

LOCAL AUTHORITY NOTICE 712 OF 2025

MORETELE LOCAL MUNICIPALITY



DERMACATION AND ALLOCATION SITES BY-LAW, 2024

CHAPTER 1

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

Definitions and interpretation

1. In this By-Law, unless the context otherwise indicates –

“Authorised Official” means any official of the Municipality who has been authorised by the Municipality to administer, implement, and enforce the provisions of this By-law;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“Council” means the municipal council of the Municipality;

“Criminal procedure act” means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

“Deeds Act” means the Deeds Registries Act 47 of 1937;

“Environment” means the surroundings within which humans exist and that are made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of paragraph (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being ;

“Environmentally sustainable” means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that-

- (a) the risk of harm to the environment and human health and safety is minimized to the extent reasonably possible under the circumstances;
- (b) the potential benefits to the environment and to human health and safety are maximized to the extent reasonably possible under the circumstances ; and
- (c) legislation intended to protect the environment and human health and safety is complied with;

"Executive Committee" means the principal committee of the council;

"Local Community" means that body of persons comprising –

- (a) the residents of the area in which a site is situated;
- (b) the ratepayers of the area in which a site is situated; and
- (c) any civic organization and non-governmental or private sector organization or body which are involved in local affairs in the area in which a site is situated;

"Magistrate's court act" means the Magistrate's Court Act, 1944 (Act No. 32 of 1944);

"Municipality" means the Moretele Local Municipality, a Municipality established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998);

"Municipal area" means the area of jurisdiction of the Municipality;

"Municipal manager" means a person appointed as such by the Municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

"NEMA" means the National Environmental Management Act, 1998 (Act 107 of 1998);

"Owner" means, in relation to immovable property, means the person registered in the office of the Registrar of Deeds as the owner of the property and includes -

- (a) in the case of leased immovable property -
 - (i) the lessee in whose name the lease is registered in the office of the Registrar of Deeds;
 - (ii) the lessee if the immovable property is leased for a period of not less than ten years, whether or not the lease is registered in the office of the Registrar of Deeds; or
 - (iii) the occupier if the immovable property is beneficially occupied under a servitude or right analogous to a servitude;
- (b) in the case of -
 - (i) a deceased owner or an insolvent owner who has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of the property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be; or
 - (ii) an owner who is absent from the Republic of

South Africa or whose address is unknown to the Municipality, the person who as agent or otherwise receives or is entitled to receive the rent in respect of the property; and

- (c) if the Municipality is unable to determine who the owner is, the person who is the beneficial user of the property, which person is deemed to be the owner to the exclusion of the person in whom is vested the legal title to the property;

“Person” means a natural person or a juristic person, and includes an organ of State and Tribal leader;

“Prohibitory order” means an order of the court instructing a party to refrain from a specific act.

“Traditional authority” means the authority of a community within the municipal area that traditionally observes a system of customary law recognised in terms of a law;

“Traditional Leader” means the leader of traditional authority that has been identified by the MEC in terms of section 81 (2) of the Local Government: Municipal Structures Act 1998 (Act No 117 of 1998);

2. Application of By-law

- (1) This By-law applies to every area which falls under the jurisdiction of the Municipality.
- (2) This By-law is binding on Traditional Authorities, Municipality and every user of land within the Municipality, including the state

3. Purpose of By-laws

The purpose of this By-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework for the demarcation and allocation of sites within traditional authorities.

4. Objectives of the By-Law

- (1) to promote the coordinated, harmonious and environmentally sustainable development of the local community in a way which will most most effectively promote health, safety, conservation, order, amenity, convenience, general welfare, efficiency, economy and present and future generations;
- (2) to ensure that development and physical planning are directly concerned with people, their activities and their use of land and other physical resources.

CHAPTER 2

MANAGEMENT AND ADMINISTRATION OF THE DEMARCATION OF SITES PROCESS

5. Demarcation plan

- (1) The responsibility for preparing a demarcation plan shall lie with the Municipality;
- (2) The traditional leader who desires to allocate a site to anyone in an area that has not been demarcated shall notify the Municipality of such intention and shall request the Municipality to initiate processes for development of a demarcation plan.
- (3) The Municipality shall appoint an authorized official who shall be responsible for co-ordinating processes for the development of the demarcation plan;
- (4) The authorized official shall upon notice from tribal authority and in consultation with any interested party cause the preparation of the demarcation plan;

6. Content of demarcation plan

- (1) The demarcation plan shall
 - (a) include a statement of the objectives of the plan;
 - (b) indicate the policies to be implemented under the plan;
 - (c) divide land into land use classes and the uses that may be made in each class and shall include prohibited uses of land
 - (d) include proposals for land use zoning;
 - (e) include proposals for the implementation of the plan;
- (2) A demarcation plan may, with respect to a planning area
 - (a) describe and determine the physical, economic and social environment;
 - (b) describe existing and proposed transportation networks and proposed networks of streets;
 - (c) establish areas for comprehensive development;
 - (d) provide for the protection, use and development of environmentally sensitive lands;
 - (e) provide for storm water control and erosion control;
 - (f) provide for the protection, use and development of natural resources and for the prevention of natural resource development with incompatible negative impacts;
 - (g) provide for the height and siting of developments;
 - (h) provide for the use and conservation of energy;
 - (i) provide for and recommend the attraction, location, development and diversification of economic activity;
 - (j) determine a manner for dealing with natural resources.

