



DRAKENSTEIN

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Drakenstein Municipality Telecommunication Infrastructure Policy

Date of Approval/Review by Council

26 March 2020

Implementation Date

26 March 2020

Signed by the City Manager

Signature Date

26 March 2020

A city of excellence

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Definitions

For purposes of this policy, unless otherwise stated, the following definitions shall apply:

Antenna	Is a rod, wire or other device used to transmit or receive radio or television signals
Application	Means an application contemplated in terms of the By-law and/or zoning scheme.
Authorised employee	Means the employee authorised to make a decision on applications for telecommunication infrastructure, in terms of Council's system of delegations.
Base Station Infrastructure	Refers to one or more transmitters or receivers or a combination thereof, including accessory equipment, necessary at one location for carrying the telecommunication infrastructure.
By-law	Refers to the Drakenstein By-law on Municipal Land Use Planning, 2018, as amended from time to time.
Freestanding mast	Means a freestanding support structure on land or anchored to land and used for telecommunication infrastructure to transmit or receive electronic communication signals, and may include access roads to the structure.
Consent use	Refers to a land use right granted to a property owner on a temporary or permanent basis, in terms of the respective By-law and zoning scheme.
Departure	Relates to an application in terms of the By-law in order to depart from the standard development parameters contained in the zoning scheme.
Dwelling unit	Means a group of interrelated rooms and ancillary facilities for the accommodation of a single household and can be a dwelling house, second dwelling house, third dwelling unit, employee housing or a dwelling unit in an apartment building or a group housing scheme.
Land use rights	Refers to the lawful utilisation of land imposed in terms of the zoning scheme and/or land use application approvals.
Municipality	Means the Drakenstein Municipality.
Rooftop base station	Means the base station infrastructure, any support structure and the antenna or mast attached to the roof, side or any part of a building and used to accommodate telecommunication infrastructure for the transmitting or receiving of electronic communication signals.

Satellite Dish Antenna	Refers to a telecommunications device, usually shaped as a "dish", is used to send and receive microwave signals which are generally used by television, internet and other services.
Spatial Development Framework (SDF)	Means the Drakenstein Spatial Development Framework.
Site	Means the site on which telecommunication communication infrastructure is being proposed/located.
Technical Approval	Refers to an application in the zoning scheme in which no neighbours' permission is required, and in which the land use may only be exercised once the Municipality has approved a site development plan.
Telecommunication infrastructure	Means the infrastructure used and/or required to operate a freestanding mast or rooftop base station for commercial purposes.
Zoning scheme	Refers to the Drakenstein Zoning Scheme By-law, 2018, as amended from time to time.

1. INTRODUCTION

The existing Drakenstein Municipality Telecommunication Base Station Policy has been in operation in the municipal area since late 2017. Whilst the adoption of the policy has taken place fairly recently, legislative factors primarily, has necessitated the review of the policy.

The existing policy is based on a suite of national, provincial and municipal legislation, policies and frameworks, the bulk of which have been repealed in Drakenstein Municipality. The most important legislation involved is the repeal of the Land Use Planning Ordinance, 1985 (Ord. 15 of 1985) together with the various zoning schemes adopted in terms thereof, namely the Paarl Zoning Scheme Regulations, Wellington Zoning Scheme Regulations, Mbekweni Township Establishment Conditions, as well as the Section 8 Zoning Scheme Regulations.

The above-mentioned legislation have been repealed and subsequently replaced with the Drakenstein By-law on Municipal Land Use Planning and the newly adopted Drakenstein Zoning Scheme By-law. These by-laws have completely changed the manner in which land uses are managed throughout the municipal area, including telecommunication base stations. The need has therefore arisen to review the existing telecommunication base station policy, in order to align it with the new suite of planning legislation in Drakenstein Municipality.

2. PURPOSE OF THE POLICY

The primary purpose of this policy is to assist applicants with preparing land use application and/or building plan applications in respect of the siting and design of telecommunication

base stations and associated infrastructure, together with which documentation to submit with such applications. In doing so, the secondary purpose of this policy to assist the Municipality with evaluating the merits of such applications.

It is envisioned that the policy will guide and facilitate the development of new telecommunication infrastructure, as well as to assist with the management of existing telecommunication infrastructure, in a manner that is efficient, environmentally sensitive, unbiased and sustainable.

