



LEPELLE-NKUMPI
LOCAL MUNICIPALITY

LAND DISPOSAL
POLICY
2017-2018

LAND DISPOSAL POLICY ON MUNICIPAL LAND

DEFINITIONS

For the purposes of this policy, unless the context requires otherwise or it is otherwise expressly provided, the following words and the expressions have the respective meanings hereby assigned to them:

- “Alienate”** *to transfer ownership of land registered in the name of the municipality to another party;*
- “Agricultural Land”** *land predestined as arable land, meadows or pasture land, fishers, orchards, vegetable gardens, pig farms, poultry farms, bee farming, nursery, plantations;*
- “Basic Municipal Service”** *a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;*
- “Capital Asset”** *means the non consumable and immovable property including land of the Municipality;*
- “Contract”** *a deed of alienation under which land is sold against payment by the purchaser to, or to any person on behalf of the seller an amount of money in more than two installments over a period exceeding one year;*
- “Disposal”** *means a process of preparing, negotiating and concluding a written contract which involve the alienation of a capital asset by means of a sale or a donation;*
- “Erf”** *land in a township, village, settlement or in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion of the farm or remainder of any erf, lot, plot or stand or land indicated as such on a diagram or general plan of an approved township;*
- “IDP”** *Integrated Development Plan;*

“Immovable Property”	<i>any piece of land registered as a separate unit at the Deeds Registry and shall include an erf, plot, lot or a site and a farm portion, and building erected thereon;</i>
“Land”	<i>an area of ground, especially of a particular type or used for a particular purpose;</i>
“Land Use”	<i>the purpose of which land is currently used for;</i>
“Lease”	<i>a contract in terms of which the use of land or enjoyment is given over land for a specific period of time at a specific market related rental;</i>
“MFMA”	<i>Municipal Finance Management Act, (Act No. 56 of 2003);</i>
“Immovable Property”	<i>any piece of land including a real right in land (mineral rights etc.) registered as a separate unit at the Deeds Office and shall include an erf, a site and a farm portion, everything that are permanently attached or erected thereon;</i>
“SDF”	<i>Spatial Development Framework;</i>
“SCMR”	<i>Supply Chain Management Regulations;</i>
“Surveyed Erf”	<i>land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township which is not intended for a public place, whether or not such township has been recognized, approved or established;</i>
“Registered Professional Valuer”	<i>a Valuer or Associate Valuer in terms of the</i>

Property Valuers Profession Act 6 of 2004;

“Township”

any land laid out or divided into or developed as sites for residential, business or industrial purposes or similar purposes where such sites are arranged in such a manner as to be intersected or connected by or to abut on any street, and a site or street shall for the purposes of this definition include a right of way or any site or street which has not been surveyed or which is only notional in character;

“Transfer”

transfer of ownership of land or any right owned by the municipality to another person by means of registration in the Deeds Office.

1. INTRODUCTION

1.1 BACKGROUND

Previously certain Land parcels have been transferred to the Council of Lepelle-Nkumpi Local Municipality from the State. The transferred parcels of the land amongst others include Agricultural Land, Industrial, Residential, Commercial, Special and Institutional. The Council is therefore the owner of all properties registered under the name of Lepelle-Nkumpi Local Municipality and has the right to acquire, exchange, lease, augment, dispose or alienate the land in line with the Municipal Finance Management Act No. 53 of 2003 (“MFMA”) and Supply Chain Management Regulations (“SCMR”).

Section 14 (1) of the Municipal Finance Management Act of 2003 provides that the Council may not dispose or transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of municipal services. The MFMA further makes provision that the Council may dispose or transfer its capital asset only after the Council in a Council meeting open to the public, has decided on a reasonable grounds that the asset cannot support minimum levels of basic municipal service

delivery; after consideration of market value, economic value, and community value. Section 14(2) and (4) provides that any transfer of a capital asset must be Fair, Equitable, Transparent, Competitive and be consistent with the Municipal Supply Chain Management Policy.

