

PROVINCIAL NOTICE

CAPE AGULHAS MUNICIPALITY

REPEAL AND REPLACEMENT OF ZONING SCHEME REGULATIONS IN THE CAPE AGULHAS MUNICIPAL AREA

Pursuant to Sections 22, 25 and 27 of Western Cape Land Use Planning Act, Act 3 of 2014, the Cape Agulhas Municipality repealed its Zoning Scheme Regulations published on the 27th of June 2014 in Provincial Notice 163/2014 and replaced them with the Regulations as set out in this By-Law, with effect from date of publication hereof in the Western Cape Provincial Government Gazette.

SCHEDULE

CAPE AGULHAS ZONING SCHEME

ARRANGEMENT OF REGULATIONS

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PART ONE: INTRODUCTION

CHAPTER 1 INTERPRETATION AND APPLICATION

Definitions and interpretation

1. (1) In these Regulations, unless inconsistent with the context -

“4x4 trail” means a series of roads, tracks and routes, designed for use by off-road vehicles as a recreational or adventure facility, and includes buildings normally required for the administration and maintenance thereof, but does not include holiday accommodation or tourist facilities;

“abattoir” means a place where livestock or poultry is slaughtered and prepared for distribution to butcher shops and food markets;

“advertise”, in addition to the meaning contained in the land use by-law and LUPA, as the case may be, means taking measures required by the Municipality to bring a matter to the attention of persons who may have an interest in, or be affected by, that matter, and may include: serving a notice; publishing a notice in the *Provincial Gazette*; publishing a notice in the press, holding public meetings and radio broadcasts; and ‘advertising’ and ‘advertisement’ have corresponding meanings;

“advertisement” when used in the context of outdoor advertising, means any visible representation of a word, name, letter, figure or object or of an abbreviation of a word or name, or any sign or flag or banner or symbol or light, which is not intended solely for illumination or warning against danger;

“agriculture” means:

- (a) the cultivation of land for raising crops and other plants, including plantations, and
- (b) the breeding of animals, including:
 - (i) any form of farming activity, for example stock, bee or bird farming;
 - (ii) any stud farm;
 - (iii) running a game farm on an extensive basis, and
 - (iv) natural veld;

and comprise only those activities and buildings that directly relate to the main farming activities on the farm, but do not include abattoirs, intensive animal farming, aquaculture or defined consent uses;

“agricultural industry” means an enterprise for the processing of agricultural products on or close to the land unit where these agricultural products are grown or produced, and where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products, provided that the Municipality may determine the measure of proximity, and includes wineries and farm packing stores, but does not include service trades;

“antenna” means any system of wires, poles, rods, reflective surfaces or similar devices, used to transmit or receive electronic communication signals or electromagnetic waves;

“application” means an application under the land use by-law and LUPA, as the case may be, or these Regulations for an authorization or consent from the Municipality, and without limitation includes any application referred to in Regulation 23(1), and **“applicant”** has a corresponding meaning;

“aquaculture” means the cultivation and breeding of water-flora and fauna, and the harvesting thereof, -

- (a) in artificially-built dams or holdings tanks, or
- (b) suspended from rafts in natural rivers or dams,

for commercial purposes;

“authority usage” means a use which is practised by or on behalf of authority or public body, and the characteristics of which are such that it cannot be classified or defined under other uses in these Regulations, and includes a use practised by:

- (a) the State, such as a military training centre and installation, police station, correctional institution or jail;
- (b) the Provincial Government, such as a road station and road camp;

- (c) the Municipality, such as fire services, sewage purification works, a waste control site, a reservoir, a composting installation, or water purification works with related uses, and limited accommodation for staff who are required to be on standby for emergencies, or
- (d) a public utility, such as a telecommunication facility;

“balcony” means a floor projecting outside a building at a level higher than that of the ground floor, enclosed only by low walls or railings or by main containing walls of rooms abutting such projecting floor, and includes a roof, if any, over such floor and pillars supporting such roof;

“Biodiversity Act” means the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004);

“bio-region” means an identifiable geographical area that contains one or more ecosystems, which functions as a relatively self-sustaining community, and is characterised by specific landforms, vegetation, or human culture and history, and includes a bio-region declared in terms of Section 40 of the Biodiversity Act, 2004 (Act 10 of 2004);

“bio-regional planning” means the planning of human activities within the context of a bio-region that:

- (a) prioritises maintaining and enhancing the functioning of the life-supporting functions of the bio-region;
- (b) takes account of the specific natural and cultural characteristics of the bio-region, and
- (c) aims to define and implement development options that ensure that human needs are met in an ecologically sustainable way;

“boat launching facility” means a public or private facility, which is designed to accommodate the launching or landing of watercraft, consisting of a slipway, and may include parking spaces for vehicles;

“bottle store” means an establishment where the dominant use is the retail sale of alcoholic beverages for consumption off the property, and includes an off-sales facility which is under the same management as a licensed hotel;

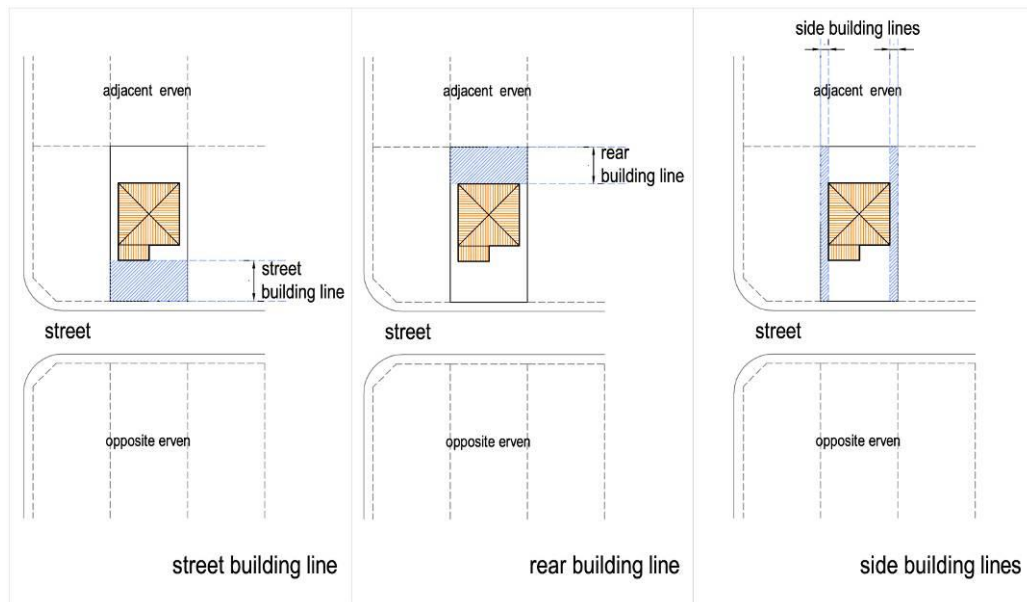
“builder’s yard” means a property which is used for the storage of material and equipment which:

- (a) is required for or is normally used for construction work;
- (b) was obtained from demolitions of structures or excavations of ground, or
- (c) is necessary for or is normally used for land improvements, such as storage of material used for building roads, for installing essential services, or for any other construction work (e.g.: of sand or bricks), whether for public or private purposes;

“building” without in any way limiting its ordinary meaning, includes:

- (a) any roofed structure;
- (b) any external stairs or landings of a building and any gallery, canopy, balcony, stoep, verandah, porch or similar feature of a building;
- (c) any walls or railings enclosing any feature referred to in (b), and
- (d) any other portion of a building;

“building line” means an imaginary line on a land unit, which defines a distance from a specified boundary, within which the erection of buildings or structures are completely or partially prohibited;



“business premises” means a building or property from which business is conducted and includes a shop, office, financial institution and building for similar uses, but does not include a place of assembly, place of entertainment, institutional building, service station, motor repair garage, spray painting and motor vehicle body repair shop, industry, industrial hive, noxious trade, risk activity, restaurant, pornographic entertainment business or bottle store;

“camping site” means a property or part thereof in which tents or caravans are utilised for accommodation for visitors, and includes ablution, cooking and other facilities for the use of such visitors;

“canopy” means a cantilevered or suspended roof, slab or covering (not being the floor or balcony) projecting from the wall of a building;

“caravan” means a vehicle which has been equipped or converted for living or sleeping purposes and which can be readily moved;

“caravan park” means land for the parking of caravans for short-term holiday accommodation and includes ablution, cooking and other facilities for the use of occupants of the caravans;

“carport” means a roofed structure for the housing of motor vehicles which is open at two sides;

