(b) If however, before the expiry date mentioned in (a) above, circumstances change in such a manner that roads and/or PWV routes under the control of the said Department are affected by the proposed layout of the township, the township owner shall resubmit the application for the purpose of fulfillment of the requirements of the controlling authority in terms of the provisions of Section 48 of the Gauteng Transport Infrastructure Act, 2001 (Act 8 of 2001).

(c) The township owner shall, before or during development of the township, erect a physical barrier which is in compliance with the requirements of the said Department along the lines of no access as indicated on the approved layout plan of the township, No. ……. The erection of such physical barrier and the maintenance thereof, shall be done to the satisfaction of the said Department.

(d) The township owner shall comply with the conditions of the Department as set out in the Department's letter dated ……...

(6) GAUTENG PROVINCIAL GOVERNMENT (DEPARTMENT OF ROADS AND TRANSPORT)

(a) Should the development of the township not been completed before ……. the application to establish the township, shall be resubmitted to the Department of Roads and Transport for reconsideration.

(b) If however, before the expiry date mentioned in (a) above, circumstances change in such a manner that roads and/or PWV routes under the control of the said Department are affected by the proposed layout of the township, the township owner shall resubmit the application for the purpose of fulfillment of the requirements of the controlling authority in terms of the provisions of Section 48 of the Gauteng Transport Infrastructure Act, 2001 (Act 8 of 2001).

(7) GAUTENG PROVINCIAL GOVERNMENT (DEPARTMENT OF ROADS AND TRANSPORT)

The township owner shall comply with the conditions regarding the Gautrain Rapid Rail Link as set out in the letter of the Department of Roads and Transport dated ……...

(8) GAUTENG PROVINCIAL GOVERNMENT (DEPARTMENT OF EDUCATION)

Erf ……. shall not be alienated or transferred to any purchaser other than the Gauteng Provincial Government without proof being submitted to the local authority that a right of first refusal was granted by the township owner to the said Department, for a period of five years from date of proclamation of the township, at a purchase price that is not higher than that price at which the township owner intends to sell the erf for to the purchaser and that such right of first refusal was declined or not exercised by the said Department.

(9) NATIONAL GOVERNMENT (DEPARTMENT: MINERAL RESOURCES)

Should the development of the township not been completed before …….. the application to establish the township, shall be resubmitted to the Department : Mineral Resources for reconsideration.

(9) NATIONAL GOVERNMENT (DEPARTMENT: MINERAL RESOURCES)

(a) Should the development of the township not been completed before …….. the application to establish the township, shall be resubmitted to the Department : Mineral Resources for reconsideration.

(b) The township owner shall at its own costs, make adequate provision to the satisfaction of the Inspector of Mines (Gauteng Region), to prevent any water from entering the underground workings through the outcrop workings or the shaft openings and if applicable, the existing stormwater drains shall be properly maintained and protected.

(c) Erf …….. shall not be alienated or transferred into the name of any purchaser, without the written consent of the local authority first having been obtained, which consent shall not be granted unless:- ……

(i) chemical tests indicating the aggressiveness of the soil towards steel and concrete, had been undertaken by the township owner and proof of the taking of the necessary pre-cautionary measures in this regard, has been submitted to the local authority;

(ii) the township owner had taken the necessary steps to permanently seal the ventilation shafts on the erf to the satisfaction of the Inspector of Mines (Gauteng Region) and proof thereof has been submitted to the local authority. This restriction shall only be applicable to the first transfer of the erf from the township register.

(iii) the township owner had removed all mine residue from the erf to the satisfaction of the Inspector of Mines (Gauteng Region) and had submitted proof thereof to the local authority. This restriction shall only be applicable to the first transfer of the erf from the township register.

(10) SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED

The township owner shall erect a security wall on the road reserve boundary of ……. to the satisfaction of the South African National Roads Agency Limited.

(11) ACCESS

(a) Access to or egress from the township shall be provided to the satisfaction of the local authority and/or Johannesburg Roads Agency (Pty) Ltd and/or the Department of Roads and Transport.