1.2 PURPOSE

The purpose of this policy for the disposal of the Municipal land is to provide a framework for the management and disposal of municipal land that is not needed to provide the minimum level of basic municipal services, in a manner that primarily promotes Broad Based Black Economic Empowerment through property ownership, development and uses as well as first time entry to previously disadvantaged individuals (PDI) into the property market. This policy presents the Municipal Vision “To improve the quality of life of the People” and aims to be responsive to the strategies from Spatial Development Framework (SDF) and Local Economic Development (LED) Strategy and further make a positive contribution to the municipal economic growth and sustainable utilization of all land parcels within the municipal jurisdiction

2. KEY PRINCIPLES OF THE POLICY

The key principles and values which underpin the municipal land disposal policy are critical in guiding the process of policy formulation as well as its application or implementation.

The municipal Land Disposal policy should aim to:

- (a) Ensure an equitable, flexible and transparent re-distribution of land for short, medium and long term Housing development.
- (b) Ensure equitable re-distribution of land for economic development (business, commercial and industrial development).
- (c) The policy shall act in support of land use, the Town Planning Scheme
- (d) The policy shall act in support of community needs and the municipal rates systems.
- (e) The policy shall promote access to services, amenities, transport and employment.
- (f) The policy shall build a competitive advantage for Historical Disadvantaged Individuals (HDI's) in terms of market entry and participation.

- (g) The policy shall encourage and foster broad based empowerment in terms of distribution of ownership, labour participation, capital, skills development, equity participation and end user benefit.
- (h) The policy shall focus on first entry by HDI's into the property market with a view to increase the beneficiary pool.
- (i) The policy shall stimulate Local Economic Development by enabling efficient transaction to reduce bureaucracy.
- (j) The policy shall ensure compliance with other pieces of developmental legislation such as Environmental legislation.
- (k) The policy shall further the objectives of the municipality's Integrated Development Plan.
- (l) The policy shall be in line with municipal SDF, promote Integrated Spatial Development through alienation of land for sustainable development.
- (m) The Municipality reserves its right not to dispose of any portion of land.
- (n) Council reserves the right to limit the number of acquisitions per bidder in the acquisition process. This is done with the aim to achieving equity within the Broad Based Black Economic Empowerment Act (Act 53 of 2003).
- (o) The alienation or lease of property or rights in property shall be subject to the transaction being advertised in the press for objections in the Municipality's official languages.
- (p) The proceeds derived from the disposal of immovable property must be used as a funding mechanism for funding of capital projects.
- (q) All application to acquire, sell/let of municipal property must be considered in accordance with this policy framework, current legislation and relevant supply chain management policies.

3. CATEGORIES OF MUNICIPAL OWNED LAND

The municipal land is categorized as follows:

1. PROCLAIMED ERVEN

Erven falling within this category were created by means of a township establishment process, properly demarcated **as per approved General Plan**, recorded in the Surveyor-General's office, **fully** serviced and **proclaimed**. Title Deeds in respect of individual erven are available. Land uses such as "*Business*", "*Residential*", "*Industrial*" and "*Public Open Space*" (parks) are regulated by Town Planning Schemes.

2. ERVEN IN REGULATION 293 TOWNSHIPS

Erven falling within this category were created by means of a proclamation in respect of Regulation R293 of 1962, properly demarcated, recorded in the Surveyor-General's office, **fully or** partially serviced and where Deeds of

Grant are available. Land uses such as “*Business*”, “*Residential*”, “*Industrial*” and “*Public Open Space*” (parks) are regulated by the Lepelle-Nkumpi Town Planning Scheme, 2006

3. IMPROVED LAND

Land falling within this category consist of **municipal properties** with structures erected thereon. (e.g. houses, offices, sporting facilities, etc.)

