



KwaDukuza Municipality

ENCROACHMENT APPLICATION INFORMATION PACK

**In terms of the KwaDukuza Municipality Spatial Planning and Land
Use Management By-Laws No.1630**

KwaDukuza Municipality

Municipal Offices

[NORTH] 34 Chief Albert Luthuli Street, KwaDukuza (OK Mall Building)

[SOUTH] 10 Leonora Drive, Ballito (Nokukhanya Luthuli House Building)

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ENCROACHMENT APPLICATION

In terms of the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws No.1630

APPLICATION PROCEDURE

1. All Encroachment Applications submitted must be accompanied by:
 - 1.1) Form 1 – Pre-Consultation/Submission of the application.
 - 1.2) Form 2 – Formal Submission forms, signed by the owner and his/her authorized representative.
 - 1.3) Form 7 – Land Use Affidavit.
 - 1.4) Form 8 – Power of Attorney, signed by the owner, his/her authorized representative. This also applies to applications submitted by a company or an organization authorizing one person to sign the application.
 - (A company resolution letter giving authority to an individual is required. That assigned individual may sign the power of attorney in the event that they are further giving an agent powers to make the application on their behalf).
 - 1.5) Form 10A – Confirmation of Receipt.
 - 1.6) Form 10B – Summary of Comments.
 - 1.7) Certified Copy of Resolution by the Board of Directors, if the property is in the ownership of a Company/Trust, member's resolution if the applicant is a close corporation.
 - 1.8) Letter of Consent from Homeowners Association/Body Corporate (For properties within estates).
 - 1.9) Detailed Planning Motivation Report.
 - 1.10) Title Deeds.
 - 1.11) Registered SG Diagram / General Plan.
 - 1.12) Locality Map.
 - 1.13) Site Plan.
 - 1.14) Floor Plan, Section Plan and Elevation Plan (indicating the encroachment/s).
 - 1.15) Setting out plan for all "As Built structures" (Surveyors Diagram indicating encroachment/s).
 - 1.16) Three (3) x sets of completed application inclusive of the above. There must be one (1) original (colour) and the other two (2) can be copies of the original for **Formal (Final) Submission**.
2. Applicants are encouraged to have a pre-submission consultation with the town planning department prior to submission and should a pre-consultation be held Form 1 should be used.
3. Comments should be obtained by the applicant from the various sector departments determined by the Town Planner, and **Form 10B** should be returned with departmental comments upon final submission. Please note that **Form 10B** and plans submitted to the sector department should be signed/stamped and a copy of the stamped plan should be submitted with the application.

Note:

- Please refer to the tariffs of charges for Encroachment Application submission fees.
- Please note that the final submission should include all comments from the respective service departments which are to be completed in **Form 10A and 10B** and should have the respective service department's official stamp/signature.
- A pre-submission application for Encroachment Applications is allowed, however, please note that there is a fee associated.
- In the case of a pre-submission, once the application has been certified to be complete the applicant should ensure that they submit a Formal Application, proof of payment for the formal application fee as outlined above. Such formal application fee is required to be paid prior or on the day of submission and no application will be accepted without proof of payment.
- All Encroachments to be shaded off in **Red**.

**CHECKLIST FOR ENCROACHMENT APPLICATIONS IN TERMS OF THE KWADUKUZA
SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS NO. 1630**

| | Application reference: | | | |
|-----|--|---------------------------------|----|----------|
| | Date Accepted: | | | |
| NO. | DOCUMENT | COMPLETE (for KDM official use) | | |
| | | Yes | No | Comments |
| 1. | Completed Form 1 – Pre-Consultation/Submission if a Pre-consultation was held. | | | |
| 2. | Completed Application form (Form 2 Formal Submission) | | | |
| 3. | Land Use Affidavit confirming land uses on site as well as on plans (Form 7). | | | |
| 4. | Power of Attorney (Form 8) | | | |
| 5. | Comments from the respective service departments (but not limited to) (Form 10A and Form10B) <ul style="list-style-type: none"> ▪ KDM. Building Control ▪ KDM. Civil Engineering ▪ KDM. Electrical Engineering ▪ KDM Traffic ▪ KDM. Legal ▪ Sembcorp Siza Water ▪ ILembe District Municipality (Technical Services) | | | |
| 6. | Certified Copy of Resolution by the Board of Directors , if the property is in the ownership of a Company/Trust, member's resolution if the applicant is a close corporation. | | | |
| 7. | Letter of Consent from Homeowners Association/Body Corporate (<i>For properties within estates</i>). | | | |
| 8. | Motivation Report in detail setting out full details of and reasons for the application inclusive of the following subheading details: <ul style="list-style-type: none"> ▪ Property Description ▪ Ownership details ▪ Street Address ▪ Area of the property ▪ The character of the locality ▪ Present land use of the site ▪ Details of proposal ▪ Reason for proposal ▪ Historical information ▪ Physical characteristics of the site (topography, natural features) ▪ Surrounding land uses ▪ Accessibility of the site (impact of proposal on | | | |

