

GRAHAMSTOWN: REVISION OF SCHEME REGULATIONS

The proposed revision of the Grahamstown Town Planning By-laws (1968) refers to:

(i) **LAND USE PLANNING ORDINANCE, 1985 (ORDINANCE 15 OF 1985)**

Section 7 (1):

Any town planning scheme in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934), which in the opinion of the Administrator, is in force immediately prior to the commencement of this Ordinance, shall be deemed to be a zoning scheme which is in force in terms of this Ordinance.

Section 7 (2):

The Administrator shall, with effect from the date of commencement of this Ordinance, make scheme regulations as contemplated in Section 9, supplementary to all scheme regulations existing under sub-section (1) of this section, in order to give effect to Section 9 (1).

Section 7 (3):

With effect from the date of commencement of this Ordinance, any reference in any law to a town planning scheme approved under Chapter 4 of the Townships Ordinance, 1934, shall be deemed to be a reference to a zoning scheme, in so far as no obligations are imposed on the Administrator which were not incumbent upon him prior to the date of commencement of this Ordinance.

Section 9 (1):

Control over zoning shall be the object of scheme regulations, which may authorise the granting of departures and subdivisions by a council.

Section 9 (2):

Scheme regulations may be amended or replaced by the Administrator by notice in the Official Gazette after the proposed amendment or replacement has, if deemed necessary by the director, been made known in such manner as the director may think fit.

Section 39 (1):

Every local authority shall comply and enforce compliance with:

- (a) the provisions of this Ordinance or, in so far as they may apply in terms of this Ordinance, the provisions of the Townships Ordinance, 1934 (Ordinance 33 of 1934),
- (b) the provisions incorporated in a zoning scheme in terms of this Ordinance, or
- (c) conditions imposed in terms of this Ordinance or in terms of the Townships Ordinance, 1934,

and shall not do anything, the effect of which is in conflict with the intention of this subsection.

Section 39 (2):

No persons shall:

- (a) contravene or fail to comply with:
 - the provisions incorporated in a zoning scheme in terms of this Ordinance or

- conditions imposed in terms of this Ordinance or in terms of Townships Ordinance, 1934,

except in accordance with the intention of a plan for a building as approved and to the extent that such plan has been implemented, or

- (b) utilise any land for a purpose or in a manner other than that indicated by a plan for a building as approved and to the extent that such plan has been implemented.

Section 39 (3):

If a local authority in the opinion of the Administrator fails to perform or to exercise satisfactorily its duties or powers in terms of subsection (1), the Administrator may, after notice to such local authority, withdraw any approval or authorization granted by the local authority, perform the said duties, exercise the said powers and recover from such local authority any amount spent by him in this connection or instruct the local authority as to the steps to be taken by it in order to ensure compliance with subsection (1), and such instruction shall in law override any decision of the council of the said local authority.

Section 46 (1):

A person who:

- (a) contravenes or fails to comply with a provision of Section 23 (1), 33 (12), 35 (2) or 39 (2), or
- (b) threatens, resists, hinders or obstructs, or uses foul, insulting or abusive language towards a person in the exercise of a power under Section 41 or refuses or fails to answer to the best of his ability a question put to him in terms of the said section,

shall be guilty of an offence and on conviction liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

Section 46 (2):

A person convicted of an offence under this Ordinance who after such conviction continues with the conduct in respect of which he was so convicted, shall be guilty of a continuing offence and on conviction liable to a fine not exceeding R100 in respect of each day on which he so continues or continued therewith.

(ii)

PROVINCIAL NOTICE - P.N. 353/1986 (20 JUNE 1986)

The Administrator has, in terms of Section 8 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), hereafter referred to as the Ordinance, made the following scheme regulations which shall come into operation on the date, to be determined by proclamation in terms of Section 50 of the Ordinance, of commencement of the Ordinance.

1. Any land, situated within a municipal area in respect of which the Administrator has determined in terms of Section 7 (1) of the Ordinance that a town planning scheme shall be in force, and which had been situated outside the area of such a town planning scheme before the Ordinance came into operation, shall have scheme regulations similar to the scheme regulations of the zoning scheme of the particular municipality or, if different scheme regulations are applicable to different areas of land within the municipal boundary, to the scheme regulations that carry the name of the particular municipality.

(iii) **CIRCULAR GOK/LDC 9/1988 - PROVINCIAL ADMINISTRATION OF THE CAPE OF GOOD HOPE**

In terms of this circular, local authorities are requested to revise their scheme regulations within the following context:

"Councils with zoning schemes in terms of Section 7 are requested to scrutinise their scheme regulations critically and to consider the possibility of amending them in view of the new policy of, *inter alia*, the concept of occupational practice, the permission of second dwelling units as consent uses instead of departures, the change of reservations to zonings, and deregulation in general."

The following revisions of the existing scheme regulations, as contained in the City of Grahamstown Town Planning By-laws (1968), result from:

- i) Required revision in terms of the above legislation
- ii) Outdated nature of the existing regulations in terms of:
 - Ordinance 15 of 1985
 - Increase in the diversification of land uses
 - Changes in land use policy (eg. second dwellings, occupational practice).

The resultant revisions, prepared in terms of Section 9 (1) and Section 10 will be submitted for approval in terms of Section 9 (2).

CONTENTS

While it is not intended to replace the existing Section 7 Scheme Regulations (Grahamstown Town Planning By-laws 1981) with Section 8 Scheme Regulations, it is proposed that the format (content) of the existing scheme regulations be revised to a format similar to the Section 8 format as follows:

**SCHEME REGULATIONS IN TERMS OF SECTION 7 OF THE LAND USE PLANNING
ORDINANCE, 1985 (ORDINANCE 15 OF 1985)**

CONTENTS

1.0 DEFINITIONS

2.0 LAND USE

- 2.1 Area of Zoning Scheme
- 2.2 Zoning According to Utilization
- 2.3 Components of the Zoning Scheme
- 2.4 Zoning of Land in Specified Use Zones

TABLE A

- 2.5 Erection of Buildings and Utilization of Land in Specified Use Zones
- 2.6 Primary Use and Consent Use
- 2.7 More Restrictive Land Use Restrictions and Provisions

TABLE B

3.0 PLANNING CONTROL

- 3.1 Agriculture 1
- 3.2 Agriculture 2
- 3.3 Single Residential

TABLE C

- 3.4 General Residential
- 3.5 Group Housing
- 3.6 Town Houses
- 3.7 Business 1
- 3.8 Business 2
- 3.9 Business Restricted
- 3.10 Special Business
- 3.11 Commercial
- 3.12 Light Industrial
- 3.13 Industrial
- 3.14 Noxious Industrial
- 3.15 Mining
- 3.16 Educational
- 3.17 Institutional
- 3.18 Resort Zone 1
- 3.19 Resort Zone 2
- 3.20 Open Space 1 (Public)
- 3.21 Open Space 2 (Private)
- 3.22 Open Space 3 (Nature Reserve)
- 3.23 Transport 1 (Usage)
- 3.24 Transport 2 (Public Road)
- 3.25 Transport 3 (Public Parking)
- 3.26 Authority 1 (Usage)
- 3.27 Local Authority 2 (Services)

- 3.28 Special Zone
- 3.29 Undetermined
- 3.30 Informal Residential Zone

4.0 GENERAL

- 4.1 Utilization of Zoned Land
- 4.2 Reservation of Remainder
- 4.3 Imposed Conditions
- 4.4 Compliance with Regulations
- 4.5 Non-conforming Sites
- 4.6 Applications for Consent Use
- 4.7 Advertisement of Intended Application for Consent Use
- 4.8 Conditions Applicable to Consent Uses
- 4.9 Occupational Practice and Other Rights
- 4.10 Combined-use Buildings
- 4.11 External Appearance of Buildings
- 4.12 Parking and Loading
- 4.13 Utilization of Outbuildings
- 4.14 Council's Duties
- 4.15 Service of Documents
- 4.16 Townships and Minor Subdivisions in terms of the Townships Ordinance, 1934
- 4.17 Aesthetics and Landscaping

5.0 APPROVAL OF DEPARTURES AND SUBDIVISIONS BY COUNCIL

- 5.1 Departures
- 5.2 Subdivisions
- 5.3 Removal of Restrictions

6.0 MANUAL FOR APPLICATION IN TERMS OF ORDINANCE 15/1985

7.0 GENERAL STRUCTURE PLAN TO AUTHORISE COUNCILS TO GRANT OR REFUSE
REZONING APPLICATIONS

ANNEXURES:

- ANNEXURE 1: HISTORICAL PRESERVATION
- ANNEXURE 2: BOUNDARY AND OTHER WALLS AND FENCES
- ANNEXURE 3: RESORT 1 AND RESORT 2 APPLICATION FORMAT
- ANNEXURE 4: GROUP HOUSING CODE
- ANNEXURE 5: SOLAR ENERGY PANELS

1.0 **DEFINITIONS**

Words that are not defined hereunder are to be accepted by Dictionary definitions unless the context otherwise indicates, the undermentioned words shall have the following meaning:

(Definitions from the Section 8 Scheme Regulations have been included in order to amend outdated land usage descriptions and terminology).

- A. **Additional dwellings units** means dwelling units that may be erected with the consent of the Council on a land unit in agriculture 1 or single residential; provided that the units shall remain on the same cadastral unit as the primary unit; provided further that in single residential the unit shall be smaller than the primary unit and that in agriculture 1 one additional unit in all cases and further units with a density of one unit per 10 ha up to a maximum of five additional units per land unit may be allowed, and that no such unit shall be erected within 1 km of the high-water mark of the sea.

Advertise has the meaning assigned thereto in the Ordinance.

Agricultural industry means an enterprise or concern for the processing of agricultural products on a farming unit owing to the nature, perishableness and fragility of such agricultural products and includes, inter alia, wineries and farm pack stores, but does not include service trades.

Agriculture means the cultivation of land for crops and plants or the breeding of animals, or the operation of a game farm on an extensive basis on the natural veld or land, and includes only such activities and buildings as are reasonably connected with the main farming activities of the farm, but does not include the consent uses applicable to agriculture.

Authority services means commercial services rendered by a public authority to the community against payment and includes composting installations, sewage farms, dumping grounds, reservoirs and water purification plants.

Authority usage means a use which is practised by a public authority and of which the locality factors are such that it cannot be classified or defined under other uses in these regulations, and includes uses practised by:

- (a) the State, such as military training centres and installations, telecommunication facilities, police stations and jails;
- (b) the Province, such as road stations and road camps, and
- (c) a Local Authority, such as fire services, emergency services, depots and workshops.

- B. **Basement** means that portion of a building, the finished floor level of which is at least 2m below, and the ceiling of which is at most 1m above, a level halfway between the highest and lowest natural levels of the ground immediately contiguous to the building.

Bottle-store means a shop in which mainly alcoholic beverages are sold in the retail trade and includes an off-sales facility which is under the same management as a licensed hotel.

Boundary fences in:

- **Residential areas** means, a structure as specified in Provincial Notice 937/1979 (amendment to the Standard Building By-law published under Provincial Notice 968 dated 24 December 1952). (See Annexure 2). Such boundary fences in residential areas will be to a maximum of 1,8 metres in height above mean ground level.
- **Industrial areas, light industrial and service industrial areas** means, a structure which is utilized to screen or enclose a property or portion of a property. No person shall erect such a boundary fence without prior written approval of Council. Material usage will be dependant on nature of activity, eg. degree of screening required.

Building includes:

- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with:
 - i) the accommodation or convenience of human beings or animals;
 - ii) the manufacture, processing, storage, display or sale of any goods;
 - iii) the rendering of any service;
 - iv) the destruction or treatment of refuse or other waste materials;
 - v) the cultivation or growing of any plant or crop
- (b) any wall, swimming bath, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building including a building as defined in Paragraph (a), (b) or (c);
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building.

Building line means the line delimiting the area measured from the boundary of a land unit, or from a setback, if any, within which no building or other structure except a boundary fence may be erected.

NOTE: Structure to be measured from outermost points.

Business premises means a site or building or structure on or in which business is done and includes shops, offices, financial institutions or restaurants or sites, buildings or structures for similar uses, but does not include places of assembly or entertainment, institutions, service stations, public garages, industries, noxious trades, bottle-stores or supermarkets.

- C. **Camping site** means a property or part of a property which is utilised for the erection of tents or the parking of caravans and includes ablution, cooking, barbecue and other facilities which, together with the amenity of the site, serve as features of attraction.

Caravan means any vehicle permanently fitted out for the use by people for living or sleeping purposes, whether or not such vehicle is a trailer.

Commercial means either a site/building/room where goods are stored, or where a wholesale business is operated.

Consent use is such a land use as permitted in Table B requiring the prior consent of Council.

Conservation usage means a building or part thereof or a use that should be preserved in the opinion of the Council or, on appeal or objection, the Administrator whose decision shall be final.

Council means the Municipal Council of Grahamstown.

Coverage means the total percentage area of a site that may be covered by buildings that are covered by a roof or projection, as measured over the exterior walls thereof; provided that the area covered by the first metre (as measured from the outside of the exterior wall concerned) of an eave or other projection shall not be included in the calculation of the permissible coverage, although the edge of any overhang shall determine the positioning of the structure.

D. **Departure** means:

- (a) an altered land use restriction;
 - i) imposed in terms of Section 15 (1) of Ordinance 15 of 1985;
 - ii) imposed in terms of a condition by virtue of any provision of Ordinance 15 of 1985;
 - iii) that is legal in terms of any other provision of Ordinance 15 of 1985, or
- (b) a use right granted on a temporary basis in terms of Section 15, (v) Ordinance 15 of 1985.

Drive-in restaurant means any land or buildings used for a restaurant or cafe from which food and refreshment are served to patrons who remain seated in motor cars parked in the vicinity of such restaurant or cafe.

Dwelling house means a detached building containing only one dwelling unit.

Dwelling unit means a self-contained interleading group of rooms with not more than one kitchen, used only for the living accommodation and housing of a single family, together with such outbuildings as are ordinarily used therewith.

E. **Erection** in relation to a building includes:

- (a) the alteration, subdivision or conversion of, or addition to a building, and
- (b) the re-erection or repair of a building which has been completely or partially destroyed or demolished, and "erect" has a corresponding meaning.

Existing use means the use or uses which, in the opinion of the council, is or are practised actually and lawfully on or in a property, structure or building or part thereof.

F. **Farmstall** means a building or structure which does not exceed 100m² in floor space, including storage facilities, where a farmer sells products produced and processed on his farm (in other words not products which are purchased), whether to his own employees or to the general public.

Farmstore means a building or structure which does not exceed 100m² in floor space, including storage facilities, where a farmer sells goods, whether to his own employees or to the general public.

Flats means a building containing three or more dwelling units for human habitation, together with such outbuildings as are ordinarily used therewith; provided that in those zones where flats are permissible, fewer than three dwelling units shall also be permissible, whether or not with the special consent of the Council, in a building approved for other purposes than for flats.

Floor factor means the factor (expressed as a proportion of 1) which is prescribed for the calculation of the maximum floor space of a building or buildings permissible on a land unit; it is the maximum floor space as a proportion of the net erf area.

Floor space in relation to any building or structure means the area covered by a roof, slab or projection, excluding a projection not exceeding 1m over an exterior wall or a similar support; provided that the area which is covered by a canopy or projection on the street side of business zones (Business 1, Business 2, Business Restricted, Special Business and Commercial) shall not be regarded as floor space. Floor space shall be measured from the outer face of the exterior walls or similar supports of such building or structure, and where a building or structure consists of more than one storey, the total floor space for the purposes of the definition of "maximum floor space" shall be the sum of the floor space of all the storeys, including that of basements.

Funeral Parlour means a building or land used for the purpose of funeral management and is inclusive of services ordinarily ancillary to funeral management, retail facilities for the sale of and display of commodities required for cemetery purposes, public reception, a chapel, a mortuary, a monumental mason, coffin assembly or crematorium.

- G. **Gross parking space** means an area or areas which incorporates or incorporate one parking bay plus circulation and landscaping space for one parking bay. The area per parking space is as follows:

Standard Bay = 30m² (inclusive of movement area)

Loading Bay = minimum of 50m² (exclusive of movement area)

Ground floor means the lowest floor of a building which is not a basement.

Group house means a dwelling unit which forms part of a group housing scheme.

Group housing means a group of separate and/or linked dwelling units planned, designed and built as a harmonious architectural entity and arranged around or inside a communal open space in a varied and ordered way, of which every dwelling unit has a ground floor; such dwelling units may be cadastrally subdivided.

Group housing site means one or more land units on which a group housing scheme has been or is to be erected.

- H. **Historical preservation** means a building or part thereof or a use that should be preserved in the opinion of the council and/or The National Monuments Council. In the case of an appeal or objection to the aforementioned restrictions the opinion and decision of the Administrator shall be deemed over ruling and final.

Holiday accommodation means a number of dwelling units belonging to one owner, which are only utilised for short term accommodation by travellers or tourists and which comprise a single business enterprise of which the individual dwelling units are marketed only by means of renting, and does not include a motel or other hotel, a caravan park, a camping site or holiday housing.

Holiday housing means dwelling units aimed at holiday accommodation but which may be separately alienated by means of subdivision, sectional title division, time sharing, leasing or the selling of block shares.

House of worship means a church, synagogue, mosque, temple, chapel or other place for practising religion, and includes any building in connection therewith, but does not include a funeral parlour with related chapel.

- I. **Industrial building** means a building, other than a noxious industrial building, used or intended to be used as a factory within the meaning of the Factories Act, No. 22 of 1941, and includes any office, caretaker's quarter, or other building the use of which is incidental to, and such as would ordinarily be incidental to, or reasonably necessary in connection with the use of such factory on the same site.

Industrial cafe means a building or structure which does not exceed 100m² in floor space, including storage facilities, and where delicacies and fast foods are sold only to employees.

Industry means an enterprise as defined in the regulations made in terms of Section 35 of the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983), which is not included under the definition of "service trade" or "noxious trade", an office, an industrial cafe and any other use incidental to an industry.