4. AGRICULTURAL HOLDINGS AND FARMS

Properties falling within this category are primarily used or earmarked for farming purposes, properly demarcated, recorded in the Surveyor-General’s office and where Title Deeds in respect of **properties** are available. **A Register of agricultural holdings are kept in terms of the Agricultural Holdings Registration Act, 1919.** Limited municipal services are rendered, **if any**. Prior to the demarcation of smaller portions or erven, a process of township establishment or in exceptional cases subdivision must be followed, **together with an extraction out of the Agricultural Holdings Register, in the case of agricultural holdings.**

4. RELEVANT GUIDING LEGISLATION FRAMEWORKS ON DISPOSAL OF MUNICIPAL LAND

This policy shall be subject to but not limited to the following legislations:

- The constitution of the Republic of South Africa (Bill of Rights);
- Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and its regulations no. 31346 of 22 August 2008, the Municipal Asset Transfer Regulations;
- Municipal Supply Chain Management Regulations (Supply Chain Management Policy);
- Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- Property Rates Act (Act No. 6 of 2004);
- Spatial Planning and Land-Use Management Act no 16 of 2013
- Local Government Ordinance 1939, (Ordinance 17 of 1939).

5. APPLICATION OF THE POLICY

The policy shall ensure that preference is offered to Black South African citizens in respect of disposal of the municipal land as embodied in Section 9(2) of the Constitution of the republic of South Africa, 1996. The Accounting Officer must establish a Disposal Committee (made of independent members) to facilitate disposal of any municipal land in accordance with the provisions of Section 14 of the

Municipal Finance Management Act, 2003. The Preferential Procurement Policy Framework Act, 2000 shall also be used as a framework guiding the Disposal Committee by using preferential point system for the sale or letting of the land.

5.1 MUNICIPAL VACANT LAND AUDIT

For success implementation of the municipal policy and further achievements in as a far as the municipal objectives are concerned on land disposal, it is imperative that land audit on all municipal land must be undertaken to determine the status of availability of such land. Such land audit shall be updated annually and further be utilized as a guide in terms of IDP objectives and Spatial Future Planning within the municipality.

6. METHODS OF DISPOSAL OF THE MUNICIPAL LAND

The Municipal land disposal policy must be conducted in accordance with one of the following methods:

6.1 TENDER/ PROPOSAL CALL

All municipal land parcels deemed viable for developments such as residential, industrial, commercial or business and agriculture must be disposed (sale or lease) by means of competitive bidding which must be at current market related price except when the public interest or the plight of the poor demands otherwise. All transaction shall be subject to the tendering and adjudication guidelines as per the Supply Chain Management Policy. All municipal land parcels may not be sold by auction unless the sale on the open market by other methods has not yielded a satisfactory result.

6.2 DONATIONS OF MUNICIPAL LAND

The Council may consider donating some parcels of its land to other Organs of State such as Community Based Organizations, Faith Based Organizations, Non-governmental Organizations, Non-profit Organizations, Civil Society Organizations, Institutions and enhancements of Environmental objectives. Memorandum of Understanding detailing roles, rights and responsibilities between parties (Municipality and any organs) involved must be signed. The organization and/ or groups should:

6.2.1 Promote public health, including the nursing of the sick;

6.2.2 Be registered as a welfare organization;

- 6.2.3 Promote education, science or literature;
- 6.2.4 Promote sports and recreation
- 6.2.5 Promote arts and culture, including music, opera and drama;
- 6.2.6 Control and maintain a museum, zoological garden, botanical garden, public library or art gallery;
- 6.2.7 Act in the interest of the youth or promotes child care;
- 6.2.8 Promote the safety and protection of the public'
- 6.2.9 Be connected with agriculture, horticulture, stock breeding or poultry; or
- 6.2.10 Promote the training or protection of animals.

Where such grant or donation would, in the opinion of the Council, be in the interest of Council or the inhabitants of the municipality: provided that such grant or donation shall not be made to an institution, organization, society or sports where any person, who is concerned with the administration thereof or whose property it is, make any profit or gain there from, other than reasonable remuneration, rent or out-of-pocket expenses.

NB: The Deed of sale or lease in this instance will contain a reversionary clause to protect the Council from speculations.

