

CITY OF CHOICE



**PIETERMARITZBURG
M S U N D U Z I**

MSUNDUZI MUNICIPAL PLANNING
TRIBUNAL:
OPERATIONAL PROCEDURES

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1. APPLICATION OF THE RULES

1.1 The rules of procedure apply to all the meetings of the Municipal Planning Tribunal.

1.2 All members, staff and public members must adhere to the conduct of these procedures at all time.

2. RULES GOVERNING MUNICIPAL PLANNING TRIBUNAL PROCEEDINGS

2.1 The Msunduzi Municipal Planning Tribunal Operational Procedure shall govern the operation of meetings. The Tribunal Operational Procedures are intended to provide a source of ready reference to interested citizens; to assure orderly conduct of meetings; to provide efficient use of Tribunal and staff time, to facilitate decision making process and to provide directive for public participation.

3. DEFINITIONS & INTERPRETATION OF RULES

3.1 ***Tribunal Roll***; is defined as the standing items including applications on the roll that shall be considered in a Tribunal Meeting. Under no circumstances shall an application not accounted in this roll be considered by the Tribunal.

3.2 ***Tribunal/MPT***; meaning the Municipal Planning Tribunal established in terms of Section 35 of the Spatial Planning and Land Use Management Act, 16 of 2013.

3.3 ***Registrar***; meaning the Municipal Planning Registrar

3.4 ***Owner***; means

- the person in whose name land is registered in the deeds registry for KwaZulu-Natal
- the beneficial holder of a real right of land
- the person in whom land vests

4.1 ***Applicant***; means a person who makes a land development application contemplated in section 45 of the Spatial Planning and Land Use Management Act, 16 of 2013.

3.5 ***Champion town planner***; A Council Town Planning representative who assesses and presents an application to the Municipal Planning Tribunal

3.6 ***Committee Officer***; means a Council official that assists the Municipal Planning Tribunal on administrative matters.

- 3.7 **Quorum;** means the majority of the Municipal Tribunal, with at least three of the appointed members present. Two (2) of the members being Municipal employees and one (1) being an independent member not in the employ of the Municipality.
- 3.8 **Council;** means the Municipal Council of Msunduzi Local Municipality
- 3.9 **By-law;** means the Msunduzi Municipality By-Law on Spatial Planning and Land use Management 2016, published in Provincial Gazette 1729 dated 15 September 2016.

4. WHAT IS THE MSUNDUZI MUNICIPAL PLANNING TRIBUNAL?

- 4.2 A Municipal Planning Tribunal is a Municipal Planning Approval Authority appointed by Council in accordance with Section 35 of the Spatial Planning and Land Use Management Act, 16 of 2013.
- 4.3 The role of the Municipal Planning Tribunal is to assess land use and land development applications within the jurisdiction of the Msunduzi municipality.

5. COMPOSITION OF MUNICIPAL PLANNING TRIBUNAL

- 5.1 The Municipal Planning Tribunal is composed of group professional members. Members include officials in full employment of the Msunduzi municipality, and independent professionals. Composition may include, but not limited to professionals in the following disciplines:

- I. Professional Registered Town Planners
- II. Professional Land Surveyors
- III. Attorneys or advocates
- IV. Environmental Specialists

6. NOTICE OF MEETINGS

- 6.1 The Tribunal convenes twice a month (every second week). Notifications for Tribunal meeting will be at least 7 days before the seating.
- 6.2 The chairperson may rule an item to be urgent in which case the notice may be at least 24-hours or lesser as the Chairperson may direct.

