STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

DIRECTORATE: PLANNING AND ECONOMIC DEVELOPEMNT
DEPARTMENT OF DEVELOPMENT MANAGEMENT
LAND USE MANAGEMENT

www.stellenbosch.gov.za/planning-portal/
FOR GENERAL ENQUIRIES CONTACT landuse.enquiries@stellenbosch.gov.za or 021- 808 8606

INFORMATION GUIDELINE:
APPEALS ON LAND USE AND LAND DEVELOPMENT DECISIONS

TO SUBMIT AN APPEAL AND FOR APPEAL RELATED ENQUIRIES CONTACT
Landuse.Appeals@stellenbosch.gov.za

SECTION 79(2) APPEALS

1. Any person has the right to appeal Section 15(2)(a) to (f), (h) to (k), (n), (o) or (r) application decisions in terms of Section 79(2) of the Stellenbosch Municipal Land Use Planning By-law (LUPB) if his/ her rights are affected by a decision on a land use and land development application as contemplated in section 68(a) or (b).

15. *(2) The owner or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:*

(a) a rezoning of land;
(b) a permanent departure from the development parameters of the zoning scheme;
(c) a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;
(d) a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;
(e) a consolidation of land that is not exempted in terms of section 24;
(f) a removal, suspension or amendment of restrictive conditions in respect of a land unit;
(h) an amendment, deletion or imposition of conditions in respect of an existing approval;
(i) an extension of the validity period of an approval;
(j) an approval of an overlay zone as contemplated in the zoning scheme;
(k) an amendment or cancellation of an approved subdivision or consolidation plan or part thereof, including a general plan or diagram;
(n) a closure of a public place or part thereof;
(o) a consent use contemplated in the zoning scheme;
(r) a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.

2. The appeal must be submitted by completing the required form with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 80(1)(b) of the said By-law.

3. Appeals must be addressed to the Municipal Manager and submitted to the following email address: landuse.appeals@stellenbosch.gov.za.

4. An applicant who lodges a Section 79(2) appeal must also adhere to the following requirements stipulated in terms of Section 80(3) to (7) of the said By-law:

   a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
   b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
   c) The notice must be served in accordance with Section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
   d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.

5. Appeals on a decision of a land use and land development application must also include the following prescribed information to satisfy the requirements of Section 80(2) of the LUPB:

   (a) The grounds of the appeal which may include the following grounds:
      (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000); or
      (ii) grounds relating to the merits of the land development or land use application on which the appellant believes the Municipal Planning Tribunal or authorised employee erred in coming to the conclusion it did;
   (b) whether the appeal is lodged against the whole decision or a part of the decision;
   (c) if the appeal is lodged against a part of the decision, a description of the part;
   (d) if the appeal is lodged against a condition of approval, a description of the condition;
   (e) the factual or legal findings that the appellant relies on;
   (f) the relief sought by the appellant; and
   (g) any issue that the appellant wishes the Appeal Authority to consider in making its decision.

6. If an appellant fails to provide the above prescribed information, the appeal will be invalid in terms of Section 80(1) of the LUPB.

SECTION 62 MSA APPEALS

7. An applicant has the right to appeal Section 15(2)(g), (l), (m), (p) or (q) application decisions in terms of Section 62 of the Local Government Municipal Systems Act, no 32 of 2000 as determined by Section 68(e) of the Stellenbosch Municipal Land Use Planning By-law as contemplated in section 68(c).

> ***15.*** *(2) The owner or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:*
> *(g) a permission required in terms of the zoning scheme;*
> *(l) a permission required in terms of a condition of approval;*
> *(m) a determination of a zoning;*
> *(p) to disestablish an owner's association;*
> *(q) to rectify a failure by an owners' association to meet its obligations in respect of the control over or maintenance of services.*

8. The appeal must be submitted by completing the required form with the prescribed information to satisfy the requirements of Section 62 of the Local Government Municipal Systems Act, no 32 of 2000, failing which the appeal will be invalid.

9. Appeals must be addressed to the Municipal Manager and submitted to the following email addresses: municipal.manager@stellenbosch.gov.za and copy to landuse.appeals@stellenbosch.gov.za.

SECTION 79(3) APPEALS

10. Any person has the right to an appeal in terms of the Stellenbosch Municipal Land Use Planning Bylaw (LUPB) in terms of Section 79(3) if a duly authorised decision maker fails to decide on a land use and land development application.

11. An appeal on the failure of a decision maker to decide on an application, may be lodged any time after the expiry of the applicable period contemplated in Sections 57(1) or (2) of the LUPB.

12. Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of email at the following address: landuse.appeals@stellenbosch.gov.za

13. An appeal on the failure of a decision maker to decide on an application, must include the facts that prove the failure as contemplated in Section 80(2)(h) of the LUPB.

GENERAL

14. The appeal form can be accessed on the municipal website and must be completed irrespective in terms of which act the appeal is submitted.

15. All appeals must include the following personal information of the appellant as well as information on the subject property and any relevant correspondence:
    (a) Reference to any relevant correspondence
    (b) Details on the relevant property on which the appeal is submitted
    (c) First names and surname
    (d) Company of Legal person's name (if applicable)
    (e) Physical Address
    (f) Contact details, including a Cell number and E-Mail address.

16. All appeals must include the following declaration by the appellant that:
    (a) The appellant confirms that the information contained in the subject appeal and accompanying documentation is complete and correct.
    (b) The appellant is aware that it is and offence in terms of Section 86(1) of the said By-Law to supply particulars, information or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct.
    (c) The appellant is properly authorised to lodge this appeal on behalf of the owner and that a copy of the relevant power of attorney or consent is attached to the appeal.
    (d) Where an agent is appointed to submit an appeal on the appellants' behalf, it is accepted that correspondence from and notifications by the Municipality in terms of the by-law will be sent only to the agent and that the appellant will regularly consult with the agent in this regard.
    (e) The appellant is aware that by lodging an appeal, the information in the appeal and obtained during the process may be made available to the public.

17. Any party (applicant or other) who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. An invoice will be issued in this regard for record purposes.

18. The **LU or TP** Reference number on the subject correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.

19. The approved tariff structure and the banking details for the General Account can be accessed and viewed on the municipal website.

20. An appeal must be submitted to the Appeal Authority within 21 days from the date of notification of a decision on a land use and land development application by

completion of the relevant form and provide the required supporting information and documentation.

21. No late appeals or an extension of time for the submission of appeals are permitted.

22. Notwithstanding the above, the applicant is not permitted to submit a revised proposal as part of an appeal. Should this be the case, the submission will not be regarded as an appeal, but rather a new application which should be submitted on the manner prescribed, as only a decision as communicated can be appealed.

23. All decisions on land use and land development applications are suspended and may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised, and the Applicant or Appellant has been advised accordingly.

24. In instances where the applicant, in terms of a Section 62 MSA appeal, indicates to the Municipality that he/she waives the right to appeal, a final notification can be issued on request prior to the lapsing of the 21-day appeal period.

25. The Executive Mayor of the Municipality is the Appeal Authority for appeals submitted in terms of Sections 79(2) and 79(3) the LUPB as contemplated in section 68(d).

26. The Municipal Manager is the Appeal Authority for appeals submitted in terms of Section 62 of the MSA as contemplated in section 68(e) of the LUPB.

27. For any enquiries relating to appeals, the Land Use Management office can be contacted at 021 – 808 8684 or landuse.appeals@stellenbosch.gov.za.