Institution means a building or portion of a building utilized or intended to be utilized as a social or welfare institution or for the administration thereof and includes a hospital, clinic, reformatory or place of detention, place of instruction, whether private or public, but does not include a jail or place of public worship.

Intensive-feed farming means the keeping, feeding and breeding of animals or poultry on an intensive basis.

L. **Land** has the meaning assigned thereto in the Ordinance.

Land unit has the meaning assigned thereto in the Ordinance.

Land use restriction has the meaning assigned thereto in the Ordinance.

Lateral boundary of a site or an erf means a boundary other than a street boundary or a rear boundary.

Licensed hotel means a building designed to comply with the requirements of a hotel as laid down in the Hotels Act, 1965 (Act 70 of 1965), and does include an off-sales facility.

Light industry means an enterprise undertaken within a light industrial building.

Light industrial building means an industrial building in which the only power-driven machinery is driven by electricity, no single motor being rated at more than 3,7 kilowatts with a total maximum of 22,4 kilowatts for all motors per site.

Linked, in relation to the definitions of "town housing" and "group housing", means to be connected by means of a boundary wall or garage.

Loading area, means an area upon the site of a building, set aside and suitable for the sufficient accommodation within that area for any loading, unloading, or fuelling of vehicles which are likely to be habitually involved in connection with the use of the building.

M. **Maximum floor space** means the greatest total floor space which is allowed for a building or buildings with all its or their floors on a site; such floor space is calculated by multiplying the floor factor by the net erf area of the site or that portion of the site which is situated within a particular zone; provided that where a site is situated within two or more zones to which different floor factors apply, the maximum floor space for the whole site shall be the total of the maximum floor space for each portion of the site; provided further that, in determining the permissible floor space of a building:

- (a) any area, including a basement, which is reserved solely for the parking of vehicles, shall be excluded;
- (b) any area required for external fire escapes shall be excluded;
- (c) subject to (d) below, any balconies, terraces, stairs, stairwells, verandas, common entrances and common passages covered by a roof shall be included, except in the case of a residential building on a residential site, where it shall be excluded;
- (d) any stairwells, liftwells or other wells, in the case of multi-storey buildings, shall be calculated once only, and
- (e) any arcade, with a minimum width of 2m, which at all times provides access through the building concerned from public parking or a pavement or a public road, street or open space to other public parking or some other pavement or some other public road, street or open space and which at all times is open to the public by means of a

servitude, as well as any other covered walkway, the roof of which allows light to pass through, shall be excluded.

Mining means an enterprise which practises the extraction of raw materials, whether by means of surface or underground methods, and includes the removal of stone, sand, clay, kaolin, ores, minerals or precious stones.

Mobile home means a factory-constructed structure, approved by the Council and with the necessary service connections, which is designed so that it can be used as a permanent dwelling.

Motel means a licensed hotel which is specially adapted for the convenience of the motoring public by means of the provision of parking facilities at every unit and includes other facilities of a hotel.

Motor vehicle means a vehicle designed or intended for propulsion by other than human or animal power and includes a motor cycle and a trailer or caravan, but does not include a vehicle moving exclusively on rails.

N. **Nature reserve** means a national park, or some other nature park which is in the ownership of a public authority or has been declared as such in terms of legislation and remains in private ownership; it consists of an area which is utilised as a game park or reserve for fauna or flora in their natural habitat and includes accommodation facilities for tourists or holiday makers.

Net erf area means the total area of a land unit, excluding all land zoned or needed for public purposes.

Noxious industrial building means a building used or intended to be used for the purpose of carrying on an offensive trade such as set out in Government Notice No. 1606 of 1934, with any additions made thereto in terms of Public Health Act No. 36 of 1919, and any amendments thereto.

Noxious trade means an offensive use or another use which constitutes a nuisance as envisaged in regulations which are promulgated from time to time in terms of Sections 33 and 34 of the Health Act, 1977 (Act 63 of 1977), read with Paragraphs (f) and (g) of the definition of "nuisance" in Section 1 of the said act, and includes the operation of a scheduled process, as defined in Section 1 of the Air Pollution Prevention Act, 1965 (Act 45 of 1965), and the manufacture of explosives, as defined in Section 1 of the Explosives Act, 1956 (Act 26 of 1956).

Nursery means a property or part thereof which is utilised for the sale of plants and gardening products, with such products being restricted to products associated only with the development and maintenance of gardens.

O. **Occupant** means any person who physically inhabits a building, a structure or land.

Occupational practice means the practising of an occupation, enterprise, or trade, practised by at most one person per dwelling unit of which that person is the occupant, without disturbances such as noise, traffic congestion, air pollution, the congregation of people, excessive traffic generation or lowering of aesthetics being caused; provided that one assistant may be employed, that general practitioners shall be except from the condition with regard to occupancy.

Offices means a room or set of rooms or a building utilised for the performance of an administrative function or the conducting of an enterprise and includes a post office, magistrate's offices or professional usage.

Off-sales facility or liquor store means a business premises in respect of which an off-consumption license, as contemplated in the Liquor Act, 1989 (Act No. 27 of 1989), is required.

Outbuilding means a structure, whether attached to or separate from the main unit, which is designed to be normally utilised for the housing of servants, for the garaging of motor vehicles and for storage purposes in so far as these uses are usually and reasonably required in connection with the main structure, but does not include additional dwelling units.

- P. **Parking bay** means an area measuring not less than 5,5m by 2,5m which is clearly outlined and demarcated for the parking of one motor vehicle and which is accessible to the satisfaction of the local authority.

Parsonage means a dwelling house for the accommodation of a spiritual leader, who is a full time employee of an organisation which practices religion in a house of worship, including the accommodation of the spiritual leader's family, and includes a monastery or convent.

Place of assembly means a public hall, a hall for social functions, a music hall, a concert hall or an exhibition hall which is not directly related to a commercial undertaking, or a town hall or civic centre.

Place of entertainment means a theatre, a cinema, a dance hall, an amusement park, a sports centre, a billiard-room, a skating rink or a similar place.

Place of instruction means a creche, pre-primary school, primary school, high school, college, technikon, university, research centre, convent, public library, public art gallery, or museum or some other centre which is utilised for instruction purposes and includes a hostel appertaining thereto, but does not include a building or land unit which is mainly utilised as a certified reformatory or industrial school.

Place of public worship means a church, synagogue, chapel or other place of public devotion, and includes any building incidental thereto but excludes funeral parlours, including any chapel forming part thereof.

Private open space means any land which has been set aside in this scheme for utilisation primarily as a private site for sports, play, rest or recreational facilities or as an ornamental garden or a pleasure garden and includes public land which is or will be leased on a long-term basis and a cemetery, whether public or private.

Private parking means a site or building or part of a building which is utilised for parking purposes under the control of a private individual or agency.

Professional usage means such type of use as is normally and reasonably associated with professional people such as doctors, dentists, architects, engineers and town planners, where the rendering of a service, as against the carrying on of a business, is one of the distinguishing factors.

Public authority means a State department, local authority or semi-state agency or the Provincial Administration, the South African Transport Services or the Department of Posts and Telecommunications.

Public garage means a business or concern where motor vehicles are provided with fuel for payment or reward and includes trading in motor vehicles, oil, tyres or motor spares, the repair or overhauling of motor vehicles, a restaurant or cafe, spraypainting, panel beating, blacksmithery or body work.

Public housing means dwelling units which are erected with funds voted by a state department or the Provincial Administration or a council.

Public open space means land which is under or will be under the ownership of a local authority, which is not leased nor will be leased on a long term basis, and which is utilised or will be utilised as an open space or a park, garden, picnic area, playground or square and includes a public place.

Public parking means land or a building or part thereof that is accessible to the general public for parking purposes.

Public place means any land in respect of which the ownership as such vests in a local authority in terms of Section 28 of this Ordinance or in terms of the Townships Ordinance, 1934 (ordinance 33 of 1934).

Public road means any road or street for public use or any land intended for such purpose.

Public street means any land in respect of which the ownership as such vests in a local authority in terms of Section 28 of this Ordinance or in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934).

Publish in the press, in relation to a notice, means to publish the notice in accordance with the provisions of Section 90 of the Republic of South Africa Constitution Act, 1983 (Act 110 of 1983), in such newspaper or newspapers as the director or town clerk or secretary who shall or may so publish, may from time to time determine.

- R. **Rear boundary** of a site or erf means every boundary thereof, (other than a street boundary) which is parallel to, or is within 45 degrees of being parallel to every street boundary or such site or erf, and which does not intersect a street boundary.

Register when used as a noun, means documents held by a local authority in connection with all departures concerned.

Residential building means a building (other than a dwelling house, group house, town house or flats) for human habitation, together with such outbuildings as are normally used therewith, and includes a boarding house, residential rooms, a licensed hotel (excluding an off-sales facility), an old age home, a children's home and a hostel, but does not include buildings mentioned, whether by means of inclusion or exclusion, in the definitions of "place of instruction" or "institution".

Resort shop means a shop situated on/in a resort which does not exceed 100m² in floor space, including storage space.

Restaurant means a place where meals can be bought and eaten.

Retirement village means group housing (if permitted in Group Housing) or town housing (if permitted in Town Houses) that conforms to the following additional conditions:

- (a) each dwelling unit shall only be occupied by an elderly person or by a family of which at least one member is an elderly person;
- (b) a full spectrum of care and other recreational facilities shall be provided to the satisfaction of the Council, and
- (c) land use restrictions other than those applicable in Group Housing or General Residential, as the case may be, may in respect of a retirement village be determined by the Council.

Riding school means a place or enterprise for hiring out horses for payment and includes the care and stabling of such horses.

- S. **Scheme regulations** means:

- (a) regulations made by the Administrator in terms of Section 8, or
- (b) any final statement contemplated by Regulation 8 (1) of the regulations made under Section 60 of the Townships Ordinance, 1934 (Ordinance 33 of 1934) and published by Provincial Notice 460 or 1937.

Scrapyard means a building or land which is utilised for one or more of the following purposes:

- (a) the storing, depositing or collecting of junk or scrap material or articles the value of which depends mainly or entirely on the material used in the manufacture thereof;
- (b) the dismantling of second-hand vehicles or machines to recover components or material;
- (c) the storing or sale of second-hand pipes, poles, steel sections, wire, lumber, tyres, bricks, containers or other articles which are suitable to be left in the open without any serious damage being incurred, and
- (d) open air storage areas which are to be concealed from public view and the street, either by a building or suitable screen walls of a minimum height of 2 metres. Material usage will be dependant on nature of activity, eg. degree of screening required.

Service station means a business or concern where motor vehicles are provided with fuel for payment or reward and includes trading in motor vehicles, oil, tyres or motor spares, the repair or overhauling of motor vehicles, or a restaurant or cafe, but does not include spraypainting, panel beating, blacksmithery or body work.

Service trade means an enterprise which is primarily involved in the rendering of a service for the local environs and employs at most ten people and which is exempted from Section 2 of the Physical Planning Act, 1967 (Act 88 of 1967), but does not include an abattoir, a brick-making site, sewage works, a service station or a public garage.

Setback means the line delimiting the area measured from the centre line of a particular street, within which no building or other structure, including a boundary fence, may be erected.

Shelter means a unit of accommodation of any material whatsoever, which does not comply with the standards of durability intended by the National Building Regulations, as applicable to the area of jurisdiction of the Council, and includes any land use complying with Clause 3.30.

Shop means a site or building structure used for the purpose of carrying on a retail concern and includes a launderette, a dry cleanette or a retail concern where goods which are sold in such concern are manufactured or repaired; provided that the floor area relating to such manufacture or repair, comprises not more than one third of the floor area of the shop; "shop" does not include an industry, public garage, service station, bottle-store or supermarket.

Side boundary means any boundary of a land unit which does not constitute a common boundary of such land unit and a public street or public road.

Site means the area of the erf less any land required for road purposes.

Solar energy panels means, any apparatus or structure utilized for gaining solar energy. The nature and installation of such apparatus or structures is subject to conditions as laid down in Annexure 5.

Special usage means a use which is such, or in respect of which the land use restrictions are such, that it is not catered for in these regulations, and which is set out in detail, and in respect of which the land use parameters are set out in detail, by means of conditions or approval or by means of conditions applicable to the special zone, and includes a conservation usage.

Storey means a single level of a building, excluding a basement, which does not exceed a height of 4m, measured from finished floor level to finished floor level or to the ceiling in the case of the top storey.

Street shall have the meaning thereto assigned by Section 2 of Ordinance No. 20 of 1974.

Street boundary means the common boundary of a site or land unit and a street; provided that where a portion of a site or land unit is reserved for purposes of a new street or street

widening in terms of the zoning scheme or any other law, the street boundary of the site or land unit shall be the boundary of such proposed new street or proposed street widening.

Structure any built or pre-built building inclusive of eaves and guttering.

Subdivide and subdivision in relation to land, means to subdivide the land whether by:

- (a) survey;
- (b) the allocation, with a view to the separate registration of land units, of undivided portions thereof in any manner, or
- (c) the preparation thereof for such subdivision.

Supermarket means a retail concern with a net retail floor space of not less than 350m², which is utilised for sales on a basis of self-service and where the goods for sale fall in one or more of the following categories:

- (i) foodstuffs;
- (ii) toiletries, and
- (iii) household cleansing agents.

T. **The Ordinance** means the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Tourist facilities means amenities for tourists such as lecture rooms, restaurants, gift shops and restrooms permitted by the Council as a consent use, but does not include overnight accommodation.

Town house means a dwelling unit which forms part of a town housing scheme.

Town housing means a row or group of linked and/or attached dwelling units planned, designed and built as a harmonious architectural entity, of which every dwelling unit has a ground floor; such dwelling units may be cadastrally subdivided.

Transport usage means a transport undertaking based on the provision of a transport service and includes public and private undertakings.

U. **Undertaker** means a building or land used solely for the purposes of services ancillary to funeral management and can include a retail facility intended primarily for the sale and display of those commodities required for cemetery purposes, but does not include a chapel, mortuary, crematorium, coffin assembly, monumental mason, an area for public assembly or vehicle storage.

W. **Warehouse** means a site, building or room where goods are stored or a wholesale business or service trade is conducted.

Z. **Zone**, when used as a noun, means land set apart by a zoning scheme for particular zoning, irrespective of whether it comprises one or more land units or part of a land unit;

Zone, when used as a verb in relation to land, means to set apart the land for a particular zoning;

Zoning, when used as a noun, means a category of directions setting out the purpose for which land may be used and the land use restrictions applicable in respect of the said category of directions, as determined by relevant scheme regulations;

Zoning map means:

- (a) a zoning map framed in terms of Section 10 of this Ordinance, or
- (b) a map framed in terms of Regulation 8 (2) of the regulations made under Section 60 of the Townships Ordinance, 1934 (Ordinance 33 of 1934), and published by Provincial Notice 460 of 1937.

Zoning scheme means a scheme consisting of scheme regulations and a register, with or without a zoning map.

2.0 LAND USE

This regulation has been introduced in order to specifically group several loose-standing clauses in the existing scheme regulations as follows:

2.1 Area of Zoning Scheme

The extent of the zoning scheme is indicated on the zoning map(s) insofar as the zoning scheme is mapped.

2.2 Zoning According to Utilization

Notations on the zoning map are intended to indicate land use and not land ownership. Land falling under the ownership of a public authority shall only be included in the authority zone if the utilization thereof is such that no other zone in Table B is appropriate. If any other zone in Table B is appropriate, the land shall be indicated for that purpose, whether or not it is owned by a public authority.

2.3 Components of the Zoning Scheme

This zoning scheme consists of three components; the scheme regulation, the zoning map(s) insofar as the scheme is mapped, and the register insofar as any departures exist.

2.4 Zoning of Land As Specified Use Zones

The land shown on the zoning map, as indicated in Columns 2 or 3 of Table A, is zoned for the respective purposes set out in Column 1 of Table A and shall, subject to any provisions to the contrary in the Ordinance and these regulations, not be utilised for any other purpose.

TABLE A

COLUMN 1 ZONING	COLUMN 2 COLOUR NOTATION (PANTONE)	COLUMN 3 MONOCHROME NOTATION	COLUMN 4 LETRATONE
Agriculture 1	Yellow Green outline (458)		S 52105
Agriculture 2	Yellow Green (458)		S 52101
Single Residential	Yellow (115)		LT 145
General Residential	Orange (021)		LT 916
Group Housing	Yellow with Black hatching (115)		S 52100
Town Housing	Yellow with Black crossline hatching (115)		LT 905
Business 1	Dark Blue (542)		LT 84
Business 2	Dark Blue with Black hatching (542)		LT 928
Business Restricted	Dark Blue with Black crossline hatching (542)		LT 923
Special Business	Blue Purple (535)		LT 130
Commercial	Blue Purple with Black hatching (535)		S 52107
Light Industrial	Red Purple (500)		LT 953
Industrial	Red Purple with Black hatching (500)		S 52104
Noxious Industry	Red Purple with Black crossline hatching (500)		LT 167
Mining	Pink (230)		LT 168
Educational	Light Blue outline (310)		LT 949
Institutional	Grey (413)		LT 175
Resort 1	Dark Green with Black hatching (360)		LT 956
Resort 2	Dark Green with Black crossline hatching (360)		LT 240
Open Space 1 (Public)	Light Cream (358)		LT 98
Open Space 2 (Private)	Green outline (375)		LT 995
Open Space 3 (Nature Reserve)	Dark Green outline (360)		LT 926
Transport 1 (Transport Usage)	Dark Brown (464)		LT 124
Transport 2 (Public Road)	Beige (466)		-
Transport 3 (Public Parking)	Brown (154)		LT 166
Authority 1 (Usage)	Dark Red (032)		LT 158
Local Authority 2 (Services)	Light Red (170)		LT 164
Special Zone	Dashed Red line (032)		LL14082
Undetermined	Light Orange (137)		LT 1

Informal Residential Zone	Yellow with Light Brown outline		LT 121
Local Authority Area	Solid Red line (032)		LL 472

2.5 Erection of Building and Use of land in Specified Use Zones

The purposes, called primary uses, for which land may be utilised in the various zones indicated in Column 1 of Table B are shown in Column 2 of Table B. The purposes, called consent uses, for which land may be utilised or buildings may be erected with the consent of the council in the various zones indicated in Column 1 of Table B are set out in Column 3 of Table B. Any use not reflected in Column 2 or 3 shall, subject to any provisions to the contrary in the Ordinance and these regulations, not be permitted in the zone concerned.