“cemetery” means a place where the dead are buried and may include buildings that are necessary for the administrative and clerical uses associated therewith, but does not include a crematorium;

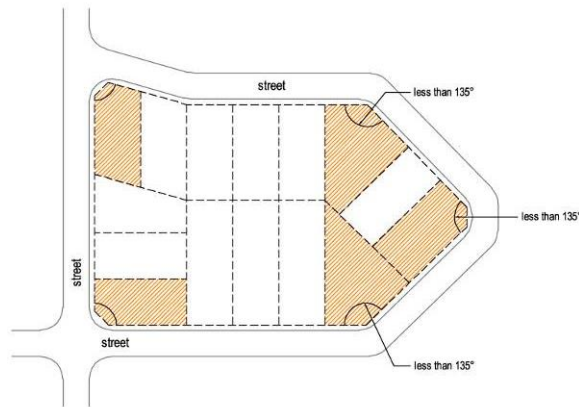
“commercial kennel” means kennel services for dogs, cats and similar animals and includes commercial breeding, boarding kennels, pet motels and dog training centres;

“conference facility” means a place of assembly with or without overnight accommodation, which also supplies meals, which normally is an additional activity to a primary function such as a hotel, or restaurant and where the building restrictions will be those of the primary function, except that additional parking may be required;

“consent” means special permission granted by the Municipality, after due consideration of all relevant facts and after a reasonable and lawful process has been followed, in terms of which a specific type of land use or activity is permitted, in addition to the primary use rights applicable to the property concerned;

“consent use” in relation to a particular zone, means an additional use right or a variation of a development management provision that is permitted in terms of the rules that apply to that particular zone, only with the prior consent of the Municipality;

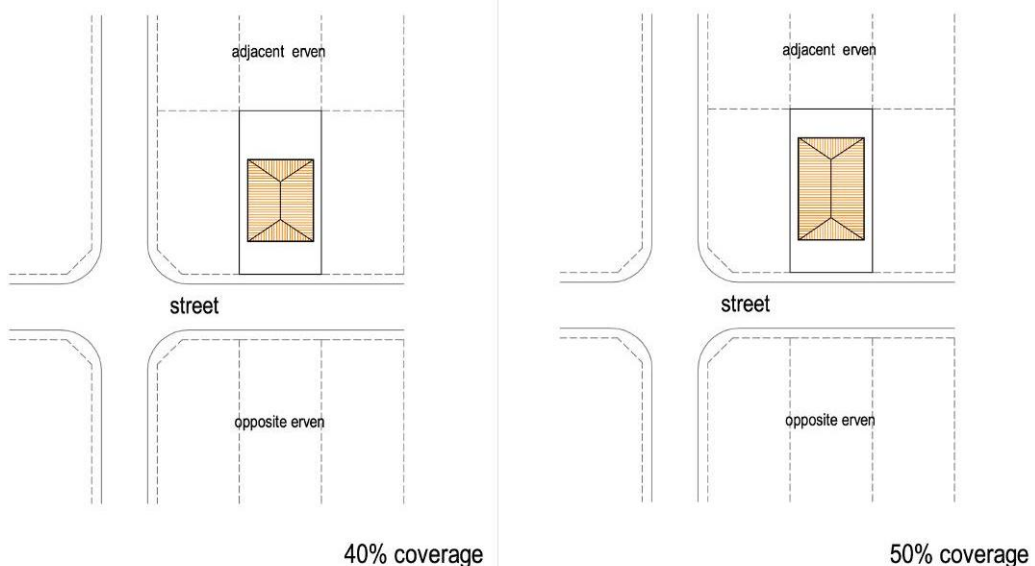
“corner property” means any land unit that has at least two contiguous sides abutting upon one or more streets, and where the interior angle between those two sides as determined in accordance with Regulation 61 is less than 135 degrees;



corner properties

“Council” means the Municipal Council, as referred to in section 157(1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), of the Cape Agulhas Municipality; and includes the municipal manager, another official, or a committee where the relevant official or committee has received delegated authority to decide a matter on behalf of the Council;

“coverage” means the percentage of the net area of a land unit that is, or may be, covered by buildings, calculated in accordance with Regulation 64;



40% coverage

50% coverage

“crèche” means a facility for the day care of young children in the absence of their parents, and may provide care for more children than are permitted at a day care centre;

“crematorium” means a building where the dead are reduced to ash, and includes facilities for associated religious and administrative functions;

“cultural heritage” means any place or object of cultural significance and the intangible aspects of inherited culture and includes all archaeological artefacts, palaeontological material and heritage resources and living heritage, as defined in Section 2 of the National Heritage Resources Act, 1999 (Act 25 of 1999);

“day care centre” means the use of portion of a dwelling house or outbuildings by the occupant to provide day care, pre-school, play group or after school care services for children provided that no more than 15 children shall be registered at the centre at a time, or on the property at any time.

“declared road” means a road proclaimed in terms of the Roads Ordinance, 1976 (Ordinance 19 of 1976);

“departure”, means

a departure as described in land use by-law and LUPA, as the case may be.

“development rule” means a rule that regulates the use or development of land within a particular zone or area that is imposed by the land use by-law, LUPA, these Regulations or in terms of an authorization issued by the Municipality under these Regulations;

“double dwelling house” means a building designed as a single architectural entity, containing two dwelling units on one land unit;

“dwelling house” means a building containing only one dwelling unit;

“dwelling unit” means a self-contained inter-leading group of rooms with not more than one kitchen, used for the living accommodation and housing of a single family, together with such outbuildings as are ordinarily used with a dwelling unit;

“ecologically sustainable development” means using, conserving and enhancing the environment so that ecological processes on which life depends, are maintained, people are able to enjoy a good quality of life now and in the future, and the well-being of the whole community is improved;

“environment” has the same meaning as in the National Environmental Management Act, 1998 (Act 107 of 1998);

“erf” has the same meaning as land unit;

“environmental management plan” means an operational plan which organises and co-ordinates mitigation, rehabilitation and monitoring measures in order to guide the implementation of a development and its on-going maintenance after implementation;

“family” means:

- (a) a single person maintaining an independent household, or
- (b) two or more persons directly related by blood, marriage or a life partnership maintaining a common household, or
- (c) no more than five unrelated persons maintaining a common household;

“farm shop” means a building, located on a farm, used to sell goods to employees of the farm or to the general public;

“farm stall” means a building, located on a farm, used to sell products produced and processed on farms to the general public;

“farm worker accommodation” means dwelling units provided for persons engaged in *bona fide* farming activities or retired persons previously engaged in *bona fide* farming activities on the property;

“flats” means a building of more than one storey containing two or more dwelling units, together with such outbuildings as are ordinarily associated therewith; but not including double dwelling houses and group houses, provided further that in those zones where flats are permissible, one dwelling unit shall also be permissible, whether or not with the consent of the Municipality, in a building approved for other purposes than for flats;

“floor” means the inner, lower surface of a room, garage or basement and includes a terrace or atrium to which the occupants of a building have access;

“floor factor” means the factor (expressed as a proportion of 1) which is prescribed for the calculation of maximum floor space of a building or buildings permissible on a land unit. If the floor factor is known, the maximum permissible floor space can be calculated by multiplication of the floor factor by the net erf area;

“floor space” in relation to a building means the total area of all floors of a building, which is covered by a slab, roof or projection, calculated in accordance with Regulation 63;

“freight container” means a standardised, reusable vessel that was originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, and/or designed for or capable of being mounted or moved on a rail car, and/or designed for or capable of being mounted on a chassis for movement by truck trailer or being loaded on a ship;

“funeral parlour” means property where the dead are prepared for burial or cremation and includes facilities for associated administrative and religious functions, but does not include a crematorium;

“gambling machine” means any electronic or electromechanical device, contrivance or machine which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to be played or operated, and the playing or operation of which, whether by reason of skill of the operator or as a result of chance, or both, may entitle the person playing or operating the machine or any other person, to receive cash or anything of value;

“garage” means a building for the storage of motor vehicles, but does not include a motor repair garage or service station;

“greenhouse” means a structure with the sides primarily made of a transparent material such as glass, perspex or plastic, for the purpose of growing delicate plants or hastening growth of plants under controlled environmental conditions;

“gross leasable area” or **“GLA”** means the total floor space designed for, or capable of, occupancy and control by tenants, measured from the centre line of the joint partitions to the inside finished surface of the outside walls, but shall exclude toilets, lift shafts, service ducts, vertical penetrations of floors, interior parking and loading bays;

