

Subdivision Application in South Africa

A subdivision is when you divide a single property or erf into two or more portions. When the property is subdivided, each portion can be registered, developed, sold or transferred independently.

Terms of a subdivision:

- Erf – piece of land;
- Portion – Newly created piece of land resulting from the subdivision;
- Town Planning Scheme – A regulatory framework that guides land use, density and zoning parameters in a municipality;
- Rezoning – A process required if you wish to change your property's existing zoning to allow for a higher density or different land use.

Requirements for a successful subdivision application:

Certain municipal and legal requirements must be met when attending to a subdivision.

- **Municipal approval:**

The local municipality must approve the subdivision and guided by:

1. Spatial Planning and Land use management Act (SPLUMA): A legislative framework that informs how land is controlled at municipal and provincial levels.
2. Municipal Systems Act: Outlines how municipalities function and the by-laws that govern local land use.
3. Town Planning Scheme or Land use Scheme: Dictates zoning, building line restrictions, coverage, height restrictions.

When attending to the subdivision application, you'll need to submit a detailed plan showing the proposed boundaries, access roads, service infrastructure (such as water, electricity and sewerage), and adherence to the local town planning guidelines.

- **Zoning Regulations:**

1. Density Consideration – Make sure that your property's zoning allows for the density (number of dwelling units) you propose. A rezoning application might need to be lodged if the current zoning isn't sufficient.

2. Building regulations: South Africa's National Building Regulations and Building Standards Act sets minimum requirements for safe construction.

- **Professional Land Survey**

A professional Land Surveyor must prepare accurate plans of your property, showing the new subdivision boundaries. This step is important for:

1. The precise measurements of the newly created portions;
2. No overlaps or encroachments on neighboring properties;
3. Mapping existing structures to confirm compliance with building lines and municipal restrictions.

- **Title Deed checks and Removal of restrictive conditions**

The property's title deed might include restrictive conditions, such as limitation on the number of dwellings allowed or architectural guidelines. The town planner or Conveyancer will advise on how to apply for the removal or amendment of these conditions in the event that they cause a problem in your subdivision.

- **Additional permissions and special considerations**

1. Environmental Authorizations: If the property is close to a wetland, protected area, or heritage site, you might need extra permissions from environmental authorities.
2. Road and Access requirements: New access roads or driveways might require municipal clearance or traffic impact assessments.

Step-by-step Subdivision process

This process may be time-consuming and detail-intensive, but when you break it down into steps, it can make the process more manageable. What to expect:

1. **Initial Consultation and Feasibility study**

- Property Assessment – A Town planner will evaluate your property’s zoning, size, shape, existing improvements and municipal regulations;
- Feasibility report – Advice on density, building lines, access requirements and possible layout options for subdividing the land will be given.

2. Application, preparation and Submission

- Subdivision Plan – The Land surveyor or architectural draftsman now prepares a detailed subdivision plan, showing how the property will be divided.
- Supporting documents – These documents include a motivation report from the Town planner, title deed consent from bondholders, and environmental clearances if applicable.
- Municipal submission – A full application is lodged with the local municipality. An application fee is normally required.

3. Public Participation and Municipal Reviews

- Public Notices – You may need to notify neighbors and relevant stakeholders, allowing them to comment or object, depending on the municipality;
- Municipal Assessment – The application will be reviewed by Town planning officials to check compliance with zoning regulations, local development frameworks and other municipal policies;
- Site Inspection – An official might do a physical site inspection to understand the property conditions.

4. Approval and Conditions

- Approval Decision – If there are no major objections and your application meets the requirements, the municipality will grant conditional approval;
- Condition Fulfillment – Common conditions include the installation of municipal services (water, sewerage and stormwater), payment of development contributions or amendments to the plan.

5. Opening of a Township register and New Title Deeds

- Final Survey – The land surveyor pegs the boundaries and finalizes the Surveyor-General (SG Diagram);
- Registration – A Conveyancer will now prepare and register new title deeds for each portion of the subdivision at the Deeds office;
- Transfers – In the event that you are selling any portion/portions, ownership transfers to the new owner upon successful registration.

The entire process can take from 6 months to 24 months or even longer. It all depends on the property's complexity, municipal capacity and any objections from neighbors or stakeholders.

It is beneficial to obtain the assistance of a Town Planner when attending to a subdivision for the following reasons:

- They have expert knowledge of municipal processes, zoning laws and density requirements;
- Streamlined application – The application can be tedious, with a lot of detailed paperwork, layout plans, motivational reports and public participation. They ensure the application is complete, accurate and complies with municipal requirements;
- Negotiating with Stakeholders – They know how to communicate with municipal officials, environmental consultants and even community stakeholders. If objections arise, they can mediate and propose solutions that safeguard your interests.
- Time and cost savings – It might be an upfront cost but a knowledgeable town planner can help avoid costly mistakes and lengthy delays. You will always be informed about deadlines, fees and any potential hidden expenses.
- Piece of Mind – A subdivision is a significant investment, financially and emotionally. A qualified Town planner provides confidence and peace of mind.

Subdivision costs and budgeting:

Typical Expenses are as follows:

- Application fees – Costs vary depending on the municipality;
- Professional Fees – Town Planner, Land Surveyor and Conveyancer;
- Infrastructure contributions – Also called Development or Bulk contributions. The property services might have to be upgraded (water, sewer, roads);

- Bond Holder Consent – If the property is bonded the Financial institution must grant consent and might charge and administration fee or adjust bond terms;
- Hidden or Miscellaneous costs – Site inspections, environmental reports, traffic impact assessments or additional engineering designs if required.
- Request in in-depth costs estimate from your Town planner and other professionals at the start of the subdivision. Estimates may change but having a clear guideline helps to avoid surprises

YOUR LEGAL JOURNEY, OUR PASSION!

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