In the case of land that was vacant on 1 July 1986, the utilization thereof shall, for purposes of zoning as contemplated by Section 14 (1) of the Ordinance, be deemed to be the use which is permitted in terms of title conditions imposed by the Administrator, or, where more than one use is so permitted, one of such uses as determined by the council concerned.

It must be noted that the building uses which are permitted in terms of Table B or may be approved with the consent of the council may be subject to departures, which may in effect make the right attached to a land unit more or less restricted than is apparent from the notation on the map. In such cases, the relevant information relating to the land unit shall be recorded in the register kept for this purpose (see Regulation 2.3).

2.6 Primary Use and Consent Use

Guidelines for the application of primary and consent uses is as follows:

- All consent uses listed in Column 3 of Table B may be practised in the corresponding listed primary use and zoning in Columns 1 and 2, respectively with Councils consent.
- If a desired consent use listed in Column 3 is to be practised in a non-corresponding primary use zone (Columns 1 and 2), then that primary use zone must be rezoned to the primary use zone permitting the desired consent use.
- Consent usage should only be considered if it is not practical to rezone to primary usage.

2.7 More Restrictive Land Use Restriction and Provisions

The provisions of Section 57(1) of the Ordinance effectively allow that any provision or amendment of the zoning scheme resolved on by the Council or a committee, which is more restrictive than the existing provision of the scheme become binding immediately to the extent that they are more restrictive.

2.8 right of appeal with regards to Special Consent uses and Departures

Any person aggrieved by

TABLE B

INDEX	COLUMN 1 ZONING	COLUMN 2 PRIMARY USE	COLUMN 3 CONSENT USES
3.1	Agriculture 1	Agriculture	Additional dwelling units, farmstore, farmstall, intensive-feed farming, riding school, nursery, service trade, tourist facilities
3.2	Agriculture 2	Agricultural Industry	Tourist facilities, farmstore, farmstall
3.3	Single Residential	Dwelling House	Additional dwelling unit
3.4	General Residential	Flats	Dwelling house, group house, town house, public housing, professional usage, residential building
3.5	Group Housing	Group House	Dwelling house, retirement village
3.6	Town Housing	Town House	Dwelling house, group house, retirement village
3.7	Business 1	Business Premises	Townhouse, flats, residential building, place of assembly, place of entertainment, place of instruction, institution, bottle-store, supermarket, service trade
3.8	Business 2	Offices	Town house, flats, residential building, place of assembly, place of entertainment, supermarket
3.9	Business Restricted	Shop	Town house, flats, residential building, place of assembly, offices, supermarket, restaurant
3.10	Special Business	Service Station	Public garage
3.11	Commercial	Warehouse	Place of assembly, place of entertainment, place of instruction, transport usage, supermarket
3.12	Light Industrial	Light Industry	Business premises, shop, public garage, offices, warehouse
3.13	Industrial	Industry	Shop, warehouse, public garage, transport usage, scrapyard
3.14	Noxious Industry	Noxious Trade	Industry, warehouse, public garage, scrapyard
3.15	Mining	Mining	None
3.16	Educational	Place of Instruction	Place of assembly
3.17	Institutional	Institution, House of Worship	Place of assembly, parsonage
3.18	Resort 1	Holiday Accommodation	Resort shop, tourist facilities, motel
3.19	Resort 2	Holiday Housing	Motel, licensed hotel (excluding off-sales facilities), tourist facilities, resort shop
3.20	Open Space 1 (Public)	Public Open Space	None
3.21	Open Space 2 (Private)	Private Open Space	None
3.22	Open Space 3 (Nature Reserve)	Nature Reserve	None
3.23	Transport 1 (Transport Usage)	Transport Usage	None

TABLE B cont.....

INDEX	COLUMN 1 ZONING	COLUMN 2 PRIMARY USE	COLUMN 3 CONSENT USES
3.24	Transport 2 (Public Road)	Public Road	None
3.25	Transport 3 (Public Parking)	Public Parking	None
3.26	Authority 1 (Usage)	Authority Usage	None
3.27	Local Authority 2 (Services)	Authority Services	None
3.28	Special Zone	Special Usage	None
3.29	Undetermined	None	None
3.30	Informal Residential Zone	Shelter Dwelling House	None

3.0 **PLANNING CONTROL**

The following provisions shall apply in the relevant zones:

3.1 **AGRICULTURE 1**

3.1.1 Colour notation: yellow-green outline

Primary use: agriculture

Consent uses: additional dwelling units, farmstore, farmstall, intensive-feed farming, riding school, nursery, service trade, tourist facilities.

3.1.2 **Land use restrictions:**

Street building line: at least 30m

Side building line: at least 30m

3.2 **AGRICULTURE 2**

3.2.1 Colour notation: yellow-green

Primary use: agricultural industry

Consent uses: tourist facilities, farmstore and farmstall.

3.2.2 **Land use restrictions:**

Street building line: at least 30m

Side building line: at least 30m

Parking: at least one parking bay per 200m² of the total floor space (refer Regulation 4.12.1).

3.2.3 **Loading and unloading:**

For the purpose of loading and unloading vehicles, at least two bays shall be provided for every 500m² of part thereof of the area used for the industry (refer Regulation 4.12.2).

3.2.4 **Additional conditions:**

With the rezoning of land to agriculture 2, the Council may prescribe any special conditions in respect of permissible uses, parking and loading requirements, access, fencing and aesthetic treatment so that the concern will have the minimum impact on the environment.

3.3 **SINGLE RESIDENTIAL**

3.3.1 Colour notation: yellow

Primary use: dwelling house

Consent uses: additional dwelling unit.

3.3.2 **Land use restrictions:**

Coverage: at most 50%

Height: at most two storeys

No building or any portion thereof except boundary walls and fences shall be erected on a site within the following building line restrictions:

Street building line: at least 5m, subject to Regulation 3.3.3

Rear building line: at least 3m subject to Regulation 3.3.3

Lateral (side) building lines:

- i) if the frontage of erf exceeds 22,0m in length, a minimum of 2,5m provided that the aggregate side space shall not be less than 6,0m
- ii) if the frontage of an erf is between 19,0m and 22,0m in length a minimum of 1,5m provided that the aggregate side space shall not be less than 5,0m
- iii) if the frontage of an erf is less than 19,0m a minimum of 1,0m provided that the aggregate side space shall not be less than 3,5m and further that no windows are inserted in any wall closer than 1,5m from such lateral boundary

Parking: at least two parking bays per dwelling unit, on the land unit inclusive of garages and/or carports.

3.3.3 Notwithstanding regulation 3.3.2:

- (a) the street building line shall be at least 3m where the average depth of all erven within a specific area (measured at right angles to any street boundary of such land unit) does not exceed 20m.
- (b) the Council may approve the erection of an outbuilding or additional dwelling unit which encroaches into a side building line subject to:
 - i) compliance with the street building line;
 - ii) such buildings not exceeding a height of one storey;
 - iii) no doors or windows being permitted in any wall of such building which fronts onto the side boundary concerned;
 - iv) the provisions of an access way, other than through a building and at least 1m wide, from a street to every vacant portion of the land unit concerned, other than a courtyard;
 - v) the building being erected in the rear space and side space for a distance of 11,0m measured from the rear and side boundary of the site respectively and is a single storey structure;
 - vi) compliance with NBR and fire regulations, and
 - vii) consent of the adjacent property owner/s
- (c) specific regulations contained in existing township conditions of existing urban areas shall override all other regulations until removed (Removal of Restrictions). These specific regulations are contained in Table C (Single Residential Planning Controls) which details the individual township establishment conditions and selects the "more restrictive" condition shown with an asterix (*).

Table C, apart from the building lines, can therefore be summarised as follows:

No. of dwellings per erf:

One dwelling unit and one outbuilding.

Minimum erf size:

Minimum size in accordance with average area of erven in vicinity of property. All subdivisions require departure from Scheme.

Building lines:

As per Table C.

Coverage:

All single residential coverage is 50% apart from Grahamstown Extension 7 where maximum coverage is 33,3%

Maximum Height:

Specified single storey:
Grahamstown; Extensions 1, 5 and 8,
Danelwak,
Somerset Heights; Extensions 1 and 2,
West Hill; Extensions 1 and 2,
Oatlands Park,
Hillsview.

Where terrain permits, split level and two storey dwellings permissible.

Building materials:

Construction materials specified for the following:

- Grahamstown Extension 8, Somerset Heights; Extensions 1 and 2, Oatlands Park specify baked brick, stone or concrete construction. Somerset Heights Extension No. 2-outbuildings roofed with corrugated iron will be permitted
- Boundary and other walls and fences - see Annexure 2
- Oatlands North Extension 1 specifies no asbestos big six, I.B.R., corrugated iron or tar roofs.

3.3.4 Guidelines for Residential Subdivision

- i) Minimum erf size for Single Residential subject to ratio of sizes relative to surrounding erven.
- ii) Maximum ratio of 2,5:1 lateral to street erf frontage following subdivision.
- iii) Minimum panhandle widths of 4,0m.
- iv) Minimum slopes before panhandle erven will be considered (proposed 1:8 preferable 1:10).
- v) Minimum erf size for panhandle subdivision to exclude area of panhandle.
- vi) Written notification to adjacent owners. Also to be advertised in terms of Ordinance.

3.3.5 Letting

Nothing in this Scheme shall prohibit or restrict the letting of part of a dwelling, provided that no part of any dwelling, nor any additional free-standing building which may be erected for use in conjunction with such dwelling, may be used as a **separate tenement** unless such building or part thereof complies with the following:

- i) Provided that this sub-regulation shall not restrict the Local Authority from granting its approval to the use of a dwelling as a boarding house where such a dwelling is situated in a use zone where boarding houses may be erected and used.

- ii) Provided that the permission of the Local Authority shall not, in terms of this Scheme, be required for the lodging of two or fewer persons in a dwelling.
- iii) No person shall use or cause or permit to be used as a dwelling, any room, group of rooms or building which, in the opinion of the Local Authority, is not a habitable room or does not include habitable rooms to its satisfaction.
- iv) These regulations will furthermore be subject to the health regulations of the Local Authority.

For the purpose of this regulation, "Tenement" means a habitable room or group of rooms separately occupied as a dwelling.

3.3.6 Business operations on residential erven (refer Regulation 4.9 - Occupational Practice and Other Rights):

Except with the prior approval of the Local Authority (for a limited period of time), no persons shall utilise a residential property or building for:

- i) the storage of goods or materials
- ii) staff meetings, training or other forms of instruction
- iii) any trade related operations
- iv) operation of maintenance services from premises.

Furthermore, no person shall bring onto any residential premises or cause to allow to be present thereon any vehicle used for business purposes other than a small l.d.v. for a period not exceeding two hours, except for bonafide purposes of delivering or supplying goods to such premises.

3.3.7 Additional dwelling unit:

Notwithstanding Regulation 3.3.2, the following land use restrictions shall be applicable with regard to an additional dwelling unit over and above the other land use restrictions which apply, and shall prevail if the last-mentioned land use restrictions are in conflict therewith:

Coverage: together with all other buildings, not to exceed 50%

Total floor space: additional dwelling unit area not to exceed 33% of existing dwelling unit to a maximum of 90m². In cases where the existing dwelling is less than 105m² a maximum of 35 m² will be permitted for the additional unit.

Parking: one additional parking bay on the land unit.

Height: one storey.

3.3.8 Professional practices:

- i) The use by any resident of a dwelling house, flat or residential building or of any portion thereof as medical doctor's or a dentist's surgery, consulting and waiting rooms, as well as a veterinary's consulting room for the purpose of treating only domestic animals (household pets), provided the resident himself is the only user.
- ii) Refer 4.9.2

MAP AND TABLE "C" TO BE INSERTED HERE

3.4 **General Residential**

3.4.1 Colour notation: orange

Primary use: flats

Consent uses: dwelling house, group house, town house, public housing, professional usage, residential building.

3.4.2 **Land use restrictions:**

Floor factor: at most 1,0

Coverage: at most 40%

Height: at most three storeys

No building or any portion thereof except boundary walls and fences shall be erected on a site within the following building line restrictions:

Street building line: at least 8m

Side building line: at least 4m or half the height of the building, whichever is the greater, subject to Regulation 3.4.3 (a).

Rear building line: 4,5m

Parking: 1,25 parking bays per flat; of which 25% shall be clearly demarcated and properly indicated by means of a notice board to the satisfaction of the Council for the exclusive use of visitors (refer Regulation 4.12.1).

3.4.3 **Notwithstanding Regulation 3.4.2:**

(a) the Council may approve the erection of an outbuilding which encroaches into a side building line, subject to:

i) compliance with the street building line;

ii) such outbuilding not exceeding a height of one storey

iii) no doors or windows being permitted in any wall of such outbuilding which fronts onto the side boundary concerned, and

iv) the provision of an access way, other than through a building and at least 1m wide, from a street to every vacant portion of the land unit concerned, other than a courtyard

v) the building being erected in the rear space and side space for a distance of 11,0m measured from the rear (and side) boundary of the site

vi) compliance with NBR and fire regulations

vii) consent of the adjacent property owner/s

(b) the following additional parking requirement shall be applicable with regard to professional usage in this zone: three parking bays per professional person, of which at least two parking bays per professional person shall be reserved for patients or clients. These parking bays shall be clearly indicated and tarred or paved to the satisfaction of the Council.

- (c) combined usage: in the event of a combined usage (with offices or business), accommodation units shall not be permitted on the ground floor. Business and office usage to be restricted to the ground floor unless the entire building or floor is converted to business or office purposes. Refer 4.10 Combined Use Building.

3.5 **GROUP HOUSING**

- 3.5.1 Colour notation: yellow with black hatching
Primary use: group house
Consent uses: dwelling house, retirement village.

3.5.2 **Land use restrictions:**

Density: as laid down by the Council up to a maximum of twenty units per gross hectare or a 3:1 ratio with regard to the gross density of surrounding dwelling units, whichever permits the smaller number of units.

Communal open space: at least 80m² per dwelling unit.

Private outdoor space: at least 40% of the gross floor space of the unit concerned, in a form which shall not exceed a ratio of 2:1 (length to width).

Combined open space: where no distinction is made between communal open space and private outdoor space, the above communal open space and private outdoor space requirements shall be replaced by a combined open space requirement of at least 130m² per dwelling unit.

Height: at most two storeys

Street building line: zero, subject to Regulation 3.5.3 (b).

Side building line: zero, subject to Regulation 3.5.3 (c).

Rear building line: zero, subject to Regulation 3.5.3 (d).

Parking: at least two parking bays per group house; both may be provided at such group house, or part of the required number of parking bays at some of the group houses and the remainder in the form of communal parking for the group housing scheme concerned, or the entire requirement in the form of communal parking (refer Regulation 4.12.1).

Street width: normally at least 10m, or 8m in a cul-de-sac or loop road of limited length which serves a maximum of 8 group houses.

3.5.3 **Additional provisions:**

- (a) In addition to the private outdoor space or the combined open space, as the case may be, a service yard of an adequate area and screened by a wall from the view of anyone other than the occupant(s) of the dwelling unit concerned, shall be provided to the satisfaction of the Council.
- (b) Despite the zero street building line, a street building line of 2m may be required to ensure safe traffic circulation or for other reasons such as development in the area, and a driveway shall have an adequate area to allow comfortably for the parking of a large motor car thereon.

- (c) Despite the zero side building line, adequate side building lines may be required for fire-fighting purposes, and a 3m side building line shall apply where a group housing zone abuts on another zone.
- (d) Despite the zero rear building line, adequate rear building lines may be required for fire-fighting purposes, and a 3,0m rear building line shall apply where a group housing zone abuts on another zone. Outbuildings with the approval of Council may be erected within the 3m building line. Consent of the adjacent property owner/s must also be obtained.
- (e) Garages and carports shall be excluded in the calculation of floor space for the purpose of determining the area of the private outdoor space.
- (f) No group housing site may have an area greater than 2ha, and no group housing site shall abut on another group housing site.

3.5.4 Home Owner's Association:

In terms of Section 29 of the Land Use Planning Ordinance, the following shall apply:

Section 29 (1):

Either the Administrator or the council concerned, as the case may be, may impose conditions under Section 42 as to the granting of an application for subdivision in terms of Section 25 (1), in relation to the compulsory establishment by the applicant for subdivision of a home owners' association.

Section 29 (2):

A home owners' association coming into being by virtue of the provisions of subsection (1):

- (a) shall be a body corporate;
- (b) shall have a constitution which:
 - i) has as its object the control over and the maintenance of buildings, services and amenities arising from the subdivision concerned.
 - ii) provides for the implementation of the provisions of Paragraph (c), and
 - iii) has been approved by the council concerned in order to ensure that the provisions of sub-paragraphs (i) and (ii) are being complied with, and
- (c) shall have as its members the owners of land units arising from the subdivision concerned, who shall be jointly liable for expenditure incurred in connection with the association.

Section 29 (3):

A home owners' association which came into being by virtue of a condition imposed under the Townships Ordinance, 1934 (Ordinance 33 of 1934), and which exists at the commencement of this Ordinance, shall be deemed to be a home owners' association which came into being by virtue of the provisions of subsection (1) of this section.

Section 29 (4) (a):

If a home owners' association referred to in subsection (2) or (3) fails to meet any obligation resting on it by virtue of the provisions of subsection (2) (b) (i) or (c) and the community concerned is in the opinion of the council concerned adversely affected by such failure, the

said council may take all steps required to rectify that failure, and recover from the owners referred to in subsection (2) (c) the amount of any expenditure incurred by it in relation to such steps.