| | | | | |
|-----|---|--|--|--|
| | <p>traffic)</p> <ul style="list-style-type: none"> Environmental features of the site (Environmental Impact Assessment or Basic Assessment) Existing services on site (water, sewage, electricity, disposal) (Bulk Services Report/Engineers Report) Merits of the application in terms of the KDM SPLUMA By-Laws, Local Area Plans, SDF and IDP. | | | |
| 9. | Copy of Title Deed | | | |
| 10. | Registered SG Diagram / General Plan | | | |
| 11. | Locality Map -showing the location of the property in relation to the surrounding properties and streets (existing property numbers and street names must be indicated). If in close proximity to national or provincial road or intersection, indicate the distance from road or intersection. | | | |
| 12. | <p>Site Plan: to scale plan (A2 or A3 or A4) showing:</p> <ul style="list-style-type: none"> Existing buildings Location of new proposed buildings Access to the site Parking Common areas Building lines Property dimensions Splays (if any) Erven adjoining the proposed development Roads bordering the property Contours 1:100 year floodlines (if any) High-water mark of the sea and the admiralty reserve (if any) Existing and proposed servitudes Engineering services | | | |
| 13. | Floor plan, (indicating the encroachment/s) | | | |
| 14. | Section Plan (indicating the encroachment/s). | | | |
| 15. | Elevation Plan (indicating the encroachment/s). | | | |
| 16. | <p>Area schedule on the proposed plans showing the following:</p> <ul style="list-style-type: none"> The total area of the property. The total number of units The total floor area of buildings The total number of car parking spaces for occupants and visitors (Parking Schedule Breakdown). <p>The extent of usable common land and areas of private open area and utility area</p> | | | |
| 17. | Setting Out Plan clearly indicating all “As Built Structures” with distances in relation to the boundaries. The setting out drawing submitted should be endorsed by the registered surveyor. | | | |
| 18. | Proof of Payment. | | | |

FORM 1: PRE – CONSULTATION/SUBMISSION

| | |
|---|-------|
| FOR OFFICIAL USE ONLY | |
| Application Reference No. | |
| Date Received | |
| Checked By | |
| Notes: | |
| 1. INSTRUCTION 1.1 This form must be completed in block capitals or typewritten. 1.2 This form is issued without prejudice and does not constitute acceptance of the application. 1.3 The application shall be lodged within 12 months from date of issuing this pre-registration form, failing in which will result in the lapsing of this submission. | |
| 2. ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION FORM I hereby acknowledge receipt of application Form 1 which sets out the minimum requirements to be met when submitting a complete application as well as the application pack containing the respective supporting documentation. | |
| 3. PROPERTY DETAILS | |
| Title Deed No. | |
| Registered property description | |
| Physical address of the property concerned | |
| Municipal and (District) of the area of jurisdiction | |
| 4. APPLICANT DETAILS AND DOCUMENTS | |
| I, the undersigned (state full name) _____ | |
| Telephone Number | |
| Cell phone Number | |
| Postal Address: | |
| Fax No: | |
| Email address: | |
| In my capacity as owner of land/ a person acting with the written consent of the owner of the land which is described, Erf Number : _____ situated at _____ _____ Hereby give notice to the KwaDukuza Municipality that an application will be submitted in due course for: _____ _____ _____ (Give a short description of the application). | |
| Furthermore, I have gone through the Checklist which sets out the application requirements and I fully understand what is required upon final submission. | |
| Signature : | Date: |
| _____ | _____ |

