

Gen Notice 3004
30 August 1996

REGULATIONS RELATING TO LAND DEVELOPMENT OBJECTIVES IN TERMS OF THE DEVELOPMENT FACILITATION ACT, 1995 (ACT NO 67 OF 1995)

I, Sicelo Shiceka, being the MEC in the Province of Gauteng to whom the Premier has assigned the performance of certain functions in terms of section 27(3) of the Development Facilitation Act, 1995 (Act No 67 of 1995) hereby make the regulations contained in the Schedule hereto.

SCHEDULE

Definitions

1.(1) In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context otherwise indicates and-

the Act means the Development Facilitation Act, 1995 (Act No. 67 of 1995);

land development objectives means land development objectives set by a local government body or an MEC, as the case may be, in accordance with Part D of these regulations;

MEC means the Member of Executive Council in the Province of Gauteng for Development Planning and Local Government;

public participation plan means a plan for public participation prepared by a local government body in accordance with regulation 8;

working plan means a plan, prepared by a local government body, for the setting of land development objectives as contemplated in regulation 10.

PART A

GENERAL PROVISIONS FOR THE FORMULATION OF LAND DEVELOPMENT OBJECTIVES

Principles relating to land development objectives

2. The setting and implementation of land development objectives by any local government body, shall be consistent with the general principles for land development as set out in section 3 of the Act and such further principles as may be prescribed by the Minister of the Premier of the Gauteng province in terms of the said section.

Purpose of land development objectives

3. The general purpose of land development objectives set by any local government body shall be-

(a) to create a new system of planning for development at a local level which deepens and promotes democracy;

(b) to create a new system of planning at local level which links public expenditure to financially sustainable development strategies which are guided by a vision and priorities determined jointly between the government and the general public;

- (c) to create a new system of planning that encourages sustained utilisation of the environment;
- (d) do enable effective participation by members of the public and interested bodies in the setting of land development objectives and to build partnerships and co-operation between government and civil society in implementing land development objectives;
- (e) to build co-operation and co-ordination between the different levels of government in planning and development; and
- (f) to ensure rapid delivery of programmes and projects associated with the Reconstruction and Development Programme (RDP).

Co-ordination of land development objectives

- 4.(1) Transitional metropolitan and services councils shall be responsible for co-ordinating land development objectives set by its substructures and its constituent councils respectively.
- (2) Such co-ordination shall ensure that land development objectives set by transitional metropolitan substructures and transitional local and rural councils are-
 - (a) consistent with the general principles for land development as described in regulation 2;
 - (b) consistent with land development objectives set by the transitional metropolitan councils, services councils or other local government bodies which impact on the relevant local government body area; and
 - (c) consistent with these regulations.
- (3) Land development objectives set by a transitional metropolitan council or a services council shall consist of a composite of land development objectives prepared by transitional metropolitan substructures, transitional rural councils or transitional local councils within their respective areas of jurisdiction together with additional land development objectives relevant to the developmental role of the transitional metropolitan council or services council, as the case may be.
- (4) A transitional metropolitan council or services council may where necessary for the purposes of co-ordination as described in sub-regulation (2), amend land development objectives set by a local government body, after consultation with the local government body.
- (5) The MEC shall be responsible for co-ordinating land development objectives set by the transitional metropolitan and services council.
- (6) Co-ordination by the MEC shall ensure that land development objectives set by transitional metropolitan councils and services councils are-
 - (a) consistent with the general principles for land development as described in regulation 2;
 - (b) consistent with land development objectives set by other transitional metropolitan councils, services councils or local government bodies which impact on the area; and
 - (c) consistent with these regulations.

- (7) The MEC may, where necessary for the purposes of co-ordination described in subregulation (6) above, amend land development objectives set by transitional metropolitan or services councils, after consultation with the transitional metropolitan or services council.

Failure to prepare land development objectives

- 5.(1) If a local government body fails to set land development objectives within the period stipulated in terms of regulation 9, the MEC himself/herself may set such land development objectives: Provided that the MEC shall not be required to prepare a public participation or working plan.
- (2) The MEC shall notify the local government body in writing of his/her intention to set land development objectives as provided for in subregulation (1) above.
- (3) Any expenditure incurred by the MEC in connection with the setting of land development objectives under subregulation (1) may be recovered from the local government body concerned.
- (4) The local government body may within a period of thirty (30) days from the date of such notice initiate the procedures contemplated in regulations 10 and 11, in which case the MEC shall not set land development objectives as contemplated in subregulation (1): Provided that should the local government body fail to set land development objectives in accordance with the working plan, the MEC may without further notice to the local government body set land development objectives in terms of this regulation.
- (5) The MEC may contract any person or body to prepare land development objectives on his/her behalf.