Section 29 (4) (b):

Amounts so recovered shall for the purposes of subsection (2) (c) be deemed to be expenditure incurred in connection with the home owners' association concerned.

3.5.5 Group Housing Code:

Refer Annexure 4.

3.6 TOWN HOUSING

3.6.1 Colour notation: yellow with black crossline hatching.
Primary use: town house
Consent uses: dwelling house, group house, retirement village.

3.6.2 Land use restrictions:

Density: as laid down by the Council up to a maximum of 50 units per gross hectare.

Coverage: at most 50%

Height: at most two storeys.

Street building line: zero, subject to Regulation 3.6.3 (a)

Side building line: zero, subject to Regulation 3.6.3 (b)

Rear building line: zero, subject to Regulation 3.6.3 (c).

Parking: at least two parking bays per town house; both may be provided at such town house, or part of the required number of parking bays at some of the town houses and the remainder in the form of communal parking for the town housing scheme concerned, or the entire requirement in the form of communal parking (refer Regulation 4.12.1).

3.6.3 Additional building line requirements:

(a) Despite the zero street building line, a street building line of 2m may be required to ensure safe traffic circulation or for other reasons such as development in the area, and a driveway shall have an adequate area to allow comfortably for the parking of a large motor car thereon.

(b) Despite the zero building line, adequate side building lines may be required for fire-fighting purposes, and a 3m side building line shall apply where a town house development abuts on another zone.

(c) Despite the zero rear building line, adequate rear building lines may be required for fire-fighting purposes, and a 3,0m rear building line shall apply where a group housing zone abuts on another zone. Outbuildings with the approval of Council may be excluded from the 3m building line. Consent of the adjacent property owner/s must also be obtained.

3.6.4 Home Owners' Association:

Refer Regulation 3.5.4.

3.7 **BUSINESS 1**

3.7.1 Colour notation: dark blue
 Primary use: business premises
 Consent uses: town house, flats, residential building, place of assembly, place of entertainment, place of instruction, institution, bottle-store, supermarket, service trade.

3.7.2 **Land use restrictions:**

Floor factor: at most 3,0

Coverage: 100% subject to the provision of required on-site parking, on- and off-loading, refuse collection areas and provision for fire escapes

Setback: at least 6,5m

Street building line: zero

Side building line: zero, provided that the Council may lay down side building lines in the interest of public health or in order to enforce any law or right

Rear building line: zero, provided that the Council may lay down rear building lines in the interest of public health or in order to enforce any law or right.

Where a business zone abuts any other zone the more restrictive building lines shall apply.

Parking: at least three parking bays per 100m² of the total floor space

Loading and off-loading facilities: (see Regulation 4.12)

Building height: no building in this zone shall exceed the height of three storeys or 13,716m whichever is the lesser, provided that for a distance of 7,62m on either side of the cadastral boundaries of that portion of High Street and Church Square, between Somerset and Bathurst Streets, no building shall exceed a height of 9,754m.

3.7.3 **Additional provisions:**

(a) Alternative parking requirements:

i) As an alternative to the parking requirement referred to in Regulation 3.7.2, the owner may, with the consent of the Council, where Council are of the opinion that it is undesirable or impractical from a planning point of view to provide the required parking space on the site, acquire the prescribed area of land for the parking facilities concerned elsewhere in a position approved by the Council; provided that the owner shall register a notarial deed against such land to the effect that the Council and public shall have free access thereto for the purpose of parking, and the owner shall be bound to level this land and surface and maintain it to the satisfaction of the Council; the cost of registration of the servitude shall be borne by the owner.

ii) As an alternative to Regulation 3.7.3 (a) (i), the owner may, with the consent of the Council, pay a cash sum to the Council, equal to the estimated current market value per m² of the land on which the parking is required to be provided in terms of regulation 3.7.2, in which event the Council itself shall be responsible for acquiring the necessary land for such parking purposes when and where the Council desires. Market value to be by mutual agreement failing which Council will obtain a sworn valuation at the cost of the applicant.

- (b) Further parking and site access requirements:
- i) The vehicular access and exit ways shall be restricted to not more than one each per site per street abutting on the site.
 - ii) The vehicular access and exit ways shall be restricted to a maximum total width of 6m where they cross the street boundary.
 - iii) If the corner at a street intersection is not splayed, vehicular access or exit ways shall not be closer than 10m to such corner.
 - iv) If the corner at a street intersection is splayed, vehicular access or exit ways shall not be closer than 10m to such corner or 5m measured from the point where the splay reaches the road boundary, whichever is the greater distance from the corner.
 - v) The parking areas shall be duly constructed to the satisfaction of the Council.
 - vi) The parking areas shall be used exclusively for the parking of vehicles which are lawfully allowed on them and shall not be used for trading or any other purposes.
 - vii) The way in which it is intended that vehicles should park in and gain access to or exit from such parking areas shall be indicated on a plan which shall be submitted to the Council, who may approve or reject it or lay down any conditions.
 - viii) The Council may lay down more restrictive requirements than those in Regulation 3.7.3 (b) (i) to (vii) if deemed necessary from any traffic point of view.
- (c) Basements: Building lines are applicable to basements, except where controlled by provisions of the Municipal Council Ordinance 1974 (Ordinance 20 of 1974). Will be considered on application.
- (d) Projections: In this zone projections (excluding advertising signs approved by the Council in accordance with the provisions of any other law) over streets and building lines shall be limited to minor architectural features and one cantilevered open canopy to within 0,5m of the pavement edge; provided that no portion of a projection shall be less than 3m above the pavement and there shall be no access from the building to the canopy. The necessary encroachment agreements and indemnity forms to be duly completed
- (e) Eaves and gutters: Eaves and gutters are regarded as part of the built structure.

3.7.4 **Places of assembly:**

Notwithstanding Regulation 4.8, the following land use restrictions shall be applicable with regard to places of assembly over and above the other land use restrictions which apply, and shall prevail if the last-mentioned land use restrictions are in conflict therewith:

Street building line: at least 4,5m

Parking: at least one parking bay per eight seats that are provided in the building.

3.7.5 **Flats and residential buildings:**

Notwithstanding Regulation 4.8, the following land use restrictions shall be applicable with regard to flats and residential buildings over and above the other land use restrictions which apply, and shall prevail if the last-mentioned land use restrictions are in conflict therewith:

Floor factor: at most 1,0

Coverage: at most 75%

Height: at most three storeys

Parking: at least 1,25 parking bays per flat or, in the case of residential buildings, at least 0,7 parking bays per bedroom. In the case of flats, 25% of the required number of parking bays, or a greater number if so required by the Council, and, in the case of residential buildings which are licensed hotels, at least twenty additional parking bays, shall be provided, covered or uncovered, on the site and shall be clearly demarcated and properly indicated by means of a notice board to the satisfaction of the Council for the exclusive use of visitors.

Combined usage: in the event of a combined usage (with offices or business), accommodation units shall not be permitted on the ground floor. Business and office usage to be restricted to the ground floor unless the entire building is converted to business or office purposes.

3.8 **BUSINESS 2**

3.8.1 Colour notation: dark blue with black hatching

Primary use: offices

Consent uses: town house, flats, residential building, place of assembly, place of entertainment, supermarket.

3.8.2 **Land use restrictions:**

Floor factor: at most 1,5

Coverage: at most 50%

Building height: no building in this zone shall exceed the height of three storeys or 13,716m whichever is the lesser, provided that for a distance of 7,62m on either side of the legal boundaries of that portion of High Street and Church Square, between Somerset and Bathurst Streets, no building shall exceed a height of 9,754m.

Setback: at least 8m

Street building line: at least 5m

Side building line: at least 3m

Rear building line: at least 1,5m.

Parking: at least three parking bay per 100m² of the total floor space.

Loading and off-loading facilities: (see Regulation 4.12).

3.8.3 **Additional provisions:**

(a) Alternative parking requirements:

- i) As an alternative to the parking requirement referred to in Regulation 3.8.2, the owner may, with the consent of the Council, where Council is of the opinion that it is undesirable or impractical from a planning point of view to provide the required parking space on the site, acquire the prescribed area of land for the parking facilities concerned elsewhere in a position approved by the Council; provided that the owner shall register a notarial deed against such land to the effect that the Council and public shall have free access thereto for the purpose of parking, and the owner shall be bound to level this land and surface and maintain it to the satisfaction of the Council; the cost of registration of the servitude shall be borne by the owner.

- ii) As an alternative to Regulation 3.8.3 (a) (i), the owner may, with the consent of the Council, pay a cash sum to the Council, equal to the estimated market value per m² of the land on which the building is erected, multiplied by the area in m² of the land which is required to be provided in terms of regulation 3.8.2, in which event the Council itself shall be responsible for acquiring the necessary land for such parking purposes when and where the Council desires
- (b) Further parking and site access requirements:
- i) The vehicular access and exit ways shall be restricted to not more than one each per site per street abutting on the site.
 - ii) The vehicular access and exit ways shall be restricted to a maximum total width of 6m where they cross the street boundary.
 - iii) If the corner at a street intersection is not splayed, vehicular access or exit ways shall not be closer than 10m to such corner.
 - iv) If the corner at a street intersection is splayed, vehicular access or exit ways shall not be closer than 10m to such corner or 5m measured from the point where the splay reaches the road boundary, whichever is the greater distance from the corner.
 - v) The parking areas shall be duly constructed to the satisfaction of the Council.
 - vi) The parking areas shall be used exclusively for the parking of vehicles which are lawfully allowed on them and shall not be used for trading or any other purposes.
 - vii) The way in which it is intended that vehicles should park in and gain access to or exit from such parking areas shall be indicated on a plan which shall be submitted to the Council, which may approve or reject it or lay down any conditions deemed necessary.
 - viii) The Council may lay down more restrictive requirements than those in Regulation 3.8.3 (b) (i) to (vii) if deemed necessary from any traffic point of view.
- (c) Basements: Building lines are applicable to basements, except where controlled by provisions of the Municipal Council Ordinance 1974 (Ordinance 20 of 1974). Will be considered on application.
- (d) Projections: In this zone projections (excluding advertising signs approved by the Council in accordance with the provisions of any other law) over streets and building lines shall be limited to minor architectural features and one cantilevered open canopy to within 0,5m of the pavement edge; provided that no portion of a projection shall be less than 3m above the pavement and there shall be no access from the building to the canopy. The necessary encroachment agreements and indemnity forms to be duly completed.

3.8.4 **Places of assembly:**

Notwithstanding Regulation 4.8, the following land use restrictions shall be applicable with regard to places of assembly over and above the other land use restrictions which apply, and shall prevail if the last-mentioned land use restrictions are in conflict therewith:

Street building line: at least 5,0m

Parking: at least one parking bay per six seats that are provided in the building, provided that a minimum of 15 parking bays shall be provided in respect of a funeral parlour.

3.8.5 **Flats and residential buildings:**

Notwithstanding Regulation 4.8, the following land use restrictions shall be applicable with regard to flats and residential buildings over and above the other land use restrictions which apply, and shall prevail if the Business 2 land use restrictions are in conflict therewith:

Floor factor: at most 1,0

Coverage: at most 75%

Height: at most two storeys

Parking: at least 1,25 parking bays per flat or, in the case of residential buildings, at least 0,7 parking bays per bedroom. In the case of flats, 25% of the required number of parking bays, or a greater number, if so required by the Council, and, in the case of residential buildings which are licensed hotels, at least twenty additional parking bays, shall be provided uncovered on the site and shall be clearly demarcated and properly indicated by means of a notice board to the satisfaction of the Council for the exclusive use of visitors.

Combined usage: in the event of a combined usage (with offices or business), accommodation units shall not be permitted on the ground floor. Business and office usage to be restricted to the ground floor unless the entire building is converted to business or office purposes.

3.9 **BUSINESS RESTRICTED**

3.9.1 Colour notation: dark blue with black crossline hatching

Primary use: shop

Consent uses: town house, flats, residential building, place of assembly, offices, supermarket, restaurant.

3.9.2 **Land use restrictions:**

Floor factor: at most 1,5

Coverage: at most 60%

Building height: no building in this zone shall exceed the height of three storeys or 13,716m whichever is the lesser, provided that for a distance of 7,62m on either side of the cadastral boundaries of that portion of High Street and Church Square, between Somerset and Bathurst Streets, no building shall exceed a height of 9,754m.

Setback: at least 5,0m

Street building line: zero

Side building line: zero; provided that the Council may lay down side building lines in the interest of public health or in order to enforce any law or right. Where abutting a single residential zone, side and rear building lines as applicable to the single residential zone shall apply

Parking: at least three parking bays per 100m² of the total floor space

Loading and off-loading facilities: (see Regulation 4.12).

3.9.3 Additional provisions:

- (a) Alternative parking requirements:
- i) As an alternative to the parking requirement referred to in Regulation 3.9.2, the owner may, with the consent of the Council, where Council is of the opinion that it is undesirable or impractical from a planning point of view to provide the required parking space on the site, acquire the prescribed area of land for the parking facilities concerned elsewhere in a position approved by the Council; provided that the owner shall register a notarial deed against such land to the effect that the Council and public shall have free access thereto for the purpose of parking, and the owner shall be bound to level this land and surface and maintain it to the satisfaction of the Council; the cost of registration of the servitude shall be borne by the owner.
 - ii) As an alternative to Regulation 3.9.3 (a) (i), the owner may, with the consent of the Council, pay a cash sum to the Council, equal to the estimated market value per m² of the land on which the building is erected, multiplied by the area in m² of the land which is required to be provided in terms of Regulation 3.9.2, in which event the Council itself shall be responsible for acquiring the necessary land for such parking purposes when and where the Council desires.
- (b) Further parking and site access requirements:
- i) The vehicular access and exit ways shall be restricted to not more than one each per site per street abutting on the site.
 - ii) The vehicular access and exit ways shall be restricted to a maximum total width of 6m where they cross the street boundary.
 - iii) If the corner at a street intersection is not splayed, vehicular access or exit ways shall not be closer than 10m to such corner.
 - iv) If the corner at a street intersection is splayed, vehicular access or exit ways shall not be closer than 10m to such corner or 5m measured from the point where the splay reaches the road boundary, whichever is the greater distance from the corner.
 - v) The parking areas shall be duly constructed to the satisfaction of the Council.
 - vi) The parking areas shall be used exclusively for the parking of vehicles which are lawfully allowed on them and shall not be used for trading or any other purposes.
 - vii) The way in which it is intended that vehicles should park in and gain access to or exit from such parking areas shall be indicated on a plan which shall be submitted to the Council, who may approve or reject it or lay down any conditions deemed necessary.
 - viii) The Council may lay down more restrictive requirements than those in Regulation 3.9.3 (b) (i) to (vii) if deemed necessary from any traffic point of view.
- (c) Basements: Building lines are applicable to basements, except where controlled by provisions of the Municipal Council Ordinance 1974 (Ordinance 20 of 1974). Will be considered on application.
- (d) Projections: In this zone, projections, excluding advertising signs approved by the Council in accordance with the provisions of any other law, over streets and building lines shall be limited to minor architectural features and one cantilevered open canopy

to within 0,5m of the pavement edge; provided that no portion of a projection shall be less than 3m above the pavement and there shall be no access from the building to the canopy.

3.9.4 **Places of assembly:**

Notwithstanding Regulation 4.8, the following land use restrictions shall be applicable with regard to places of assembly over and above the other land use restrictions which apply, and shall prevail if the last-mentioned land use restrictions are in conflict therewith:

Street building line: at least 5,0m

Parking: at least one parking bay per six seats that are provided in the building, provided that a minimum of 15 parking bays shall be provided in respect of a funeral parlour.

3.9.5 **Flats and residential buildings:**

Notwithstanding Regulation 4.8, the following land use restrictions shall be applicable with regard to flats and residential buildings over and above the other land use restrictions which apply, and shall prevail if the Business Restricted land use restrictions are in conflict therewith:

Floor factor: at most 1,0

Coverage: at most 75%

Height: at most two storeys

Parking: at least 1,25 parking bays per flat or, in the case of residential buildings, at least 0,7 parking bays per bedroom. In the case of flats, 25% of the required number of parking bays, or a greater number, if so required by the Council, and, in the case of residential buildings which are licensed hotels, at least twenty additional parking bays, shall be provided uncovered on the site and shall be clearly demarcated and properly indicated by means of a notice board to the satisfaction of the Council for the exclusive use of visitors.

Combined usage: in the event of a combined usage (with offices or business), accommodation units shall not be permitted on the ground floor. Business and office usage to be restricted to the ground floor unless the entire building is converted to business or office purposes.

3.10 **SPECIAL BUSINESS**

3.10.1 Colour notation: blue-purple
Primary use: service station
Consent uses: public garage.

3.10.2 **Land use restrictions:**

Floor factor: at most 1,5

Coverage: at most 75%

Height: at most two storeys

Setback: at least 6,5m

Street building line: zero; provided that a 3,5m building line shall apply if fuel pumps are to be erected

Fuel pumps: no motor vehicle fuel pump shall be erected within 3,5m of the road boundary measured from the nearest edge of the base or island on which the pump is erected and no pumps for the supply of motor fuel to the public shall be erected on any site with a continuous road frontage of less than 30,0m.

Side building line: zero; provided that the Council may lay down side building lines in the interest of public health or in order to enforce any law or right or fire protection requirements.

Parking: at least one parking bay per 50m² of the total floor space; provided that the parking bays be clearly indicated for visitors.

3.10.3 Notwithstanding regulation 3.10.2, the following floor factor and coverage requirements shall be applicable with regard to public garages:

Floor factor: at most 0,5

Coverage: at most 30% excluding the apron or pump forecourt.