(b) No access to or egress from the township shall be permitted via the line/lines of no access as indicated on the approved layout plan of the township No. ……

(c) Access to or egress from Erf ……. shall only be permitted via the servitude of right of way to be registered over Erf ……...

(d) No access to or egress from the township shall be permitted via ……..

(12) ACCEPTANCE AND DISPOSAL OF STORMWATER DRAINAGE

The township owner shall arrange for the stormwater drainage of the township to fit in with that of the adjacent road/roads and all stormwater running off or being diverted from the road/roads shall be received and disposed of.

(13) REFUSE REMOVAL

The township owner shall provide sufficient refuse collection points in the township and shall make arrangements to the satisfaction of the local authority for the removal of all refuse.

(14) REMOVAL OR REPLACEMENT OF EXISTING SERVICES

If, by reason of the establishment of the township, it should be necessary to remove or replace any existing municipal, TELKOM and/or ESKOM services, the cost of such removal or replacement shall be borne by the township owner.

(15) DEMOLITION OF BUILDINGS AND STRUCTURES

The township owner shall at its own costs cause all existing buildings and structures situated within the building line reserves, side spaces or over common boundaries to be demolished to the satisfaction of the local authority, when requested thereto by the local authority.

(16) RESTRICTION ON THE TRANSFER OF AN ERF

Erf …….(insert number of Sectional Title erf) and Erf….(insert number of POS erf) may only be developed jointly as a development scheme as provided for in terms of the Sectional Titles Act, Act No 95 of 1986 as amended.

Erven ….. and …. shall not be sold as separate entities and the owner shall be responsible for the development and maintenance of Erf and the essential services contained therein, which are not taken over by the Council, to the satisfaction of the Council

(16) RESTRICTION ON THE TRANSFER OF AN ERF/ERVEN

Erf /Erven …… shall, prior to or simultaneously with registration of the first transfer of an erf/unit in the township and at the costs of the township owner, be transferred only to ……(insert name of NPC) which Association shall have full responsibility for the functioning and proper maintenance of the said erf and the engineering services within the said erf.

(17) ERF/ERVEN FOR MUNICIPAL PURPOSES

Erf / Erven …… and …….. shall, prior to or simultaneously with registration of transfer of the first erf in the township and at the cost of the township owner, be transferred to the City of Johannesburg Metropolitan Municipality for municipal purposes (public open space).

(18) ENDOWMENT

The township owner shall, in terms of the provisions of Section 98(2) read with Regulation 44 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), pay a lump sum as endowment to the local authority for the provision of land for a park (public open space).

(18) ENDOWMENT

The township owner shall, in terms of the provisions of Section 98(2) read with Regulation 44 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), pay a lump sum as endowment to the local authority for the shortfall in the provision of land for a park (public open space).

(19) OBLIGATIONS WITH REGARD TO ENGINEERING SERVICES AND RESTRICTION

REGARDING THE ALIENATION, TRANSFER, CONSOLIDATION AND/OR NOTARIAL TIE OF ERVEN

(a) The township owner shall, at its own costs, after proclamation of the township, submit an application to the local authority for consent to consolidate Erven ……. The consolidation may not be registered prior to the local authority certifying to the Registrar of Deeds that sufficient guarantees/cash contributions in respect of the supply of engineering services to the township and the erven to be consolidated, have been submitted or paid to the said local authority.

(b) The township owner shall, at its own costs, after proclamation of the township, submit an application to the local authority for consent to notarially tie Erf ……. with Erf …….. The notarial tie may not be registered prior to the local authority certifying to the Registrar of Deeds that sufficient guarantees/cash contributions in respect of the supply of engineering services to the township and/or the erven to be notarially tied, have been submitted or paid to the said local authority.

(c) The township owner shall at its own costs and to the satisfaction of the local authority, remove all refuse, building rubble and/or other materials from Erf /Erven ……, prior to the transfer of the erf/erven in the name of …….