- 6.3 A notice for the Municipal Planning Tribunal meetings shall be made available and updated at the Town Planning Notice Board, being at the 5th floor, Professor Nyembezi Building, 341 Church Street. Pietermaritzburg. Alternatively, the notice will be published on the official Msunduzi Municipality website.
- 6.4 A notice to the Municipal Planning Tribunal shall be limited to the applicant; and those who have lodge a formal objection or comment within the specified time as stipulated in the Newspaper advertisement of the application.
- 6.5 Those who have lodged objections or comments must include a legible physical address; cell-phone numbers and email address in their written letters. The municipality may choose any of the above forms of communication to notify the applicant or objector.
- 6.6 Any correspondence from city officials whether by telephone, sms (Short Message Service) or emails will constitute a proper notice of the meeting.
- 6.7 Invitation to a Municipal Tribunal is courtesy on behalf the Msunduzi Municipality and not a legislative requirement in terms of the Msunduzi By-Law on Municipal Spatial Land Use Planning Management or the Spatial Planning and Land Use Management Act, 16 of 2013.
- 6.8 Thus the applicant or objectors are not obliged to attend the Tribunal meeting as applications will only be considered based on written submissions only. However for purposes of clarifying matters raised by the Tribunal, it is beneficial for the applicant or objector to be present.
- 6.9 If a member, applicant or any interested or affected parties are late or absent from the tribunal meeting, this will not invalidate any proceedings of the Tribunal meeting.
- 6.10 It is the duty of the applicant and all interested and affected parties to familiarize themselves with the dates of meetings and all official publication by the Registrar of the Tribunal.
- 6.11 The applicant and all interested and affected parties are urged to make use of the Office of the Registrar as the official channel of communication for Tribunal related matters.

7. QUORUM

7.1 If there is no quorum and the Chairperson is present, he/she must adjourn the meeting for 15 minutes, and, if at the end of that period there is still no quorum, the meeting must again be adjourned for a period determined by the Chairperson at his/her discretion or he/she may adjourn the meeting to another time and date at the same venue or to another time, date and venue.

7.2 In an absence of the Chairperson and where no quorum exists, the Registrar shall adjourn the meeting for 15 minutes after the commencement time. If at the expiry of the 15 minutes after the appointed time for the commencement of the meeting, the required quorum is not present, the meeting shall be cancelled.

8. PROCEDURE DURING THE TRIBUNAL MEETING

8.1 Items for discussion include the applicants lodged application and the Champion Town Planer's assessment of the application. These are submitted to the Municipal Planning Registrar for referral to the Tribunal.

8.2 Meetings of the Municipal Planning Tribunal are directed by a Tribunal Roll prepared by the Committee Officer on behalf of the Registrar.

8.3 The Tribunal is chaired by the chairperson appointed by Council as the chairperson of the Tribunal or a deputy chairperson or a presiding officer elected.

8.4 Due to complexities pertaining to discussion on each application, the chairperson may follow proceedings in accordance to the Tribunal Roll in which case the applicant should reserve time until his/her application is due.

8.5 The Chairperson may also divert in terms of sequence of the Tribunal Roll, and have courtesy to entertaining applications in accordance to whoever may be at the venue before the commencement of the meeting.

8.6 It should be noted that applicants, interested or effected parties should arrive at the meetings at least 15 minutes before the commencement of the Tribunal in order to be notified of the day's proceedings as stated in 8.4 and 8.5

8.7 The chairperson will announce the application and requests the Champion Town Planner to conduct a presentation for the Tribunal.

8.8 Participation of the public shall be limited to the applicant; and those who have lodged a written objections or comments within the specified time as stipulated in the Newspaper advertisement of the application.

8.9 The purpose of participation in Municipal Tribunal seating's is to invite the applicant or any person who lodged a formal comment or objection within the stipulated time to **only** bring questions of clarity towards the application. No new or additional information shall be entertained.

8.10 The Chairperson shall explain the procedure to be followed, including the limits on speakers being the applicant or interested or affected parties and the speaker shall give his/her name and address for the record.

8.11 The champion Town Planner of the application will then be asked to make a presentation regarding the matter. The report may be presented as a hardcopy and/or a slide presentation.