3.10.4 Additional provisions:

(a) The vehicular access and exit ways to and from the premises of a service station or public garage shall, where they cross the road boundary, be not more than 10m wide, and a wall at least 100mm thick and 200mm high shall be erected on the road boundary between the point of access and exit. The wall shall be continued along such boundary unless the premises are otherwise enclosed. The vehicular access and exit ways to and from motor vehicle fuel pumps shall be restricted to one each for every continuous stretch of frontage of 30m which the premises (whereon such pumps are erected) have on the boundary of a public street or public road.

(b) In an urban area the vehicular access and exit ways to and from the premises of a service station or public garage, where they cross the road boundary, shall:

- i) be not less than 30m from the point nearest to where a declared road, proclaimed road or prospective main road intersects any other road of a like status, or the nearest point of an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island.
- ii) be not less than 1,5m from the side boundary of the premises, or
- iii) in the case of an intersection other than one referred to in Paragraph (i), if the corner of the intersection is not splayed, be not less than 10m from such corner, or if the corner at the intersection is splayed, be not less than 10m from such corner or 5m from the point where the line of splay meets the road boundary, whichever is the greater distance from the corner.

(c) In an area other than an urban area, the vehicular access and exit ways to and from the premises of a service station or public garage shall, where they cross the road boundary, be not less than 500m from the point nearest to:

- i) where a declared road, proclaimed road or prospective main road intersects any other road of a like status;
- ii) an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island, or
- iii) where any vehicular access and exit ways cross the road boundary to and from motor vehicles fuel pumps on the premises of another service station or public garage on the same side of the road.

(d) Any part of the premises of a service station or public garage or scrapyard which is used for the storage of disused motor vehicles or parts of motor vehicles, empty containers such as oil drums and packing cases, or any other scrap whatsoever, or for the assembly, repair, painting or dismantling of motor vehicles shall, unless it is enclosed by buildings, be enclosed with a suitable brick or concrete screen wall at least 2m high.

3.11 COMMERCIAL

3.11.1 Colour notation: blue-purple with black hatching.

Primary use: warehouse

Consent uses: place of assembly, place of entertainment, place of instruction, transport usage, supermarket.

3.11.2 Land use Restrictions:

Floor factor: at most 1,5

Coverage: at most 75%

Height restrictions: at most 3 storeys

Setback: at least 8m

Street building line: zero

Side building line: zero; provided that the Council may lay down side building lines in the interest of public health or in order to enforce any law or right or fire protection requirements.

Parking: at least one parking bay per 200m² of floor space.

3.11.3 Loading and unloading:

For the purpose of loading and unloading vehicles, the following space or spaces shall be provided on site to the satisfaction of the Council:

**TOTAL FLOOR SPACE OF BUILDING
(TO THE NEAREST M²)**

**REQUIRED LOADING AND
UNLOADING AREA**

0 - 2 500m ²	1 bay
2 501 - 5 000m ²	2 bays
5 001 - 10 000m ²	3 bays
Every additional 10 000m ² or portion thereof	1 additional bay

Such loading bays shall have vehicular access to a street (access to be approved of by Council). Such access shall not be less than 5m in width and if passing through a building, shall have a clearance of 3m. The size of bays shall be in accordance with the nature of the business and shall be subject to Council approval.

3.11.4 Fencing:

The Council may require any land used in connection with a builder's yard or transport business to be completely or partly fenced to its satisfaction. Type of fence subject to Council approval.

3.12 LIGHT INDUSTRIAL

3.12.1 Colour notation: red-purple

Primary use: light industry

Consent uses: business premises, shop, public garage, offices, warehouse

3.12.2 Land use restrictions:

Floor factor: at most 1,5

Coverage: at most 75%

Height restrictions: 3 storeys or 13,716m whichever is the lesser

Setback: at least 8m

All building lines in this zone are 3 metres. Where the boundary of a light industry site forms the common boundary with a residential or business zone, the relevant building lines applicable to such zones shall apply on both sides of such common boundary.

Parking: at least one parking bay per 200m² of floor space.

3.12.3 Loading and unloading:

For the purpose of loading and unloading vehicles, the following space or spaces shall be provided on site to the satisfaction of the Council:

**TOTAL FLOOR SPACE OF BUILDING
(TO THE NEAREST M²)**

**REQUIRED LOADING AND
UNLOADING AREA**

0 - 2 500m ²	1 bay
2 501 - 5 000m ²	2 bays
5 001 - 10 000m ²	3 bays
Every additional 10 000m ² or portion thereof	1 additional bay

Such loading bays shall have vehicular access to a street (access to be approved of by Council). Such access shall not be less than 5m in width and if passing through a building, shall be in accordance with the nature of the business and shall be subject to Council approval.

3.12.4 Fencing:

The Council may require any land used in connection with a scrapyards, builder's yard or transport business to be completely or partly fenced to its satisfaction. Type of fence subject to Council approval.

3.12.5 Public garages:

Notwithstanding Regulation 4.8, the land use restrictions which are applicable to public garages in the special business zone shall be applicable to public garages in this zone.

3.12.6 Caretaker's cottages:

Notwithstanding Regulation 3.12.1, the erection of a caretaker's cottage, with the consent of Council, shall be subject to the following restrictions:

- i) Total coverage of erf to be reduced to 60%
- ii) Residential unit complete with outbuildings not to exceed 90m² and to be for one family only
- iii) An area not less than 300m² of erf to be set aside for sole use of residential area. Such area to be fenced

- iv) Residential unit to be free standing with minimum building lines of 4m throughout
- v) Residential unit only to be permitted with industrial buildings
- vi) That the caretaker's cottage be used for security purposes only
- vii) That it be clearly understood that the other buildings on the property can only be used for Light Industrial purposes and may not revert to Residential Usage.

3.13 **INDUSTRIAL**

3.13.1 Colour notation: red-purple with black hatching
 Primary use: industry
 Consent uses: shop, warehouse, public garage, transport usage, scrapyard.

3.13.2 **Land use restrictions:**

Floor factor: at most 1,5
 Coverage: at most 75%
 Height restrictions: 4 storeys or 19m whichever is the lesser
 Setback: at least 8m
 All building lines in this zone are 3 metres. Where the boundary of a light industry site forms the common boundary with a residential or business zone, the relevant building lines applicable to such zones shall apply on both sides of such common boundary.
 Parking: at least one parking bay per 200m² of floor space.

3.13.3 **Loading and unloading:**

For the purpose of loading and unloading vehicles, the following space or spaces shall be provided on site to the satisfaction of the Council:

TOTAL FLOOR SPACE OF BUILDING (TO THE NEAREST M ²)	REQUIRED LOADING AND UNLOADING AREA
0 - 2 500m ²	1 bay
2 501 - 5 000m ²	2 bays
5 001 - 10 000m ²	3 bays
Every additional 10 000m ² or portion thereof	1 additional bay

Such loading bays shall have vehicular access to a street (access to be approved of by Council). Such access shall not be less than 5m in width and if passing through a building, shall have a clearance of 3m. The size of bays shall be in accordance with the nature of the business and shall be subject to Council approval.

3.13.4 **Fencing:**

The Council may require any land used in connection with a scrap yard, builder's yard or transport business to be completely or partly fenced to its satisfaction. Type of fence subject to Council approval.

3.13.5 **Public garages:**

Notwithstanding Regulation 4.8, the land use restrictions which are applicable to public garages in the special business zone shall be applicable to public garages in this zone.

3.14 **NOXIOUS INDUSTRY**

3.14.1 Colour notation: red-purple with black crossline hatching

Primary use: noxious trade

Consent uses: industry, warehouses, public garage, scrapyard.

3.14.2 **Land use restrictions:**

Floor factor: at most 1,5

Coverage: at most 75%

Height restrictions: maximum 3 storeys or 13,716m whichever is the lesser

Setback: at least 8m

All building lines in this area 3 metres. Where the boundary of a light industry site forms the common boundary with a residential or business zone, the relevant building lines applicable to such zones shall apply on both sides of such common boundary.

Parking: at least one parking bay per 200m² of floor space.

3.14.3 **Loading and unloading:**

For the purpose of loading and unloading vehicles, the following space or spaces shall be provided on site to the satisfaction of the Council:

**TOTAL FLOOR SPACE OF BUILDING
(TO THE NEAREST M²)**

**REQUIRED LOADING AND
UNLOADING AREA**

0 - 2 500m ²	1 bay
2 501 - 5 000m ²	2 bays
5 001 - 10 000m ²	3 bays
Every additional 10 000m ² or portion thereof	1 additional bay

Such loading bays shall have vehicular access to a street (access to be approved of by Council). Such access shall not be less than 5m in width and if passing through a building, shall have a clearance of 3m. The size of bays shall be in accordance with the nature of the business and shall be subject to Council approval.

3.14.4 Fencing:

The Council may require any land used in connection with a scrapyards, builder's yard or transport business to be completely or partly fenced to its satisfaction. Type of fence subject to Council approval.

3.14.5 Public garages:

Notwithstanding Regulation 4.8, the land use restrictions which are applicable to public garages in the special business zone shall be applicable to public garages in this zone.

3.15 MINING

3.15.1 Colour notation: pink
Primary use: mining
Consent uses: none

3.15.2 Land use restrictions:

Height restrictions: 4 storeys or 19m whichever is the lesser
All building lines in this zone are 3 metres. Where the boundary of a mining site forms the common boundary with a residential or business zone, the relevant building lines applicable to such zones shall apply on both sides of such common boundary.
Parking: at least one parking bay per 200m² of floor space.

3.15.3 Fencing:

The site shall be fenced in terms of the Mineral Act (50 of 1991). (The Mines and Works Act).

3.15.4 Mining Operations:

All mining operations shall be conducted in accordance with the requirements of Chapter 6 of the Minerals Act (50 of 1991) with respect to:

- (a) the compilation of layout plans and rehabilitation programmes
- (b) the rehabilitation of the surface of land

(c) safety of mining operations with respect to:

- mechanical equipment
- blasting

This zone shall be subject to all relevant statutory restrictions which apply to the exploitation of raw materials.

3.15.5 **Caretaker's Cottages:**

Notwithstanding Regulation 3.15.1, the erection of a caretaker's cottage, with the Consent of Council, shall be subject to the following restrictions:

- i) Residential unit complete with outbuildings not to exceed 90m² and to be for one family only.
- ii) An area not less than 300m² of erf to be set aside for sole use of residential area. Such area to be fenced.
- iii) Residential unit to be free standing with minimum building line of 4m throughout.
- iv) Occupancy of residential unit only to be permitted in association with established mining activities.
- v) That the caretaker's cottage to be used for security purposes only.
- vi) That it be clearly understood that the other buildings on the property can only be used for associated mining purposes only and may not be converted to Residential usage.

3.16 **EDUCATIONAL**

3.16.1 Colour notation: light blue outline
Primary use: place of instruction
Consent uses: place of assembly.

3.16.2 **Land use restrictions:**

Coverage: at most 50%
Street building line: at least 10m
Side building line: at least 10m
Parking: depending on type of development; as required by Council
Height restrictions: 3 storeys or as approved of by Council

3.17 INSTITUTIONAL

3.17.1 Colour notation: grey
Primary use: institution, house of worship
Consent uses: parsonage, place of assembly

3.17.2 Land use restrictions:

Coverage: at most 50%
Street building line: at least 10m
Side building line: at least 10m

Parking:

- i) House of worship - at least one parking bay per eight seats in the building provided that a minimum of 15 parking bays shall be provided in respect of a funeral parlour.
- ii) Institution - depending on type of development; as required by Council.

Height restrictions: 3 storeys or as approved of by Council

3.17.3 Notwithstanding Regulation 3.17.2, the following land use restrictions shall apply to a parsonage:

- (a) Coverage: at most 50%
- (b) Height: at most two storeys
- (c) Street building line: at least 4m, subject to Regulation 3.3.3
- (d) Side building line: at least 2m, subject to Regulation 3.3.3
- (e) Parking: at least one parking bay per land unit, on the land unit.

3.18 RESORT ZONE 1

3.18.1 Colour notation: dark green with black hatching.
Primary use: holiday accommodation
Consent uses: resort shop, tourist facilities, motel

3.18.2 Land use restrictions:

- (a) The parameters of the existing lawful development shall apply as land use restrictions with regard to land which is deemed to be zoned as a Resort Zone 1 with effect from the date of commencement of the Ordinance.
- (b) with the rezoning of land to Resort Zone 1, conditions shall be laid down with regard to density, layout, landscaping, building design, etcetera, and a layout plan shall be approved by and filed with the local authority, clearly

indicating the position of all structures, stands and internal roads. (Refer Annexure 3 for application format).

3.19 **RESORT ZONE 2**

3.19.1 Colour notation: dark green with black crossline hatching
Primary use: holiday housing
Consent uses: motel, licensed hotel excluding off-sales facilities, tourist facilities, resort shop

3.19.2 **Land use restrictions:**

(a) The parameters of the existing lawful development shall apply as land use restrictions with regard to land which is deemed to be zoned as a Resort Zone 2 with effect from the date of commencement of the Ordinance.

(b) With the rezoning of land to Resort Zone 2, conditions shall be laid down with regard to density, layout, landscaping, building design, etcetera, and a layout plan shall be approved by and filed with the local authority, clearly indicating the position of all structures, stands and internal roads. (Refer Annexure 3 for application format).

3.20 **OPEN SPACE 1 (PUBLIC)**

3.20.1 Colour notation: light green
Primary use: public open space
Consent uses: none

3.20.2 No structure shall be erected or use practised except such as is compatible with "public open space", as defined.

3.21 **OPEN SPACE 2 (PRIVATE)**

3.21.1 Colour notation: green outline
Primary use: private open space
Consent uses: none

3.21.2 No structure shall be erected or use practised except such as is compatible with "private open space", as defined.

3.22 **OPEN SPACE 3 (NATURE RESERVE)**

3.22.1 Colour notation: dark green outline
Primary use: nature reserve
Consent uses: none

- 3.22.2 The relevant authorities shall in each case, depending on unique circumstances, stipulate land use restrictions and additional provisions.

3.23 **TRANSPORT 1 (TRANSPORT USAGE)**

- 3.23.1 Colour notation: dark brown
Primary use: transport usage
Consent uses: none

3.23.2 **Land use restrictions:**

Floor factor: at most 1,0
Coverage: at most 75%
Height: at most two storeys
Building lines: 3m all round; except where a transport 1 zone abuts on another zone, in which case the side building line of the latter zone shall also apply to the transport 1 zone.
Parking: as required by the Council.

3.24 **TRANSPORT 2 (PUBLIC ROAD)**

- 3.24.1 Colour notation: beige
Primary use: public road
Consent uses: none

- 3.24.2 No structure shall be erected or use practised except such as is compatible with "public road", as defined.

3.25 **TRANSPORT 3 (PUBLIC PARKING)**

- 3.25.1 Colour notation: brown
Primary use: public parking
Consent uses: none

- 3.25.2 No structure shall be erected or a use practised except such as is compatible with "public parking", as defined.

3.26 **AUTHORITY 1 (USAGE)**

- 3.26.1 Colour notation: dark red
Primary use: authority usage
Consent uses: none

- 3.26.2 The land use restrictions and additional provisions applicable to this zone shall apply as for every site or use or type of building approved by the Administrator or,

if authorised thereto by the Administrator, the Council, providing the development is not contrary to the general zoning of the area.

3.27 **LOCAL AUTHORITY 2 (SERVICES)**

3.27.1 Colour notation: light red
Primary use: authority services
Consent uses: none

3.27.2 The land use restrictions and additional provisions applicable to this zone shall apply as for every site or use or type of building approved by the Administrator or, if authorised thereto by the Administrator, the Council providing the development is not contrary to the general zoning of the area.

3.28 **SPECIAL ZONE**

3.28.1 Colour notation: as per Special Zone
Primary use: special usage
Consent uses: none

3.28.2 If special factors justify the creation of a new zone on the zoning map for a site or sites without justifying the creation of a new zone in the scheme regulations, such site shall be zoned as a special zone on the zoning map. Every such portion of land which has been zoned as such and in respect of which the land use restrictions differ from those of other land which has been zoned as such shall be given a separate number on the zoning map. A special zone may consist of different portions of land, provided the land use restrictions are the same. Each special zone in respect of which the land use restrictions differ from those of other special zones shall be given a separate number (from 1 onwards), and each number with the accompanying land use restrictions shall be described as a separate special zone in an annexure to these scheme regulations.

3.29 **UNDETERMINED**

3.29.1 Colour notation: light orange
Primary use: none
Consent uses: none

3.29.2 Subject to the provisions of Section 14 (8) of the Ordinance, no building may be erected in this zone and no use referred to in Table B in Regulation 2.5 of these regulations may be practised in this zone.

3.30 **INFORMAL RESIDENTIAL ZONE**

3.30.1 Colour notation: yellow with light brown outline
Primary use: shelter, dwelling house
Consent use: none

3.30.2 Land Use Restrictions:i) Shelters:

Coverage: maximum 75%

Height restrictions: single storey only

Street building line: at least 1m, if required by the Council, provided that where a building is erected less than 1m from a side boundary, no doors or windows shall be permitted in the wall concerned; provided further that if a midblock sewage system is provided, a rear building line of up to 2m can be required by Council

Parking: no parking requirements

ii) Dwelling House:

Coverage: maximum 75%

Height restrictions: at most 2 storeys

Street building line: at least 1m; provided that there shall be no restriction in respect of a garage with a roller shutter door

Side building line: at least 1m on one boundary; provided that where a building is erected less than 1m from a side boundary, no doors or windows shall be permitted in the wall concerned; provided further that if a midblock sewage system is provided, a rear building line of up to 2m can be required by Council.

Parking: at least 1 parking bay per land unit, on the land unit, if so required by Council.

