

Natural Resources Conservation and Development

Level II

Learning Guide-58

**Unit of Competence: Promote Implementation of
Property Rights, Land Laws and Regulations**

**Module Title: Promoting Implementation of
Property Rights, Land Laws and Regulations**

LG Code: AGR NRC2 M013 LO3-LG-58

TTLM Code: AGR NRC2 M013 TTLM 0919v1

**LO3: Facilitate the formulation and
implementation of local bylaws**

This learning guide is developed to provide you the necessary information regarding the following content coverage and topics:

- Formulating and implementing local by-laws in accordance with socio-cultural setting of society
- Revising and documenting bylaws in accordance with the current situation of the community
- Harmonizing bylaws with existing rules and regulations

This guide will also assist you to attain the learning outcome stated in the cover page.

Specifically, upon completion of this Learning Guide, you will be able to:

- Formulate and implement local by-laws in accordance with socio-cultural setting of society
- Revise and document bylaws in accordance with the current situation of the community
- Harmonize bylaws with existing rules and regulations

Learning Instructions:

1. Read the specific objectives of this Learning Guide.
2. Follow the instructions described below 3 and 4.
3. Read the information written in the information “Sheet 1, Sheet 2, Sheet 3, Sheet 4 and Sheet 5”.
4. Accomplish the “Self-check 1, Self-check t 2 and Self-check 3” in page – 6, 9 and 11 respectively.

1.1. Concept of by law

In this module, by law, Most commonly refers to an ordinance, passed under the authority of a charter or regional state law specifying what things may be regulated.

1.1.1 Defining bylaws

What are bylaws?

Bylaws are a type of law, and specifically a type of legislation, made by a municipal council, rather than the other two spheres of government (i.e. provincial and national government). Bylaws, as legislation, must be distinguished from common law. Like all legislation, bylaws are–

- Made by a legislature (your municipal council); and
- Intended to comprehensively regulate a particular situation (such as, street trading).

Bylaws are local in the sense that they –

- Relate to issues in the local community; and
- Apply only in the area of jurisdiction of the municipality concerned.

1.1.2 Characteristics of bylaw:

- Informality
- Application of equity
- Direct communication and participation between disputants.

1.1.2 Bylaws and policy

A “policy” is a plan of action designed to advance or protect some collective goal of the community as a whole.

There are many forms of public policy, such as economic, social and environmental policy and policy is formulated at all three spheres of government – national, provincial and local.

The problem is that policy is general and cannot easily be enforced – it does not impose specific rights and obligations, but speaks broadly of goals and desirable states. So what does government do? It converts policy into legislation, which is detailed, comprehensive and enforceable!

1.2. Importance of by law

Bylaws are a powerful tool for municipalities. Unlike the common law, bylaws are –

- Purposefully developed, with a view to regulating a situation, rather than growing haphazardly as disputes arise; and
 - A comprehensive attempt to govern all possible eventualities and not the determination of a rule in one small disputed circumstance.
- www.waterberg.gov.za/docs

By-laws, whether existing, updated, or newly created, can fulfill several important functions in the communities where they are present.

- By-laws create space for productive investment, particularly when closely linked with economic profitability.
- By-laws contribute to the conservation and sustainability of natural resources, as they devolve conservation activities to the local level where these rules are created and implemented.
- By-laws can help ensure equitable use of resources when there is a balanced representation and active participation of all stakeholders from by-laws formulation to implementation.
- By-laws play an important function in conflict management and resolution.
- By-laws may serve as a channel to interact with local and central government officials who may serve as the enforcement agency for locally crafted rules.
- Such interactions are important as a means of community empowerment.

1.3 Implementation of By-laws

Closely connected to the process of by-laws formulation are the issues of implementation and the monitoring of how they are complied with, observed, and enforced.

- Externally imposed rules that do not take into account local conditions may be perceived as unfair by local resource users, thus lowering any willingness to abide by them.
- People may not comply with internally created rules because of established relationships of hierarchy and norms of mutual support in communities.
- Compliance with by-laws is higher when regulations are relevant to local conditions and are drafted in consultation with local communities.
- By-laws are meaningless unless there is some enforcement. In West Africa, communities tend to bypass formal institutions or disregard by-laws ratified by local governments during the formulation of group rules governing national resources. However, several case studies across India and Nepal have shown that statutory law may contribute to the effectiveness of local regulations by serving as a mechanism for enforcement and compliance. There can be a role for state and local enforcement.
- Because of the norms of reciprocity, internal enforcement may be less effective in monitoring compliance and imposing sanctions.