8.12 Thereafter the Chair will invite comments from the applicant and objectors. Such comments must express the need to seek clarification pertaining to the application.

8.13 The Chairperson will then request comments and questions from Tribunal members.

9. MEETINGS CLOSED TO THE PUBLIC & CONDUCT DURING MEETINGS

9.1 Meetings of the Tribunal are closed to the public. Courtesy is only extended to the applicant or any person who lodged a formal comment or objection within the stipulated time.

9.2 It is not a legislative requirement that the municipality invites the applicant or objector or any other person who made comments on the application to Tribunal meetings.

9.3 The onus is on any party to an application to ensure that they source correct information regarding the Tribunal meeting relating to the date, venue and time of the meeting.

- 9.4 Any party wishing to be part of the meeting and make oral presentation must ensure punctuality.
- 9.5 Parties should ensure that there is no repetition of the same information.
- 9.6 If a petition was submitted on an application, only one member will be allowed to represent the group.
- 9.7 Parties designated to speak may be questioned only by the Chairperson or other members of the Tribunal
- 9.8 Associations, bodies corporate, committees or any structured groups must provide a resolution for a nominated person (1) to represent the group in the Tribunal Meeting.
- 9.9 Rules of the meetings must be adhered to at all times.
- 9.10 Improper and disruptive conduct by parties may result in removal from the meeting.
- 9.11 Applicant, objectors or interested and affected parties may only be present at the Tribunal meeting during the initial tabling of the application. Thereafter any further public interaction will be at the discretion of the Chairperson.
- 9.12 The Chairperson must:
- a) Maintain order during the meeting
 - b) Ensure that meetings are conducted in accordance with the rules of the Operational Procedures
 - c) Ensure that any person refusing to comply with his/her ruling leaves the meeting place immediately and in the case of members, report these instances to Council
 - d) The Chairperson may determine the time available for debate on any matter, taking into account the matters on the Tribunal Roll;
 - e) The Chairperson may restrain the debate by a member if, in his/her opinion, that member is no longer debating an application on the Tribunal Roll; is repeating himself/herself or obstructing the meeting.

10. SITE INSPECTIONS

- 10.1 A site visit may be requested by the Tribunal within the decision making process. A site visit/inspection shall be defined as a visit by the Tribunal to the subject application in accordance with the Msunduzi SPLUMA bylaws, schedule 4 Section 14.
- 10.2 In submission of an application to Council the applicant agrees to have their property inspected by the Tribunal for the finalization of the application.
- 10.3 The Registrar shall notify the applicant of the site inspection date. It is the duty of the applicant to notify the owner if applicable.
- 10.4 It shall be noted that if the applicant denies granting access to the Tribunal for a site visit such will also be noted as denying required information. The Tribunal will assess the application in accordance to the submissions before it.
- 10.5 The applicant shall not directly communicate with or invite a member of the Tribunal to view his/her property outside of the official operations of the Tribunal.
- 10.6 The site visit of the subject application shall be discussed on the same day of seating of the Tribunal meeting and the Registrar should have a supplementary report on the Tribunal Roll.

11. PUBLIC HEARING

- *Extracted from Msunduzi Bylaws Schedule 4, Section 15.*

- 11.1 The Municipal Planning Tribunal must decide whether to hold a public hearing within 21 days from the date that an application for municipal planning approval and accompanying document were referred to the Chairperson of the Municipal Planning Tribunal.
- 11.2 A hearing should only be convened if, in the opinion of the **Municipal Planning Tribunal**, a hearing will-
- a) Assist in resolving disputes of facts or of law
 - b) Assist the parties to the application to resolve differences of opinion arising from the application or any objections made thereto; or

c) Promote consensus on any aspect of the application.

11.3 The Municipal Planning Tribunal must hold a public hearing, if necessary within 60 days from the date that an application for municipal planning approval and accompanying documents were referred to it.

