

“public open space”

Land use description: “*public open space*”—

- (a) means land, with or without access control —
 - (i) owned by the Municipality or other organ of state;
 - (ii) not leased out by the Municipality or that other authority on a long-term basis,
 - (ii) set aside for the public as an open space for recreation or outdoor sport, public open space; and
- (b) includes a park, playground, public or urban square, picnic area; public garden, nature area and ancillary buildings and infrastructure.

Development parameters:

The following development parameters apply:

- (a) the Municipality must require a site development plan to be submitted for its approval; and
- (b) the site development plan as approved by the Municipality constitutes the development parameters for a primary use, if applicable, and a consent use.

“public parking”

Land use description: “*public parking*” means property that is accessible to the general public for parking purposes with or without a fee and/or access control.

Development parameters:

A site development plan must be submitted to the Municipality for its approval. The site development plan as approved constitutes the development parameters for the public parking.

“public street”

Land use description: “*public street*” means any land, owned by or vesting in the Municipality, indicated on an approved plan, diagram or map as having been set aside as a public thorough way for vehicles and pedestrians and includes—

- (a) open public parking areas;
- (b) sidewalks;
- (c) those parts of a public place that are travelled parts;
- (d) informal trading; and
- (e) appropriate and necessary street furniture and infrastructure, including reticulation networks that does not present any threat to the safety or obstruct or inhibit free movement of pedestrians.

Development parameters:

A site development plan must be submitted to the Municipality for its approval. The site development plan as approved constitutes the development parameters for the public street.

“rehabilitation centre”

Land use description: “*rehabilitation centre*” means a facility providing treatment for substance abuse.

Development parameters:

Development parameters applicable to “place of instruction” apply.

“renewable energy structure”

Land use description: “*renewable energy structure*”—

- (a) means any wind turbine, solar energy generating apparatus, including solar photo-voltaic and concentrated solar thermal, hydro turbines or bio mass facility or any grouping thereof, that captures and converts wind, solar radiation or bio mass into energy for commercial gain; and

- (b) includes any appurtenant structure necessary for, or directly associated with, generation of renewable energy, or any test facility or structure that may lead to the generation of energy on a commercial basis, excluding electrical grid connections.

Development parameters:

(a) **Height**

- (i) The maximum height of a renewable energy structure is technology dependent.
- (ii) The height of buildings may not exceed 8,5 metres from natural ground level to the top of the roof.

(b) **Setback**

In the case of a wind turbine the setback is—

- (i) a distance equal to 1,5 times the overall blade tip height of the turbine, measured from the nearest residential, commercial or critical agricultural structures including animal housing, outbuildings, store rooms, excluding structures such as water troughs, feed dispensers, and windmills;
- (ii) a distance of 100m from the cadastral boundary of the land unit, unless the renewable energy structure straddles two or more cadastral boundaries, in which case no setback applies;
- (iii) a distance of 100m from any public road or private or public right of way, unless it provides access to the turbine;
- (iv) a distance of 100m from any electrical infrastructure; and
- (v) a distance of 1000m from towns, settlements or urban areas.

(c) **Site development plan**

- (i) A site development plan must be submitted to the Municipality for its approval.
- (ii) The site must be surveyed and the exact delineation of the construction footprint must be shown in the site development plan.
- (iii) To the extent necessary, any relevant measures contained in these regulations must be incorporated into the site development plan submitted to the Municipality for approval.

(d) **Land clearing, soil erosion and habitat impact**

- (i) The clearing of natural vegetation is limited to that which is necessary for the construction, operation and maintenance of the renewable energy structure as regulated by applicable environmental legislation.
- (ii) Wind turbines, solar structures, access roads and other infrastructure must be located to minimise damage to natural vegetation, water courses and wetlands.
- (iii) All land cleared that does not form part of the footprint of a renewable energy structure must be rehabilitated according to a rehabilitation plan for the land concerned, approved by the Municipality.
- (iv) Constructing or operating the renewable energy structure may not cause soil erosion, and any high-risk erosion areas must be rehabilitated by the operator, to the satisfaction of the Municipality.
- (v) The applicant must prove, to the satisfaction of the Municipality, that planning for the renewable energy structure concerned has taken into account and mitigated the risk of all impacts on, and necessary distances that should be maintained from, wetlands, water bodies, threatened ecosystems, mountains, ridges, hills, coastal buffers, settlements, telecommunication towers, transmission towers and power lines.
- (vi) The applicant must provide exact coordinates relevant to land clearing, soil erosion and habitat impact to assist the Municipality to evaluate the risk of possible negative environmental impacts of the renewable energy structure concerned.

(e) **Noise, air quality and nuisance**

The renewable energy structure may not exceed a noise limit of 45 dB(A) during the night and 55 dB(A) during the day at the nearest dwelling.

