



KOUGA MUNICIPALITY:

BY-LAWS RELATING TO THE BUILDING AESTHETICS IN THE MUNICIPAL AREA

**KOUGA MUNICIPALITY:
BY-LAWS RELATING TO THE BUILDING AESTHETICS IN THE MUNICIPAL AREA**

To provide a regulatory framework for the design of buildings within the area of Kouga Municipality jurisdiction.

To promote aesthetically appealing design and construction of buildings within the Municipality's jurisdiction.

To ensure new developments contribute positively to the Kouga Municipalities land scape and to encourage individual creativity in the design of buildings.

To ensure sustainable development of the built environment and mitigate the effects of climate change by promoting energy efficient design practices.

To set out the purpose and scope of the bylaw, its application procedures, and effect of decision.

To set out the scope of the bylaw procedures, legal requirements and general matters.

PREAMBLE

WHEREAS Section 156(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) confers on municipalities the right to administer local government matters listed in Part B of Schedule 4 and 5;

WHEREAS Section 156(2) of the Constitution empowers municipalities to make and administer Bylaw for the effective administration of the matters which it has the right to administer;

WHEREAS Section 11(3)(m) of the Municipal Systems Act (Act No. 32 of 2000) grants municipalities the right to adopt Bylaws.

WHEREAS The Architectural Profession Act, 2000 enables registered professionals to design and submit building plans to Council for consideration.

WHEREAS Section 16(b) Kouga Municipality Planning and Land Use Management Bylaw, 2016 empowers municipal planning approval authority to have consideration to the aesthetics within the municipal boundary.

WHEREAS Section 7 of the National Building Regulations and Building Standards Act (Act No. 103 of 1977) empowers Council to control the design and construction of buildings.

WHEREAS the control of the design and construction of building falls within the ambit of the powers vested in the Municipality.

ARRANGEMENT OF SECTIONS

- 1 Definitions
- 2 Purpose of Bylaw
- 3 Application of Bylaw
- 4 Establishment and Scope of the Aesthetic Committee
- 5 Quorum
- 6 Decision
- 7 Scope of Bylaw
- 8 Application for approval
- 9 Design Guidelines
- 10 Appeals
- 11 Discretionary Powers
- 12 Interpretation of Bylaw
- 13 Short title and Commencement

1. DEFINITIONS

In this by-law, unless the context otherwise indicates -

“Accounting officer” means the Municipal Manager (MM) appointed by the Council in terms of Section 56 of the Municipal Systems Act.

“Advertising” means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

“Architectural Profession Act” means the Architectural Profession Act, 2000 (Act No. 44 of 2000) as amended and any succeeding legislation, and includes any regulations made in terms of the Act.

“Aesthetics Committee” means the committee appointed by the Accounting Officer.

“Awnings” means elements added to the face of a building made of semi-permanent materials such as canvas or similar lightweight material along with metal support framework.

“Balcony” means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upperfloor door or window.

“Building” Is any structure or building or part thereof, or any addition or alteration to an existing structure or building, either temporary or permanent in nature and either above or below ground which is of an immovable nature and for whatever purpose used, including any tank, reservoir, swimming pool, tower, mast, wind turbine, bridge, chimney, summerhouse, hothouse, etc. and any wall, retaining wall or close-boarded fence more than two metres in height at any point, but excluding any open fence, post, steps, pier, ramp, fountain, statue, fish-pond, pergola or other garden ornamentation.

“Canopy” means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise by columns or posts;

“Clear height” means the vertical distance between the lowest edge of a building and the level of the ground, footway or roadway immediately below such building.

“Cornice” means ornamental moulding, entablature, frieze, or other roofline treatments.

“Elevations” are side views of a building, named for the direction from which the building is viewed namely, south elevation, east elevation, north elevation and west elevation.

“Façade” means the principal front or fronts of a building.

“Height” means the vertical distance between the ground level and the uppermost edge of a building as defined in the applicable land use scheme.

“Heritage building” means any building or structure older than 60 years or any building or structure formally protected in any other way in terms of the Natural Heritage Resource Act (No 25 of 1999).