7. Approval of demarcation plan

The Municipality shall after consultation with the tribal authority approve the demarcation plan.

CHAPTER 3

PROHIBITED CONDUCT

8. Prohibition notices

- (1) If any person –
 - (a) allocates land;
 - (b) erects a building or any structure;
 - (c) causes any land, building or other structure to be developed, erected or used in any manner other than in terms of the provisions of this By-law or any other applicable law;
the Traditional Authority shall be obligated to serve a prohibition notice on the person concerned.
- (2) The prohibition notice referred to in subsection (1) shall –
 - (a) set out the unauthorized activity concerned; and
 - (b) prohibit a person and notifies him of the period of compliance.
 - (c) invite the person concerned to make representations to the Traditional Council why it should not issue an order contemplated in subsection (3).
- (3) If after considering the representations made to it, if any, the Traditional Authority concludes that the activity referred to in subsection (1) is unauthorized, it shall issue a prohibitory order.

9. Prohibition order

- (1) A prohibitory order contemplated in subsection (3) above shall
 - (a) declare that the unauthorised activity is prohibited;
 - (b) order the person concerned to cease such prohibited activity by a date specified in the notice;
 - (c) where necessary, ordering the person concerned to reverse the land allocation, to demolish any unauthorized building or other structure by a specified date; and
 - (d) where applicable, notifying the person concerned of any financial penalty which will be payable and legal process to be instituted for not complying with the terms of the notice.

- (2) Should the person concerned fail to comply with any of the requirements of the order, the Traditional Authority may –
- (a) use any other remedy it has in terms of this Bylaw or any other law; or
 - (b) apply to a court of competent jurisdiction for an order restraining the person concerned from continuing the prohibited activity, or both.
- (3) Nothing in this section shall preclude any person in receipt of a prohibition notice or order under this section from making an application in terms of this By-law or any other applicable law for approval of the activity concerned.

CHAPTER 4

MANAGEMENT AND ADMINISTRATION OF LAND ALLOCATION

10. Allocation of land

- (1) Any person, who is a member of the local community, shall be entitled to the allocation of land.
- (2) The person referred to in subsection (1) may apply to the traditional leader that he be allocated land in the community.
- (3) After considering an application referred to in subsection (2), the traditional leader must, subject to community rules and any applicable conditions, approve or reject such application.
- (4) If the traditional leader approves an application in terms of subsection (3), he or she may impose any condition he or she deems fit.
- (5) A person's membership of the local community shall be determined in terms of the rules of the community and, or any other applicable law and order, including customary law.
- (6) The traditional leader shall have the right to allocate land falling under his or her jurisdiction to any person deemed to qualify for such allocation according rules used by the traditional council.
- (7) A traditional leader is not entitled to allocate a site to anyone, unless such site is demarcated in terms of this By-Law. In cases where the Municipality cannot assist the traditional authority, with the traditional leader may allocate sites subject to informing the Municipality, in writing, of its intention to do so.
- (8) The allocation of land shall be conducted in an open and transparent manner, and in the spirit of the principles enshrined in the Constitution.

11. Principles to be followed in allocating land

- (1) The decision to allocate land to a person shall be consistent with the following general principles:

(a) fair and inclusive decision-making processes, in that

- (i) all members of the community are afforded a fair opportunity to participate in the decision-making processes of the tribal authority;
- (ii) any decision to allocate land to a new member of the community requires an inclusive decision-making process; and
- (iii) a refusal by the traditional leader to allocate land to a member may only be taken after the matter has been considered at a fair hearing at which the member was given an opportunity to present his or her case;

(b) equality of membership, in that-

- (i) there is no discrimination against any prospective or existing member of the community, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds, namely race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language;

(c) where different classes of membership are created-

- (i) the basis for differentiation is compatible with the overriding principle of equality;
- (ii) and a community already occupies land, different classes shall not lead to different rights to land or resources among those members of the community who occupy the land, where no such differentiation existed previously; and
- (iii) all members within a class of membership have equal rights;

12. Powers and duties of traditional leaders

(1) In allocating land, a traditional leader represents a community and has the powers and duties conferred to him or her by this Bylaw and the rules of the community.

(2) In the exercise of his or her powers and the performance of its duties, the traditional leader must-

- (a) take measures towards ensuring that the land is allocated to households run by single women;
- (b) establish and maintain registers and records of all new allocations;
- (c) promotes and safeguards the interests of the community and its members in land;

- (d) endeavour to promote co-operation among community members and with any other person in dealing with or pertaining to land;
- (e) assist in the resolution of land disputes;
- (f) continuously liaise with the municipality and any other institution concerning the provision of services and the planning and development of the land of community;
- (g) perform any other duty prescribed by or under this Bylaw;
- (h) generally deal with all matters necessary for or incidental to the exercise of his or her powers and the performance of her duties.

13. Monitoring and inspection

- (1) The traditional leader shall, at the prescribed times, furnish documents and information to the Municipality in order to enable the Municipality to monitor compliance with the provisions of this By-law.

14. Short title

This by-law shall be called Moretele Local Municipality Unlawful Land Occupation By-law, 2024