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PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

# Provincial Gazette Extraordinary

# Buitengewone Provinsiale Koerant

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**MOSSEL BAY MUNICIPALITY****AMENDMENT: MOSSEL BAY MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING****Amended by Resolution E266-09/2024 of the Municipal Council of Mossel Bay**

The Municipality of Mossel Bay hereby publishes the amendments to the Mossel Bay Municipality By-Law on Municipal Land Use Planning as promulgated in the Extraordinary Provincial Gazette 8520 dated 18 November 2021 set out below in terms of section 156 of the Constitution of the Republic of South Africa, 1996, for general information.

The Afrikaans and Xhosa version of the amendments will be available upon request. In the event of an inconsistency between the English, Afrikaans or Xhosa text, the English text shall prevail.

The amended Mossel Bay Municipality By-Law on Municipal Land Use Planning comes into operation on date of promulgation in the Provincial Gazette.

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**UMASIPALA WASEMOSEL BHAYI****ISILUNGISO: UMTHETHO KAMASIPALA WASE MOSSEL BHAYI OMALUNGA NOKUCETYWA KOKUSETYENZISWA KOMHLABA****Isilungiso esenziwe phantsi kweSiggibo E266-09/2024 seBhunga likaMasipala wase Mossel Bhayi**

Ngokwenjenje uMasipala wase Mossel Bhayi upapasha izilungiso ezenziwe kuMthetho kaMasipala wase Mossel Bhayi omalunga nokuCetywa kokuSetyenziswa komhlaba njengokuba ubhengeziwe kwiGazethi yeSikhawu yePhondo 8520 yomhla we 18 Novemba 2021 ecacisiweyo apha ngezantsi phantsi kwecandelo 156 loMgaqo-Siseko weRiphabliki yoMzantsi Afrika, 1996, ngenjongo yokwazisa gabalala.

Inguqulelo ngolwimi lwesiBhulu nangolwesiXhosa zezi zilungiso ziyakufumaneka ngesicelo. Kwiimeko apho kukho ukungangqinelani phakathi kweenguqulelo zesiNgesi, isiBhulu okanye isiXhosa, inguqulelo yesiNgesi iyakudlala indima ephambili.

Umthetho olungisiweyo kaMasipala wase Mossel Bhayi omalunga nokuCetywa kokuSetyenziswa komhlaba uyakuqala ukusebenza ngomhla wesibhengezi kwiGazethi yePhondo

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**MUNISIPALITEIT MOSSELBAAI****WYSIGING: MOSSELBAAI MUNISIPALITEIT VERORDENING OP MUNISIPALE GRONDGEBRUIKSBEPLANNING****Gewysig deur Resolusie E266-09/2024 van die Munisipale Raad van Mosselbaai**

Die Munisipaliteit van Mosselbaai, publiseer hiermee die wysigings ten opsigte van die Mosselbaai Munisipaliteit Verordening op Munisipale Grondgebruiksbeplanning soos gepromulgeer in die Buitengewone Provinsiale Koerant 8520 gedateer, 18 November 2021 soos uiteengesit hieronder in terme van artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996, vir algemene inligting.

Die Afrikaanse en Xhosa-weergawe van die wysigings sal beskikbaar wees op aanvraag. In die geval van 'n teenstrydigheid tussen die Engels, Afrikaans en Xhosa teks sal die Engelse teks aanvaar word.

Die gewysigde Mosselbaai Munisipaliteit Verordening op Munisipale Grondgebruiksbeplanning tree inwerking op datum van promulgering in die Provinsiale Koerant

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Deletions in the text are indicated in [brackets] and ~~striketrough~~;  
Insertions in the text are indicated in **bold** and underlined;

### Amendment of Chapter III

1. Section 14 is hereby amended-

(a) By the amendment of Section 14(2)(b) as follows:

(b) an appropriate application contemplated in Section 15(2) must be made for the ~~[alteration]~~ **additions** or extension of buildings or structures in respect of the non-conforming use;

2. Section 23 is hereby amended-

(a) By the amendment of Section 23(1) as follows:

(1) The Municipality may, in terms of Section [~~15(2)~~] **24(1)**, approve the amendment or cancellation of a Subdivision Plan, including conditions of approval, the General Plan or Diagram, in relation to land units shown on the General Plan or Diagram that have not been registered yet in terms of the Deeds Registries Act.

3. Section 24 is hereby amended-

(a) By the amendment of Section 24(1)(f) as follows:

(f) the registration, **amendment or cancellation** of a servitude or lease agreement for-

- (i) the provision or installation of water pipelines, electricity transmission lines, sewer pipelines, storm water pipes and canals, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
- (ii) the provision or installation of telecommunication lines and telecommunication infrastructure by or on behalf of a licensed telecommunications operator;
- (iii) the imposition of height restrictions;
- (iv) the granting of a Right of Habitation, Private Right of Way or usufruct; or
- (v) the provision of a borehole or water pipelines other than water pipelines on behalf of an organ of state or service provider;

4. Section 28 is hereby amended-

(a) By the amendment of Section 28(3) as follows:

28(3) The Municipality must issue a certificate to transfer a land unit contemplated in Subsections (1) and (2) if the owner provides the Municipality with the following:

~~[(a) — where an owners' association has been established in respect of that land unit, a conveyancer's certificate confirming that money due by the transferor of the land unit to that owners' association has been paid, or that provision has been made to the satisfaction of the owners' association for the payment thereof];~~

~~[(b) — in the case of any existing contravention penalty due by the transferor of the land unit, proof of payment of the penalty or proof of compliance with an instruction in a compliance notice issued to the transferor in terms of Chapter IX];~~

~~[(c)]~~ **(a)** in the case of the first registration of the transfer of ownership of a land unit arising from a subdivision to any person other than the developer and where an owner's association is constituted, proof that—