“Main roof-line of a building” means the gutter-line or wall plate level of any roof of a building other than the roof of a veranda or balcony.

“Municipality” means the area of Kouga Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, or duly authorised agent thereof or any employee thereof acting in connection with this bylaw by virtue of a power vested in the municipality and delegated or subdelegated to such political structure, political office bearer, agent or employee.

“National Building Regulations” means the regulations promulgated from time to time under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended, herein referred to as NBR.

“Outdoor Advertising” means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner and which takes place out of doors.

“Overhang” means structure supported from buildings to provide weather protection for building entry and pedestrian walkways and roofs which extend over the vertical wall of a building.

“Parapet wall” means a low wall which protrudes above the roof or balcony.

“Person” means a natural or legal person.

“Roof” is part of a building envelope, covering on the uppermost part of a building or shelter which provides protection from all-weather elements

“Street Furniture” means public facilities and structures which are not intended primarily for advertising but which are provided for pedestrians and commuters and may include seating benches, planters, pavement litter-bins, bus shelters, pavement clocks and drinking fountains.

“Veranda” means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts.

2. PURPOSE OF THE BYLAW

This Bylaw seeks to improve the aesthetic appeal of the built environment and the maintenance of the aesthetic quality in all areas which fall under the jurisdiction of the Kouga Municipality. It is intended to achieve this aim by establishing a balance between:

- a) The need to promote energy efficient and structurally sound buildings without compromising the aesthetics and functionality;
- b) The need for opportunities to communicate between Council and developers;
- c) To ensure continued development growth and upkeep of property value;
- d) The need to contribute to the promotion of tourism and heritage resources; and
- e) The need to protect the public safety and welfare.

3. APPLICATION OF THE BYLAW

- a) This Bylaw applies to all areas which fall under the jurisdiction of the Kouga Municipality and is binding on all persons to the extent applicable.
- b) Nothing contained in this by-law shall be construed as being in derogation of any law enacted by any national or provincial authority, in particular, the provisions of

the National Heritage Resources Act (Act 25 of 1999) or any regulations made in terms thereof in its application to the municipal area.

4. ESTABLISHMENT AND ROLE OF THE AESTHETICS COMMITTEE

Council resolved to establish Aesthetic Committees for identified allotments, nodes, suburbs or any area as delineated by the Municipality that will ensure compliance on aesthetics standards to be adopted for the Kouga Municipality. The Committee is also the reference Task Team for such matters for all development applications, including Council owned developments.

5. ESTABLISHMENT OF THE COMMITTEE

- a) The Committee shall comprise of no less than three and no more than six voluntary members who are registered as architectural professionals and not in the employee of the municipality.
- b) The voluntary members of the committee will be appointed by Council for a period not exceeding five years, provided that a member may, at the discretion of Council, serve more than one term of office.
- c) The voluntary members shall be nominated by way of a call for nominations published in a local newspaper.
- d) The Municipal Manager shall make a recommendation to Council for the appointment of members of the committee.
- e) The Chairperson shall be selected from among the members of the committee for a period of one year, which period may be extended annually for the remainder of the term of operation of the committee.
- f) A committee at any regular sitting or decision meeting which will occur as determined by the Municipality shall consist of at least four (4) Aesthetics Committee members, of which one shall be a municipal official.
- g) The Municipal Manager must appoint or designate an employee as the Administrator and other staff to assist the Aesthetic Committee with the following –
 - i. arrange the attendance of members of the committee at meetings;
 - ii. arrange venue for committee meetings;
 - iii. perform the administrative functions in connection with the proceedings of the committee;
 - iv. liaise with the relevant committee members and the parties concerned regarding any application filed with, or other proceedings of, the committee;
 - v. maintain a diary of meetings of the committee;
 - vi. allocate a meeting date for, and application number to, an application;
 - vii. keep records and minutes of all meetings and decisions or recommendations.

6. PARTICIPATION IN MEETINGS

An applicant may make an oral representation at the meeting where the consideration of their submission has been tabled, upon submission of a request to the authorised official, within 5 business days of the date of the meeting.