The policy further aims to:

- Provide a comprehensive set of guidelines in order to give clarity and certainty to applicants, as well as the general public with regard to the identification of acceptable locations and positioning of telecommunication base stations ;
- Improve the quality and efficiency of the decision-making process;
- Minimise delays and confusion involved in the subsequent assessment of land use and/or building plan applications; and
- Protect the visual character and aesthetics of Drakenstein as far as possible.

3. STATUTORY FRAMEWORKS

3.1 THE ELECTRONIC COMMUNICATIONS ACT (36 OF 2005)

The Independent Communications Authority of South Africa (ICASA) and the Electronic Communications Act regulate all forms part of telecommunication infrastructure and the issuing of approvals and licenses.

3.2 NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) (AS AMENDED), AND THE AMENDED ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS LISTING NOTICE 3 OF 2014 (GN NO. 324)

The Department of Environmental Affairs and Development Planning is the competent authority to authorise the construction of freestanding masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes, where the freestanding mast:

- 3.2.1 Is to be placed on a site not previously used for this purposes; and
- 3.2.2 Will exceed 15m in height, but excluding the attachments to existing buildings and masts on rooftops.

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Where the development of such masts or towers are proposed in:

- (a) All areas outside urban areas;
- (b) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for conservation purpose, within urban areas; or
- (c) Areas zoned for use as public open space or equivalent zoning within urban areas.

3.3 THE NATIONAL BUILDING REGULATIONS AND BUILDINGS STANDARDS ACT, 1977 (103 OF 1977)

The erection and construction of telecommunication infrastructure is also regulated by the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) (NBR). In terms of the Act, a building includes, any structure erected or used for or in connection with the rendering of a service. Building plans must therefore be submitted to the Municipality for approval, prior to construction.

3.4 THE NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)

Section 34 of the Act requires a permit for any alteration or new addition to a building older than 60 years. Section 27 requires a permit for provincial heritage sites, including former national monuments and, Section 38 requires a permit for development which would change the character of certain classes of sites.

3.5 DRAKENSTEIN BY-LAW ON MUNICIPAL LAND USE PLANNING, 2018 (AS AMENDED)

Section 15(1) of the Drakenstein By-law on Municipal Land Use Planning, 2018, as amended, states that no person may commence, continue, or cause the commencement or continuation of, land development, other than the subdivision or consolidation of land referred to in Section 24, without the approval of the Municipality in terms of Subsection (2).

Section 15(2)(n) further states that the owner or his agent may apply to the Municipality for the development of the land concerned, which involves a consent use contemplated in the zoning scheme.

3.6 DRAKENSTEIN ZONING SCHEME BY-LAW, 2018

In terms of the Drakenstein Zoning Scheme By-law, 2018, telecommunication infrastructure are catered for in the base zones as follows:

Base Zone	Freestanding mast	Rooftop base station
Natural Environment Zone	Consent use	Consent use
Agriculture Zone	Consent use	Consent use
Open Space Zone	Consent use	Consent use
Community Use Zone	Consent use	Technical approval
Conventional Housing Zone	Prohibited	Consent use
Multi-Unit Housing Zone	Not addressed	Technical approval
Neighbourhood Business Zone	Consent use	Technical approval
Transport Zone	Consent use	Additional permitted use
Utility Zone	Consent use	Additional permitted use
Industrial Zone	Primary right	Additional permitted use
Mixed-Use Zone	Additional permitted use	Additional permitted use

Notwithstanding the provisions of the base zones above, where telecommunication infrastructure has not been listed as a land use in any of the particular zones, an application for temporary departure may be submitted.

4. IMPACTS OF TELECOMMUNICATION INFRASTRUCTURE

Telecommunication infrastructure generally poses two major areas of concern, which includes the visual impact and the possible impacts on health and wellbeing. It should be noted that with regard to the latter concern, cognisance should be taken of the fact that all environmental health related concerns are not a functionary of the municipality, due to the responsibility for the regulation and control of electromagnetic energy emissions being with the National Department of Health. The Department has on numerous occasions confirmed that telecommunication infrastructure does not pose a serious health risk to the general public, and any claims that the infrastructure poses a health risk are considered to be unsubstantiated unless proven otherwise.

Given the above, this policy will solely focus on the visual impact of telecommunication infrastructure, so as to ensure that the visual character and amenity of the Drakenstein municipal area is maintained as far as possible.