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

“guest accommodation” means a dwelling house which is used for the purpose of letting individual rooms for residential transient accommodation, with or without meals, provided that:

- (a) the property is retained in a form which can easily be reused by a family as a single dwelling house, and
- (b) all amenities and provision of meals shall be for the sole benefit of *bona fide* guests;

“gymnasium” means an establishment, operated for profit, providing space or facilities for physical exercise or for participation in sports activity;

“habitable room” means a bedroom, living room, lounge, dining-room, study, and any other room which is used for human habitation or recreation, but excludes a kitchen or bathroom or a storeroom not exceeding 5m²;

“holiday accommodation” means premises used for holiday or recreational purposes, whether in private or public ownership, which:

- (a) consists of a single enterprise in which accommodation is supplied by means of short term rental or time sharing only, and
- (b) may include the provision of a camping site and caravan park;
- (c) may also include a restaurant and indoor and outdoor recreational facilities for *bona fide* guests, but
- (d) does not include a hotel;

“hotel” means property used as a temporary residence for transient guests, where lodging and meals are provided, and may include:

- (a) a restaurant or restaurants;
- (b) associated conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as a hotel;
- (c) premises for the rendering of personal services such as a beauty salon, and
- (d) premises which are licensed to sell alcoholic beverages for consumption on the property,

but excludes an off-sales facility, kitchens in hotel rooms or suites, and dwelling units;

“house shop” means the land use of conducting of a retail trade from a dwelling house or outbuilding by one or more occupants of the dwelling house concerned, who shall reside in the dwelling house; provided that the dominant use of the dwelling house concerned shall remain for the living accommodation of a single family;

“house tavern” means an enterprise, conducted from a dwelling house or outbuilding, by the occupant of the dwelling house concerned, for the sale of alcoholic beverages and may include consumption of alcoholic beverages by customers on the property, provided that the dominant use of the dwelling house concerned shall remain for the living accommodation of a single family;

“industry” means a property, which in the Municipality’s opinion:

- (a) is used as a factory and in which an article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting, but excluding spray painting related to motor vehicles or parts of motor vehicles), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage;
- (b) includes an office, caretaker’s quarters or other use which is subservient and ancillary to the use of the property as a factory, but does not include a noxious trade;

“informal trading” means the land use of legal selling of products in areas demarcated by the Municipality specifically for these purposes such as markets, and demarcated areas in the business district;

“institutional building” means a building, or portion of a building or property, used as a social, health or welfare facility, or for the administration thereof, and includes a hospital, clinic, home for the aged, indigent or handicapped, reformatory or place of detention, whether of a commercial or charitable nature, but does not include a jail, or a hospital, sanatorium, dispensary, or clinic for the treatment of infectious or contagious diseases or premises licensed under the Mental Health Act, 1973 (Act 18 of 1973) for the detention of mentally disordered persons, or a mental hospital.

“integrated development plan” means the integrated development plan of the Municipality prepared in accordance with Chapter 5 of the Municipal Systems Act, 2000 (Act 32 of 2000);

“intensive animal farming” means the breeding, feeding and keeping of animals or poultry within confined pens or buildings on an intensive basis for commercial purposes;

“intensive horticulture” means the cultivation of plants under a roof, or in greenhouses for commercial purposes;

“kitchen” means a room or part of a room equipped for the preparation and cooking of meals;

“land” means that part of the earth situated within the municipal area, and includes:

- (a) submerged areas, soil, sub-soil, and minerals;
- (b) buildings and other structures and fixtures that are permanently attached to the surface of the earth;
- (c) the atmosphere, water, living organisms and any other aspect of the environment that is beneath, in, or above the surface of the earth within the municipal area, and
- (d) any cultural heritage on, or associated with a place within the municipal area;

“land management objective” in respect of defined area or category of land, means an objective that has been established in national or provincial legislation or a statutory plan, in order –

- (a) to promote the wise use of that land;
- (b) to define the purpose of management interventions in respect of that land; and
- (c) to assist in monitoring and evaluating the implementation of government policies, and progress towards achieving ecologically sustainable development;

“land unit” means a portion of land registered or capable of being registered in a deeds registry;

“land use by-law” means the By-Law on Municipal Land Use Planning, promulgated 15 July 2015 in Provincial Gazette 7428.

“landscape plan” means a plan indicating detailed landscape proposals including walkways, paving, planting, water features, recreational areas, engineering services and any other such land uses;

“landscaping” means the planting or placement of plants, the moulding of earth and installation of outdoor features such as walkways and paving for the purpose of protecting and promoting aesthetic appeal, scenic beauty, character and value of property, as well as promoting the reduction of noise pollution, storm water runoff, air pollution, visual pollution or light glare;

“lateral boundary” means a boundary of a land unit other than the street boundary or the rear boundary;

“letting of rooms” means the provision of bedroom accommodation to lodgers for payment, and the services ordinarily related to such accommodation, and ‘lodger’ and ‘lodging’ has a corresponding meaning;

“light industry” means a property used or intended to be used as a bakery, laundry, dry-cleaning works, light engineering works and small repairs work, provided that the Municipality shall determine whether or not any such use as applied for shall be classified as light industrial at the time that an application is made for development, building alterations or extensions;

“loading bay” means an area which is clearly demarcated for loading and off-loading of goods from commercial vehicles;

“LUPA” means the Western Cape Land Use Planning Act 3 of 2014.

“mining” means the extraction of raw materials from the earth, whether by means of surface or underground methods, and includes, but is not limited to, the removal of stone, sand, clay, kaolin, ores, minerals, gas and precious stones;

“motor repair garage” means a property for trading in motor vehicles, oil, tyres or motor spares, the repair or overhauling of motor vehicles or washing of vehicles, but does not include spray-painting, panel beating, blacksmithery, body work or the retail supply of fuel for the use of motor vehicles;

“Municipality” means the Cape Agulhas Municipality;

“municipal area” means the geographical area over which the Municipality has jurisdiction;

“Municipal Manager” means the Municipal Manager of the Municipality, or an official, acting under delegated powers, charged with the responsibility to administer these Regulations;

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

“National Building Act” means the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

“National Environmental Management Act” means the National Environmental Management Act, 1998 (Act 107 of 1998);

“National Heritage Resources Act” means the National Heritage Resources Act, 1999 (Act 25 of 1999);

“natural level of the ground” means the level of the land surface on a land unit in its unmodified state, or in a state which has been graded, with the Municipality’s approval, for the purposes of development, as determined in accordance with Regulation 57;

“nature conservation” means the use and management of land with the objective of preserving the natural bio-physical characteristics of that land, such as the flora and fauna, but does not include tourist facilities;

“nature conservation area” means an area that has official status as a conservation area and that is being managed in terms of a long term environmental management plan that has been approved by the relevant conservation authority;

“net area” in relation to a land unit means the total area of the land unit excluding any area reserved for public streets, roads or road-widening purposes, and ‘net erf area’ has a corresponding meaning;

“non-conforming use” means a use of property that was lawful before the commencement date, but which does not conform to the development rules stipulated in these Regulations.

“noxious trade” means an offensive, poisonous or potentially harmful trade, use or activity which, because of fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed, or other cause, is deemed by the Municipality to be a potential source of danger, nuisance or offence to the general public or persons in the surrounding area or which constitutes a health hazard in terms of the Public

Health Act, 1997 (Act 63 of 1997), or the operation of a scheduled process as defined in Section 1 of the Explosives Act, 1956 (Act 26 of 1956);

“occupational practice” means the undertaking of an occupation or enterprise in a dwelling unit used predominantly for the living accommodation of a single family, by one or more persons who live in that dwelling unit, but excludes the retailing of products not manufactured on the premises and any wholesale business;

“open space” means land which has been reserved or is used for either passive or active recreation and provides major or minor recreational facilities, and it includes a park, garden, playground, sportsfield, promenade, pavilion, public square, picnic area, pedestrian area and beach, or land used for nature conservation;

“outbuilding” means a structure, whether attached to or separate from the main unit, which is designed to be utilized 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, and may include two habitable rooms with one bathroom, but does not include a second dwelling;

“overlay zone” means a zone referred to in Regulation 9 that is applied in addition to an existing zone and which varies or adds to the development rules imposed by the underlying zoning, and ‘overlay zoning’ has a corresponding meaning;

“panhandle property” means an erf that is configured with a narrow panhandle portion forming an access corridor to the bulk of the erf which is located behind the bulk of other erven or land units;

“pergola” means any unroofed horizontal or approximately horizontal grille or framework, such that the area in the horizontal projection of the solid portions thereof does not exceed 25% of the total area thereof;