PART B

PARTICIPATION WITH REGARD TO THE SETTING AND IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

General objectives of public participation

- 6.(1) The objective of public participation shall be to ensure that land development objectives are based, as far as possible, on consensus between members of the public and interested bodies in a particular area.
- (2) Participation should focus on how resources from different groups may be mobilised to assist in the effective implementation of the land development objectives.
- (3) Participation by members of the public and interested bodies should be designed to enable direct input in the formulation of land development objectives.

Structuring of public participation

- 7.(1) A local government body shall ensure participation in the setting of land development objectives in accordance with regulation 6 and shall involve members of the public and interested bodies within its area of jurisdiction, including-
- (a) organisations which are broadly representative of particular interest groups;
- (b) representatives of the business sector;

- (c) government departments; and
 - (d) any other organisation which could assist in the setting and implementation of land development objectives.
- (2) A local government body may, where issues addressed in the setting of land development objectives are of interest to a specific interest group or sector, invite participation from such organisations as may represent such interests.
- (3) In the event that the local government body or any interested body cannot agree in respect of the land development objectives or any aspect thereof, the local government body shall use the deadlock breaking mechanisms for dispute resolution identified in terms of regulation 8 (2) (e), and in the event of such mechanisms failing to resolve the dispute, the local government body shall take the final decision as to the content of land development objectives or any aspect thereof: Provided that the local government body shall notify the MEC in writing of the nature of the dispute and such final decision.
- (4) The MEC may at any time during the setting of land development objectives, if he or she is of the opinion that public participation has or is not taking place in accordance with the public participation plan or regulation 6, instruct the local government body to conduct public participation in accordance with the public participation plan or in accordance with such guidelines as the MEC may deem necessary in order to ensure that public participation takes place in accordance with these regulations.

Preparation of a public participation plan

- 8.(1) The preparation of a working plan with regard to land development objectives as contemplated in regulation 10 shall include a public participation plan.
- (2) The public participation plan shall be prepared by the local government body after consultation with interested bodies and shall take into consideration the provisions of regulations 6 and 7 and include proposals with regard to-
- (a) organisational arrangements and proposed structures for public and community participation;
 - (b) methods for dissemination of information relating to the formulation of land development objectives;
 - (c) the training, to the extent necessary, of local government officials and councillors and representatives of civil society organisations;
 - (d) the financing of the public participation process; and
 - (e) deadlock breaking mechanisms.

PART C

STAGED IMPLEMENTATION OF LAND DEVELOPMENT OBJECTIVES

Time period for submission of land development objectives

- 9.(1) The MEC shall by notice in the Provincial Gazette require local government bodies, within the time period specified in such notice, to set or review, as the case may be, land development objectives which shall cover plans for development for a period of 5 (five) years.
- (2) Such notice shall be given in writing to each local government body in the Province.
- (3) Such notice shall require the local government body within 60 (sixty) days of the date of such notice or such extended period as the MEC may allow on application of the local government body prior to the expiry of the said 60 (sixty) day period, to submit a working plan as contemplated in regulation 10 below.

Compilation of working plan

10. The local government body shall within the period required in terms of regulation 9 (3) above, submit to the MEC for approval a working plan which shall, to the extent applicable, include-
 - (a) a public participation plan for the setting of the land development objectives in accordance with the provisions of regulation 8;
 - (b) a statement as to the period within which the local government body will submit land development objectives for approval to the MEC which period may not exceed 6 (six) months from the date of the MEC's notice as contemplated in regulation 9 (1) above, or within a period agreed to by the MEC;
 - (c) a statement as to what assistance the local government body required from the Gauteng provincial government in respect of the setting of land development objectives;
 - (d) in the case of a transitional metropolitan council and services council, an indication of the budgetary cycles of local government bodies, within its area of jurisdiction, which are affected by the land development objectives;
 - (e) a statement as to the availability of existing financial resources for the setting of land development objectives, any shortfalls anticipated and how these shortfalls will be financed;
 - (f) a statement as to how capacity building programmes will be conducted in order to allow disadvantaged groups to participate in the setting of land development objectives; and
 - (g) any other documents that the MEC may specify in the notice referred to in regulation 9.

