

DRAKENSTEIN MUNICIPALITY

FINAL

RULES OF PROCEDURE FOR MEETINGS OF THE MUNICIPAL PLANNING TRIBUNAL

APPROVED BY COUNCIL ON 9 DECEMBER 2016

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These rules of procedure were adopted by the Drakenstein Municipal Council on 9 December 2016 and must be read with Chapter 7 of the Drakenstein By-law on Municipal Land Use Planning, 2015.

1. APPLICATION OF THE RULES

- 1.1 The rules of procedure apply to all the meetings of the Municipal Planning Tribunal and its panels, and must be "read together with Chapter 7 of the Drakenstein By-law on Municipal Land Use Planning, 2015 and Chapter 6 Part B and C of the SPLUMA

2. DEFINITIONS AND INTERPRETATION OF RULES

- 2.1 In these Rules, unless inconsistent with the context:

"By-law" means the Drakenstein By-law on Municipal Land Use Planning, 2015 published in the Provincial Gazette, 7528, dated 13 November 2015;

"Chairperson" means the Chairperson designated in terms of section 72 of the Bylaw and includes the deputy chairperson and/or presiding officer as the case may be;

"Tribunal" means the Municipal Planning Tribunal appointed in terms of section 70 of the By-law;

"Council " means Municipal Council of the Drakenstein Municipality;

"member " means a member of the Municipal Planning Tribunal;

"applicant" means a person contemplated in section 15(2) of the By-law;

"councillor" means a member of the Municipal Council;

"panel" means a subcommittee of the Tribunal as assigned by the Tribunal from time to time comprising a maximum of three Tribunal members.

"Administrator" means an official whose function is to provide administrative secretarial support to the Municipal Planning Tribunal; and

- 2.2 The ruling of the Chairperson in regard to the application of these Rules and any other procedural matters not dealt with herein is final and binding on the meeting at which such a ruling is given, and shall be recorded in the minutes.

3. NOTICE OF MEETINGS

- 3.1 The Tribunal must meet at the time and date determined by the chairperson or in the case of a panel, the presiding officer provided that it must meet at least once per month if there is an application to consider as per section 75(4) of the By-law
- 3.2 The Administrator must give at least 21 days notice of the meeting.
- 3.3 Notwithstanding rule 3.2, in the case of an urgent meeting, the notice period must be at least 24 hours or such lesser period as the Chairperson may direct and the Chairperson determines whether the need for a meeting is urgent or not.

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- 3.4 If a member has not received notice of a meeting in accordance with these Rules, this will not invalidate any proceedings of the meeting.
- 3.5 External members of the Tribunal must, in writing, specify an electronic mail address and a physical address where he or she will receive notices and agendas of meetings as well as other official correspondence. Notices, agendas and official correspondence will be transmitted to external members by electronic mail and will constitute proper notice of a meeting. Hard copies of an agenda and all official correspondence will be delivered to a member on his/her request, provided the Chairperson determines whether it is practical and/or economical to do so in the circumstances.

4. MEETINGS OPEN TO THE PUBLIC

- 4.1 Meetings of the Tribunal must be open to the public, except in so far as the Tribunal may in special cases otherwise direct that the meeting is closed where matters are of such a nature that its confidential treatment is considered reasonable and justifiable. The decision to close a meeting is the right of the Chairperson.

5. QUORUM

- 5.1 In terms of sections 75 (6) and (7) of the By-law a quorum:

- 5.1.1 For a meeting of the Tribunal is the majority of its appointed members;
 5.1.2 For a meeting a panel of the Tribunal is a majority of its designated members, subject to rule 5.4

- 5.2 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.

- 5.3 In the absence of the Chairperson and the deputy chairperson and where no quorum exists, the Administrator 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.

- 5.4 A meeting will not take place if there are only internal or only external members present. A meeting must comprise representatives from both internal and external membership.

- 5.5 Should a member of the Tribunal resign or pass away during their term the vacancy must be filled in terms of sections 71 and 72 of the By-law

6. AGENDA

- 6.1 The agenda must be published on the Municipality's webpage by the Administrator, generally 21 days before the meeting for public information, provided that the agenda for an urgent meeting will be published on the webpage as soon as notice of such meeting has been given.
- 6.2 In the event of the Chairperson ruling an item as urgent in terms of rule 3.3, the relevant ward councillor shall be informed.