“parking bay” means an area measuring not less than 5,0m x 2,5m for perpendicular parking and 6,0m x 2,8m for parallel parking, which is clearly outlined and demarcated for the parking of one motor vehicle and which is accessible to the satisfaction of the Municipality;

“place of assembly” means a place which serves the social and community needs of inhabitants, which may attract people in relatively large numbers and which is not predominantly a commercial enterprise; including a civic hall, concert hall, indoor sports centre and club house, but does not include a place of entertainment or conference facility;

“place of entertainment” means a place used predominantly for commercial entertainment which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis; including a cinema, theatre, amusement park, dance hall and nightclub;

“place of instruction” means a place for education at pre-school, school or post school levels, including a crèche, nursery school, primary school, secondary school, college, university and research institute, and associated uses such as boarding hostels; or a civic facility for the promotion of knowledge to the community such as a public library, public art gallery or museum; or a place of instruction in sport where the main objective is instruction as opposed to participation by the public as either competitors or spectators; but excludes a reformatory, commercial conference facility or in-house business training centre;

“place of worship” means a church, synagogue, mosque, temple, chapel or other place for practicing a faith or religion, and includes associated uses such as a religious leader’s dwelling, office and place for religious instruction but does not include a funeral parlour, cemetery or crematorium;

“plant nursery” means a property which is used for the sale of plants, gardening products and gardening equipment;

“portable building” means any prefabricated structure assembled off-site and delivered to the site as a complete unit or a building purchased in kit form and assembled on-site, which can be moved without disassembly to another location; AND INCLUDE FREIGHT CONTAINERS;

“pornographic entertainment business” means the selling or hiring out of items with pornographic elements, such as books, films, videos or photographs, or the offering of live or recorded performances with

pornographic elements; it includes an escort agency, as well as a massage parlour other than a massage establishment used for medical, sport or gymnasium purposes;

“primary use” in relation to a particular zone means a use to which land within that zone may be put without the consent of the Municipality, as listed in respect of each zone in Part Five of these Regulations first being obtained;

“private open space” means land which is in private ownership or municipal property that is leased on a long term basis, and that is used primarily as a private site for outdoor sports, play, rest or recreation, or as a park or nature area; and includes associated buildings, infrastructure and uses;

“private parking” means property which is reserved for parking purposes, if such parking is not normally accessible to the general public;

“private road” means land reserved for the passage or parking of motor vehicles, which is privately owned and does not vest in the Municipality or another public authority;

“public open space” means property which is or will be under the ownership of the Municipality or another public authority, with or without access control, and which is set aside for the public as an open space for recreation or outdoor sport; including a park, playground, public square, picnic area, public garden, nature area or outdoor sports stadium; and may include associated buildings, infrastructure and uses;

“public parking” means a property that is accessible to the general public for parking purposes with or without a fee;

“public street” means land indicated on an approved plan, diagram or map as having been set aside as a public thoroughway for vehicles and pedestrians, of which the ownership as such vests in the Municipality in terms of the land use by-law, LUPA or in terms of any other law;

“rear boundary” in relation to a land unit means every boundary of that land unit (other than a street or lateral boundary) which is opposite to every street boundary of such land unit and which does not intersect a street boundary, provided that in the case of a panhandle property the Municipality shall determine which boundary, if any, is the rear boundary;

“Register” means the register maintained by the Municipality in which is recorded all departures, consent uses, environmental management plans, site development plans and conditions relating to use rights or the development and management of special zones;

“renewable energy structure” means any wind turbine, solar voltaic apparatus AND ANY OTHER RENEWABLE SOURCE, or grouping thereof, which captures and converts wind or solar radiation into energy for commercial gain irrespective of whether it feeds onto an electricity grid or not, and includes any appurtenant structure or test facility or structure which may lead to the generation of energy on a commercial basis;

“Republic” means the Republic of South Africa;

“residential building” means a building where lodging is provided, with or without meals, together with such outbuildings as are normally used therewith, and includes an old age home, children’s home, hostel, boarding house and building in which rooms are rented for residential purposes, but does not include flats or a dwelling house, double dwelling house, group house, institutional building, place of instruction or hotel;

“restaurant” means a commercial establishment where meals and liquid refreshments are prepared and/or served to paying customers for consumption on the property, and may include licensed provision of alcoholic beverages for consumption on the property;

“retirement village” means premises specifically reserved to provide accommodation in the form of group houses, town houses, separate dwelling units or a block of flats for elderly and/or retired persons and may include care and recreational facilities together with a chemist, small shop, café and outbuildings ordinarily and reasonably required therewith;

“rezoning” means the amendment of the Zoning Scheme in order to effect a change of zoning in relation to a particular land unit or units;

“riding school” means a place or undertaking for the leasing of horses and riding instruction against payment and includes the care and stabling of such horses;

“rooftop base station” means a cell phone base station where antennae are attached to the roof or side of an existing building; provided that any antennae support structure or equipment room that is not part of the building, does not extend more than 2,5m in height above the top of the building;

“satellite dish antenna” means apparatus fixed to a structure or mounted permanently on the ground, that is capable of receiving or transmitting communications from a satellite;

“scrapyard and salvage building” means premises which is utilised for one or more of the following purposes:

- (a) storing, depositing or collecting of junk or scrap material or articles of which the value 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, and
- (c) the storing or sale of second hand parts, poles, steel, wire, lumber yards, tyres, bricks, containers or other articles which are suitable to be left in the open without any serious damage being incurred;

“second dwelling unit” means a dwelling unit including a kitchen, on a land unit where a dwelling house has already been lawfully erected;

“self-catering accommodation” means a dwelling house or a dwelling unit used for the overnight accommodation of *bona fide* transient guests;

“service station” means premises used for the retail supply of fuel and includes trading in motor vehicles, oil, tyres or motor spares, the repair or overhauling of motor vehicles and washing of vehicles, but does not include spray-painting, panel beating, blacksmithery or body work and any portion of a shop or business premises which incorporates facilities for the retail supply of fuel for the use of motor vehicles, shall be deemed a service station;

“service trade” means an enterprise which is:

- (a) primarily involved in the rendering of a service for the local community such as the repair of household appliances or the supply of household services;
- (b) not a source of disturbance to surrounding properties;
- (c) employs at most 10 people, and
- (d) is not likely, in the event of fire, to cause excessive combustion, give rise to poisonous fumes or cause explosions;

and includes a builder's yard and allied trades, laundry, bakery, dairy depot and similar types of uses, but does not include an abattoir, brick-making site, service station or motor repair garage or sewage works;

“shelter” means a unit of accommodation intended for human occupation, constructed of any material, even though such material may not comply with the standards of durability intended by the National Building Act, 1977 (Act 103 of 1977);

“shop” means premises used for the retail sale of goods and services individually or in relatively small quantities to the public; it includes a retail concern where goods which are sold in such a concern are manufactured or repaired, provided that the floor space relating to such manufacture or repair shall not comprise more than one-third of the floor space of the shop; “shop” does not include spray painting or an industry, service trade, motor repair garage, motor vehicle body repair shop, service station, restaurant, pornographic entertainment business, bottle store or industrial hive, and if such uses are included with a shop on a land unit, they shall be regarded as separate uses subject to separate development rules;

“site development plan” means a plan of a site which is to be developed, prepared in accordance with Regulation 26, that shows details of proposed development;

“spatial development framework” (or **“SDF”**) means a Municipal Spatial Development Framework that indicates the spatial implications of a Municipal Integrated Development Plan;

“special usage” means a use which is such, or in respect of which the development rules are such, that it is not otherwise catered for in these Regulations;

“spray painting and motor vehicle body repair shop” means premises used for spray painting of motor vehicles or parts of motor vehicles and the repair of motor vehicle bodies including panel beating and blacksmithery;

“statutory plan” means a policy, programme, or plan required by legislation and which governs or affects the use of land, and includes:

- (a) the Provincial Spatial Development Framework if approved in terms of law;
- (b) the integrated development plan and spatial development plan of the Municipality;
- (c) the national water resource strategy established under Section 5 of the National Water Act, 1998 (Act 36 of 1998);
- (d) a catchment management strategy established under Section 8 of the National Water Act, 1998 (Act 36 of 1998);
- (e) the national bio-diversity framework and the national bio-diversity strategy and action plan prepared in terms of Chapter 3 of the Biodiversity Act, 2004 (Act 10 of 2004);
- (f) a bio-regional plan prepared in accordance with Sections 40 to 42 of the Biodiversity Act, 2004 (Act 10 of 2004) and
- (g) the national land transport strategic framework and the provincial land transport framework prepared in accordance with Section 19 of the National Land Transport Transition, 2000 (Act 22 of 2000);