6.3 LETTING OR LEASE

The Council has a right to let or lease its land in a form of Lease Agreement, however such land for letting or leasing must be at a market related rental as contemplated in section 14(2)(b) of the MFMA except when the economic or community value or plight of the poor demands otherwise. The municipal Legal Section must ensure that an Agreement of Lease is properly concluded, the agreement clearly describe all prominent details such as the parties, proper property description, rental payable, conditions of agreement, duration and further conditions around breach of the Lease Agreement. Should the Council decide to dispose its land in a form of lease it is imperative that the conditions listed below must be included on all lease agreements the Council enters to:

- The land under lease may only be used for the purpose for which occupation was granted and purpose regularized by the relevant zoning schemes.
- Improvements to Council's leased property established by the user, or occupant and which the Council wishes to retain shall revert to Council at no charge or compensation, and such process shall apply at expiration or termination of such use, lease or occupation.

- Where such improvements are not required by the Council, such improvements shall be removed by the user, occupant to the satisfaction of Council and all costs shall be borne by the user or occupant.
- Rights and privileges granted by the Council over leased property in its ownership shall not be sub-let, ceded or assigned without prior approval of council.
- Council shall reserve the right to impose such further conditions as it may deem appropriate.

6.4 EXCHANGE /LAND SWAP

The Council may dispose its land by means of exchange. Where assets for exchange not having the same monetary value (one property with higher value than the other), a cash payment equivalent to the shortfall must be made by the party whose asset is of less value.

6.5 PUBLIC PRIVATE PARTNERSHIP (PPP)

The Council may enter into a Public Private Partnership agreement through disposal of its land and such process shall be guided and be in compliance with Section 120 of the Municipal Finance Management Act (MFMA), refer to Annexure 1.

6.6 SALE BY PREQUALIFICATION

The council may also dispose its land sale by prequalification and this method is specifically designed for the sale of vacant residential building sites to persons on a waiting list who comply with preset criteria for eligibility. Applicants shall be requested to register on a municipal waiting list with preset qualifying criteria. The legal section together with the Department responsible for land disposal shall develop such qualifying criteria to be approved by the Council. Only persons on the waiting list shall be requested to tender or bid for vacant residential building sites when made available by the Council. The qualifying criteria will include:

- a) The applicant must be a South African Citizen;
- b) Preference will be given to people residing within the borders of the Municipality;
- c) The applicant should be employed and proof of income is required;

6.7 TRANSFER OF LAND BETWEEN SPHERES OF GOVERNMENT

Where the Council holds ownership over land that is identified as essential for enhancement of socio-economic objectives and need to be occupied or ownership be transferred to another spheres of government, transfer of such property/ies for such purposes must be as much as possible. This option must be offered preference over any other proposed disposal methods for which the asset may be earmarked. This process must be implemented in terms of the requirements of the MFMA.

The transfer of such assets to other spheres of government shall be subject to a clearly defined reversionary clause (providing for a reversion of ownership to the Council), and it shall be free of charge in the event that asset is no longer to be used for specified socio-economic purpose or by the government department concerned.

6.8 UNSOLICITED BIDS

The Council in terms of Section 113 of the MFMA is not obliged to consider unsolicited bids received outside a normal bidding process, however should the Council resolve to consider any unsolicited bid in terms of Section 113(2), it may do so only if:

- The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept.
- The product or service will be exceptionally beneficial to or have exceptional cost advantages for the municipality.
- The reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- Enter into a Public Private Partnership agreement through disposal of its land and such process shall be guided and be in compliance with Section 120 of the Municipal Finance Management Act (MFMA).

Should the Council decide to consider an unsolicited bid that complies with sub-regulation (2) as outlined above, the Council must make its decision public in accordance to Section 21A of

the Municipal Systems Act of 2000 and it must clearly outline the following:

- its reasons as to why the bid should not be open to other competitors;
- full explanation in terms of the potential benefits for the municipality by accepting the unsolicited bid;
- Members of the public or other potential suppliers shall be invited to submit comments within 30 days of the notice.

Once the council/ municipality has received written comments, it must submit such comments, including any responses from the unsolicited bidder, to the National treasury and the relevant Provincial Treasury for comments.

The Adjudication Committee must consider the unsolicited bid and may award the bid or make recommendation to the Accounting Officer, depending on its delegations.

The Adjudication Committee meeting to consider the unsolicited bid must be open to the public, and the said Committee must take into consideration the following:

- any comments by the public;
- any written comments and recommendations of the National treasury or the relevant Provincial Treasury.