Approval of working plan

- 11.(1) The local government body shall submit the working plan to the MEC for his/her consideration.
- (2) The MEC may within 30 (thirty) days of receipt thereof-
 - (a) approve such working plan; or
 - (b) reject such working plan in which case he/she shall refer the working plan back to the local government body, together with his/her comments, in which case the local government body shall within a period of 30 (thirty) days or such longer period as the MEC may allow after

consultation with the local government body, re-submit such plan to the MEC for his/her consideration.

PART D SETTING OF LAND DEVELOPMENT OBJECTIVES

Notice of intention to set land development objectives

- 12.(1) After the approval of the working plan in accordance with regulation 11, the local government body shall notify members of the public and interested bodies within its area of jurisdiction of its intention to set land development objectives and invite their participation in accordance with the public participation plan.
- (2) The notice in terms of subregulation (1) shall-
- (a) be published in English and another official language commonly used in the local government body area, in two issues of a daily newspaper circulating in the local government body area, the second notice to be published a week after the first; and
- (b) state, in accordance with the public participation plan, the manner in and time period within which members of the public and interested bodies will be entitled to participate in the setting of and comment on land development objectives.

Submission

13. The local government body shall, subject to regulation 4 regarding the co-ordination of land development objectives, submit land development objectives as well as any representations received, together with its comments and recommendations therein within the time period specified in the notice contemplated in regulation 9, to the MEC for his/her consideration.

Approval of land development objectives by the MEC

- 14.(1) The MEC may, within 60 (sixty) days of receipt of land development objectives submitted to him/her in terms of regulation 13-
- (a) approve such land development objectives; or
- (b) refuse to approve such land development objectives in accordance with section 27 (1) of the Act, in which case the MEC shall furnish his/her written reasons as required in terms of the said section of the Act.
- (2) The MEC may, if he/she has refused to approve land development objectives in terms of subregulation (1) (b), refer the land development objectives together with his/her written reasons back to the local government body and the local government body shall, within a period of 30 (thirty) days or such longer period as the MEC may allow after consultation with the local government body, re-submit such land development objectives, together with such further comments or representations as may have been received by the local government body, to the MEC for his/her consideration: Provided that should the MEC refuse to approve land development objectives re-submitted to him/her in terms of this regulation, the MEC shall thereafter set land development objectives in respect of that local government body area.

Notice of approval of land development objectives

- 15.(1) Once the MEC has approved the land development objectives in terms of regulation 14(1), the local government body shall-
- (a) publish a notice in the Provincial Gazette and in a daily newspaper circulating in the local government body area in English and another official language, commonly used. in the area, to the effect that-
 - (i) land development objectives have been approved in respect of that area of jurisdiction; and
 - (ii) copies of the land development objectives are open for inspection at the place specified in the notice; and
 - (b) make available for inspection, copies of the approved land development objectives at a place determined by the local government body.
- (2) The MEC shall notify the Designated Officer and Tribunal Registrar that land development objectives have been approved in respect of that area.

Review of land development objectives

- 16.(1) Land development objectives shall be reviewed annually for the first 5 (five) years and thereafter at such intervals as the MEC may determine by notice in the Provincial Gazette and which intervals shall be consistent with the budgeting cycles followed by local government bodies.
- (2) Land development objectives shall be reviewed and submitted to the MEC by the relevant local government body in accordance with these regulations which shall apply mutatis mutandis to such review.

Withdrawal

17. The MEC may at any time, in consultation with the local government body concerned, withdraw land development objectives or a portion thereof.

Monitoring the implementation of land development objectives

18. At the completion of each review period determined in terms of regulation 16 (1) or at any other time as the MEC may determine, the local government body shall submit to the MEC a report describing its performance in terms of its approved land development objectives over the said period.