“stoep” means an uncovered paved area or projecting floor that adjoins a building at or below ground floor level, and includes any low walls or railings enclosing such paved areas or floors;

“street boundary” means the common boundary of a land unit and a public street or private road;

“structure” without in any way limiting its ordinary meaning, includes any building, shelter, wall, fence, pillar, pergola, steps, landing, terrace, sign, ornamental architectural feature, swimming pool, fuel pump and underground tank, and any portion of a structure;

“supermarket” means a retail concern with a net retail floor space of not less than 250m², 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: foodstuffs and confectionery; toiletries and household cleansing agents; paints and hardware; electrical or gas appliances; musical instruments; crockery and kitchen utensils; camping and garden furniture and equipment; toys; furniture; photographic equipment; haberdashery and clothing; tools and accessories; and pot plants and flowers;

“terrace” means an open area on a flat roof over a portion of a storey to which occupants of a building have access and which results in the remainder of the building on that floor and on the floors above it, being set back;

“tourist facilities” means amenities for tourists or visitors such as lecture rooms, restaurants, gift shops, restrooms or recreational facilities, but does not include a hotel or overnight accommodation;

“town housing” and **“town housing scheme”** means housing development which is a row or group of linked or attached dwelling units, designed and built as a harmonious architectural entity, of which every dwelling unit has a ground floor;

“Townships Ordinance” means the Townships Ordinance, 1934 (Ordinance 33 of 1934) and includes all Regulations made under it;

“traffic impact assessment” means a study that assesses the demand for travel generated by existing or proposed development in relation to the existing and planned road system;

“traffic impact statement” means a statement of demand for travel generated by proposed development in relation to the existing and planned road system;

“transmission tower” means any support structure and associated infrastructure of more than 3,0m in height, that is used for the transmission and/or reception of electromagnetic waves and includes telecommunication, cellular telecommunication, radio, television and satellite transmission;

“transport usage” means a transport undertaking based on the provision of a transport service and includes public and private undertakings such as airports, railway stations, bus depots, taxi ranks, public transport interchanges and associated purposes;

“urban agriculture” means the cultivation of crops, on relatively small areas within the town, for own consumption or sale in neighbouring markets; provided that cultivation of a garden by an occupant shall not be regarded as urban agriculture for the purpose of control in terms of this Zoning Scheme;

“urban edge” means a demarcated line indicating the outer limit of an urban area determined in accordance with Regulation 15;

“use right” in relation to land, means the right to utilise that land in accordance with its zoning, including any lawful departure therefrom;

“verandah” means a covered paved area or projecting floor that adjoins a building at or below ground floor level but is not part of a yard or parking area and includes the roof or other feature covering that area and any low walls or railings enclosing it;

“visual impact assessment report” means an assessment of the visual impact of proposed development on the area in which it is proposed to be located;

“warehouse” means a building used primarily for the storage of goods, except those that are offensive or dangerous, and includes premises used for business of a predominantly wholesale nature, but does not include premises used for business of a predominantly retail nature;

“waste disposal site” means a place where household, commercial or industrial waste products may lawfully be stored, salvaged, treated or disposed of;

“working day” means a day that is not a Saturday, Sunday or public holiday;

“zone” when used as a noun, means land which has been designed for a 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 designate that land for a particular zoning;

“zoning”, when used as a noun, means a category of directions regulating the development of land and setting out the purposes for which the land may be used and the land use or development rules applicable in respect of the said category of directions, as determined by relevant Zoning Scheme Regulations;

“zoning map” means a map or maps maintained by the Municipality that illustrates the application of these Regulations to land units situated within the municipal area, and

“Zoning Scheme” means the Scheme for the zoning of land referred to in Regulation 4.

(2) The headings, diagrams and policy guidelines that appear in these Regulations must not be taken into account in interpreting these Regulations.

(3) If there is any conflict between the information reflected on a zoning map and these Regulations or the Register, the Regulations and the Register shall prevail over the zoning map.

(4) If there is any conflict between the English version and any other translation of these Regulations the English version will prevail.

(5) The purpose for which a particular category of zone or overlay zone described in Part Five of these Regulations has been established must be taken into account in interpreting the meaning of the land uses and development rules relating to that zone or overlay zone and in making decisions in relation to land in that zone or overlay zone or proposed for inclusion in that zone or overlay zone.

Commencement

2. These Regulations constitute the Scheme regulations for the Municipal area for the purposes of the land use by-law and LUPA and take effect from the date specified by the Minister in the *Provincial Gazette*.

Effect of Regulations

3. (1) Nothing contained in these Regulations and no approval granted under these Regulations shall affect:

- (a) any person's obligations to comply with any other Municipal by-law;
- (b) any right the Municipality possesses by virtue of a servitude or agreement, or
- (c) any title deed restriction.

(2) An approval granted under these Regulations does not affect a condition of approval imposed in another approval that is binding in terms of these Regulations.

(3) In the case of any conflict between any measure in these Regulations and a measure in the land use by-law or LUPA, the provisions of LUPA will firstly prevail, thereafter the land use by-law and thereafter these Regulations.

PART TWO: THE ZONING SCHEME

CHAPTER 2 PURPOSE AND STRUCTURE OF ZONING SCHEME

Composition of Zoning Scheme

4. The Zoning Scheme consists of these Regulations, the Register and any zoning maps that may be prepared in accordance with Regulation 11.

Area of application

5. The Zoning Scheme applies throughout the municipal area.

General purpose and objectives

6. (1) The general purpose of this Zoning Scheme is to define zones within the municipal area and to define, grant and restrict rights to use land in those zones and manage the use of land within the municipal area, in a manner that:
 - (a) gives effect to the mandate and responsibilities of the Municipality in terms of the Constitution of the Republic of South Africa, 1996;
 - (b) is consistent with national and provincial plans relating to land use planning and sustainable development, including the Provincial Spatial Development Framework;
 - (c) applies principles established by national and provincial legislation and by the laws and policies of the Municipality;
 - (d) secures ecologically sustainable development and use of natural resources while promoting justifiable economic and social development within the Municipal area, including by encouraging water conservation, rain-water harvesting, energy conservation and efficiency and by minimising the generation of waste;
 - (e) protects natural and cultural heritage, and
 - (f) maintains and enhances the quality and physical appearance of the natural and built environment.
- (2) The specific objectives of this Zoning Scheme include, among others:
 - (a) to facilitate the development of, and access to, adequate housing and public facilities for all;
 - (b) to normalise distorted settlement patterns;
 - (c) to promote a mutually supportive mix of land uses;
 - (d) to facilitate the provision of affordable and appropriate housing in areas close to places of work;
 - (e) to guide urban growth and contain urban sprawl, and
 - (f) to maintain and enhance the quality and physical appearance of the natural and built environment.

Repeal of existing schemes

7. The existing Zoning Scheme Regulations are repealed with effect from the date on which these Regulations take effect.

CHAPTER 3 ZONES AND USE CATEGORIES

Use zones

8. All land within the municipal area must be zoned by the allocation of zones identified in Part Five, to the land.

Overlay zones

9. (1) The Municipality may adopt, review and amend overlay zones for specific areas within the municipal area in order:
- (a) to protect the well-being and interests of local communities, and
 - (b) to promote and conserve particular types of development, urban form, landscape character, environmental features or heritage values.

(2) An overlay zone is super-imposed on land that has already been zoned and does not change the underlying zoning of the land units to which it relates, but may:

- (a) vary the development rules that apply to those land units;
- (b) impose on those land units additional development rules that may be more restrictive or more permissive than the development rules that apply by virtue of the underlying zoning that applies to those land units, and
- (c) include sub-zones with different development rules.

(3) An overlay zone may include any development rules that give effect to the purpose and objectives of these Regulations, and without limiting the scope of matters which may be dealt within an overlay zone, an overlay zone may include development rules relating to consent use limitations, subdivision, urban renewal, environmental protection, the conservation of heritage resources, and the protection of views and scenic landscapes.

(4) If the Municipality intends to adopt or amend an overlay zone, the Municipal Manager must:

- (a) advertise the proposed adoption or amendment;
- (b) give interested and affected parties the opportunity to submit written comments to the Municipal Manager within a period of not less than 30 working days from the date of such advertisement;
- (c) notify and request comments from any organ of state which, in his or her opinion, has an interest in the overlay zone concerned;
- (d) submit the proposed overlay zone or amendment, and all relevant documentation, to the Municipality for consideration and a decision;
- (e) notify all persons who submitted comments relating to the adoption or amendment of the overlay zone within the prescribed period, of the Municipality's decision, and
- (f) publish a notice in the press advising the public that the overlay zone has been adopted or amended and that it may be inspected at an office of the Municipality specified in the notice.