If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations;

Such submission must be made within seven (7) days after the decision on the award of the unsolicited bid is taken, but no contract or agreements committing the Council to the bid may be entered to or signed within thirty (30) days of the submission.

6.9 PRIVATE TREATY

The Council may in certain special circumstances sell or alienate its properties by means of "Private Treaty" and such special circumstances shall apply to the following categories of properties:

- all land parcels deemed non-viable for development may be let or sold to the adjoining owners provided that the determination of non-viability rests with the Council and such Council decision is final.
- Viable properties in the case of business and industrial expansion and retention, may be let or sold to the adjoining owners at market related prices.
- Such land parcels shall be priced at market value and the beneficiaries (“purchasers or leases”) will be responsible for any costs associated with, such as but not limited to the possible relocation of services, surveying, subdivision, park closure, rezoning, consolidation, Environmental Impact Assessment (EIA), registration and transfer.
- Vacant erven for development of lower income and social housing stock.
- Municipal land involving community projects
- Land for worship purposes;
- Municipal land for educational purposes other than private schools.

6.10 OFFICIAL AND POLITICAL BEARERS

- a) Municipal officials shall have the right to make an offer for acquisition of municipal properties (land) being disposed by the Council.
- b) Political office bearers and municipal officials in their capacity having direct or indirect interest in the municipal land asset proposed for disposal, must declare such an interest, provided that the failure to do so will result in such sale or lease being cancelled forthwith and the employee or the political bearer being held responsible for wasted costs.
- c) An official in the municipality may not act as a member of the panel responsible for assessing or adjudication of tenders relating to the proposed disposal of municipal land if his or her presence in such panel may be deemed to be unfairly influential, discriminatory or in any manner contrary to the principles of this policy.

7. STEPS/ PROCEDURE FOR ALIENATING COUNCIL LAND

- (a) In terms of Section 14 and 90 of the Municipal Finance Management Act the power to alienate Council's or municipal entity's land is reserved to Council. The Council must, prior to disposing land, pass a resolution to the effect that the land is not required to provide the minimum level of basic municipal services.
- (b) A qualified and registered valuer must be appointed to ascertain the fair market value for the higher valued land to assist Council to consider the fair market value of the land and the economic and community value to be derived from the disposal.
- (c) Once Council land has been identified for disposal, the Head of Department responsible for land alienation must obtain the inputs of the internal departments including that of the Ward Councilor and incorporate those inputs on the report to be submitted to (relevant Committee for consideration and recommendations to) Council to grant permission to alienate in terms of Section 14 of Municipal Finance Management Act.
- (d) Once the Council has resolved to allocate the land through any of the methods outlined in this policy, notice of the resolution of Council in terms of Section 79(18) of the Local Government Ordinance, 1939 (Ordinance 17 of 1939, as amended) to dispose of the identified Council land shall be:

 - i. Displayed on all public notice boards of Council, around the land to be disposed or any conspicuous place as Council may deem necessary.
 - ii. Published in the local newspaper(s) in two (2) official languages predominantly used in the Municipal area of jurisdiction
- (e) The Accounting Officer will call upon any person who wishes to object to the proposed alienation in the notice to objection against the alienation of such land within fourteen (14) days from the date of the publication of the notice in the newspaper.
- (f) Where an objection is lodged, the relevant Committee established by Council in terms of Section 80 of the Municipal Structures Act, 1998(Act 17 of 1998) would call for a hearing to consider any such objection.
- (g) If the above-mentioned Committee maintains any objection, the land will not be disposed of due to valid reason given by such Committee.
- (h) If no objection(s) received after the lapse of the fourteen (14) day objection period or such objection(s) received has been dismissed by the relevant Committee, a Professional Valuer as registered in terms of the provisions of the *Property Valuers Profession Act 6 of 2004*, as amended, shall be instructed to evaluate the property to be alienated, and the cost of such valuation shall be to the applicants account or such costs shall be added to the selling price.