7. DECISION

- a) If it is necessary to vote on a matter, all members of the committee present at the meeting shall be entitled to vote and all decisions or recommendations shall be taken by simple majority.

- b) If there is an equal number of votes for and against a matter, the chairperson of the committee shall have a casting vote.
- c) Once an application is submitted, the Committee will communicate the decision to the applicant no later than 15 working days from the date of submission.

8. SCOPE OF AESTHETICS BYLAW

- a) This Bylaw is designed to regulate the design and construction of buildings and advertising signage within the jurisdiction of Kouga Municipality.
- b) No person shall erect a building or make changes to a building erected on any land use zone without having obtained prior approval from the Aesthetics Committee.
- c) No person shall submit building plans to the office of the Building Control Officer, in terms of Section 7 of the NBR without having obtained prior approval from the Aesthetics Committee.

9. APPLICATION FOR APPROVAL

9.1. Any registered member of the architectural profession who, in terms of the Architectural Professions Act is entitled to submit an application in terms of the Building Act may make a submission for consideration by the Aesthetics and Heritage Committee in terms of this bylaw.

9.2 Whenever an application must be submitted in terms of this Bylaw the following rules will apply:

- a) Any registered member of the architectural, urban design, planning and engineering profession who is registered with their respective statutory professional bodies may submit an application to the Committee, in respect of any application that s/he is entitled to submit, submit concept plans, including elevations and details of materials to be used for consideration by the Aesthetics Committee before submission for approval in terms of Section 7 of the NBR.
- b) In the event that such plans have not been submitted for approval to the Committee before submission for approval in terms of Section 7 of the NBR, or in the event that they have not been recommended for approval by the Committee, all plans relating to any property will not be accepted for submission to the office of the Building Control Officer.

- c) No submission fee is applicable to applications submitted to the Committee.
- d) An application for approval of a building plan to the committee must, in all cases. Include the following:
 - (i) Locality map;
 - (ii) A site plan of the property (must include all applicable land use scheme controls);
 - (iii) Parking layout
 - (iv) A plan or plans of all buildings on the property showing the proposed positions of the building;
 - (v) Elevations of all aspects of the buildings
 - (vi) Must be to scale showing all dimensions
 - (vii) Must show colour and materials to be used
 - (viii) The committee may request a land scaping design or 3D model to be constructed

9.3 Applications may only be submitted by the representatives duly appointed in writing by companies, individuals or any other organisation who wish to develop on land designated for purposes of the above-mentioned land use zones.

10. DESIGN GUIDELINES

- a) The Municipality may develop design guidelines for any allotment, nodes, suburb or any area as delineated by the Municipality.
- b) All design guidelines shall be advertised for at least 30 days before approval by Council.

11. APPEALS

- a) Applicants aggrieved by the decision taken by the Aesthetics Committee may appeal against such decision by lodging a written appeal within 21 days from being notified of the decision.
- b) The written appeal must set out fully the grounds of the appeal.
- c) The appellant must serve the written appeal on the Municipal Manager.
- d) The Municipal Manager shall be the appeal authority.
- e) The Accounting Officer may rule that an appeal is not valid if it was lodged outside the stipulated 21 days and does not set out fully the grounds of the appeal and
- f) The Accounting Officer must confirm receipt within 7 days.
- g) The Deputy Municipal Manager: must notify the parties of the decision of the Appeal Authority within 30 days after the date of making a decision.

- h) The appeal authority has the discretion to obtain advice from technical and or other experts.

12. DISCRETIONARY POWERS

The Aesthetics Committee shall exercise discretionary powers to approve or refuse an application in terms of the provisions of this Bylaw.

13. INTERPRETATION OF BYLAW

If there is a conflict of interpretation or provision between this Bylaw and any by-law, this Bylaw shall prevail.

14. SHORT TITLE AND COMMENCEMENT

This By-law is called the Kouga Municipality: Aesthetics Bylaw and takes effect on the date of publication in the Provincial Gazette or as otherwise indicated in the publication notice.