

***THE PROVINCE OF
GAUTENG***



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Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
PROCLAMATIONS • PROKLAMASIES			
2	Deeds Registries Act, 1937 (Act 47 of 1937): Erasmuskloof Extension 3.....	7	3

PROCLAMATIONS • PROKLAMASIES**PROCLAMATION NOTICE 2 OF 2024****CITY OF TSHWANE****TSHWANE AMENDMENT SCHEME 5114T**

In terms of Section 49(1) of the Deeds Registries Act, 1937 (Act 47 of 1937), read with Section 16(4)(f)(i) of the City of Tshwane Municipal Planning By-Law, 2016. The City of Tshwane hereby extend the boundaries of Erasmuskloof Extension 3 to include a part of the Remaining Extent of Portion 17 of the farm Garsfontein 374, Registration division JR, subject to the conditions set out in the schedule hereunder.

It is hereby notified in terms of the provisions of Section 16(9) of the City of Tshwane Land Use Management By-Law, 2016, that the City of Tshwane has approved and hereby adopted the land development application for the amendment scheme with regard to a part of the Remaining Extent of Portion 17 of the farm Garsfontein 374, Registration division JR, being an amendment of the Tshwane Town Planning Scheme, 2008 (revised 2014).

Map 3 and the scheme clauses of this amendment scheme are filed with the Economic Development and Spatial Planning Department; and are open to inspection during normal office hours.

This amendment is known as Tshwane Amendment Scheme 5114T.

(CPD 9/2/4/2-5114T (Item 29897))

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

 JANUARY 2024
(Notice 102/2024)

SCHEDULE

STATEMENT OF THE CONDITIONS UNDER WHICH THE APPLICATION MADE BY EMUS ERASMUS TESTAMENTêRE TRUST (NUMBER MT.11316/1960) (HEREINAFTER REFERRED TO AS THE TOWNSHIP OWNER) IN TERMS OF SECTION 16(4)(f)(i) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2016 FOR THE EXTENSION OF THE TOWNSHIP BOUNDARY OF ERASMUSKLOOF EXTENSION 3 TO INCLUDE A PART OF THE REMAINING EXTENT OF PORTION 17 OF THE FARM GARSFONTEIN 374, REGISTRATION DIVISION JR, PROVINCE OF GAUTENG, TO BE REGISTERED AS ERF 704 ERASMUSKLOOF EXTENSION 3, HAS BEEN APPROVED

1. CONDITIONS OF ESTABLISHMENT RELATING TO THE TOWNSHIP WHICH SHALL REMAIN APPLICABLE TO THE TOWNSHIP AND ERVEN IN THE TOWNSHIP IN TERMS OF SECTION 16(4)(f) AND (g)(iii)
 - 1.1 NAME

The description of the land portion to be incorporation shall be Erf 704 in the township Erasmuskloof Extension 3.
 - 1.2 DESIGN

The extension of the boundaries of Erasmuskloof Extension 3 shall consist of Erf 704 and an extension of Jochemus Street as indicated on the General Plan of Erasmuskloof Extension 3 being SG No A9406/82.
 - 1.3 PROVISION AND INSTALLATION OF ENGINEERING SERVICES

The township owners shall at his cost provide the extension of boundaries of the township with such engineering services, social infrastructure and open spaces as the municipality may deem necessary for the proper development of the extension of the township's boundaries and comply with the engineering services agreement entered into between the owner and the Municipality as required in terms of Section 21(3) of the By-law and in accordance with section 49 of the Spatial Planning and Land Use Management Act, 16 of 2013.

1.4 ACCEPTANCE AND DISPOSAL OF STORMWATER

The township owner shall arrange for the drainage of extension of the boundaries of the township to fit in with that of the adjacent roads and all stormwater running off or being diverted from the roads and higher lying areas shall be received and disposed of, to the satisfaction of the Municipality.

1.5 CONDITIONS IMPOSED BY THE GAUTENG PROVINCIAL GOVERNMENT: DEPARTMENT OF AGRICULTURAL AND RURAL DEVELOPMENT (GDARD)

The township owner shall at this own costs comply with and strictly adhere to all the conditions and / or requirements imposed by the Department of Agriculture and Rural Development including those by which exemption has been granted from compliance with the Environmental Impact Assessment Regulations, 2014, promulgated on 4 December 2014 in terms of section 21, 22 and 26 of the Environmental Conservation Act, (Act 73 of 1989) or the National Environmental Act, 1998 (Act 107 of 1998) as amended and the Regulations thereto, as the case may be for the development of this township.