- (i) The market-related value as determined by the Professional Valuer including costs of such valuation shall be used as the determination of the purchase price.
- (j) Although the Municipal Finance Management Act and the Supply Chain Management Policy prescribes that a competitive bidding process be followed to dispose or transfer Council property, certain of the following categories of properties may be dealt with differently:
 - a. Residential sites: these sites will be sold on a first-come-first-served basis after the selling price has been determined, with preference given to those who have already acquired some right on the property.
 - b. Church sites: The purchaser/ lessee will be furnished with the agreement at market value.
 - c. Community facilities/ Parks/ Undetermined open spaces within proclaimed townships
 - d. Industrial / Business sites: These sites will be alienated once the impact of the type of activity has been evaluated and will selling price linked to market value and other aspects have been determined.
 - e. Farm portions: Alienation will be as per motivation for land use. Sale agreement for prime agricultural land shall contain a clause condition on title deed prohibiting rezoning.
 - f. Transfer to Organs of State: Transfer to another Municipality, Municipal Entity, National or Provincial Government.
- (k) In the case of sales or long term leases, registration of the transfer or lease in the Deeds Office shall be done by an Attorney appointed by Council or from Council panel of attorneys at the expense of the purchaser.

8. PAYMENT AND SIGNING OF PURCHASE AGREEMENTS

- 8.1 All Deed of Sale and Lease Agreements shall be compiled by the municipal Legal Section in consultation with the Town Planning Section. Both sections shall ensure that the agreement is signed by both the Accounting Officer or any delegated official and the purchaser within thirty (30) days after the approval by Council.
- 8.2 The purchase price at market related price must be paid in full in the form of Bank Guarantees or cash to Council within 31 days after signing of the agreement.
- 8.3 The purchaser shall develop the site/area within 24 (twenty four months) from the date of receiving of the deed of Grant/Title deed.

- (a) Council reserves the right to cancel the deed of sale if it is of the opinion that the purchaser has failed to comply with the provisions of this policy or for whatever reason deemed necessary to protect the interest of the Council.
 - (b) The property shall be made to revert back to council if the purchaser fails to develop within a period not exceeding twenty four (24) months. The municipality shall not be responsible whatsoever of all cost involved for the transfer and or all administrative costs (valuation, rezoning, subdivision, etc.) incurred as a result of this transaction.
- 8.4 In case where the sale of land is subject to application for rezoning, subdivision and/or consolidation, the costs of such application(s) shall be to the purchaser's account.
- 8.5 Costs related to the valuation, Transfer, Value Added Tax, or any other administrative costs that may have been incurred by Council during the alienation of such land shall be to the purchaser's account.
- 8.6 The transfer of the alienated property or portion of land will only take place once all conditions as stated in the policy or contained in the Deed of Sale Agreement have been complied with.

9. LEASE

9.1 LOCAL GOVERNMENT ORDINANCE 17 OF 1939

- 9.1.1 In terms of Section 79(18)(a)(i) of the Local Government Ordinance, Council may let any of its immovable properties to another person. All the leases of the immovable property must be in writing.
- 9.1.2 The municipal Legal Section in consultation with the Town Planning Section shall draft standard lease agreement, once the process outlined above are followed, and arrange for the agreement to be signed by both the Municipal Manager, or delegated municipal official and the lessor will be made.
- 9.1.3 Once the lease has been signed by the parties, The Legal Section will distribute the signed copies of the agreement as follows:
 - 9.1.3.1 Original copy to the Corporate Services (Records Office) for record and safekeeping;
 - 9.1.3.2 Copy to the Town Planning Unit;
 - 9.1.3.3 Copy to the Budget and Treasury for the collection and payment of rent;
 - 9.1.3.4 Copy to the lessee

9.1.4 A deposit of an amount equal to one month's rental will be payable on the date of signing the agreement

9.2 TYPES OF LEASE AGREEMENTS

9.2.1 Lease Agreements shorter than 5 years (Short Term)

A Short-term lease is an agreement entered into by the Municipality and the lessee whereof the total period is less than 5 years. No notice is required in terms of Section 79 (18) of the Local Government Ordinance, No 17 of 1939. This type of lease would not require the applicant to submit any land use amendment application.