(5) If the Municipality adopts an overlay zone, it must:

- (a) approve a distinctive name and number for each overlay zone and any sub-zone when adopting the overlay zone;
- (b) review the overlay zone at least every 5 years, and
- (c) amend these Regulations by adding an annex that indicate the area of the overlay zone on any zoning map of an area to which that overlay zone applies;

Register

10. (1) The Municipality must record all approved departures and consent uses in respect of land units in the municipal area in the Register and must regularly update the Register to reflect any changes to rights.

(2) The Register must contain erf numbers and other references that may be required in order to identify the land use rights in respect of each land unit.

Zoning maps

11. (1) The Municipality may create a zoning map or maps to indicate the application of these Regulations to land units within the municipal area. Annexure A contains the notations to be used on the zoning map to indicate the zoning of land units.

- (2) When preparing a zoning map the Municipality must categorise zonings:
- (a) existing in terms of zoning schemes repealed by Regulation 7, and
 - (b) resulting from new approvals granted subsequent to the promulgation of these Regulations,
- into new zonings as provided for in these Regulations.

(3) The Municipality must continuously update the zoning map to ensure that it accurately reflects decisions by the Municipality to determine the lawful utilisation of land, to rezone any land units or to approve consent uses, departures or special conditions in relation to a specific area or land unit.

- (4) The zoning map must indicate:
- (a) the zone that applies to each land unit shown on the zoning map;
 - (b) any areas where special development conditions apply, and
 - (c) any areas where detailed development plans with complementary development conditions or land use regulations apply, and must identify those development plans.

Rezoning, departures and consents on the basis of the previous zoning

12. (1) The owner of any land unit that was previously zoned under a scheme repealed by Regulation 7, may apply in terms of the land use by-law and LUPA, as the case may be, as read with Regulation 23 for that land unit to be rezoned, and/or for a departure or consent, in order to permit the land to be used in future for a use specified in the application, provided that the land unit is not currently being used for that specified use and the specified use would have been lawful had that land unit not been rezoned.

(2) In deciding an application under Sub-Regulation (1) the Municipality, on the basis of the evidence in the application and its own investigations:

- (a) must determine the development rules that applied to that land immediately prior to the commencement of these Regulations as specified in the scheme repealed by Regulation 7 as varied by any departures or consent uses lawfully granted by the Municipality, and by any restrictions on using that land imposed by any other legislation;
- (b) must determine whether or not the current zoning of that land imposes any material restriction on the specified future use of that land that did not apply immediately before the commencement of these Regulations, and
- (c) must decide whether or not any such restrictions are reasonable in relation to the general purpose and specific objectives set out in Regulation 6 and in order to attain land management objectives, and if not, must rezone the land and/or grant a departure or consent in order to impose development rules that give effect to the general purpose and specific objectives set out in Regulation 6 and make it easier to attain the land management objectives, while avoiding restricting the specified future use of that land.

(3) In deciding an application under Sub-regulation (1) the Municipality may rezone the land and/or grant any departure or consent that it considers to be desirable in order to give effect to the general purpose and specific objectives set out in Regulation 6 or to make it easier to attain the land management objectives, regardless of whether or not the applicant had applied for that particular rezoning, departure or consent.

(4) The Municipality:

- (a) may make the granting of a rezoning, departure or consent under this Regulation conditional on the specified use of the land occurring within a specified period of not more than three years from the date of the Municipality's decision, and
- (b) may specify the zoning and development rules that will apply to that land if the land is not used for the specified use within that period.

(5) An application under Sub-regulation (1) must be made within three years of the commencement of these Regulations and no application fee is payable in respect of any such application that is made within 24 months of the commencement of these Regulations.

Rezoning, departures and consents on the basis of an existing lawful use

13. (1) The owner of any land unit that is zoned in terms of these Regulations, may apply in terms of the land use by-law and LUPA, as the case may be, as read with Regulation 23 for that land unit to be rezoned and/or for a departure or consent in order to permit the continuation of a use of the land that was lawfully used when these Regulations commenced.

- (2) In deciding an application under Sub-regulation (1), the Municipality:
- (a) must make any determination of the lawful use of the land in accordance with Regulation 14;
 - (b) must determine whether or not the current zoning of the land unit imposes any material restriction on the actual lawful utilisation of that land that did not apply immediately before the commencement of these Regulations, and
 - (c) if the current zoning imposes additional restrictions on the actual lawful utilisation of that land, must decide whether or not those restrictions are reasonable in relation to the general purpose and specific objectives set out in Regulation 6 and in order to attain land management objectives, and if not, it must rezone the land to a zoning category that, together with any departure or consent granted at the same time, establish development rules that allow the land management objectives to be achieved while as far as reasonably possible allowing the land to continue to be used in the way it was being used when these Regulations commenced.
- (3) In deciding an application under Sub-regulation (1), the Municipality may rezone the land and/or grant any departure or consent that it considers to be desirable in order to give effect to the general purpose and specific objectives set out in Regulation 6 or to make it easier to attain the land management objectives, regardless of whether or not the applicant had applied for that particular rezoning, departure or consent.
- (4) An application under Sub-regulation (1) must be made within three years of the commencement of these Regulations and no application fee is payable in respect of any such application that is made within 24 months of the commencement of these Regulations.

Determination of lawful use of land for rezoning purposes

14. (1) If, for zoning purposes, the Municipality is required to determine the utilisation of land at a particular date, it must diligently investigate the circumstances and consider all relevant evidence in order to determine as a matter of fact how the land was used at that time.
- (2) The Municipality must, in determining the lawful use of land at the relevant time for zoning purposes, disregard any use of the land that was unlawful at that time.
- (3) For the purposes of rezoning land that at the commencement of these Regulations was owned by an organ of state or reserved or indicated on a zoning map for state purposes, and that was, under a scheme repealed by Regulation 7, zoned or reserved in a way that did not provide for land use restrictions, the Municipality must determine the lawful use of that land on the date of commencement of these Regulations.
- (4) This Regulation must be applied consistently with the land use by-law and LUPA, as the case may be.

Determination and revision of urban edge

15. (1) The Municipality may demarcate an urban edge around each urban area in order:
- (a) to contain urban sprawl;
 - (b) to promote densification and the efficient provision of public services within urban areas, and
 - (c) to allow for the application of different land management objectives and development rules in relation to rural and conservation areas beyond the urban edge.
- (2) The Municipality must indicate the precise position of the urban edge on zoning maps so that the public can determine whether or not any particular land unit, or part of a land unit, falls within or outside the urban edge.
- (3) The Municipality may review the urban edge, as part of the revision of its spatial development framework or when such revision is regarded as necessary in the opinion of the Municipality.
- (4) In determining and reviewing the urban edge the Municipality must:
- (a) apply any guidelines prescribed in a statutory plan or by the member of the Executive Council of the Province responsible for development planning;
 - (b) take account of any land management objectives or other objectives contained in a statutory plan that are intended to promote ecologically sustainable development;
 - (c) apply a bio-regional planning approach;
 - (d) take account of all relevant factors, including:
 - (i) the geophysical, bio-physical and ecological aspects of the environment;

- (ii) cultural and aesthetic aspects of the environment including landscapes and the visual impacts of development;
 - (iii) land tenure, and land use and related patterns;
 - (iv) the location and capacity of existing infrastructure location and capacity, and
 - (v) demographic and socio-economic profiles and trends, including the demand for housing and other development, and
- (e) follow a procedure which gives interested and affected parties a reasonable opportunity to make representations.

CHAPTER 4 TYPES OF LAND USE RIGHTS

Prohibition on use of land contrary to zoning

16. (1) No person may use land in a manner that is contrary to the development rules specified in the Zoning Scheme unless that land use is either expressly authorized by the land use by-law and LUPA, as the case may be or these Regulations, or has been approved by the Municipality in response to an application in terms of Regulation 23.

(2) The Municipality may, at its discretion, permit the erection of a building or use of land, for which approval was granted before the commencement date of these Regulations, in accordance with the conditions of such approval.

Primary uses

17. The consent of the Municipality is not required in order for land to be used for a purpose or in manner that has been identified in the zoning that applies to that land as a primary use for that zone.