5. TOWN PLANNING REQUIREMENTS


5.1 Telecommunication infrastructure will only be considered in the following circumstances:

- 5.1.1 Where provision is made for the use of a freestanding mast or rooftop base station within the zoning scheme or as a temporary departure in exceptional circumstances;
- 5.1.2 Telecommunication infrastructure will not be considered if there are existing telecommunication infrastructure on the application property, except in exceptional circumstances, being motivated by the applicant;
- 5.1.3 Notwithstanding paragraph 5.1.2 above, the Municipality may consider more than one rooftop base station on a building, provided that the visual integrity of the surrounding area is not negatively impacted on;
- 5.1.4 The proposed application should adhere to all relevant regulations applicable to telecommunication infrastructure.
- 5.2 The following information and/or documentation must be submitted with the land use and/or building plan application for the erection of telecommunication infrastructure, in addition to other relevant documentation associated with the submission of land use planning/building plan applications:
- 5.2.1 A motivation report detailing the development proposal, including siting and design of the facility, in relation to the characteristics of the property and the surrounding area. The report should include, amongst others, what other alternatives have been explored, the need for the telecommunication infrastructure, and details regarding decommissioning of the infrastructure.
- 5.2.2 If and when required by the Municipality, a visual representation, with either a land use or a building plan application, illustrating the visual impact of the telecommunication infrastructure, in relation to the surrounding area, including any necessary mitigating measures such as landscaping;
- 5.2.3 In the case of a freestanding mast, the type of mast being applied for such as monopole, lattice or disguised, etc;
- 5.2.4 A site plan indicating exactly where the proposed telecommunication infrastructure will be located on the application property, together with the necessary dimensions;
- 5.2.5 Elevations showing the extent, height and appearance of the proposed facility as viewed from the adjacent areas;

- 5.2.6 A plan indicating any areas of environmental or heritage significance on the site or in the surrounding area, together with the location(s) of the nearest telecommunication infrastructure within a 1km radius, if applicable;
- 5.2.7 An approval letter or zoning certificate clearly stipulating the relevant land use rights applicable to the property;
- 5.2.8 Any approvals needed to be obtained by other relevant authorities such as an environmental authorisation or heritage approval;
- 5.2.9 In cases where a freestanding mast extends beyond 30m in height, the written permission of the affected surrounding property owners, as determined by the Municipality; and
- 5.2.10 Written permission from a homeowners' association or body corporate, together with the necessary minutes of meetings and attendance registers, where applicable.

6. ADDITIONAL INFORMATION THAT MAY BE REQUESTED

- 6.1 It should be noted that all applications are assessed and evaluated based on its own merits and characteristics. The Municipality may therefore at any time request additional information, in order to assist in the assessment of applications for telecommunication infrastructure, to ensure that it is designed and located in the best possible manner, so as to minimise any possible negative visual impacts and any other concerns. The following information and/or documentation can therefore be requested, at the cost of the applicant, if deemed necessary by the Municipality:
 - 6.1.1 A visual impact assessment prepared by a suitably qualified professional;
 - 6.1.2 A landscaping plan to be provided by the applicant, to demonstrate how landscaping measures will be implemented and maintained, on the site, prior to the building plan submission;
 - 6.1.3 Proximity to adjacent or nearby buildings or other tall structures; and
 - 6.1.4 Any other specialist study, plan or information required by the Municipality to assist in the processing and evaluation of the land use/building plan application, at the cost of the applicant.



7. LOCATIONAL CRITERIA FOR TELECOMMUNICATION INFRASTRUCTURE

- 7.1 Telecommunication infrastructure should be erected where they have the least visual impact.
- 7.2 Telecommunication infrastructure should preferably be located in the following locations, as indicated in the table below:

	Freestanding mast	Rooftop base station
7.2.1	Within industrial areas surrounded by industrial-zoned properties or industrial land uses, except for in cases where the property borders onto residential-zoned or business-zoned properties.	Rooftop base stations should preferably be located on the highest buildings within the Central Business District (CBD) area, at the point with the least visual impact.
7.2.2	On mountainous areas with the backdrop clearly masking the proposed telecommunication infrastructure.	Rooftop base stations on church buildings which will be visually mitigated or camouflaged as part of a church tower or steeple.
7.2.3	Within rural areas where no dwelling units are located in the nearby vicinity, which could possibly be of any visual nuisance.	The use of existing towers or authority infrastructure for rooftop base stations.
7.2.4	On the periphery of residential areas.	Within commercial and industrial areas with tall buildings in the nearby vicinity.
7.2.5	Within rural/agricultural zoned areas which clearly has a numerous amount of equally high trees on the application site or adjacent to a mountain, or where a mountainous area forms a backdrop.	
7.2.6	Within commercial and industrial areas with tall buildings in the nearby vicinity.	
7.2.7	Within areas where land cover is characterised by forests/plantations with tall trees.	