9.2.2 Lease Agreements for 5 years or longer (Long Term)

A Long-term lease is an agreement entered into by the Municipality and the lessee whereof the total period is 10 years or longer. Because of the term, notice need to be placed in terms of Section 79 (18) of the Local Government Ordinance, No 17 of 1939, to invite comments/ objections from the public. Also note that this agreement has to be registered against the Title Deed of the subject property in the Deeds Register.

9.2.3 Encroachment Agreement

It is a type of lease agreement in terms of which the registered owner of the land abutting a road reserve, enters into an agreement with the Municipality, which gives him/her the right to encroach onto the road reserve. Therefore Council is permitted, through Section 63 of the Local Government Ordinance, No. 17 of 1939, to lease portion of the road reserve which must be capable of being cleared within one month notice period. It can be used for temporary parking, landscaping or gardening purposes.

9.2.4 Use Agreement

This is a type of lease agreement, granting consent to use remnants, small portion of properties, sanitary lanes and properties with maintenance burden, for gardening, parking, access purposes and small business subject to approval by municipality.

9.2.5 Land Availability Agreement

Where developmental rights are granted to the developer to develop the property, normally for housing, and sell the property to third parties (beneficiaries). Ownership is not transferred to the developer, it remains with the Municipality until it is transferred directly to the purchaser on the implementation of the agreement. The purpose is to release the property for development on the terms determined by the municipality, including at a lower price.

10. PERMANENT CLOSURE OR DIVERSION OF STREET

- 10.1 In terms of Section 67 of the Local Government Ordinance 17 of 1939, Council is permitted to close or divert a street or a portion it permanently. This will be done on such terms and conditions as the Council may determine.
- 10.2 Where a new erf is created and not viable to be sold on its own it could be consolidated with the adjoining erf and rezoned in terms of s92(1)(b) and s56(1) respectively of the Town Planning and Townships Ordinance, No. 15 of 1986, and sold at a revalued price. It is typically applicable to commercial redevelopment.
- 10.3 This should be advertised in terms of section 79(18) of this Ordinance, and public being afforded 30 days to lodge objections.

11. PERMANENT CLOSING OF SQUARES, OPEN SPACES, GARDENS, PARKS OR OTHER ENCLOSED SPACES

- 11.1 In terms of Section 68 of the Local Government Ordinance 17 of 1939, Council may close permanently, either in whole or in part, any square, open space, garden, park or other enclosed space: provided the provisions of Section 67 shall mutatis mutadis apply.
- 11.2 Park: The zoning of a park is "Park" and as soon as the rights of the public are restricted in the use of a Park, it should be closed, rezoned in terms of s56(1) of the Town Planning and Townships Ordinance, No. 15 of 1986 and usually sold or let at a revalued price. This is typically applicable to commercial developments.

12. NET PROCEEDS

- 12.1 Net proceeds received by Council from the sale of land shall be paid into a special account to be used by Council preferably for the following:
 - a) Provision of essential services to all communities;
 - b) General developmental requirements that is required by law;
 - c) Acquisition of another land for settlement to address housing demand.

13. POLICY RECOMMENDATIONS/ OUTCOMES

- (a) This policy framework explicitly expresses Council position that alienation of land is a necessary process in ensuring that the municipality disposes off land to address human settlement challenges and to avail land for any other sustainable development that will contribute to the improvement of social household's welfare and economic development of our communities in order to eradicate poverty.
- (b) This policy will, however, be a guiding document on matters related to alienation of Land belonging to the municipality. It is also the intention of this policy to ensure that inhabitants in its area of jurisdiction gain access to adequate housing and socio-economic development in a progressive manner.
- (c) The alienation of any portion of land belonging to the municipality be made subject to a market related price and as will be determined by the appointed municipal valuer from time to time.
- (d) Council reserves the right to cancel the deed of sale if it is of the opinion that the purchaser has failed to comply with the provisions of this policy or for what ever reason deem necessary to protect the interest of the Council.

11. POLICY IMPLEMENTATION

The Lepelle-Nkumpi Municipality Land Disposal Policy shall be regarded as legal policy framework guiding the disposal process of municipal land once approved by the Council and shall be implemented immediately thereafter.