Consent uses

18. No person may, without the prior consent of the Municipality, use land for a purpose or in manner that has been identified in the zoning that applies to that land as a consent use for that zone.

Special uses

19. If the Municipality receives an application for a use that is not catered for in these Regulations, it may treat that application as an application for a consent use and may classify that use as a special use.

Departures

20. (1) A person must apply to the Municipality for a departure in order:
- (a) to obtain authority to use land, on a temporary basis, for a use that is not identified in the zoning for that property as a primary use or a consent use;
 - (b) to change any development rule that applies to a land unit.
- (3)
- (2) The Municipality may not grant a departure unless it is satisfied that:
- (a) any proposed temporary use of the land will not have a significant negative effect on the health and well-being of people in the surrounding areas, the environment or cultural heritage;
 - (b) any proposed variation of a development rule is consistent with the general purpose and objectives of the Zoning Scheme.

Temporary use permit

21. (1) The Municipality may grant a temporary use permit that authorizes a particular event or the occasional use of land for temporary activities such as craft markets, circuses, religious gatherings, film shoots or other outdoor events, even though these uses may not conform with the zoning of the land concerned.

(2) The Municipality may not grant a temporary use permit unless it is satisfied that the temporary activity will not have a significant negative effect on the health and well-being of people in the surrounding areas, the environment or cultural heritage.

(3) The Municipality must grant a temporary use permit for a period of not more than one year and subject to whatever conditions the Municipality considers to be necessary or desirable to achieve the general purpose and objects of the land use by-law, LUPA and these Regulations.

(4) The Municipality may by written notice to the holder, withdraw a temporary use permit if any condition of that permit is not complied with or if the activities authorised by the permit create a public nuisance.

Non-conforming buildings, infrastructure and uses

22. (1) If, on the date that these Regulations commence, an existing building or infrastructure does not conform with the development rules that apply to that land unit in terms of this Zoning Scheme, that existing non-conforming building or infrastructure must be regarded as being lawful in terms of these Regulations.

(2) A person may not enlarge any structure that does not conform to the development rules or that is used for a non-conforming land use in a manner that increases its floor area or its coverage of the land unit on which it is situated by more than 10% of the floor area or coverage that existed on the date that these Regulations commenced.

(3) If an existing building, which constitutes a non-conforming use, is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the Municipality may grant permission for the building to be reconstructed, subject to appropriate conditions to give effect to the general purpose and objectives of the Zoning Scheme.

(4) Subject to Sub-regulation (5), the continuation of a lawful use of a land unit that had commenced at least six months prior to the commencement of these Regulations and was lawful when these Regulations commenced, must be regarded as a use that conforms to the Zoning Scheme.

(5) Sub-regulation (4) ceases to apply –

- (a) to any non-conforming use that ceases for any reason for a period of 12 consecutive months;
- (b) after three years has elapsed since the commencement of these Regulations, unless during that period an application is made under Regulations 12 or 13 to change the development rules that apply to that land unit so that non-conforming use is lawful, in which case the three year period is extended until the Municipality has decided the application and communicated its decision to the applicant.

PART THREE: DEVELOPMENT CONTROL

CHAPTER 5 LAND USE CONTROL PROCEDURES

Making an application

23. (1) A written application in terms of the land use by-law and LUPA, as read with these Regulations must be made to the Municipal Manager for an authorization or approval from the Municipality.

(2) The applicant must ensure that the application:

- (a) is clearly and legibly printed or typed in plain language on the application forms which must be completed in full;
- (b) includes an executive summary in the format prescribed by the Municipality from time to time;
- (c) is properly motivated in the format required by the Municipality;
- (d) is submitted with the fees and other documents required by the Municipality from time to time, and
- (e) is accompanied by a draft publication in the press in the format prescribed by the Municipal Manager from time to time, unless the application is not required to be published in the press.

(3) Any person who makes an application for the authorization of proposed development must include with the application:

- (a) a site development plan if:
 - (i) the proposed development will be of a nature, or situated on land, considered by the Municipal Manager to require a site development plan to be submitted, or
 - (ii) the development rules applicable to that site require it;
- (b) a traffic impact assessment or a traffic impact statement if required by the Municipality to do so.

(4) Any person who makes an application in terms of the land use by-law and LUPA, as the case may be, as read with Regulation 12 for the rezoning of land must in the application:

- (a) provide proof of the zoning of the land under the repealed zoning scheme and of any departures or consent uses granted in respect of that land;
- (b) include a conveyancer's certificate indicating that there are no title deed restrictions registered against the property that will prohibit the proposed development;
- (c) identify one or more specific uses of the land that are not permissible under the current zoning but that would have been lawful immediately prior to the commencement of the Regulations;
- (d) indicate the zoning that the applicant believes should be applied to the land (with or without additional departures and consents) to enable the specified uses of the land to take place;
- (e) explain why the granting of the rezoning and/or departures and consents:
 - (i) would be desirable, and
 - (ii) would be consistent with the general purpose and specific objectives set out in Regulation 6 and the attainment of the land management objectives.

(5) Any person who makes an application in terms of the land use by-law and LUPA, as the case may be, as read with Regulation 13 for the rezoning of land on the basis of existing lawful use must in the application:

- (a) provide proof of the lawful use of the land at the relevant date referred to in Regulation 14(3);
- (b) explain how the Zoning Scheme restricts the continuation of a lawful use of the land that was taking place when these Regulations commenced;
- (c) specify the zoning that the applicant believes should be applied to the land (with or without additional departures and consents) to enable an existing lawful use of the land to continue;
- (d) explain why the granting of the rezoning and/or departures and consents:
 - (i) would be desirable, and
 - (ii) would be consistent with the general purpose and specific objectives set out in Regulation 6 and the attainment of the land management objectives.

(6) An application shall be regarded as incomplete until the prescribed application fees and advertising fees are deposited with the Municipality.

(7) Where the land use by-law, LUPA or these Regulations require an application to be submitted to any person in particular, the Municipal Manager may direct that it shall be submitted simultaneously to another

person or body. If an applicant wishes to make application for a matter not covered by a prescribed application form, the applicant must submit a written and motivated application that is in the form, and is accompanied by such plans and supporting documentation, as the Municipal Manager may require.

(8) The Municipal Manager must, within 15 working days from date of receipt of an application, notify the applicant in writing either that the application complies with the requirements of the Municipality and will be considered or that further information or documentation is required in order to complete the application.

(9) If an application has not been completed to the satisfaction of the Municipal Manager, the applicant and Municipal Manager must endeavour to reach an agreement as to the content of the application within 21 working days from the date of application; provided that:

- (a) if agreement is reached within this period, the date on which the application is resubmitted in accordance with such agreement, shall be the date of application;
- (b) if agreement is not reached within this period the Municipal Manager must:
 - (i) formally report such fact to the Council at its first meeting thereafter, and
 - (ii) inform the applicant of any right of appeal.

(10) An application shall not be regarded as incomplete for advertisement purposes in terms of these Regulations merely on the basis that any impact assessment or requirement under any other law has not been completed as at the date of application.

(11) The Municipal Manager must clearly mark each plan which lies open for inspection at the offices of the Municipality, to indicate to which application it relates and on which dates the application was or is to be advertised in the press.

Applying for the determination of use rights

24. (1) An application in terms of Section 15(2) and 17(2) of the land use by-law, must be accompanied by a written motivation, which must include:

- (a) full particulars of the use of the land on date of application;
- (b) the period for which the land was put to such use without interruption prior to date of application;
- (c) an affidavit by a third party confirming the use of the land on date of application;
- (d) indicating that there are no title deed restrictions registered against the property that will prohibit the use of land as contemplated in Sub-regulation (1)(a).

(2) The Municipal Manager must ensure that the application is advertised by the publication of a notice in accordance with Regulation 30 and that interested and affected parties are given an opportunity to comment.

Pre-application consultation

25. (1) A person who wishes to make an application may write to the Municipal Manager requesting a pre-application consultation with the Municipal Manager or a person nominated by the Municipal Manager, and must include with the request a written statement of intent that contains sufficient information about the proposed application to enable the Municipal Manager to decide on the proper application procedures to be followed, including:

- (a) the exact location of the property;
- (b) the current zoning, land use and size of the property;
- (c) a statement confirming if any conditions are registered against the title of the property concerned which prohibit or otherwise restrict the proposed land use or development;
- (d) the surrounding land uses;
- (e) the purpose and nature of the proposal, including a general statement about the scale and general design of the proposed development;
- (f) a general statement about the consistency of the proposal with applicable statutory plans and these Regulations, and
- (g) the presence of sensitive bio-physical features of significance on the property, including visible or known archaeological sites and any features of historical, environmental or cultural importance.