Self-Check -1	Written Test
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Directions: Answer all the questions listed below. Use the Answer sheet provided in the next page:

1. Mention the importance of bylaw.(10 points)
2. Write characteristics of bylaw.(15pts)

Note: Satisfactory rating - 25 points

Unsatisfactory - below 25 points

You can ask you teacher for the copy of the correct answers.

Answer Sheet

Score = _____

Rating: _____

Name: _____

Date: _____

Short Answer Questions

2.1 Robert's Rules for Revising Bylaws

A. Setting the conditions for revising your bylaws

B. Giving notice of bylaw amendments

Amending bylaws essentially changes the contract you've made with your fellow members about how your organization operates, so you need to be really technical and precise. The proper notice for a bylaw amendment contains three fundamental components:

- The proposed amendment, precisely worded
- The current bylaw
- The bylaw as it will read if the amendment is adopted

Additionally, the notice should include the proposers' names and their rationale for offering the amendment. It may also include other information such as whether a committee or board endorses or opposes the amendment.

A. Amending specific articles, sections, or subsections of your bylaws

When you're amending parts of your bylaws, you propose the amendment as a main motion and specify one of the same processes you would for any amendment. The processes of the motion to amend are

- Strike out words, sentences, or paragraphs
- Insert (or add) words, sentences, or paragraphs
- Strike out and insert (or substitute) words, sentences, or paragraphs

B. Tackling a full revision of your bylaws

A **revision** to bylaws is an extensive rewrite that often makes fundamental changes in the structure of the organization. By considering a revision of your bylaws, you're

proposing to substitute a new set of bylaws for the existing ones. Therefore, the rules regarding scope of notice that limit primary and secondary amendments don't apply. Your group is free to amend anything in the proposed revision before it's adopted, as if the bylaws were being considered and adopted for the first time.

C. Recording of the results

Bylaw amendments (requiring a two-thirds vote) are handled as a rising vote unless the amendments are adopted by unanimous consent. However, because of the importance of bylaws and the impact of their amendment, unless the vote is practically unanimous, the best and fairest procedure is to count the vote and record the result in the minutes.

Documentation on the effectiveness of grassroots conflict prevention mechanisms is inconsistent, yet indicates that indigenous mediation may be powerless to address some of a conflict's root causes—centrally-instigated conflict, predatory behavior linked to exploiting economic advantage, external meddling. But by consecutive community consultation it can be checked either these bylaws are in a way of respecting the rule of law; thus they can be documented.

Self-Check -2	Written Test
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Directions: Answer all the questions listed below. Use the Answer sheet provided in the next page:

1. Please mention Robert's rules for revising bylaws. **(10 points)**
2. Write the three fundamental components that should properly noticed during revising bylaw. **(5 points)**

Note: Satisfactory rating - 15 points

Unsatisfactory - below 15 points

You can ask you teacher for the copy of the correct answers.

Answer Sheet

Score = _____
Rating: _____

Name: _____

Date: _____

Short Answer Questions

3.1. Concept of harmonizing By-laws

Community bylaws are the basic sources of resolving disputes. In every country, community, and organization, systems of informal dispute resolution systems – often based on community customs or familial relationships, or embedded in institutional practices – run alongside the “official” state sanctioned processes. Despite their lack of formal authority and legitimacy, these informal alternatives may have as great, or even greater, an impact on the lives of those who use them as the state sanctioned system. A growing interest in informal systems of dispute resolution has spawned a vibrant literature representing the intersection of many disciplines, including law, anthropology, sociology, and social psychology. Scholars of conflict resolution in their various disciplinary guises explore the substance and the role of informal systems of disputing and dispute resolution and their relationship, if any, to the formal legal system. The common characteristic of informal systems of dispute resolution is that their outcomes are neither sanctioned nor supported by the state legal machine. Indigenous conflict management and resolution mechanisms use local actors and traditional community-based judicial and legal decision-making mechanisms to manage and resolve conflicts within or between communities.

Self-Check -3	Written Test
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Directions: Answer all the questions listed below. Use the Answer sheet provided in the next page:

1. What are urgent needs? **(3 points)**
2. List out the indicators of urgent needs **.(6 points)**
3. Identify the characteristics of indicators of urgent needs. **(6 points)**

Note: Satisfactory rating – 15 points

Unsatisfactory - below 15 points

You can ask you teacher for the copy of the correct answers.

Answer Sheet

Score = _____
Rating: _____

Name: _____

Date: _____

Short Answer Questions

List of Reference Materials

1. www.waterberg.gov.za/docs