1.6 CONDITIONS IMPOSED BY THE GAUTENG PROVINCIAL GOVERNMENT: DEPARTMENT OF ROADS AND TRANSPORT

1.6.1 A line of no access will be applicable along Road K151.

1.6.2 A physical barrier in compliance with EXECUTIVE COMMITTEE RESOLUTION NO 1112 of 26 June 1978 and signed by the Deputy Director-General: Community Development and in accordance with the most recent standards of Gautrans will be erected along the lines of no access on the boundary of the development area fronting on provincial roads.

1.6.3 Except for the physical barrier referred to in the paragraph above, a swimming pool and any essential stormwater drainage structure, no building or structure of any kind which is attached to the land, even though it does not form part of the land, shall be erected nor shall anything be constructed or laid under or below the surface of the erf which in a distance less than 16m from the boundary of the erven abutting on Road K151, nor shall any alteration or addition to any existing structure of building situated within such distance of the said boundary be made except with the consent in writing of the Gautrans.

1.6.4 In terms of EXECUTIVE COMMITTEE RESOLUTION NO 1112 of 26 June 1978 as signed by the Deputy Director-General: Community Development the following building lines are applicable:

16m building line from Road K151 affecting Erf 704.

1.6.5 The applicant shall arrange for the drainage of the development area to fit in with that of the Provincial Road K151 and for all stormwater running off or being diverted from Provincial Road K151 to be received and disposed of.

1.6.6 No advertisements that may be visible from Provincial Road K151 shall be displayed without the written approval of the Department of Roads and Transport (Gauteng Provincial Government) and the Municipality.

1.6.7 The township owner shall at its own cost, comply with and strictly adhere to all the conditions and / or requirements imposed by the Department of Roads and Transport (Gauteng Provincial Government) and where applicable as imposed by the Municipality.

1.7 ACCESS CONDITIONS

Access to or egress from the township shall be provided to the satisfaction of the Municipality. No ingress from Rigel Avenue (Road K151) shall be allowed to Erf 704 and no egress to Rigel Avenue (Road K151) shall be allowed from Erf 704.

2. CONDITIONS TO BE COMPLIED WITH BEFORE THE ERF IN THE TOWNSHIP BECOME REGISTRABLE WHICH SHALL BE READ WITH THE CONDITIONS OF ESTABLISHMENT INDICATED IN 2 ABOVE IN TERMS OF SECTION 16(10) OF THE BY-LAW AND SECTION 53 OF THE SPATIAL PLANNING AND LAND USE MANGEMENT ACT, 16 OF 2013

2.1 REFUSE REMOVAL

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

2.2 REMOVAL OR REPLACEMENT OF EXISTING SERVICES

If, by reasons of the extension of the township, it should be necessary to remove or replace any existing municipal, TELKOM services, the cost of such removal or replacement shall be borne by the township owner. For purposes of removal or replacement of the township owner shall, at its own costs, protect the services by means of the registration of servitudes in favour of the City of Tshwane or TELKOM should it be deemed necessary.

2.3 CONSOLIDATION OF ERVEN

The township owner shall at own expense, after proclamation of the extension of the boundaries of the township, but prior to the development of Erf 704, consolidate Erf 701, Erasmuskloof Extension 3 Township, with the newly created Erf 704, Erasmuskloof Extension 3 to the satisfaction of the municipality.

For the purposes hereof, the municipality hereby grants its consent to the aforesaid consolidation of Erven 701 and 704, Erasmuskloof Extension 3 in terms of Section 16(12)(d) of the City of Tshwane Land Use Management By-law, 2016 which consolidation shall only come into operation on proclamation of the extension of boundaries of the Erasmuskloof Extension 3 Township, and subject to the issuing of the certificate contemplated in Section 16(10) of the aforesaid By-law by the municipality.

The township owner shall simultaneously with an application for a section 16(10) certification of the registration of erven in the township apply for a section 16(10) certification for purposed of the consolidation and shall comply with the conditions of the consolidation and the township for issuing of both certifications.