- 7.3 Telecommunication infrastructure **will not be** allowed in the following locations:
- 7.3.1 Properties that are not compliant with paragraph 7.2 above;
 - 7.3.2 No telecommunication infrastructure will be allowed on properties utilised for single dwelling purposes, except that of satellite dish antennae;
 - 7.3.3 Rooftop base stations and freestanding masts may only be located on the periphery of residential areas;
 - 7.3.4 Freestanding masts will not be allowed on any property that is situated within a residential area, where that property is completely surrounded by single dwelling land uses;
 - 7.3.5 Rooftop base stations on buildings where there are higher buildings situated adjacent to it;
 - 7.3.6 Within any scenic route or protected areas or areas of special significance, as identified in the SDF and/or zoning scheme; and
 - 7.3.7 Within rural areas where the telecommunication infrastructure will be visually obtrusive, due to lack of equally high trees or any mountains in the backdrop, which could possibly help create the illusion that the proposed telecommunication infrastructure is smaller than what it truly is.
- 8. PARAMETERS FOR TELECOMMUNICATION INFRASTRUCTURE**
- 8.1 FREESTANDING MASTS**
- 8.1.1 Except in exceptional circumstances, the mast of a freestanding mast installation may not extend more than 30m in height, above the natural ground level.
 - 8.1.2 The height of any structures and buildings associated with a freestanding mast installation (excluding the mast itself) may not exceed 4m, unless permission is granted by the Municipality.
 - 8.1.3 The Municipality may require appropriate context-specific screening or other measures to mitigate the impact of a freestanding mast, and its ancillary infrastructure and buildings.

- 8.1.4 The Municipality may request that pre-electromagnetic radiation test be commissioned.
- 8.1.5 Freestanding masts should be located adjacent to tall trees and designed as the same type of trees in order to blend in with the natural environment.

8.2 ROOFTOP BASE STATIONS

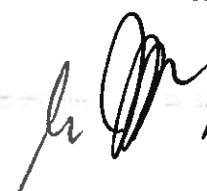
- 8.2.1 The antennae associated with a rooftop base station may not extend beyond 3m in height above the part of the building that is attached, unless the permission of the Municipality has been obtained.
- 8.2.2 All supporting equipment (whether installed in cabinets or shelters or inside the building) which are ordinarily attached to the antennae shall be accommodated within the envelope of the building itself, or inside the roof structure and shall not be visible from a public street, unless permission has been granted by the Municipality.
- 8.2.3 The Municipality may request that a pre-electromagnetic radiation test be commissioned.

8.3 SATELLITE DISH ANTENNAE

- 8.3.1 Satellite dish antennas of 1.5m in diameter and smaller and used solely for the purposes of television reception or telecommunication on the property concerned, do not require the Municipality's approval and are excluded from height restrictions.
- 8.3.2 Any satellite dish antenna with a diameter of more than 1.5m requires permission from the Municipality, must be placed in a position that minimises the visual and other impacts on the surrounding area, and must comply with building parameter as contained in the base zone of the property.

8.4 MITIGATING MEASURES

- 8.4.1 Telecommunication infrastructure should at all times be erected in such a way as to blend in with the surrounding or natural environment, as far as possible. The visual impact of telecommunication infrastructure can be suitably mitigated in the following ways, but is not limited to:
- 8.4.2 Use of existing structures to accommodate telecommunication infrastructure wherever possible;
- 8.4.2 Freestanding masts should preferably be located adjacent to tall trees and designed in a manner so as to blend in with the natural environment;



- 8.4.3 Telecommunication infrastructure can be designed and erected in such a way so as to form part of the primary use of the property, such as church steeples or towers;
- 8.4.4 Telecommunication infrastructure proposed within rural areas or on farms may be camouflaged as windmills or form part of an existing windmill;
- 8.4.5 Equipment rooms on rooftops should be set back as far as possible;
- 8.4.6 Telecommunication infrastructure which are proposed adjacent to roads or access roads should be landscaped; and
- 8.4.7 Telecommunication infrastructure may become an architectural feature on the building or in the landscape.