- (i) all common property arising from the subdivision has been transferred to the owners' association by virtue of section 29(3)(e); or
- (ii) all common property arising from the subdivision will be transferred to the owners' association simultaneously with the registration of the transfer of that land unit;

~~[(d)]~~ **(b)** in the case of the first registration of the transfer of ownership or certificate of registered title of a land unit arising from a subdivision and that leads to the confirmation of the subdivision, proof that—

- (i) land needed for public purposes or other municipal infrastructure as contemplated in terms of a condition imposed under section 66 has been transferred to the Municipality or will be transferred to the Municipality simultaneously with the registration of the transfer of that land unit, certificate of consolidated title or certificate of registered title;
- (ii) the engineering services and amenities that must be provided in connection with the subdivision are available; and
- (iii) a certificate contemplated in section 20(6) has been issued by the Municipality.

**Amendment of Chapter IV**

5. Section 46 is hereby amended-

(a) By the amendment of Section 46(1)(c) as follows:

- (c) an application for subdivision as [~~amendment or cancellation of a Subdivision Plan~~] contemplated in Section 15(2)(d) [~~and (k) respectively~~];
6. Chapter IV is hereby amended-
- (b) By the insertion of a new Section 52 as follows and the renumbering of subsequent Sections:

**52. Establishment of the Land Use Planning Committee**

- (1) **That, as the Municipality is an affected and interested party in terms of Land Use Applications, Council may provide comments on all land use applications during the Public Participation Process and exercise its Right of Appeal.**
- (2) **That a Section 79 Committee, in terms of the Local Government: Municipal Structures Act, No. 117 of 1998, may be established to provide comments on behalf of Council on all land use applications received in terms of Section 15 of this By-Law and to exercise its Right of Appeal in terms of this By-Law.**

**Amendment of Chapter V**

7. Section ~~66~~ [65] is hereby amended-
- (a) By the insertion of Sections **66(u)** and **66(v)** as follows:

- (u) **comments received from the Land Use Planning Committee (if provided); and**
- (v) **the impact of the proposed land development on any heritage resources as defined in the National Heritage Resources Act, 1999 (Act 25 of 1999)**

**Amendment of Chapter VII**

8. Chapter VII is hereby amended-
- (a) By the insertion of a new Section 80 as follows and the renumbering of subsequent Sections:

**80. Establishment of Land Use Planning Appeal Board**

- (1) **That a Land Use Planning Appeal Board be established outside of the Municipality to assume the obligations of an Appeal Authority in respect of decisions of the Tribunal or an authorised employee contemplated in Section 68(a) or (b) and a failure to decide on an application, as contemplated in Section 58.**
- (2) **That the Land Use Planning Appeal Board consist of a maximum of five members and no less than three members appointed on a part-time basis by Council for a period not exceeding three (3) years.**

- (3) That a member of the Land Use Planning Appeal Board must be a natural person, be a citizen or permanent resident of the Republic and reside within the jurisdiction of Mossel Bay Municipality.
- (4) That the following persons be disqualified from membership of the Land Use Planning Appeal Board:
- (a) a person who has been convicted of an offence in terms of any Legislation;
  - (b) a person who has been convicted of theft, fraud, forgery, the utter of a forged document or any offence of which dishonesty is an element;
  - (c) a person who has at any time been removed from any office of trust on account of misconduct or dishonesty;
  - (d) an Accounting Officer of a Municipality;
  - (e) a Political Office Bearer;
  - (f) a person who is an Office Bearer in a political party.
- (5) The Land Use Planning Appeal Board may consist of:
- (a) registered Town Planner(s) in private practice;
  - (b) registered Architect(s) in private practice;
  - (c) Legal Practitioner(s) in private practice;
  - (d) registered Engineer(s) in private practice;
  - (e) Environmental Practitioner(s) in private practice; and
  - (f) any other person as may be determined by the Municipal Council.

9. Section 81 {79} is hereby amended-

(a) By the amendment of Section 81 {79} as follows:

~~“{79.(1)} The Executive Authority (Executive Committee/Executive Mayor of the Municipality/if the Municipality does not have an Executive Committee or Executive Mayor, a Committee of Councillors) is the Appeal Authority in respect of decisions of the Tribunal or an authorised employee contemplated in Section 68(a) or (b) and a failure to decide on an application as contemplated in Section 58.”~~

81(1) The Land Use Planning Appeal Board established by Council is the Appeal Authority in respect of decisions of the Tribunal or an authorised employee contemplated in Section 69(a) or (b) and a failure

**to decide on an application as contemplated in Section 59; and if the Land Use Planning Appeal Board fails to function or does not exist, the Executive Mayor of the Municipality is the Appeal Authority.**

- 81(2)** ~~[79(2)]~~ A person whose rights are affected by a decision contemplated in Subsection **80**(1) may Appeal in writing to the Appeal Authority within 21 days of notification of the decision.
- 81(3)** ~~[79(3)]~~ An Applicant may Appeal in writing to the Appeal Authority in respect of the failure of the Tribunal or an authorised employee to make a decision within the period contemplated in Section **58** ~~[57]~~(1), (2) or (3), any time after the expiry of the period contemplated in that section.
- 81(4)** ~~[79(4)]~~ An Appeal is lodged by serving the Appeal on the Municipal Manager in the form determined by the Municipality and subject to Section **82** ~~[80]~~(1).
- 81(5)** ~~[79(5)]~~ When the Appeal Authority considers an Appeal, it must have regard to-
- (a) the provisions of Section **66** ~~[65]~~, read with the necessary changes; and
  - (b) the comments of the Provincial Minister contemplated in Section 52 of the Land Use Planning Act.”

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**CB PUREN  
MUNICIPAL MANGER**