2.4 RESTRICTION OF REGISTRATION AND TRANSFER OF ERVEN FROM THE TOWNSHIP

In terms of section 16(10) of the By-law read with section 53 of the Spatial Planning and Land Use Management Act, (act 16 of 2013) no property(ies) or land and/or erf/ erven and/or sections and/or units, sectional title scheme/registers or other registrations transaction/s, in a land development application(s), may be submitted by the applicant and/or owner, to the Registrar of Deed for registration, including transfer and the registration of a Certificate of Consolidated tile and/or Certificate of Registered in the name of the owner;

Prior to the Municipality certifying to the Registrar of Deeds that:

2.4.1 all engineering services have been designed and constructed to the satisfaction of the Municipality, including the provision of guarantees, and maintenance guarantees. For services having been provided to the satisfaction of the Municipality as may be required.

2.4.2 all engineering services contributions and / or development charges and/or other monies have been paid;

2.4.3 all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes;

2.4.4 all conditions of the approval of the land development application have been complied with or that arrangements for compliance to the satisfaction of the Municipality have been made, which arrangements shall form part of the agreement read with Chapter 7 of the By-law, to the satisfaction of the Municipality;

- 2.4.5 it is in a position to consider a final building plan; and
- 2.4.6 all the properties have either been transferred in terms of subsection 16(11) hereof or shall be transferred simultaneously with the first transfer or registration of a newly created property or sectional title scheme.

2.5 GEOTECHNICAL CONDITIONS

- 2.5.1 Before issuing of Section 16(10), a detailed Construction or Phase 2 Geotechnical Report, which must include the mapping details of the trenches and the revised geotechnical map, confirming the soil conditions on site and the positioning of structures and wet services. A table indicating the stand sizes, and geotechnical soil class for each stand within the township must be included. Certification on the method of backfilling of the trenches must also be included.
- 2.5.2 Details on the rehabilitation of the areas identified as uncontrolled fill (P) in the geotechnical report and certification by the competent person thereof must be submitted.

3. DISPOSAL OF EXISTING CONDITIONS OF TITLE IN TERMS OF SECTION 16(4)(g)

- 3.1 Erf 704 in the township shall be made subject and where relevant, entitled to existing conditions and servitudes, if any, but:

- 3.1.1 excluding the following servitudes which do not affect Erf 704 due to geographic location:

- 3.1.1.1 The servitudes of water rights in favour of Portion 2 of the farm Garstfontein No 374JR vide Deed of Servitude No 43/1894 which reads as follows:

“(a) Gesegde gedeelte (die resterende gedeelte waarvan hierby getranspoteer word) is onderworpe aan ‘n serwituut van Waterreg ten gunste van die noordelike gedeelte van die genoemde plaas “GARSTFONTEIN” soos meer ten volle sal blyk uit Akte van Serwituut van 43/1894.”

- 3.1.1.2 The servitude in favour of Eskom to convey electricity, with ancillary rights vide Deed of Servitude 283/1958 S which reads as follows:

“(b) Die Resterende Gedeelte van voormelde eiendom, groot as sodanige 443.6868 Morge, (die Resterende Gedeelte waarvan hierby getranspoteerword, groot as sodanige 443.6868 Morge) is ONDERWORPE aan die reg verleen aan die ELEKTRISITEITSVOORSIENINGS KOMMISSIE om elektrisiteit oor die eiendom te vervoer, tesame met betokened regte, en onderhewig aan kondisies soos meer volledige sal blyk uit Notariële Akte van Serwituut Nr 283/58 S en kaart afskrifte, geheg aan Akte van Transport Nr 17509/1938.”

- 3.1.1.3 The servitude in favour of the City of Tshwane to convey electricity registered vide Deed of Servitude 400/1966 S (Endorsement pg 6).

In terms of this condition the property is subject to a Servitude in favour of the CITY OF TSHWANE to convey electricity, with ancillary rights, as will more fully appear from Deed of Servitude 400/1966 S as shown on Diagram SG 7286/7964 which servitude was partially cancelled referred to in the endorsement on Page 18 of the Title Deed Number T.12747/1960.

The expropriation notice EX 177/1967 referred to on the same page has been superseded in that Portion 252 of the farm, in extent 61.0131 morgen (also endorsed on the same page), has been transferred to Glen Vista Development Corporation (Pty) Ltd in terms of Title Deed T.37424/1967 which includes the expropriated area of ± 58 morgen.

- 3.1.1.4 The water pipeline servitude in favour of the City of Tshwane registered in Deed of Servitude 1264/1972 S (Endorsement pg 8).