(d) The township owner shall submit to the local authority, a certificate issued by ESKOM that acceptable financial arrangements with regard to the supply of electricity, have been made by the township owner to the local authority. Erven and/or units in the township may not be alienated or transferred into the name of a purchaser neither shall a Certificate of Registered Title be registered in the name of the township owner, prior to the local authority certifying to the Registrar of Deeds that such certificate had been issued by ESKOM;

(e) The township owner shall, at its own costs and to the satisfaction of the local authority, design, provide and construct all engineering services including the internal roads and the stormwater reticulation, within the boundaries of the township. Erven and/or units in the township, may not be alienated or transferred into the name of a purchaser nor shall a Certificate of Registered Title be registered in the name of the township owner, prior to the local authority certifying to the Registrar of Deeds that these engineering services had been provided and installed; and

(f) The township owner shall, within such period as the local authority may determine, fulfil its obligations in respect of the provision of electricity, water and sanitary services as well as the construction of roads and stormwater drainage and the installation of systems therefor, as previously agreed upon between the township owner and the local authority. Erven and/or units in the township, may not be alienated or transferred into the name of a purchaser nor shall a Certificate of Registered Title be registered in the name of the township owner, prior to the local authority certifying to the Registrar of Deeds that sufficient guarantees/cash contributions in respect of the supply of engineering services by the township owner, have been submitted or paid to the said local authority; and

(f) The township owner shall, within such period as the local authority may determine, fulfil its obligations in respect of the provision of water and sanitary services as well as the construction of roads and stormwater drainage and the installation of systems therefor, as previously agreed upon between the township owner and the local authority. Erven and/or units in the township, may not be alienated or transferred into the name of a purchaser nor shall a Certificate of Registered Title be registered in the name of the township owner, prior to the local authority certifying to the Registrar of Deeds that sufficient guarantees/cash contributions in respect of the supply of engineering services by the township owner, have been submitted or paid to the said local authority; and

(g) Notwithstanding the provisions of clause 4.A…… hereunder, the township owner shall, at its costs and to the satisfaction of the local authority, survey and register all servitudes required to protect the engineering services provided, constructed and/or installed as contemplated above. Erven and/or units in the township, may not be alienated or transferred into the name of a purchaser neither shall a Certificate of Registered Title be registered in the name of the township owner, prior to the local authority certifying to the Registrar of Deeds that these engineering services had been or will be protected to the satisfaction of the local authority.

3. DISPOSAL OF EXISTING CONDITIONS OF TITLE.

All erven shall be made subject to existing conditions and servitudes, if any.

3. DISPOSAL OF EXISTING CONDITIONS OF TITLE.

All erven shall be made subject to existing conditions and servitudes, if any:-

A. Excluding the following which do not affect the township due to its locality:

(a) ……

(b) ……

B. Excluding the following which only affects erf/erven:

(a) ……

C. Excluding the following which do affect the township but shall not be made applicable to the individual erven in the township:

(a) ……

(b) ……

D. Including the following which does affect the township and shall be made applicable to the individual erven in the township:

(a) ……

4. CONDITIONS OF TITLE.

A. Conditions of Title imposed in favour of the local authority in terms of the provisions of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986).

(1) ALL ERVEN

(a) The erven in the township lie in an area where soil conditions can affect buildings and structures and result in damage to them. Building plans submitted to the local authority must indicate measures to be taken, in accordance with the recommendations contained in the Engineering-Geological report for the township, to limit possible damage to buildings and structures as a result of detrimental foundation conditions, unless it is proved to the local authority that such measures are unnecessary or that the same purpose can be achieved by other more effective means.

(b)(i) Each erf is subject to a servitude, 2m 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 2m wide across the access portion of the erf, if and when required by the local authority: Provided that the local authority may dispense with any such servitude.

(ii) 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 2m thereof.

(iii) 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 process 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.

4. CONDITIONS OF TITLE.

A. Conditions of Title imposed in favour of the local authority in terms of the provisions of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986).

(1) ALL ERVEN (EXCEPT ERF…….)