- 6.3 Before considering the first application on the agenda, the Chairperson must request members to declare any personal or other interest, with reference to section 74(4) of the By-law, in respect to the agenda before them and indicate whether they have been approached by any party prior to the meeting. Members shall attest to this in writing at every meeting.
- 6.4 The Chairperson must ensure that all members present at a meeting of the Tribunal sign a declaration to the effect that they have read all the information on the agenda.
- 6.5 A member of the Tribunal must abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the Chairperson has given written approval and has expressly authorised his or her participation.
- 6.6 Meetings should be conducted according to the order in which the matters appear on the agenda and only matters which are on the agenda and are in writing may be debated. Notwithstanding this, the Chairperson may change the order of matters appearing on the agenda, or withdraw an item or refer it back to the administration.

7. CONDUCT AT MEETINGS

7.1 The Chairperson must:

- 7.1.1 maintain order during the meeting;
- 7.1.2 refer any alleged contravention of the code of conduct by members at meetings to the Municipal Manager;
- 7.1.3 ensure that meetings are conducted in accordance with these Rules of Procedure; and
- 7.1.4 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 the Municipal Manager.

7.2 The Chairperson may determine the time available for debate on any matter, taking into account the matters still to be discussed and the time available for the meeting.

7.3 The Chairperson may curtail the debate by a member if, in his/her opinion, that member is no longer debating the matter on the agenda; is repeating himself/herself; is indulging in filibustering or is obstructing the meeting.

8 ORAL SUBMISSIONS

8.1 The Chairperson may permit an oral hearing (for applicants and objectors who are of the view that their rights or legitimate expectations will be affected by the approval of the application) with the Tribunal upon written request received timeously, at least 14 days before that meeting, as provided for in section 78(2) of the By-law and if determined relevant and required to highlight matters or increase the Tribunal's understanding of the matter. The Chairperson may determine the criteria and rules of oral submissions. These criteria and rules may change from time to time. If appropriate in the circumstances, the oral hearing may be held by electronic means as per Section 78(7) of the By-law.

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- 8.2 If a request for an oral submission is granted by the Chairperson, copies of the reports on the item are forwarded to all affected parties under cover of a standard letter or electronic mail setting out the conditions of the oral submissions as imposed by the Chairperson and advising the date, time and venue of the meeting. In instances where reports are too voluminous, notice is given of where the report will be available for perusal.
- 8.3 The request for oral submissions must include reasons for the request.
- 8.4 In instances where a petition is received, only the person who submitted the petition will be notified. If it is not clear which person submitted the petition, the first person who signed the petition will be notified.
- 8.5 Due to the short notice periods involved, notifications may be sent out via email. Affected parties may also be notified telephonically.
- 8.6 Should the applicant or objector be granted an oral submission, the other party will also be given the opportunity to make an oral submission.
- 8.7 A copy of the presentation (by one or both parties) to be given must be submitted seven working days before the hearing in order that these may be distributed to the Tribunal members prior to their consideration of the matter. There must be sufficient copies of documentation to distribute to all parties making oral submissions. The supply of the full set of copies are for the expense of the requester. In the case of a petition only the person as described in rule 8.4 will be furnished with a copy of the presentation.
- 8.8 Persons invited for oral submissions will be requested to be present 10 minutes before the time allocated for their hearing.
- 8.9 If parties do not attend the hearings after being granted the permission to attend, this will be reflected in the official minute of the meeting. Unless an acceptable reason is given for their absence no further opportunity will be granted.
- 8.10 Parties must notify the Administrator in writing if they decide not to attend the oral hearing. If a request for an oral submission is withdrawn by the relevant/both parties, this will also be reflected in the official minutes of the meeting.
- 8.11 The purpose of an oral submission is to allow relevant parties to:
- 8.11.1 Comment on the accuracy or merits of the documentation before the Tribunal.
 - 8.11.2 Elaborate on relevant issues which were included in the original objections or the original motivation and respond to objections and which are **not** referred to in the departmental report.
- 8.12 Relevant parties **may not**:
- 8.12.1 Restate arguments already advanced in writing and available to the Tribunal.
 - 8.12.2 Provide details of historical conflict between neighbours and/or affected parties and other issues which have no bearing on the relevant criteria for deciding the proposal that is being considered.
 - 8.12.3 Introduce new issues which were not raised at the time when the application was advertised for comment and/or objection, and are not covered in the reports.