3.30.3 Additional Rights Pertaining to Residential Usage in the Informal Residential Zone

i) Notwithstanding any provisions to the contrary in the zoning scheme:

(a) any occupier of any unit of accommodation may utilise such unit for any social, educational, religious, occupational or business purpose subject to the following conditions:

- the dominant use of the property shall remain residential
- the use concerned shall not disturb the neighbours
- the use concerned shall not interfere with the amenity of the direct neighbourhood

- (b) land zoned for street purposes may be utilised for business purposes without the erection of any permanent structures; provided that the Council may terminate such utilization if in its opinion interference with pedestrian or vehicular movement, or with the amenity of the neighbourhood, is caused.
- ii) If anybody with a direct interest is of the opinion that any condition referred to in Clause 3.30.3 (i) is contravened, such person may lodge a written complaint with the Council requesting action in terms of Section 39(1)(b) of the Ordinance.
- iii) The Council must consider a complaint mentioned in Regulation 3.30.3 (ii) and, if in the opinion of the Council a condition mentioned in Regulation 3.30.3 (i) is contravened, such Council must act in terms of Section 39(1)(b) of the Ordinance, either by instructing that the activity be stopped or that the contravention be rectified with the continuation of the activity, but subject to any restrictive conditions that the Council may impose.

4.0 **GENERAL**

4.1 **Utilisation of Zoned Land**

4.1.1 No persons shall damage or destroy zoned land so as to destroy or impair its utilisation for the purpose for which it is zoned, provided that the Council may consent to the deposit on such land of waste materials or refuse.

4.1.2 In giving its consent under this regulation, the Council may impose such conditions as it may deem fit.

4.1.3 Subject to the provisions of any other law, nothing in this regulation contained shall be construed as prohibiting the reasonable fencing of land (Annexure 2).

4.2 **Reservation of Remainder**

Where the coming into operation of a provision of the zoning scheme involves the acquisition by the Council of a portion of a land unit, the said provision may be applied by the Council to the remainder of the land unit, if:

4.2.1 in the opinion of the Council, the remainder will be too small to develop as a separate entity, or

4.2.2 the development of the remainder will be undesirable

4.3 **Imposed Conditions**

Where permission to erect a building or execute any works or to utilise a building or land for any particular purposes or to perform any other activity has been granted under this zoning scheme and conditions have been imposed, such conditions shall have the same force and effect as if they were part of this scheme (Section 39 (1),(2) & (3)).

4.4 **Compliance with Regulations**

Nothing in these regulations contained shall be deemed to grant exemption from compliance with any of the Council's regulations.

4.5 **Non-conforming Sites**

Before written authority is granted in terms of Section 96 (1) of the Municipal Council Ordinance (No. 20 of 1974), or an approval is issued by the Council with regard to a site for which there are no by-laws on the date of coming into operation of these scheme regulations, or when a building is extended or changed, the Council may require that all the buildings on the site and the site itself be brought into line with the land use restrictions contained in these regulations, with the by-laws of the Council, and with any other laws which are applicable.

4.6 Applications for Consent Use

4.6.1 Subject to the provisions of Regulation 4.7 of these regulations, the Council may, where application is made to it for its consent to the erection or utilisation of a building in a zone in which a building of the type proposed may be erected and utilised only with the Council's special consent, grant or refuse its consent, and shall in granting its consent be entitled to impose such restrictive conditions as it may deem fit governing the erection or utilisation of such building.

4.6.2 In considering such application, regard shall be had to the question whether the use for which the building is intended or designed, or the proposed building, is likely to mar the amenity of the neighbourhood, including marring owing to the emission of smoke, fumes, dust, noise or smells.

4.7 Advertisement of Intended Application for Consent Use

Clause 4.7.1 amended – Council mtg 28/02/2000. (C6.11) Advertising no longer a requirement and decisions (in compliance with the Town Planning Scheme) now delegated to City Engineer's Dept.

4.7.1 Any persons intending to make application to the Council for its consent to the erection or utilisation of a building or to the utilisation of land, whether wholly or partly, for any purposes requiring the Council's special consent, shall, if the Council is of the opinion that any ratepayer may have an interest in the matter, first advertise the application concerned.

4.7.2 The Council shall take into consideration any objections received within the period referred to in the advertisement and shall notify the applicant and the persons, if any, from whom objections were received, of its decision.

4.7.3 Any decision of the Council given in terms of this paragraph shall be by special resolution of the Council as defined in the Municipal Council Ordinance (No. 20 of 1974), or the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

4.8 Conditions Applicable to Consent Uses

Consent uses, as listed in Column 3 of Table B, shall be subject to the following conditions:

4.8.1 Any consent use in a particular zone which is a primary use in any other zone shall be subject to the same conditions applicable to the primary use in the other zone, unless special land use restrictions apply in respect thereof. (Any consent use in a particular zone shall be subject to the more restrictive conditions).

4.8.2 Any consent use in a particular zone which is not a primary use in another zone shall be subject to the same conditions as the primary use in the zone in which it is a consent use, unless special land use restrictions apply in respect thereof.

- 4.8.3 The Council may, in both of the abovementioned cases, lay down other conditions with regard to any specific property.
- 4.9 Occupational Practice and Other Rights
- 4.9.1 Without prejudice to any powers of the Council under any other law, nothing in a zoning scheme contained shall be construed as prohibiting or restricting the following:
- (a) The letting, subject to the Council's regulations relating to boarding houses and hostels, by any occupant of a dwelling house or any part of such dwelling house only for residential purposes.
 - (b) the occasional utilisation of a place of public worship, place of instruction or institution as a hall for social functions, or
 - (c) the utilisation of a portion of a dwelling unit for purposes of occupational practice only by the occupant providing that an application for a departure is submitted to Council for consideration and approval under conditions set out in Regulation 4.9.2.
- 4.9.2 The following conditions shall apply where a portion of a dwelling unit is utilised for purposes of occupational practice.
- (a) Such dwelling house, flat or residential building or any portion thereof shall not be used for purposes of a shop, business premises, an industry or a noxious trade.
 - (b) no goods for sale shall be publicly displayed.
 - (c) no advertising sign shall be displayed other than an unilluminated sign or notice not projecting over a street and not exceeding 0,2m² in area and indicating only the name and profession or occupation of the occupant, and
 - (d) no activities shall be carried on which are or are likely to be a source of disturbance or nuisance to occupants of other dwelling units or portions thereof. Should complaints be received, Council has the right to cancel the departure.
 - (e) staff employment be limited to 3 persons (inclusive of occupant)
 - (f) utilized portion of building for occupational practice shall not exceed 20% to a maximum of 50m². Premises shall be subject to increased rateable value based on business rates
 - (g) utilized portion of erf and building for occupational practice shall be subject to an increased rateable value.
 - (h) parking shall be provided at a ratio of 4 parking bays per professional person, of which at least 3 parking bays per professional person shall be reserved for patients and clients.

- (i) adequate ablution facilities shall be provided in accordance with the number of staff employed.
- (j) gathering/assembling of staff payment and collection point for work is prohibited
- (k) parking of business/trade vehicles is prohibited.

4.9.3 If anybody is of the opinion that any condition referred to in Regulation 4.9.2 or the definition of "occupational practice" is contravened, such person may lodge a written complaint with the Council requesting action in terms of section 39 (1) (b) of the Ordinance.

4.9.4 Refer Regulation 3.3.6

4.10 Combined-use Buildings

Where more than one primary and/or consent use is approved in the same building in a particular zone, the requirements with regard to floor factor, height and coverage, as prescribed for the primary use of the zone concerned, shall be applicable, and the following conditions shall apply with regard to all other land use restrictions:

4.10.1 Where a use which is permitted in a combined-use building in a particular zone is a primary use in another zone, the use concerned shall be subject to the same conditions applicable to the primary use in the other zone except those with regard to floor factor, height and coverage.

4.10.2 Where a use which is permitted in a combined-use building in a particular zone is not a primary use in any other zone, the use concerned shall be totally subject to the conditions applicable to the primary use in the zone in which the use concerned is permitted.

4.10.3 Partial combined usage will not be permitted (eg. offices and flats).

Combined usage: in the event of a combined usage (with offices or business), accommodation units shall not be permitted on the ground floor. Business and office usage to be restricted to the ground floor unless the entire building is converted to business or office purposes.

4.11 External Appearance of Buildings

4.11.1 Any persons intending to erect any building shall furnish the Council for its consideration, if it so requires (in addition to any plans and particulars required to be submitted under any of the Council's regulations), with drawings or some other sufficient indication of the external appearance of the proposed building, including a description of the building materials to be used for that purpose. The drawings shall be upon suitable and durable material to a scale of 1:100, except that where the building is so extensive as to render a smaller scale necessary, the drawings may be to a scale of 1:200. The Council may require such alteration to the external appearance and building materials as it may deem necessary.

4.11.2 No building or structure within the conservation zone shall be erected, or any existing building altered, extended or renovated, unless the external architectural design, style, colours, facing material and general appearance of the building conforms to the requirements of the Council.

4.12 Parking and Loading

4.12.1 Parking Accommodation

Any person intending to erect, alter or extend a building or develop or use any lot shall provide on-site parking within the boundaries of the site in accordance with the standards and requirements set out in Regulation 4.12.

(i) Treatment of Parking Areas

- All vehicle parking spaces, access and manoeuvring areas shall be permanently hardened, paved or sealed and maintained in a dust-free condition to the satisfaction of Council.
- Except where required, in terms of this Scheme or any other law, a parking space need not be roofed.
- Every parking space, required in terms of this Scheme, shall be clearly marked and defined to the satisfaction of Council.

- Except with approval of Council:
 - * vehicular access/exit to a site shall be restricted to not more than one combined vehicular access/exit each per site per street abutting the site.
 - * street boundary vehicular access/exit to a site shall be restricted to a maximum width of 7,5 metres.
 - * no vehicular crossing over the sidewalk shall be located nearer than 5 metres to any street corner.
 - * no on-site parking bay shall be closer than 5,0m from any street boundary

(ii) Building Completion Certificate

A building completion certificate, in accordance with the National Building Regulations, will not be issued unless the parking area meets the requirements of this Scheme and has been constructed according to a relevant building plan and to the satisfaction of Council.

(iii) Amendment of Parking Accommodation

The Local Authority may, at its sole discretion and subject to its approval or consent thereto being sought, amend parking requirements under each land use zoning in the following instances:

- Where such parking requirements are impracticable or detrimental to the safety or amenity of the general public.
- Where a developer, under instruction of Council or by agreement by the developer, is to provide, at his own cost and to the satisfaction of Council, a number of vehicle parking bays equivalent to the number of required on-site bays, on land reserved in terms of the Scheme, for public vehicular parking purposes.
- Where the required parking disturbs the continuity of the shopping frontage, or the site is of impracticable proportions for providing parking, Council can require that the developer contribute a cash sum to Council equal to the estimated market value per square metre of the land on which the building is erected, multiplied by the area of land required in

terms of the specific parking requirement. These monies shall be paid into a Parking Fund which will enable Council to acquire the necessary land and develop it for public parking purposes.

- Where the character or type of activity conducted on a site is changed or altered to the extent that, in the opinion of Council, the number and type of vehicles generated by the site has increased, the parking requirements may be increased by Council, but these amended requirements shall not exceed the requirements of those amended uses as specified for each land use.
- Where, in the opinion of Council, an activity on a site is labour intensive, and the employees are dependent on mass transportation, the parking requirements may be relaxed accordingly.
- Where a residential use is incorporated in a composite building for both commercial/business and residential use, on-site parking in addition to normal parking requirements for the other uses shall be provided.

4.12.2 Loading Accommodation(i) Provision of a Loading Area

Any person intending to erect, alter or extend a building or develop or use a lot for the purpose of any activity in any of the land-use types described in this Scheme shall, where in the opinion of Council it is necessary and desirable for such loading areas to be provided, provide adequate on-site loading areas for both goods and persons to the satisfaction of and subject to the approval of Council.

(ii) Demarcation of a Loading Area

The loading or off-loading of goods and persons onto or from vehicles, where such activity is associated with one or more of the buildings or land-use types described in this Scheme, shall not be permitted to take place in or upon any street except within such portions of a street which have been specifically set aside and demarcated for such purposes by Council, or with the permission of Council.

(iii) Except in the commercial zone, industrial and noxious industry, the Council may, for the purpose of preventing the obstruction of traffic on any street or proposed street on which a proposed building will front or abut, require the owner to submit for its approval proposals for ensuring, to the Council's satisfaction, suitable and sufficient space on the site for any loading, unloading or fuelling of vehicles which the utilisation of the building is likely to entail normally.

(iv) No owner or occupant of the building in respect of which proposals under this regulation have been required shall undertake or knowingly permit the continued loading or unloading or fuelling of vehicles otherwise than in accordance with approved proposals.

(v) Treatment of Loading Areas

The provisions of Clause 4.12.1(i) regarding the treatment of parking areas shall apply *mutatis mutandis* to all loading areas required in terms of Regulation 4.12.

(vi) Screening of Loading Area

Where, in the opinion of Council, the activities of a loading area could be detrimental to surrounding land-uses in terms of visual appearance, noise or of any other offensive nature, the Local Authority could stipulate additional requirements

- (vii) Building Completion Certificate
- The provisions of Regulation 4.12.1 (ii), shall apply *mutatis mutandis* to all loading areas required in terms of Regulation 4.12.2 (i).
- (viii) Loading Area Additional to Parking Area
- Loading areas required to be provided under Regulation 4.12.2, shall be in addition to any parking provided in terms of Regulation 4.12.1(i).
- (ix) Loading Requirements
- Loading requirements are listed per land use in Regulation 3.3 to 3.30.
- (x) Loading Area
- Loading area space to be determined by land use and approved by Council, with a minimum size of 50m² per bay.
- (xi) Change of usage
- Changes in loading area will be required in the event of a change in land use requiring additional loading area.

4.13 Utilisation of Outbuildings

No outbuilding may be utilised for any purpose other than that for which the plans have been approved by the Council, and no such outbuilding may be utilised until the main buildings are completed or occupied, unless otherwise resolved by the Council.

4.14 Council's Duties

The Council shall allow any persons at any reasonable time to examine any scheme regulations, zoning map or register, as contemplated by Sections 9, 10 and 12 respectively of the Ordinance, which are or is kept in the office of the Council; provided that any information in connection with the zoning scheme which is given to any persons shall only be valid if it is in writing and signed by the official duly authorised thereto by the Council.

4.15 Service of Documents

The provisions of Section 211 of the Municipal Council Ordinance (No. 20 of 1974), shall *mutatis mutandis* apply to this zoning scheme.

4.16 Townships and Minor Subdivisions in terms of the Townships Ordinance, 1934

Notwithstanding anything to the contrary in these regulations contained, conditions of ownership imposed by the Administrator upon the approval of

townships and minor subdivisions in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934), shall be applicable in so far as such conditions are more restrictive than the provisions of the zoning scheme.

4.17

Aesthetics and Landscaping

Where paving, landscaping, other treatment or any aesthetic requirement is deemed necessary by the Council, or the Administrator if the matter is considered by him, in order to prepare land for development, it may be required by the Council or the Administrator, as the case may be, and such requirement shall be carried out to the satisfaction of the Council or the Administrator, as the case may be, at the cost of the owner.

5.0 APPROVAL OF DEPARTURES AND SUBDIVISIONS BY COUNCIL**5.1 Departures**

5.1.1 The Council may in terms of Sub-sections (1) (b) and (5) of Section 15 of the Ordinance respectively grant or refuse an application for a departure, or determine an extended period after which such departure shall lapse; provided that, where the Council authorises the utilisation of land on a temporary basis as contemplated by Section 15 (1) (a) (ii), such concession shall be granted for a maximum period of five years, with the exception of a departure for which a permit is required in terms of Section 6B of Act 88 of 1967, in which case the concession may be granted for such number of years as is related to the expected lifetime of the mine concerned.

5.2 Subdivisions

5.2.1 A council may grant or refuse an application for the subdivision of land in terms of Section 25 (1) of the Ordinance within, and subject to the conditions applicable to, a subdivisional area, as well as an application for the subdivision of land involving no change in zoning.

5.2.2 Whenever a council has granted a subdivision in terms of Section 25 (1) of the Ordinance, it may act in terms of Section 30 of the Ordinance.

5.2.3 In the process of the creation of new streets in any subdivision in terms of these regulations, the general principles in regard to layout, street intersections and gradients, as set out in Paragraph 3, 4.4, 4.5, 10.7.1 and 11 of Part B of the document "Guidelines for the Provision of Engineering Services in Residential Townships", published by the former Department of Community Development and as amended from time to time, shall be complied with. The following additional requirements shall also be met:

- (a) Any street intersection shall be so located, with due regard to topography, that there is sight distance in all directions of at least 40m from such intersection.
- (b) The transverse gradient of any street shall not be steeper than 1 in 6 (that is the gradient of the land before construction).
- (c) The longitudinal gradient of any portion of a street shall not be steeper than 1 in 8 (that is the gradient of the land before construction).
- (d) The weaving distance (distance between intersections in different directions), that is between the nearest corners of the streets concerned, shall be at least 40m.
- (e) The angle of intersection of streets shall be at least 70°.

5.2.4 The granting of an application for subdivision in terms of Section 25 (1) of the Ordinance with a view to permitting two or more attached dwelling units to be held under separate title shall be subject to the following conditions

which shall be complied with before the issuing of a written authority by the Council as contemplated by Section 31 (1) of the Ordinance.

- (a) Where restoration or improvement is considered necessary by the Council, the buildings shall be fully restored or improved to its satisfaction, and
- (b) Two parking bays shall be provided and constructed to the satisfaction of the Council on each of the land units.

5.2.5 Subsequent to the granting of a subdivision in terms of Section 25 (1) of the Ordinance with a view to permitting two or more attached dwelling units to be held under separate title, the person who at any time is the owner of any land unit directly involved in the subdivision shall:

- (a) maintain such part of any retaining wall, roof, pipe, gutter, wiring or other structure or thing as is common to such land unit and any other land unit;
- (b) maintain every part of such wall, roof, pipe, gutter, wiring or other structure or thing which is on or traverses such land unit;
- (c) permit access to such land unit for the purposes of maintaining, cleaning, renovating, repairing, renewing, altering and adding to any wall, roof, pipe, gutter, wiring or other structure or thing, and shall not do anything which will prevent or hinder any such access or work from being done, and
- (d) not make alterations or additions to or demolish any part of the buildings erected on such land unit, including boundary walls and fences, or change the exterior colour scheme or materials of such buildings without the written consent of the Council, or permit the exterior of the buildings to deteriorate and become untidy or dirty.