9. DECOMMISSIONING OF TELECOMMUNICATION INFRASTRUCTURE

- 9.1 The owners of land where telecommunication antennae masts and other similar infrastructure are to be erected, shall be responsible for the rehabilitation, decommissioning and reparation and any damage to the environment.
- 9.2 The Municipality may impose conditions, prior to construction commencing, relating to rehabilitation, decommissioning and repair of any environmental damage, and may require that the owner makes financial provision upfront for such rehabilitation, decommissioning and repair, to the satisfaction of the Municipality.
- 9.3 In all instances where financial provisions were put in place or not, the owner remains financially responsible for any rehabilitation, decommissioning and repair to the environment, should the costs of rehabilitation, decommissioning or repair exceeds the financial provision made.
- 9.4 If the facility is abandoned or the owner fails to rehabilitate, decommission or repair as the case may be, as contemplated in paragraphs 8.5.1-8.5.3 above, the Municipality may, after written notice to the owner, use all or part of the financial provisions to rehabilitate, decommission or repair the environmental damage, or to remove the facility and may recover such or any related additional costs from the owner.

10. APPLICATION PROCEDURES AND PUBLIC PARTICIPATION

- 10.1 All applications must be circulated to the Planning Portfolio Holder for input.

- 10.2 All applications must be circulated to the Ward Councillor for input.
- 10.3 The process and level of public participation required is dependent on whether or not the proposed telecommunication infrastructure is a primary right in terms of the zoning scheme, or whether it requires certain approvals from the Municipality.
- 10.4 When a freestanding mast or rooftop base station is indicated as a primary right in zoning scheme and complies with the provisions of this policy, then no further land use approvals are required;
- 10.5 When a freestanding mast or rooftop base station is indicated as a consent use in the zoning scheme, then the necessary application procedures as stipulated in the By-law are applicable.
- 10.6 When a freestanding mast or rooftop base station is indicated as a technical approval in the zoning scheme, then the provisions of the zoning scheme, in respect of technical approvals, shall apply.
- 10.7 When a freestanding mast or rooftop base station is indicated as an additional permitted use in terms of the zoning scheme, then such freestanding mast or rooftop base station may be erected, provided that a primary permitted use applicable to the property in terms of the zoning scheme, is being exercised.
- 10.8 When a freestanding mast or rooftop base station is indicated as prohibited in any particular zone in the zoning scheme, then no application of any sorts, other than a rezoning, or temporary departure will be considered.
- 10.9 Notwithstanding paragraphs 10.3-10.6 above, a building plan shall be submitted to the Municipality for approval in all instances, and in which additional information/documents/plans may be requested.
- 10.10 The Municipality may refer any land use and/or building plan application to relevant external advisory committees, to the satisfaction of the Municipality, and in which the comments provided by such committees shall be taken into consideration.

11. DELEGATED AUTHORITY TO APPROVE APPLICATIONS

All building plans and formal land use planning applications will follow the same processes according to the applicable legislation and internal standard operating procedures.

Building plan applications are recommended by the Building Control Officer and approved by the Manager Building Control in terms of the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977) with normal building work after circulation to the Land Use Planning and Surveying Section for comment .

Land use planning applications are approved in terms of the Drakenstein By-Law on Municipal Land Use Planning, 2018, read together with Council's system of delegations, by the Manager: Land Use Planning and Surveying, being the authorised employee, or the Municipal Planning Tribunal, depending on the nature and extent of the application. In cases when an appeal is lodged against a decision taken by the Manager: Land Use Planning and Surveying or the Municipal Planning Tribunal, then the Executive Mayor, being the Appeal Authority, will be the final decision maker.

12. EXISTING LAWFUL TELECOMMUNICATION INFRASTRUCTURE

- 12.1 All telecommunication infrastructure that have legally been approved in terms of a former zoning scheme and subsequently acted on, which is in contravention with the zoning scheme and this policy, will not be considered an offence, but a lawful non-conforming use.

13. DISCLAIMER

- 13.1 The provisions of this policy does not apply to underground telecommunication infrastructure such as telephone lines, fibre optic networks, etc.

14. COMMENCEMENT DATE

- 14.1 Unless otherwise specified, the commencement date of this policy will be the date of adoption by Council, and shall remain in effect until it is reviewed, revoked or amended by Council.