The Municipal Planning Registrar must-

- a) In writing notify-
 - i. The application and;
 - ii. All parties who commented on an application for municipal planning approval of the public hearing
- b) Display at least four notices of a size at least 210mm X 297mm (A4) on the frontage of the land, or at any other conspicuous and easily accessible place on the land; and
- c) Publish a notice in a newspaper circulating in the area of the land.

11.4 A notice of a public hearing must-

- a) Specify the place, date and the time thereof;
- b) State the purpose thereof and
- c) Inform parties of their rights contemplated in this item-
 - i. To be present or represented and
 - ii. To state their case or lead evidence in support thereof.

11.5 Any person has a right to attend the public hearing or to be represented at the public hearing, and to personally, or through their representative-

- a) State their case;
- b) Call witnesses to testify and to present other evidence to support their case;
- c) Cross-examine any person called as a witness by any opposite party;
- d) Have access to documents produced in evidence; and
- e) Address on the merits of the application for municipal approval

11.6 Any member of the public may attend a hearing but may not speak at the hearing without the leave of the Chairperson of the hearing who may impose any conditions limiting the persons address.

11.7 Any person that disrupts or interrupts the proceedings of a hearing may be asked to leave the hearing.

11.8 A Municipal Planning Approval Authority may take cognizance of any evidence produced at a public hearing when it considers an application for municipal planning approval.

12. OUTSTANDING MATTERS

12.1 The Municipal Planning Tribunal may request technical information on an application.

12.2 The Municipal Planning Registrar in writing shall give notice to the applicant of a list of outstanding matter.

12.3 The Registrar shall give a notice of two weeks from the date of receipt by the applicant.

12.4 The applicant has the right to refuse the request for additional information and shall notify the Registrar in writing.

12.5 If the applicant failed to submit all the requested information in the stipulated time, the Tribunal will access the application with the current information.

13. RECORD OF DECISION & CORRESPONDENCE

13.1 The Tribunal shall act to **Approve, Partially Approve** or **Refuse** an application, with reasons.

13.2 The Tribunal decision regarding an application shall be administered by the Registrar. The Registrar, having received the approved judgment from the presiding officer, shall issue a letter of the Tribunal decision within 21 working days. The Registrar shall administer the decision to:

- a) The applicant
- b) Every person who lodged written comments in response to invitation to comment on the application by the closing date stated in the invitation.

13.3 A member of the MPT by the direction of the chairperson of the MPT must draft a comprehensive Record of decision.

13.4 The record of decision must include the information listed in schedule 9 of the Msunduzi SPLUMA bylaws.

14. MINUTES

- 14.1 The Committee Officer must ensure that all proceedings of the Tribunal are recorded electronically and its decisions, including reasons are minuted.
- 14.2 Every member of the Tribunal as well as any person attending a meeting must sign the attendance register and the names of those who:
- a. Are absent with leave having been granted by the Chairperson
 - b. Are absent without leave having been granted
 - c. Arrive after the meeting has started(with time of arrival)
 - d. Absent themselves from the meeting at any time (with time of departure and arrival)
 - e. Leave the meeting prior to the conclusion thereof and that the time and reason for departure are recorded.
- 14.3 The Committee Officer must circulate draft minutes to all members and staff who were present at the Tribunal meeting.
- 14.4 The correctness of the minutes must, subsequent to the meeting be signed off by the Chairperson.
- 14.5 The Committee Officer must circulate and archive all minutes approved by the Chairperson. Circulation of approved minutes is limited to the standing attendance. The Committee Officer shall publish the minutes on the official Msunduzi Municipal website.

15. ADOPTION AND AMENDMENTS OF OPERATIONAL PROCEDURES

- 15.1 The Operational Procedure will be adopted and amended by Council.
- 15.2 The Chairperson of the Tribunal in writing may request amendments to the Operational Procedures with reasons and submit this to the Registrar.
- 15.3 The Operational Procedures will be reviewed as and when necessary.