5.2.6 Subsequent to the granting of a subdivision in terms of Section 25 (1) of the Ordinance, the person who at any time is the owner of any land unit directly involved in the subdivision shall be required, without compensation:

- (a) to allow gas mains, electricity, telephone and television cables and/or wires, main and/or other waterpipes and foul sewers and stormwater pipes, ditches or channels of any other land unit or units to be conveyed across the land unit concerned, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if considered necessary by the Council and in such manner and position as may from time to time be reasonably required; this shall include the right of access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above, and
- (b) to receive such material or permit such excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed

and the level of the land unit, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Council.

5.2.7 In terms of Section 31 (2) of the Ordinance, a Council shall not permit a building or structure to be erected on a land unit forming part of a subdivision which has not been registered at the Deeds Office.

5.3 Removal of Restrictions

Notwithstanding Regulations 5.1 and 5.2 of these regulations, all conditions restricting subdivision, the number of buildings that may be erected or the utilisation of the land, or any other restrictive conditions which may have a bearing on the subdivision or departure applied for and registered against the land unit shall, where applicable, first be removed prior to an application being granted.

6.0 **MANUAL FOR APPLICATION IN TERMS OF ORDINANCE 15/1985
ISSUED BY THE CHIEF DIRECTORATE, COMMUNITY SERVICES, CAPE
PROVINCIAL ADMINISTRATION(1988)**

Council should utilise the above manual as a guide when considering and processing all applications in terms of Ordinance 15 of 1985, and therefore this manual should be regarded as a supplementary document to the scheme regulations.

MANUAL CONTENT:

- 6.1 Procedures
 - 6.1.1 Form of applications
 - 6.1.2 Simultaneous consideration of applications
 - 6.1.3 Advertisement of application
 - 6.1.4 Further processing of applications
 - 6.1.5 Handling of objections
 - 6.1.6 Grounds for the consideration of applications
 - 6.1.7 Imposition of conditions
 - 6.1.8 Procedures after approval
 - 6.1.9 Right of appeal to the Administrator
 - 6.1.10 General
- 6.2 Spatial Guidelines for the Consideration of Applications
 - 6.2.1 General guidelines
 - 6.2.2 Guidelines for specific land use
- 6.3 Annexures
 - 1. Application form
 - 2. Reference list
 - 3. Address list
 - 4. Laws relevant to applications
 - 5. Exempted subdivisions
 - 6. Pro forma letters

7.0 **GENERAL STRUCTURE PLAN TO AUTHORISE COUNCILS TO GRANT OR REFUSE REZONING APPLICATIONS**

7.1 Attention is Drawn to Circular GOK/LDC. 9/1988 (Land Development Co-ordination, Chief Directorate, Community Services, Cape Provincial Administration)

TO: ALL LOCAL AUTHORITIES IN THE CAPE PROVINCE, REGIONAL SERVICES COUNCILS, THE MUNICIPAL ASSOCIATION OF THE CAPE PROVINCE, THE ASSOCIATION OF DIVISIONAL COUNCILS OF THE CAPE PROVINCE, THE INSTITUTES FOR PROFESSIONAL LAND SURVEYORS OF THE WESTERN AND EASTERN CAPE, THE INSTITUTE FOR TOWN AND REGIONAL PLANNERS, THE SOUTH AFRICAN PROPERTY OWNERS ASSOCIATION, THE SOUTH AFRICAN INSTITUTE FOR CIVIL ENGINEERS AND THE CAPE PROVINCE INSTITUTE FOR ARCHITECTS.

LAND USE PLANNING ORDINANCE, 1985 (ORDINANCE 15 OF 1985): TRANSFER OF POWERS TO LOCAL AUTHORITIES BY MEANS OF A GENERAL STRUCTURE PLAN AND THE AMENDMENT OF LOCAL AUTHORITIES' ZONING SCHEME REGULATIONS TO AUTHORISE COUNCILS TO PERFORM CERTAIN FUNCTIONS.

7.1.1 The proposals with regard to the transfer of the Administrator's powers to councils by means of a General Structure Plan and the amendment of local authorities' scheme regulations to authorise councils to perform certain functions were discussed in detail in Circular GOK/CDC37 of 6 October 1988. It is, therefore, gratifying to inform you that the Administrator-in-Executive Committee has, at a recent meeting, resolved to transfer its powers, referred to in the said circular, to all local authorities in the Cape Province, subject to certain conditions.

7.1.2 Sincere thanks are due to local authorities for their co-operation so far, especially as this action went hand in hand with the October elections. We also wish to congratulate councillors on their election, and trust that our future co-operation will be as satisfactory as in the past.

7.1.3 General Structure Plan

7.1.3.1 A copy of the General Structure Plan approved by the Administrator in terms of Section 4(6) of the Land Use Planning Ordinance, 1985 (hereinafter referred to as the ordinance) is attached. Two amendments have, however, been effected since the draft General Structure Plan was made known, namely:

- Councils may not approve any development below the 1:50-year floodline, unless an approved structure plan exists for the relevant area.
- Although a council may favour a proposal, it may not approve it against the wishes of a state institution or body, including a management

committee established in terms of the Local Authorities (Development according to Community) Ordinance, 1963 (Ordinance 6 of 1963).

Applications which fall in the abovementioned two categories must also, as in the case of other exemptions from the General Structure Plan, be submitted to the Administrator for consideration.

7.1.3.2 Councils with zoning schemes which are recognized in terms of Section 7(2) of the Ordinance must note that they may use their discretion when interpreting Paragraph 2.4 of the General Structure Plan in respect of what "similar zones" are and what a "central business district" is.

7.1.3.3 Structure plans drawn up for specific areas remain in force and councils are encouraged to proceed with the preparation of such structure plans, especially as this may result in councils obtaining even more powers. As mentioned in the previous circular, the Administration will not hesitate in certain cases to withdraw the powers granted in terms of the General Structure Plan, *inter alia* if Councils fail to prepare structure plans for specific areas. These structure plans for specific areas must still be approved by the Administrator in terms of Section 4(6) of the Ordinance, and after approval, such plans instead of the General Structure Plan, will transfer powers to local authorities. When structure plans have been drafted in this way for all areas in the Cape Province, and have been approved by the Administrator, the General Structure Plan will be withdrawn.

7.1.4 Regulations

7.1.4.1 Scheme Regulations

The amended scheme regulations in terms of Sections 7 and 8 appeared in the **Extraordinary Official Gazette** 4563 dated 5 December 1988. Further minor amendments have been made as a result of comment received from local authorities.

However, an important amendment which has been made is that the five years of restriction in respect of temporary changes in land use has been relaxed in the case of mining activities to bring it into line with the policy set out in Circular GO/CD 3 of 13 June 1988. The Administrator is, of course, still empowered to approve temporary land use changes for longer periods in individual cases and with due regard to specific circumstances.

Councils with zoning schemes in terms of Section 7 are requested to scrutinise their scheme regulations critically and to consider the possibility of amending them in view of the new policy of, *inter alia*, the concept of occupational practice, the permission of second dwelling units as consent uses instead of departures, the change of reservations to zonings, and deregulation in general.

The Stellenbosch division of the Western Cape Regional Services Council must note that the new Section 8 scheme regulations in terms of Section 8 does not automatically apply to them and that individual amendments might be necessary. Councils, such as Betty's Bay and Piketberg, which are presently substituting specific regulations for the general Section 8

regulations, may rest assured that the newly promulgated Section 8 regulations will not have any influence on the process of substitution.

In the light of enquiries which were received, councils must note that the siting of mobile homes in caravan parks as discussed in Circular LG/PB.7 of 10 March 1983 is, since the coming into operation of the Ordinance on 1 July 1986, only permissible by means of an application for a departure or rezoning, as the case may be.

7.1.4.2 Section 47(1) Regulations

The amended Section 47 (1) regulation appeared in the **Extraordinary Official Gazette**, 4536 dated 5 December 1988. You will note that the Section 47(1) regulations, which consisted of two separate sets, and the amendment which was effected after the promulgation thereof in 1986 have now been amalgamated. The more important amendments which were effected and which were **inter alia** necessitated by the transfer of powers are:

- The four month period which local authorities are given to consider an application is extended to seven months in cases where comment has to be obtained from other bodies.
- It is now compulsory for local authorities to inform the objector as well as the applicant of his right of appeal to the Administrator.
- It is now compulsory for a council's decision to be conveyed to the applicant as well as the objector per registered or certified mail.
- It is now compulsory, in cases where a proposal must also be approved in terms of another law and such law also required advertising, for advertising in terms of such law to be done simultaneously with advertising in terms of the Ordinance.

7.1.5 Manual

A manual which spells out the procedures and principles has been compiled (copy attached) to assist councils with the handling and consideration of applications. It must be strongly emphasised that the manual merely serves as a **guideline**; no claim is made that it covers all eventualities. Councils must, therefore, to a great extent use their discretion.

They must, however, **at all times** before a decision is taken, thoroughly consider the guidelines contained in the manual. It should also be mentioned that where a council has no power to take a final decision on an application, it remains responsible for referring the application to interested bodies.

In the light of the importance of preserving the environment and, more specifically archaeological, speleological and palaeotological finds, plans are being prepared which depict all known and possible sites of such finds. These plans will be forwarded to councils as soon as they are available, together with guidelines regarding the referral of applications.

7.1.6 Contravention Levies in terms of Section 40 of the Ordinance

The Executive Committee has also, in terms of Section 1(1)(d) of the Delegation of Powers Ordinance, 1965 (Ordinance 13 of 1965), delegated to all councils the power to determine contravention levies in terms of Section 40 of the Ordinance, provided that the maximum amount payable does not exceed R1 000 and that the owner deems it to be a reasonable amount. A local authority has three options if a building or any part thereof was erected in contravention of the land use restrictions applicable to a specific zone in terms of a zoning scheme, namely: the owner can firstly be instructed to rectify such contravention by removing or demolishing such building or part thereof; the owner can secondly be instructed to apply for a departure in terms of Section 15 of the Ordinance, and the owner thirdly can be instructed to apply for a contravention levy.

7.1.7 Appeals

It must firstly be stressed that the right of appeal of an applicant or objector to the Administrator in terms of Section 44 of the Ordinance remains unchanged. Secondly, it must be pointed out that no appeal to the Administrator exists in terms of Section 44 of the Ordinance in respect of consent uses. Certain zoning schemes recognized in terms of Section 7(2) of the Ordinance may, however, have a built-in right of appeal to the Administrator.

Councils must take cognizance of the fact that, should the Administrator uphold an appeal against the recommendation or decision of a council, it is not possible for him to obtain conditions which such council may require, before the Administrator takes such a decision. When an appeal arises, the onus therefore rests on the council to ensure that any conditions that it may wish to impose, should an appeal be upheld against its wishes, are made available to the Administration in good time.

7.1.8 Exemptions in terms of Section 23 of the Ordinance

The list of exemptions contained in Circular LG/PB.21 of 5 September 1986 has now been amended by the addition of a further category and the extension of the category dealing with the subdivision of agricultural land. The new list is contained in Annexure 5 to the manual. The reason for the addition of the new category is that it will make the subdivision of existing housing schemes easier. In the case of the category dealing with agricultural land, it had to be amended as various councils have experienced problems.

7.1.9 General

Furthermore, an appeal is made to councils, to take the interests of other population groups properly into account when considering applications, by going out of their way to liaise mutually about proposals which may in any way have an influence on the relevant community.

In order to assist smaller local authorities especially, officials from the Administration will visit councils in the near future with a view to solving problems that are being experienced, and to giving advice where possible. If there is any doubt about any aspect of the transfer of powers or about the handling of an application, you are more than welcome to contact officials at our office. We are confident that councils will exercise the new powers with the necessary discretion

and forethought and by so doing, limit appeals to the Administrator to the minimum.

- 7.1.10 Your attention is also invited to the new application form which forms part of the Manual and which now also makes provision for applications for permits in terms of the Regulations in terms of the Environmental Conservation Act, 1982 (Act 100 of 1982) as well as for applications for the use of land for industrial purposes in terms of the Physical Planning Act, 1967 (Act 88 of 1967).
- 7.1.11 The transfer of powers will come into operation on 1 January 1989, and any application received by this office after 6 January 1989 will be returned to councils for disposal. Applications which have not been finalised by 1 January and those received by the Administration before 6 January, will be dealt with here.
- 7.1.12 It should also be mentioned that the Executive Director: Roads and Traffic Administration Branch of this Administration has requested that local authorities furnish him with finally approved subdivisional plans, including all subdivision plans approved since 1 July 1986. Your co-operation in this regard will be appreciated.
- 7.1.13 The Surveyor-General has indicated that some confusion regarding the granting of applications in terms of the ordinance apparently still exists among certain local authorities as far as his office is concerned. A copy of his letter dated 28 August 1987 is therefore attached for your attention.
- 7.1.14 Kindly acknowledge receipt of this circular.
- 7.1.15 Finally, it should be mentioned that Circular GOK/LDC.37 of 6 October 1988 was numbered incorrectly and that further circulars will, therefore, not be in numerical order.
- (i) The Administrator has, in terms of Section 4(6) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) (hereafter referred to as "the Ordinance"), read together with Sections 5(2) and 42(1) of the same Ordinance, approved a general structure plan for the Province of the Cape of Good Hope which, taking into account the guidelines for spatial development in Paragraph 2 hereunder, authorises councils to grant or refuse rezoning applications in terms of Section 14(4), 16(1) or 18 and to determine in terms of Section 16(2)(a) an extended period after which a rezoning shall lapse, subject thereto that the said authorization shall not be applicable in the following cases:
- Any rezoning which is inconsistent with another structure plan applicable to the area concerned which has been approved in terms of Section 4(6) of the Ordinance.
 - Any rezoning of an area situated outside a municipal or local area, to a resort zone as defined in the Section 8 scheme regulations or a similar zone in terms of a Section 7 zoning scheme.
 - Any rezoning for which a permit is required in terms of the Regulations made in terms of the Environmental Conservation

Act, 1982 (Act 100 of 1982) (Government Notice No. R2587 dated 12 December 1986), read with any Provincial Notice wherein certain areas in the limited area are defined and excluded from the provisions of said Regulations.

- Any rezoning of a public open space where a structure plan, which addresses the requirements of open space provision and the locality of open spaces in the area concerned, has not been approved in terms of Section 4(6) of the Ordinance.
- Any rezoning below the 1:50-year floodline, unless a structure plan approved in terms of Section 4(6) of the Ordinance for the specific area already exists, and
- Any rezoning where a state institution, including a management committee established in terms of Ordinance 6 of 1963, is not in favour thereof.

(ii) Said authorization is subject to the following requirements:

- That all approvals required in terms of other legislation first be obtained.
- That the requirements set by all relevant bodies be complied with.
- That the procedures prescribed in the Ordinance and any regulations issued in terms thereof be followed, and
- If the locality of the proposed zoning(s) has not already been indicated on a structure plan approved in terms of Section 4(6) of the Ordinance, also to the following spatial requirements:
 - * The preservation of the natural and developed environment shall be taken into account with every application. Besides the preservation of specific areas, this also includes the general requirement that all development must try to achieve the maximum environmental quality, albeit aesthetic, natural or cultural-historical.
 - * Rezoning to Residential zones III (Town Houses) and IV (General Residential) in terms of the Section 8 scheme regulations (with "town house" and "flats" as primary uses, respectively) or similar medium- and high-density residential zones where Section 7 zoning schemes are applicable, may only be approved in or around a central business area or any other high-density activity node or axis, and **not** in a low-density, single residential area.
 - * Rezoning to Business zone I (Business 1) in terms of the Section 8 scheme regulations (with "business premises" as primary use) or the most intensive business zone where a Section 7 zoning scheme is applicable (if there is more than one business zone), may only be approved in a

central business area or another high-density activity node or axis and **not** in a local neighbourhood shopping centre, where Business zone II (with "shop" as primary use), or a similar zone where a Section 7 zoning scheme is applicable, belongs because of the stricter land use parameters which are applicable to this zone.

- * Rezoning to Industrial Zone II (Noxious Industrial) (with "noxious trade" as primary use) and Industrial Zone I (with "industry" as primary use) or similar zones where Section 7 zoning schemes are applicable, may only be approved in separate, homogenous areas which have been planned for the respective uses. Business Zone IV (with "warehouse" as primary use, which allows a service trade) or a similar zone where Section 7 zoning schemes are applicable, can however be approved in and around a central business area. A "service trade" can be distinguished from an "industry" in that less than 11 people are employed and also in that no dangerous substances are used, while "noxious trade" specifically refers to listed, offensive uses.

- 7.2 Attention is Drawn to Circular LDC/GOK/9/1991 (Land Development Co-ordination, Chief Directorate, Community Services, Cape Provincial Administration)

TO: ALL LOCAL AUTHORITIES IN THE CAPE PROVINCE (INCLUDING LOCAL AUTHORITIES ESTABLISHED IN TERMS OF THE BLACK LOCAL AUTHORITIES ACT, 1982 (ACT 102 OF 1982), ALL SUBREGIONAL AND REGIONAL OFFICES, THE INSTITUTE FOR TOWN AND REGIONAL PLANNERS, THE INSTITUTES FOR PROFESSIONAL LAND SURVEYORS OF THE WESTERN AND EASTERN CAPE AND THE CAPE PROVINCIAL INSTITUTE OF ARCHITECTS.

REPEAL OF SECTION 2 OF THE PHYSICAL PLANNING ACT, 1967 (ACT 88 OF 1967) AND AMENDMENT OF THE GENERAL STRUCTURE PLAN IN TERMS OF THE LAND USE PLANNING ORDINANCE, 1985 (ORDINANCE 15 OF 1985).