- 8.13 The Chairperson may limit an oral hearing to specified matters relating to an application and has discretion as to the conduct of the hearing and must conduct the hearing expeditiously and without undue formality.
- 8.14 Where more than one objector signs an objection the Chairperson may request that the objector be represented by no more than 2 spokespersons.
- 8.15 As a general guide, applicants are permitted 10 minutes to make a presentation and objectors are permitted 10 minutes to make their presentation. The party who is heard first, has 3 minutes to rebut any new issues raised in the presentation or to ask questions of clarity.
- 8.16 Notwithstanding rule 8.15 above, the time period may be increased at the discretion of the Chairperson if the circumstances of the application warrant this and provided that both parties receive the same amount of time to make their presentation.
- 8.17 Subject to the Chairperson's discretion, after a short introduction of the application by the case officer, the order of speakers will be as follows:
- 8.17.1 if a councillor is present, he/she will address the Tribunal first;
- 8.17.2 the applicant will then address the Tribunal;
- 8.17.3 the objector will then address the Tribunal;
- 8.17.4 the applicant will then have an opportunity for rebuttal.
- 8.17.5 the case officer will respond to any questions or further issues, if necessary.
- 8.18 No cross examination of any party by any party is permitted, but Tribunal members may ask questions of clarity.
- 8.19 Once all oral submissions have been finalised all affected parties must leave the meeting room, before a decision on the matter is taken. The chairperson may request any member of the public who has an interest in a matter, to leave the meeting before a decision is taken.
- 8.20 Should a report be deferred for any valid reason, the affected parties will be informed that they may be present at the next meeting but will not have another opportunity to address the Tribunal.
- 8.21 All parties delivering oral submissions must maintain a polite and courteous approach at all times and no party may interject whilst another party is speaking.
- 8.22 The ruling of the Chairperson in relation to the conduct of the hearing, including the order of speakers, tone and manner of address and time allowed to speak must be accepted and adhered to by all parties.
- 8.23 The Chairperson or any member of the Tribunal may not accept information which he/she is requested to keep confidential from other parties.
- 8.24 Parties are not permitted to speak or make oral representations to the Chairperson or any other member of the Tribunal in relation to the case on a one-to-one basis or to make arrangements to give him/her further information other than at the oral hearing.
- 8.25 No party may submit further arguments, documents, photographs or any other information to any Tribunal member or chair at any stage other than at the oral hearing or send any information to them. If such attempts are made, the Chairperson or member must immediately terminate the conversation or delete the information



and report this to the Chairperson or full tribunal (as is relevant) in writing. Where after the Chairperson will report the matter to the Municipal Manager.

- 8.26 The Tribunal and Chairperson are not permitted communication with the parties to an application concerning the merits or any facts relating to the application, outside the scheduled meeting of the tribunal. If such attempts are made, the Chairperson or member must immediately report this to the Chairperson or Tribunal (as is relevant) in writing. Where after the Chairperson will report the matter to the Municipal Manager.

9 DECISIONS AND VOTING

- 9.1 All decisions must be taken by a supporting vote of the majority of members present at any meetings. All members are to vote on all matters placed before the tribunal, unless a member has a declared conflict of interest.
- 9.2 If the Chairperson asks members if they are in agreement with a recommendation(s) on a matter before it, and such recommendation(s) is/are opposed by any members present, a decision is taken by a show of hands adopting/refusing (rejecting)/amending the proposal. Should there be no opposition then it must be recorded in the minutes that the decision was unanimous.
- 9.3 The Chairperson shall, in the event of an equality of votes on any question, have a casting vote in addition to his/her deliberative vote on any question before the Tribunal.
- 9.4 A member may only vote if he or she has been present during the debate of the matter.

10 INTERRUPTION, SUSPENSION, ADJOURNMENT AND SITE VISITS

- 10.1 The Chairperson must on reasonable motivation and on a majority vote of the members, interrupt or postpone proceedings and adjourn the meeting.
- 10.2 On resumption of the meeting at a later time or date, the meeting will consider the unfinished business before continuing with any new matters on the agenda.
- 10.3. The Chairperson may make provision for the members to attend a site meeting pertaining to any matter on the agenda. The Chairperson will have the right to decide if parties should or should not accompany the Tribunal members on said site visit.

11 MINUTES

- 11.1 The Administrator must ensure that all proceedings of the Tribunal are recorded electronically and its decisions, including reasons, are minuted.
- 11.2 Every member of the Tribunal as well as any other person attending a meeting must sign the attendance register and the Administrator must ensure that a record is made in the minutes of a meeting of the names of those members who:
- 11.2.1 are absent with leave having been granted by the Chairperson;
- 11.2.2 are absent without leave having been granted;
- 11.2.3 arrive after the meeting has started (with time of arrival);
- 11.2.4 absent themselves from the meeting at any time (with time of departure and arrival);

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11.2.5. leave the meeting prior to the conclusion thereof and that the time and reason for departure are recorded.

11.3 The correctness of the minutes must, subsequent to the meeting, be signed off by the Chairperson after circulation to the members present, and thereafter be made available on the Municipality's webpage.

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