Provisions to be included in the land development objectives

- 19.(1) Land development objectives shall include the subject matter prescribed in terms of section 28 of the Act.
- (2) In addition to the subject matter prescribed in section 28 (1) (b) of the Act, land development objectives set in terms of these regulations shall include objectives for the following 5 (five) year period relating to-
- (a) the general direction for overall growth and development in the area in the form of a vision statement indicating-

- (i) a single short vision statement to guide overall development in the area;
 - (ii) the overall contribution of the area to the growth and development strategy of the region and province; and
 - (iii) the major strategic development strengths, weaknesses, opportunities and threats of the area identified by the responsible body in collaboration with its stakeholders and how each of these will be addressed;
- (b) access to and the standard of services pertaining to the subject matter prescribed in section 28 (1) (a) of the Act, including sanitation, electricity, recreational facilities and public open spaces to be provided for land development (determined by overall anticipated development, affordability and available resources); and
- (c) the development framework for the area indicating the major trends influencing development, including-
- (i) demographic growth;
 - (ii) existing services and infrastructure;
 - (iii) economic conditions and trends;
 - (iv) social conditions and trends;
 - (v) development priorities and needs within the area;
 - (vi) safety and security within the area; and
 - (vii) state of the environment.
- (3) In addition to the subject matter prescribed in section 28 of the Act, land development objectives set in terms of these regulations shall include development strategies for the following 5 (five) year period in relation to-
- (a) the manner in which the following issues will be addressed in the area:
- (i) The creation of jobs and strengthening of the local economy;
 - (ii) social development and how community facilities, health, education and welfare concerns shall be incorporated into the social fabric of communities;
 - (iii) social and economic integration of low income communities in the area;
 - (iv) the provision of adequate support to vulnerable communities until proposed or planned development initiatives materialise;
 - (v) the improvement of safety and security;
 - (vi) the improvement of public transportation and circulation;
 - (vii) the improvement and conservation of the natural environment to achieve environmentally sustainable development;
 - (viii) the provision of bulk and connector infrastructure for land development taking into consideration the local authority investment programme;
 - (ix) the co-ordination of land development in consultation with adjacent local authorities; and
 - (x) the reform of land use control mechanisms to stimulate environmentally sustainable development;
- (b) the subject matter of section 28 (1) (c) (i), including the following sectors and subsectors of the economy:
- (i) Industry;
 - (ii) the formal business sector;
 - (iii) small and medium enterprises;
 - (iv) the informal sector;
 - (v) community labour based development activities and public works;

- (vi) the non-governmental sector;
 - (vii) the urban and rural agriculture sector; and
 - (viii) the tourism and ecotourism sector;
- (c) the subject matter of section 28 (1) (c) (ii), including strategies in relation to-
- (i) a capital investment programme and estimates of the financial implication of the programme, including-
 - (aa) capital improvements to be undertaken and how this is to be achieved; and
 - (bb) implications of the programme for operational and maintenance budgets;
 - (ii) financing mechanisms and sources of funding for the capital investment programme, including-
 - (aa) public sector contributions;
 - (bb) private sector contributions; and (cc) community sector contributions;
 - (iii) overall financial requirements for the implementation of the land development objectives, including revenue sources, financing mechanisms and implications on existing and future financial policy;
 - (iv) encouraging the payment of services as part of the overall financing of the land development objectives; and
 - (v) cost-containment and efficiency measures within the local authority and its departments to give effect to the plan;
- (d) the subject matter of section 28 (1) (c) (iii), including strategies in relation to the administrative and institutional arrangements for implementing the land development objectives, including proposed new administrative and delivery structures for the area (such as one stop shop offices, development corporations, partnerships, promotion agencies, etc.);
- (e) gearing programmes and projects to strategically catalyse and increase the level of growth and development in the area, including-
- (i) the agency responsible for delivering the programmes or projects; and
 - (ii) financing, resourcing and time frames for these programmes or projects within the financing framework outlined in subregulation (c); and
- (f) monitoring and evaluating the implementation of the land development objectives, implementing appropriate monitoring and evaluation mechanisms for this purpose, and monitoring environmental and health performance indicators.
- (4) In addition to the subject matter prescribed in section 28 (1) (d) of the Act, land development objectives shall relate to the quantum of land development objectives in the sense of-
- (a) the number of jobs and services considered in these regulations that are planned over the 5 (five) year period; and
 - (b) how much of the developments considered in these regulations will be provided each year over the 5 (five) year period, and how this delivery will be accelerated.

Short title

20. These regulations shall be called the Gauteng Land Development Objectives Regulations, 1996, and shall come into operation on the date of publication in the Provincial Gazette (30 August 1996).