(f) **Finishing, colour and design**

- (i) A wind turbine structure must be treated with a neutral, non-reflective exterior colour and designed to blend in with the surrounding natural environment, to the satisfaction of the Municipality.
- (ii) A solar structure must minimise any adverse effects related to its reflective surfaces and must be designed and built in a way that mitigates this impact, as required by the Municipality.

(g) **Appurtenant structures**

- (i) All appurtenant structures to a renewable energy structure prescribed by the Municipality concerning bulk, height, yard sizes, building lines, open space, parking and building coverage requirements are subject to applicable by-laws.
- (ii) Appurtenant structures, including equipment shelters, storage facilities, transformers and sub-stations must be architecturally compatible with the receiving environment as required by the Municipality, and contained within a renewable energy structure site development plan submitted for approval by the Municipality.
- (iii) Appurtenant structures may only be used for the storage of equipment or other uses directly related to the operation of the particular facility that they are associated with.
- (iv) Appurtenant structures must be screened from view by indigenous vegetation or be joined and clustered to minimise adverse visual impacts.

(h) **Lighting**

- (i) A renewable energy structure or any part of such a structure may only be lit for safety and operational purposes and the lighting must be appropriately screened from abutting land units.
- (ii) A renewable energy structure must comply with the lighting air safety requirements of the South African Civil Aviation Authority in terms of the Civil Aviation Act, 2009 (Act 13 of 2009).

(i) **Signage and advertising**

Signs on renewable energy structures must comply with the laws regulating signage and be limited to signage necessary to—

- (i) identify the operator;
- (ii) provide 24-hour emergency contact numbers; and
- (iii) provide warning of any dangers associated with the structure.

No commercial advertising, including advertising for the provider or operator, may be displayed on any renewable energy structure.

(j) **Maintenance**

The owner is responsible for maintaining a renewable energy structure in good condition, including any access road, unless deemed a public way, and for paying the cost of repairing any damage resulting from construction or operation. Maintenance includes—

- (i) painting;
- (ii) structural repairs;
- (iii) rehabilitation measures; and
- (iv) the upkeep of security and safety measures.

(k) **Modification**

Any modification to a renewable energy structure, excluding inconsequential *in situ* technical improvements, made after approval and that is not in accordance with the approval and conditions of approval, requires authorisation from the Municipality within the parameters of these regulations by means of—

- (i) the amendment of approved conditions;
- (ii) a new consent use approval;
- (iii) amendment of the approved site development plan; or
- (iv) amendment of the approved building plan.

(l) **Decommissioning**

- (i) Any renewable energy structure and associated infrastructure that has reached the end of its productive life or has been abandoned, including buildings, cables and roads, must be removed by the owner.
- (ii) A renewable energy structure is considered abandoned when the structure fails to continuously operate for more than two years.
- (iii) When a renewable energy structure is scheduled to be decommissioned or operations have been discontinued or it has been abandoned, the land owner must, by registered mail, notify the Municipality within 30 days after the operation ceased, and of plans for removal of the structure and infrastructure referred to in subparagraph (i).
- (iv) The owner is responsible for the removal of the structure in all its parts; within 150 days after the date of discontinued operation, or as agreed upon by the Municipality after submission of a plan for decommissioning. The Municipality may grant an extension of the deadline for removing the structure and its parts. The land must then be rehabilitated by the owner, to the satisfaction of the Municipality, to the condition prescribed in the approved environmental management plan and the approved decommissioning plan.
- (v) Decommissioning must include—
 - (aa) the removal of all renewable energy structures and appurtenant structures, including equipment, bases, foundations, security barriers and transmission lines directly related to the renewable energy;
 - (bb) disposal of all solid and hazardous waste in accordance with provincial and local waste disposal regulations; and
 - (cc) the stabilisation and re-vegetation of the site with indigenous vegetation to minimise erosion.
- (vi) The Municipality may, in order to minimise erosion and disruption to natural vegetation and habitats, grant permission to the owner to depart from the decommissioning plan in respect of removing landscaping, underground foundations or other underground components, provided these do not cause any pollution.
- (vii) Before the construction of the renewable energy structure commences, the owner must make financial provision or an alternative reasonable arrangement, to the satisfaction of the Municipality, for protection against failure by the owner to comply with the obligations in terms of this By-law and in the event of the owner being unable to fulfil the necessary financial obligations for the rehabilitation or management of the negative environmental impact of decommissioning or of abandonment.
- (viii) If the owner fails to remove the structure or its parts in accordance with the requirements of these regulations within 150 days of abandonment or the date of decommissioning or an approved extension date, the Municipality may enter the property and remove the structure and its parts, and recover all removal costs incurred from the owner.
- (ix) If the owner fails to meet the requirements of subitem (i), the Municipality may, after written notice to the owner, use all or part of the financial provision or other provision referred to in subitem (vii) to rehabilitate or manage the negative environmental impact concerned, or to remove the facility.

“resort shop”

Land use description: “*resort shop*” means a shop that provides for the daily needs of transient guests of a holiday resort or camping site.

Development parameters:

The floor space of a resort shop may not exceed 100 m².