FORM 2: FORMAL SUBMISSION

| FOR OFFICIAL USE ONLY | | | |
|-----------------------|--|---------------------|--|
| Date Received: | | Received By: | |
| Receipt No. | | File Ref: | |

| SECTION A: APPLICANT DETAILS | |
|--|--|
| First names | |
| Surname | |
| Company/Trust Name | |
| VAT no | |
| Business Address | |
| Postal Address | |
| Email | |
| Telephone Number | |
| Cell phone Number | |
| SECTION B: PROPERTY DETAILS | |
| Erf/Erven/Farm N | |
| Street address | |
| Suburb | |
| Current Zoning | |
| Title deed no | |
| Title Deed date | |
| Approximate age of existing buildings | |
| Property extent | |
| Any restrictive title deed conditions affecting development on the property? | |
| Is the property encumbered by a bond? | |
| Any unauthorized land use/building work/structures on the property? If so, has the owner been served with a notice to rectify? | |
| Is the purpose of this application to rectify a contravention in terms of the KwaDukuza Municipality Spatial Planning and Land Use Management Act By-Laws, 2016? | |
| SECTION C: OWNER DETAILS | |
| First names | |
| Surname | |

| | |
|--|--|
| Company/Trust Name | |
| VAT no | |
| Email | |
| Tel | |
| Cell | |
| SECTION D: APPLICATION TYPE | |
| Encroachment Application in terms of Section 46(c) of the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws No. 1630 March 2016. | |
| Has there been any previous related application? If Yes, ref/application no | |
| Was a pre-application consultation undertaken with a municipal official regarding the subject application? | |
| Is the pre-application consultation record attached? | |

| SECTION E: ATTACHMENTS AND SUPPORTING INFORMATION | | | |
|---|--|--|--|
| Please note that the following documents/plans are required | | | |
| | Form 1 – Pre-Consultation/Submission | | Site Plan |
| | Form 7 – Land Use Affidavit. | | Floor Plan (indicating the encroachment/s) |
| | Form 8 – Power of Attorney | | Section Plan (indicating the encroachment/s) |
| | Form 10b – Summary of Comments | | Elevation Plan (indicating the encroachment/s) |
| | Certified Copy of Resolution by the Board of Directors , if the property is in the ownership of a Company/Trust, member's resolution if the applicant is a close corporation. | | Setting out plan for all "As Built structures" (Surveyors Diagram indicating encroachment/s). |
| | Letter of Consent from Homeowners Association/Body Corporate (For properties within estates) | | All plans to be submitted preferably on A2 or A3 or A4 (i.e. to scale) |
| | Detailed Planning Motivation Report | | Other supporting documents |
| | Copy of Title Deed | | Three (3) copies of the application for Formal (Final) Submission . |
| | Registered SG Diagram / General Plan | | Proof of Payment |
| | Locality Map | | |

SECTION F: DECLARATION

I/we hereby wish to confirm the following:

1. That the information contained in this application form and accompanying documentation is complete and correct.
2. That I/we are properly authorized to make this application on behalf of the owner and (where applicable) that copies of such full relevant powers of attorney are attached hereto.
3. That where an agent is indeed appointed to submit this application on the owner's behalf, it is accepted that correspondence and formal notification as required in terms of Planning law will only be sent to such consultant/agent and that the owner will regularly consult with the agent/consultant in this regard.
4. That this submission includes all necessary planning applications (including any departures) required to enable the development proposed herein. I/we specifically confirm that I/we have read the relevant title deed (s) and that there are no restrictive conditions which impact on this application, or alternatively where there are, removal/amendment/suspension of these form part of the submission.
5. That where the proposal involves existing building work erected and /or used in contravention of the development management scheme, that I/we have consulted with the planning department with reference to the applicable area to ensure the correct application in terms of planning law is made. Notwithstanding submission of the departure application, in the case of unauthorized work, I/we acknowledge the municipality's right to exercise any option in terms of the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws, 2016.
6. That, as owner/applicant/developer, I am/we are aware of the state of existing bulk services provision and infrastructure availability in the subject area and any development contributions that might be payable in respect of the development proposed herein (if applicable). If the application is made by a person other than the registered owner (e.g. an agent/consultant) the requirements in terms of the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws, 2016 must be adhered to.