(a) The erven in the township lie in an area where soil conditions can affect buildings and structures and result in damage to them. Building plans submitted to the local authority must indicate measures to be taken, in accordance with the recommendations contained in the Engineering-Geological report for the township, to limit possible damage to buildings and structures as a result of detrimental foundation conditions, unless it is proved to the local authority that such measures are unnecessary or that the same purpose can be achieved by other more effective means. The NHBRC coding for foundations is classified as …

(b)(i) Each erf is subject to a servitude, 2m 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 2m wide across the access portion of the erf, if and when required by the local authority: Provided that the local authority may dispense with any such servitude.

(ii) 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 2m thereof.

(iii) 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 process 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.

(3) ERVEN …….

The erven shall not be transferred without the written consent of the local authority first having been obtained and the local authority shall have an absolute discretion to withhold such consent, unless the transferee accepts the following condition: The local authority had limited the electricity supply to the erven to …….. and should the registered owner of the erven exceed the supply or should an application to exceed such supply be submitted to the local authority, additional electrical contributions as determined by the local authority, shall become due and payable by such owner/s to the local authority.

(3) ERVEN XXX AND ZZZ

The erven shall not be transferred without the written consent of the local authority first having been obtained and the local authority shall have an absolute discretion to withhold such consent, unless the transferees accept the following condition: The local authority had limited the electricity supply to the erven to 2 MVA and should the registered owners of any of the erven exceed the supply or should an application to exceed such supply be submitted to the local authority, additional electrical contributions as determined by the local authority, shall become due and payable to the local authority by such owner/s.

OR

(3) ERF YYY

The erf shall not be transferred without the written consent of the local authority first having been obtained and the local authority shall have an absolute discretion to withhold such consent, unless the transferee accepts the following condition: The local authority had limited the electricity supply to the erf to 2 MVA and should the registered owner of the erf exceed the supply or should an application to exceed such supply be submitted to the local authority, additional electrical contributions as determined by the local authority, shall become due and payable to the local authority by such owner.

OR

(3) ALL ERVEN

The erven in the township shall not be transferred without the written consent of the local authority first having been obtained and the local authority shall have an absolute discretion to withhold such consent, unless the transferees accept the following condition: The local authority had limited the electricity supply to the erven in the township to 2 MVA and should the registered owners of any of the erven exceed the supply or should an application to exceed such supply be submitted to the local authority, additional electrical contributions as determined by the local authority, shall become due and payable to the local authority by such owners.

(3) ERF

(a) The entire erf as indicated on the General Plan, is subject to a servitude for municipal purposes and right of way in favour of the local authority.

(b) The erf shall not be alienated or transferred into the name of any purchaser other than…… without the written consent of the local authority first having been obtained.

(4) ERF

The erf shall not be alienated or transferred into the name of any purchaser other than …… without the written consent of the local authority first having been obtained.

(5) ERF

The erf is subject to the following servitudes in favour of the local authority, as indicated on the General Plan:

(i) A 3m wide stormwater servitude;
(ii) A 2m wide electrical mini-substation servitude; and
(iii) A 5m wide sewer servitude.

(6) ERF

No building of any nature shall be erected within those portions of the erf which are likely to be inundated by the floodwaters of a public stream on an average every 100 years.

(7) ERF ……

The erf shall not be alienated or transferred into the name of any purchaser other than the City of Johannesburg Metropolitan Municipality unless the existing sewer (or water main) situated on the erf, is protected by means of the registration of a servitude for municipal purposes in favour and to the satisfaction of the City of Johannesburg Metropolitan Municipality.

(8) ERF 569

(a) The erf is entitled to a servitude of right of way in over of Erf 568 for access purposes, as indicated on the General Plan.

(b) The erf shall not be alienated or transferred into the name of any purchaser other than the owner of Erf 568 without the written consent of the local authority first having been obtained.

(4) ERF …

The erf shall not be alienated or transferred into the name of any purchaser other than the owner of Erf …. without the written consent of the local authority first having been obtained.

B. Conditions of Title imposed in favour of third parties to be registered/created on the first registration of the erven concerned.