- 7.2.1 The Physical Planning Act, 1967 (Act 88 of 1967) has been repealed and replaced with the Physical Planning Act, 1991 (Act 125 of 1991), with effect from 30 September 1991, in the manner as indicated in the Annexures to the Act. The implementation of the new Act has certain implications for land use planning and control, specifically with regard to the provisions of Section 2 of the repealed Act. The standing committee which evaluated applications on a two-monthly basis has also been dissolved due to the fact that the provisions of Section 2 (Act 88 of 1967) have been repealed.
- 7.2.2 As set out in Circular GOK/LDC 9/1988 of 8 December 1988 (the General Structure Plan), local authorities are now empowered to consider applications for rezoning, subdivision or utilisation of land for industrial purposes in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), and it is no longer necessary to obtain approval from the Administrator, on condition that the requirements of the General Structure Plan be met.

The General Structure Plan authorises local authorities, inter alia, to approve rezonings for industrial use, where:

- 7.2.2.1 An approved local structure plan exists and where land has already been indicated for industry, or
- 7.2.2.2 No structure plan exists, but where industries are situated within a separate homogeneous area that has been planned for either industrial or noxious trade purposes.
- 7.2.3 It should be noted that it is nevertheless still necessary to comply with all provisions of all the relevant legislation. In this regard your attention is drawn in particular to the provisions of Section 6A of the repealed Physical Planning Act, 1967, which prohibited any rezoning which is found not to be compatible with a guide plan. Please note that the abovementioned provisions have not been repealed as yet. (See Section 37 of the Physical Planning Act, 1991 (Act 125 of 1991)).

- 7.2.4 It must be clearly understood, however, that the General Structure Plan does not authorise *ad hoc* subdivision and rezoning, that is in respect of industrial applications outside industrial areas or in areas not indicated for such purposes in terms of the approved local structure plan for the area concerned.
- 7.2.5 The approval of applications for rezoning and subdivision of industrial land will further be subject to the following conditions which are additional to those included in the General Structure Plan.
- 7.2.5.1 All applications for rezoning **must be** announced and should be referred to **all** government departments, except in the case of applications for the subdivision of zoned industrial land where the discretion lies with the town clerk or chief executive officer, in terms of Section 24 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985). Note that an application for rezoning should be referred to the Department of Agriculture only in cases where such application is situated outside a municipal or local area.
- 7.2.5.2 Where objections are received or when a department is not in favour of an application and such dispute cannot be settled through negotiation, the matter must be submitted to the Administrator or the Regional Representative, Administration: House of Assembly, Department of Local Government, Housing and Works, Private Bag X9094, Cape Town, depending on the area of jurisdiction in which such application resorts, for a final decision.
- 7.2.6 This Administration also intends to review the General Structure Plan, mentioned in the above Paragraph 7.2. The reasons for reviewing the General Structure Plan are briefly as follows:
- 7.2.6.1 Recently certain changes in legislation have been made. The Black Communities Development Act, 1984 (Act 4 of 1984), was repealed which means that the relevant development areas are now also subject to the provisions of the Land Use Planning Ordinance, 1985. Furthermore, the coastal regulations which were promulgated in terms of the previous Nature Conservation Act, 1982 (Act 100 of 1982), are no longer enforced, of which all regional services councils have already been informed. As mentioned, the repeal of Section 2 of the Physical Planning Act, 1967 (Act 88 of 1967), also has certain planning implications, which have to be taken into account when reviewing the General Structure Plan.
- 7.2.6.2 Section 8(a) of Ordinance 15 of 1985 provides that a structure plan has to be revised once every ten years, but in view of the response received to date from local authorities and planning consultants, as well as experience as regards internal control, certain existing shortcomings with regard to directives for future spatial development have to be rectified. For example, the directives should place more emphasis on the wider urban structure in order to promote the co-ordination of transport, land use planning and density as well as to prevent urban sprawl. Directives for the evaluation of desirability of "subdivisional areas" should also be applied on a more detailed basis.
- 7.2.7 All local authorities are requested to contribute preliminary inputs for a draft General Structure Plan prior to such a draft being compiled. Such information should be presented within 60 days from the date of this circular. A draft document in terms of Section 4(7) of the said Ordinance will be announced prior to it being submitted to the Administrator for approval.

- 7.2.8 You are welcome to contact this office should you have any enquiries in the above respect.

ANNEXURE 1: HISTORICAL PRESERVATION

These regulations shall apply to all buildings and sites in the conservation area and where applicable to all listed buildings in the remainder of Grahamstown. The following reports contain a list of important buildings in Grahamstown.

"A Listing of Important Buildings in Grahamstown (D. Radford, 1989)":

First Interim Report : The Central Business District
Second Interim Report: The Conservation Area
Third Interim Report : The Suburbs

For the purpose of these regulations, the expression "building construction work" includes the erection of new buildings, and the extension, renovation, or alteration of existing buildings.

1.0 CONSERVATION AREA

1.1 In this area no buildings may be erected, or uses permitted, which do not comply with the provisions which have been accepted by the Council and approved by the Administrator after reference to the Historical Monuments Commission for comment. Buildings within such an area will include listed buildings as well as other buildings which form an integral part of such an area.

1.2 This zone will be subject to the following regulations regarding the control of building construction, alteration (internal and external) and maintenance in the areas as depicted on the zoning map.

The purpose of these regulations is to ensure that the historical urban character within the demarcated area will retain its unique character by the preservation of:

- (a) existing old buildings of historical or aesthetic significance;
- (b) the existing building lines, and
- (c) building facades

and by the control of building design and building lines in the case of new buildings on even hitherto not built upon and also in the case of existing buildings to be replaced, altered or extended.

1.2.1 Any person who lodges an application for the approval of a building plan for any erf in the demarcated Conservation Area may be required by the Council to furnish evidence, to its satisfaction, that the construction project contemplated will not be in conflict with the intent of these regulations, having due regard generally for the character of the street in which the erf is as a whole, and more specifically for the particular locality in which the structure is to be erected.

1.2.2 Subject to the provisions of the National Building Regulations, no building construction work shall be permitted in the said area unless the external architectural design and style, colour scheme, facing material and general

appearance of the building have been specifically approved by the Council, for which purpose the general principles prescribed by the Council refer to:

- a) "Rules for Signage in the Conservation Area", 1989
- b) "Grahamstown: Guidelines for Conservation", (A.D. Herholdt), 1991.

- 1.2.3 Normally, no building shall be allowed which is higher than 10m from the mean ground level to the wall plate.
- 1.2.4 In the case of an existing building which is to be altered or extended, the existing building line shall be maintained as far as possible, subject to such exceptions approved by special resolution of Council.
- 1.2.5 In the case of new building construction work to be undertaken on a site or portion of a site which previously was vacant, or in the case of the replacement of any existing building, the Council may in each case prescribe a building line, having due regard for the protection of any trees and other features within the street boundaries, and also to the building line generally observed in the vicinity.
- 1.2.6 The Council may withhold its authority for an alteration or extension of a building if it results in an increased height of the structure and if such increased height would, in the opinion of the Council, interfere with the growth of any tree within the street boundaries, or if it would necessitate the pruning or removal of any portion of the tree or its branches.
- 1.2.7 In the case of new buildings, and where it is reasonably possible in the case of existing buildings which are to be replaced, altered or extended, the minimum provisions for parking and garaging vehicles and for loading facilities shall be in accordance with the regulations for that specific zone in terms of spatial provisions, layout, treatment and access.
- 1.2.8 Except for advertising signs approved by the Council, projections over street boundaries shall be limited to minor architectural features.
- 1.2.9 Balconies encroaching on the street area shall only be built with the special permission of the Council, subject to such conditions as it may deem necessary.
- 1.2.10 Restrictions in regard to buildings in the various zones may be relaxed by the Council, subject to the approval of the Administrator, if compliance with them would seriously prejudice the aims of these regulations.
- 1.2.11 In the case of an existing building deemed by the Council worthy of preservation by reason of its historical or architectural significance, no permission shall be granted for its demolition or alteration except by special resolution of the Council.
- 1.2.12 For the purpose of Regulation 1.2.2 of these regulations, the general principles prescribed by the Council are contained in "Guidelines for Conservation", A.D. Herholdt, 1991 and "Signage Guidelines", 1988.

ANNEXURE 2: BOUNDARY AND OTHER WALLS AND FENCES

1.0 **THE CONTROL OF WALLS AND FENCES**

No person shall erect any boundary, garden or other wall not being part of the main building or any fences of any kind whether on any boundary or within the curtilage of the erf otherwise than in accordance with these and the National Building Regulations and without the prior approval of the Council. Any person applying for the Council's approval to erect a wall or fence as aforesaid shall submit plans in triplicate, drawn to a scale of not less than 1:100, clearly indicating the position of the erf, the foundations, the materials to be used in construction, and the methods of construction, together with adequate dimensions of the wall or fence proposed.

2.0 **HEIGHTS OF WALLS AND FENCES**

- (a) The height of any wall or fence in residential areas shall not exceed the following:
- (i) on a street boundary - 1,80m except in the case of coral or paddock type when the maximum height shall be 1,0m provided further that the materials used for ornamental open work, including brick or concrete panels be of a design and construction approved by the Council.
 - (ii) on a boundary other than a street boundary - 2,0m provided:
 - that the Council shall have the right to require a height lower than 2,00m where, in the Council's opinion, the amenities of a building on an adjacent erf may be impaired or interfered with, and
 - that the portions of such wall or fence situated within 10 m of the street boundary or between the street boundary and the main building line of the buildings thereon, whichever is the lesser, shall not exceed 1,80m in height provided further that the materials of the upper 500 mm shall consist of ornamental open work, including brick or concrete panels of a design and construction approved by the Council.
 - (iii) where a wall connects one building or portions of a building with another - 3,0m

- (iv) where a wall is elsewhere within the curtilage of the erf - 2,0m except in the area lying between a street boundary and the statutory building lines - 1,8m
- (b) The height of all walls and fences shall be measured from the natural level of the ground inside the property immediately adjacent to such wall or fence. If the ground level slopes longitudinally along the length of the wall, then its height at each end of the slope shall not exceed the permitted height and it shall be stepped in a series of even steps between piers (where necessary) which steps shall deviate as little as possible from the mean permitted height and shall follow the requirements of pier spacing as prescribed in the National Building Regulations.

3.0 **MATERIALS OF WALLS AND FENCES**

No person shall erect any fence of the following materials:

- (a) Untreated rough sawn timber
- (b) Steel sheeting of any profile
- (c) Asbestos sheeting of any profile
- (d) Barbed wire or spiked steel

Timber fences shall consist only of properly square cut sawn timber. No off-cut, slab or sapwood timber fences shall be permitted. All timber fences shall be properly and effectively painted, varnished or stained to the satisfaction of the Council. All walls and fences shall present a fair face to the street and to abutting properties, and no wall or fence shall consist of materials other than wire, wrought iron, timber, bricks, natural stone or other such concrete or like materials as may be approved by the Council.

4.0 **DILAPIDATED AND UNSIGHTLY WALLS AND FENCES**

If any persons has upon his property any wall or fence which has fallen into ruinous or dilapidated condition or is unsightly or calculated to be dangerous or cause annoyance to the inhabitants of the neighbourhood, the Council may serve a written notice upon such person requiring him within a time specified in such notice and subject to such instructions and conditions as may be contained therein, to repair, alter, remove or demolish such wall or fence at his own cost and, if after service of such notice he shall fail to comply with the requirements thereof within the time specified therein, the Council may itself direct the Town Engineer to carry out the requirements of such notice and thereafter recover the cost of so doing from such person in any Court of competent jurisdiction.

5.0 **WAIVER OF REGULATIONS**

Where in the opinion of the Council, it is in the interest of the amenities of the neighbourhood, the Council may grant a waiver from the compliance with or relax any provisions of these regulations.

6.0

PENALTY CLAUSE

- (a) If any person:
 - (i) erects any wall or fence without the prior permission of the Council or otherwise than in compliance with the plans approved by the Council, or
 - (ii) contravenes any conditions imposed by the Council. the City Engineer shall serve an order in writing on such person calling upon him to cease such work or to cease contravening such condition, as the case may be, by a date specified in such notice.
- (b) Any person who does anything referred to in subregulation (a) or fails to comply with the terms of an order referred to therein shall be guilty of an offence.
- (c) Whenever any persons has been convicted of an offence under these regulations the Council may itself remove any unauthorised work at the expense of the persons thus convicted.

ANNEXURE 3: RESORT 1 AND RESORT 2 APPLICATION FORMAT

In order to evaluate applications effectively, a prescribed application format for developments in the Municipal area should include the following (applicable to resort and township development):

- 1.0 A detailed motivation report consisting of:
- The locality of the project
 - Present ownership
 - Demand for the type of development
 - A detailed site analysis including:
 - * locality and access
 - * present usage and condition
 - * physiographic details (land form)
 - * vegetation description
 - * climatic influences
 - * existing services
 - A detailed statement regarding the total sensitivity of the site and adjoining areas relating to:
 - * environmental impact
 - * access to natural areas
 - * carrying capacity of adjoining natural areas
 - Development proposals specifying:
 - * development capacity
 - * development concept
 - * ownership
 - Engineering feasibility specifying:
 - * level and nature of various services (water, sewage, electrical, stormwater and solid waste)
 - * bulk source of such services
 - * capacity of such services
 - * environmental impact of such services in terms of both their source and disposal method
 - * flood level determination
 - * sub-surface investigation
 - Development phasing:

The motivation report should be accompanied by the necessary plan at an appropriate scale clearly indicating:

 - * existing infrastructure/buildings
 - * contour levels

- * development proposals (access roads, beach/river access, location of buildings and facilities)
- * engineering services (bulk supply lines and internal services)

Furthermore, the motivation should be supported by the following:

- * certified copy of the title deed and power of attorney and resolution if necessary
- * completed application forms where applicable:
 - a) rezoning
 - b) subdivision of Agricultural Land
 - c) access permits
- * application in terms of the Environment Conservation Act.

2.0 In the case of an application for a resort, the following should accompany the application (especially applicable to the various forms of ownership, eg. share-block, timeshare, sectional title, occupation and life rights).

- A set of Management Regulations detailing:
 - * The nature of ownership form (eg. share-block, sectional title etc.)
 - * The structure of company/body corporate in terms of a management board (directors) and the members
 - * Specific regulations relating to the rights of the board and the members relating to physical alteration of building, temporary structures, sale of properties/buildings, control of servants, introduction of alien vegetation, removal of plants, security, control of nuisance, access and inspection, maintenance of individual properties and buildings etc.
- A set of Architectural and Landscaping Conditions detailing:
 - * Level of building plans to be submitted to both the body corporate and Council for approval
 - * Building completion clause
 - * Site utilization in terms of nature of structure and peripheral (exclusive usage) area
 - * Nature of temporary structures
 - * Specific regulations/conditions relating to the construction period
 - * Guidelines and specifications relating to engineering services connections

- * Design options/themes specifying building designs, material choices, roof profiles and types, and colours
- * Parking requirements
- * Landscaping requirements relating to courtyards, exclusive use areas and private outdoor areas, control of run-off, use of outdoor fires and the disposal of garden refuse
- * A Memorandum of Association of the company/body corporate to be formed, Sale Agreement, and Occupation Agreement.

ANNEXURE 4: GROUP HOUSING CODE

1.0 Reference is made to the Group Housing Code (October 1977 - Local Government Department, Provincial Administration of the Cape of Good Hope) as amended with specific reference to Section 8, (in terms of the Ordinance), of the code. Other sections which should be adhered to in the planning, development and control of Group Housing which bear special reference are:

- Section 1.0:** Meaning of the Concept
- Section 2.0:** Goals of Group Housing
- Section 3.0:** Important Matters for Prospective Developers to Consider
- Section 4.0:** Definitions of Terms used in the Code:
- Group housing zone
 - Group site
 - Group erf
- Section 5.0:** Where a Town Planning Scheme exists
- Section 9.0:** Special Conditions of Title for Group Erven
- Section 29.1:** Of the Ordinance

2.0 Further reference is made to Section 2.4 of the Manual for Applications, in terms of Ordinance 15/1985 (Community Services, C.P.A., 1988).

"In many studies that have been done in recent years, an increase in density in residential areas has been recommended. An increase in density ensures a better utilization of engineering services and also a more sensible and functional utilization of land, which is a scarce resource. The two concepts of group and town housing, each with its own locality factors, originated as an alternative to high-rise flat development.

Many objections are sometimes received from residents when densities in existing single residential areas are increased, and therefore the maximum density of group housing has been reduced to 20 units per hectare. The maximum density of 20 units per hectare (or 50 units per hectare in the case of town housing) must not be regarded as the right of a developer, but the density that is allowed will depend on the environment in which the development is proposed. Group housing must nevertheless only be placed within single residential areas in places where an increased density is desirable, such as along main roads, near local shopping centres and other activity nodes,

and also preferably near public open spaces. Note that the communal open space required in the case of group housing is a design criterion (in other words it is part of the concept of group housing) and that it should therefore only be reduced in exceptional cases.

Town housing, on the other hand, has a maximum density of 50 units per hectare, and is not suitable in low-density, single residential areas. Town housing can, however, be located in and around central business areas, near high-density nodes and along activity axes such as railway lines and main traffic routes, where flats are often found".

ANNEXURE 5: SOLAR ENERGY PANELS

- 1.0 No person shall install any solar heating system unless prior approval has been obtained from the Council through its City Engineer.
- 2.0 Drawings for the installation of solar energy panels showing the location, connections to the water mains and height of the structure, must be submitted to the City Engineer together with an inspection fee as determined by Council resolution from time to time.
- 3.0 Solar energy panels must be integral with the roof of the main building or so placed as to be as inconspicuous as possible.
- 4.0 Where solar energy panels are used to heat a swimming pool, the solar panels must be adjacent to the pool and be integral with the change rooms or outbuildings if possible, otherwise the solar panels must be placed to be as inconspicuous as possible from neighbouring properties or a public road.