| | | | |
|--------------------------------|--|----------------|--|
| Registered owner's name | | | |
| Registered owner's signature | | Date | |
| Agents /Consultant's name | | | |
| Agents /Consultant's signature | | Date | |
| Professional capacity | | Applicants Ref | |

FORM 7: LAND USE AFFIDAVIT

I, _____ the _____ undersigned, in _____ my capacity _____ do hereby declare under oath that that no portion of the existing building or the proposed additions / alterations, for which building plans/relaxations have been submitted for approval (Plan/Relaxation No: _____), will be used for any purposes other than what is shown on the plan and will not be used or converted for use as a separate dwelling unit unless application has been to council and approval granted in terms of the Kwadukuza Town Planning Scheme in course preparation.

Proposal: _____

On cadastral description / Erf No: _____
situated at street address: _____

Name of applicant: _____

Address of applicant: _____

(Signature of Applicant)

| | |
|---|--|
| <p>The Deponent acknowledges that he/she knows and understands the contents of this Affidavit.</p> <p>Signature: _____</p> <p>Declared before me _____ at _____ on this _____ day of _____</p> | <p>Commissioner of oath stamp</p> |
|---|--|

FORM 8: POWER OF ATTORNEY

The Director- Development Planning
KwaDukuza Municipality
P. O. Box 72
KwaDukuza
4450

Date: _____

Dear Sir / Madam

OWNER'S CONSENT

I/We _____, owner (s) of the property described as _____ (Erf No.) _____ and _____ known as _____ (Road / Street No.) do hereby confirm that permission has been given to _____ (person or business) to apply and submit the for the necessary _____

_____ (nature of application).

Yours faithfully

Signature of Registered Owner

| | |
|---|--|
| <p>The Deponent acknowledges that he/she knows and understands the contents of this Affidavit.</p> <p>Signature: _____</p> <p>Declared before me _____ at _____ on this _____ day of _____</p> | <p>Commissioner of oath stamp</p> |
|---|--|

FORM 10A: CONFIRMATION OF RECEIPT

An application for _____ (Type of application)
on Erf _____ Situated at _____
_____ (Street Address) for the purposes of _____

_____ (Proposal) will be submitted to KwaDukuza Municipality in
terms of the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws No.1630.

Accordingly, as required by the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws No.1630 the application needs to be circulated to the relevant service departments for comments. The above mentioned application for has been circulated to the _____ (Department) on the _____ (Date) to obtain comments.

As stipulated in Schedule 4, Section 3 (1) (2) of the KwaDukuza Municipality Spatial Planning and Land Use Management By-Laws No.1630, the Service Department should provide comments within 60 days from being served with a request for the information or decision or such further period as agreed upon with the applicant which will lapse on the _____ (Date) from the date of confirmation of receipt of application as confirmed herein.

CONFIRMATION OF RECIEPT

The _____ department hereby confirms receiving the above mentioned application on the _____ (date).

| | |
|---|----------------------------------|
| <p>Name of official: _____</p> <p>Designation: _____</p> <p>Signature: _____</p> <p>Date: _____</p> | <p>Departmental Stamp</p> |
|---|----------------------------------|

FORM 10B: SUMMARY OF COMMENTS

An application _____ (Type of application) on
Erf _____ Situated at
_____ (Street Address) for the purposes
of _____

_____ (Proposal) was submitted to
_____ (Department) on the _____ (Date).

Accordingly, the following comments are recorded for consideration:

In light of the above, _____ Department/ Organization.

**RECOMMENDED FOR
APPROVAL**

☐

REFER TO ATTACHED REPORT

☐

**RECOMMENDED FOR
DISAPPROVAL**

☐

(Please tick the appropriate)

| | |
|---|----------------------------------|
| <p>Name of official: _____</p> <p>Designation: _____</p> <p>Signature: _____</p> <p>Date: _____</p> | <p>Departmental Stamp</p> |
|---|----------------------------------|