No erf in the township shall be transferred nor shall a Certificate of Registered Title be registered, unless the following conditions and/or servitudes have been registered:

(1) ALL ERVEN (EXCEPT ERF/ERVEN)

Each and every owner of the erf or owner of any sub-divided portion of the erf or owner of any unit thereon, shall on transfer become and remain a member of ……, incorporated for the purpose of the Association and shall be subject to its Memorandum of Incorporation until he/she ceases to be an owner and such owner shall not be entitled to transfer the erf or any sub divided portion thereof or any interest therein or any unit thereon, without a clearance certificate from such Association certifying that the provisions of the Memorandum of Incorporation have been complied with and the purchaser has bound himself/herself to the satisfaction of the Association to become and remain a member of the Association.

(2) ERF

(a) The erf is subject to a servitude of right of way in favour of Erf …..for access purposes, as indicated on the General Plan.

(b) The erf is entitled to a 4m wide servitude of right of way over Erf ……. for access purposes.

(3) ERF

The erf is subject to a servitude for electrical mini-substation purposes in favour of ESKOM as indicated on the General Plan.

C. Conditions of Title imposed by the Department : Mineral Resources in terms of Section 68 (1) of the Mineral Act, 1991 (Act 50 of 1991) as amended:

(1) ALL ERVEN

(a) As each erf forms part of land which is, or may be, undermined and may be liable to subsidence, settlement, shock or cracking due to mining operations past, present or future, the registered owner of each erf accepts all liability for any damage thereto and to any structure thereon which may result from such subsidence, settlement, shock or cracking.

(b) The erven shall not be developed for residential purposes.

(c) As each erf is situated in the vicinity of various mine sand dumps and slimes dams which are or may be recycled, the registered owner of each erf accepts that inconvenience with regard to dust pollution and noise as a result thereof, may be experienced.

(d) No building, road, railway line or structure shall be erected or laid out within a horisontal distance of 100m from mine works without the written consent of the Inspector of Mines first being had and obtained, subject to the conditions and limitations imposed by the latter in terms of Regulation 5.3.5 of the Mineral Act, 1991.

D. Conditions of Title imposed by the Department of Roads and Transport (Gauteng Provincial Government) in terms of the Gauteng Transport Infrastructure Act, 2001 (Act 8 of 2001), as amended.

(1) ERF ……..

(a) The registered owner of the erf shall maintain, to the satisfaction of the Department of Roads and Transport (Gauteng Provincial Government), the physical barrier erected along the erf boundary abutting Road ……

(b) Except for the physical barrier referred to in clause (a) above, a swimming bath or any essential stormwater drainage structure, no building, structure or other thing which is attached to the land, even though it does not form part of that land, shall be erected neither shall anything be constructed or laid under or below the surface of the erf within a distance less that 16m/20m/30m

from the boundary of the erf abutting Road …… neither shall any alteration or addition to any existing structure or building situated within such distance of the said boundary be made, except with the written consent of the Department of Roads and Transport (Gauteng Provincial Government).

E. Conditions of Title imposed by the South African National Roads Agency Limited in terms of the Gauteng Transport Infrastructure Act, 2001 (Act 8 of 2001).

(1) ERF …….

The registered owner of the erf shall maintain, to the satisfaction of the South African National Roads Agency Limited, the security wall erected along the erf boundary abutting National Road …….

5. CONDITIONS TO BE INCORPORATED IN THE TOWN PLANNING SCHEME IN TERMS OF SECTION 125 OF ORDINANCE 15 OF 1986, IN ADDITION TO THE PROVISIONS OF THE …….. TOWN PLANNING SCHEME, 19XX.

(1) ERVEN …….

(insert development control as approved)

(a) Use Zone:

(b) Primary Rights:

(c) Consent uses:

(d) Uses not permitted:

(e) Height: Zone : ……. storeys

(f) Coverage:

(g) F.A.R (or F.S.R):

(h) Density:

(i) Parking:

(j) Building Lines:

(k) General:

(1) (Insert comments received on Geo-technical report)

(2) (Insert other general conditions as per approval)

Drafted: ……
Amended: …….
Oct 2011