In terms of this condition the property is subject to a Water Pipe Line Servitude in favour of the City of Tshwane to convey water over the property, as will more fully appear from Deed of Servitude 1264/1972-S as shown on Diagram SG 2693/1971 which servitude was partially cancelled due to merging when Portion 322 of the farm was transferred to the City of Tshwane (see endorsement on page 15 of T.12747/1960).

The endorsement on page 11 of Title Deed T.12747/1960 referring to expropriation notice EX 211/1974 has been purged when Portion 322 of the farm was, in terms of Title Deed T.27906/1976, transferred to the City of Tshwane – see endorsement on page 15 of T.12747/1960.

The endorsement on page 12 of Title Deed T.12747/1960 referring to expropriation notice EX 734/1972 has been purged by the registration of a pipeline servitude number K.1137/1976-S in favour of the Republic of South Africa (Railways and Harbours) referred to on page 13 of T.12747/1960, being condition (f) hereunder.

- 3.1.1.5 The water pipeline servitude in favour of the City of Tshwane registered in Deed of Servitude K1137/1976-S (Endorsement pg 13).

In terms of this condition the property is subject to a 3-meter Water Pipe Line Servitude in favour of the Republic of South Africa, to convey water over the property, as will more fully appear from Deed of Servitude 1137/1976-S as shown on Diagram SG 9424/1973.

The endorsement on page 14 of T.12747/1960 referring to expropriation notice EX 224/1976 has been purged when Portion 329 of the farm was, in terms of Title Deed Number T.1767/1977, transferred to the Republic of South Africa – see endorsement on page 16 of T.12747/1960.

The endorsement on page 16 of T.12747/1960 referring to the unnumbered expropriation notice EX_/1980 in paragraph 24 thereof has been purged when Portion 339 of the farm was, in terms of Title Deed Number T.37545/1980, transferred to the “Nasionale Vervoer-kommissie” – see endorsement on page 17 of T.12747/1960.

- 3.1.1.6 The servitude in favour of the City of Tshwane for the conveying of electricity registered vide Deed of Servitude K81/1983-S (Endorsement pg 17).

In terms of this condition the property is subject to a water pipeline servitude with ancillary rights in favour of City of Tshwane, as will more fully appear from Deed of Servitude 2051/1977-S as shown on Diagram SG 793/1976.

- 3.1.1.7 The servitude of partial cancellation and re-registration in favour of the City of Tshwane vide Deed of Servitude K.81/1983-S. (Endorsement pg 18).

In terms of this condition the property is subject to a servitude of partial cancellation and re-registration in favour of the City of Tshwane to convey electricity with ancillary rights, over the property, as will more fully appear from Deed of Servitude K.81/1983-S, as shown on Diagram SG 6213/1981 (partial cancellation) and Diagram SG 6214/1981 respectively.

- 3.1.1.8 The servitude for general municipal services registered vide Deed of Servitude K.6681/1996-S (Endorsement pg 20).

In terms of this condition the property is subject to a servitude for general municipal services, as will more fully appear from Deed of Servitude K.6681/1996-S as shown on Diagram SG 4946/1995.

This servitude purges expropriation notice EX 9/1996 endorsed on the same page.

4. CONDITIONS OF TITLE

- 4.1 THE ERF MENTIONED BELOW SHALL BE SUBJECT TO THE CONDITIONS AS INDICATED, LAID DOWN BY THE CITY OF TSHWANE METROPOLITAN MUNICIPALITY IN TERMS OF THE PROVISION OF THE CITY OF TSHWANE LAND USE MANAGEMENT BY-LAW, 2013 (BY-LAW)

4.1.1 ERF 704

- 4.1.1.1 The erf is subject to a servitude, 3m wide, in favour of the Municipality, for sewerage and other engineering services, along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal services, 1 m wide across the access portion of the erf, if and when required by the Municipality. Provided that the Municipality may dispense with any such servitude.
- 4.1.1.2 No building or other structure shall be erected within the aforesaid servitude area and no large, rooted trees shall be planted within the area of such servitude or within 2, thereof.
- 4.1.1.3 The Municipality shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude area any material as may be excavated by them during the course of the construction, maintenance or removal of such 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 construction, maintenance or removal of such works being made good by the Municipality.

- 4.2 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

4.2.1 ERF 704

- 4.2.1.1 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 K151.
- 4.2.1.2 Except for the physical barrier referred to in clause 4.2.1.1 above, a swimming bath of 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 than 16m from the boundary of the erf abutting Road K151 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).

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