(2) The Municipal Manager must:

- (a) arrange a pre-application consultation with a prospective applicant and consult with that person either by way of telephone, a meeting in person or exchange of correspondence;

- (b) advise the applicant in the course of a pre-application consultation on the process to be followed, preliminary requirements to be complied with and the minimum information to be included when making an application;
- (c) if requested, advise the prospective applicant which laws, by-laws, regulations, policies and other directives apply to the intended application.

Site development plans

26. (1) Unless the Municipality decides otherwise, a site development plan must, in relation to the site, indicate:
- (a) the cadastral boundaries;
 - (b) the building lines;
 - (c) all building footprints;
 - (d) vehicle circulation (e.g. lanes and kerbs);
 - (e) parking ratios;
 - (f) site access; service areas and access to them;
 - (g) refuse areas;
 - (h) building entrances;
 - (i) gross building area;
 - (j) gross leasable area;
 - (k) tenant or customer parking;
 - (l) the number of residential units;
 - (m) visitor and residents' parking;
 - (n) land uses;
 - (o) public and communal areas;
 - (p) coverage,
 - (q) the floor factor;
 - (r) building heights, and
 - (s) the presence of any bio-physical features referred to in Regulation 25(1)(g).

(2) The site development plan for a property must comply with the zoning provisions for that property unless a departure application has first been approved.

(3) Applications for the approval or amendment of a site development plan must be submitted to the Municipality in writing.

(4) If a site development plan is required in terms of these Regulations, the Municipality shall not approve an application for the subdivision of land, the transfer of land units or the approval of building plans in terms of the National Building Act, 1977 (Act 103 of 1977) unless it has first approved the site development plan.

(5) It is an offence for any person to develop or otherwise use land contrary to a site development plan approved by the Municipality in respect of that land.

Visual impact assessment

27. (1) If the Municipality has reason to believe that proposed development may have a significant visual impact, it may require a person who has made an application under the land use by-law, LUPA or these Regulations in respect of that development to submit a visual impact assessment report to it before it decides whether or not to grant the application.

(2) A visual impact assessment report must:

- (a) be prepared in accordance with requirements specified by the Municipality;
- (b) assess the potential visual impacts of the proposed development including the impacts on the appearance of the landscape;
- (c) evaluate the potential severity of the visual impacts and identify any measures that could be taken to reduce any negative impacts and to enhance positive visual impacts.

(3) If the Municipality requires an applicant to submit a visual impact assessment report, the applicant must consult with the Municipality regarding its requirements before commencing the process of preparing the report.

(4) The requirements imposed by the Municipality may include, but are not limited to, requirements in relation to:

- (a) the qualifications of the specialist who will undertake the visual assessment, and prepare the visual impact assessment report;
- (b) the vantage points from which the assessment must be undertaken;
- (c) the assessment of impacts during different seasons;
- (d) the graphic representation of the assessment, and
- (e) the specification of mitigation measures.

Environmental management plans

- 28.** (1) An environmental management plan must contain the information required by these Regulations provided that the Municipal Manager may request additional information in writing.
- (2) The Municipality may specify requirements in relation to the qualifications of the specialist who will undertake the environmental management plan.
- (3) Applications for the approval or amendment of an environmental management plan must be submitted to the Municipality in writing.
- (4) The Municipality must cause an application to approve or amend an approved environmental management plan to be advertised in accordance with the requirements of these Regulations.
- (5) After considering an application in terms of Sub-regulation (3) the Municipality must:
- (a) approve the application, with or without conditions of approval;
 - (b) require the application (including the proposed environmental management plan or amendment to it) to be amended and re-submitted, or
 - (c) refuse the application.
- (6) If an environmental management plan is required in terms of these Regulations, the Municipality shall not approve an application for the subdivision of land, the transfer of land units or the approval of building plans in terms of the National Building Act, 1977 (Act 103 of 1977) unless it has first approved the environmental management plan.
- (7) It is an offence for any person to develop or otherwise use land contrary to an environmental management plan approved by the Municipality in respect of that land.

Publishing in the press

- 29.** (1) The Municipal Manager may cause, or require, a notice required by these Regulations or any aspect of an application to be advertised by the Municipality or the applicant in accordance with the requirements of the Municipality.
- (2) The Municipality must require that the applicant re-advertise an application if the Municipality is of the opinion that substantial amendments were made to the proposal after the date of the initial advertisement of the application.
- (3) If any application is also subject to advertisement or notification in terms of any other legislation, the advertising of such application in terms of all applicable legislation shall be undertaken simultaneously as far as practicable.

Public notices

- 30.** (1) Unless another provision of these Regulations specifically states otherwise, a person responsible for publishing a notice under these Regulations must:
- (a) publish or broadcast the notice in Afrikaans, English and isiXhosa, in more than one form of media, and in a manner that is reasonably likely to bring it to the attention of interested and affected persons;
 - (b) display the notice at the site of the proposed activity in a position that is visible to passers-by and in prominent places in the area concerned and ensure that they remain there for the duration of any comment period;
 - (c) distribute copies of the notice to persons owning or occupying land in the vicinity of the activity to which the application relates;

- (d) if publication in the media or by the display of signs is likely to be ineffective in notifying a significant proportion of interested and affected parties, public meetings or other means of bringing information to the attention of these parties may be used.
- (2) Unless another provision of these Regulations specifically states otherwise, a public notice that must be published or broadcast in terms of these Regulations, must:
- (a) explain clearly the purpose of the application and the main implications of the notice and contain sufficient information to enable interested and affected parties to submit meaningful representations or objections;
 - (b) specify where copies of any relevant documents referred to in the notice may be inspected, and may, subject to the payment of a reasonable fee, be copied or purchased;
 - (c) clearly describe any steps (including the making of submissions) which interested and affected parties may take in response to the notice and stipulate the date by which, and if relevant the place at which, those steps must be taken;
 - (d) specify the period within which interested and affected parties must respond to the notice, and
 - (e) specify the regulations or sections of the land use by-law and LUPA, as the case may be, under which it is made and comply with any other requirements prescribed by that regulation or section.
- (3) Unless otherwise prescribed, the period referred to in Sub-regulation (2)(d) must be at least 15 working days.
- (4) Subject to Regulation 31, an applicant who is applying for a determination of the lawful use of land, to rezone land, to subdivide or consolidate land, for a consent, or for a departure, must, before or within five working days of making the application, bring it to the attention of interested and affected parties by –
- (a) displaying a notice in the languages predominantly spoken in the area, on the proposed site of the activity in a position which is visible to passers-by, or with the consent of the competent authority, at other places accessible to the public in the area, and ensure that the notice remains there for the duration of the comment period;
 - (b) publishing a notice in a newspaper circulating in the area and in any other area if directed by a competent authority to do so, and
 - (c) taking any other steps identified by the Municipality in order to bring the application to the attention of interested and affected parties.

Exemptions

31. (1) The Municipal Manager may exempt an applicant from complying with any requirement of Regulation 30 if he or she is satisfied that complying with that requirement would not serve a useful purpose.
- (2) If an application relates to an area for which an approved municipal spatial development framework exists, the Municipal Manager may accept the publication of a notice in the press as sufficient advertisement in terms of these Regulations of the application, provided that the Municipal Manager is satisfied that the proposed land uses to which the application relates are consistent with:
- (a) that spatial development framework;
 - (b) the Municipal integrated development plan, and
 - (c) national and provincial policies, guidelines, norms or standards.

Publication in the *Provincial Gazette*

32. The Municipal Manager should cause an application to be published in the Provincial Gazette if the application is for the authorisation of any land use or activities which:
- (a) is not consistent with the integrated development plan, spatial development framework, or structure plan of the Municipality;
 - (b) may have a significant impact on the environment or inhabitants of another municipality or on the development of the Province or of one or more other municipalities.

Service of notices

33. (1) The Municipal Manager may require a notice to be served on any owner or occupant of land whom, or category of person which, the Municipal Manager has reason to believe has an interest in, or may be significantly affected by, the matter to which the notice relates, and whose address or addresses can be obtained.

(2) A notice is regarded as having been properly served on a person for the purposes of these Regulations, if the notice:

- (a) has been delivered to the addressee in person, or
- (b) has been left with a person above the age of 16 years at the addressee's place of residence or business in the Republic who has acknowledged its receipt in writing, or
- (c) is sent by registered mail to the person's latest known residential or business address in the Republic, or
- (d) if the person's address in the Republic is unknown, it has been served on his or her agent or representative in the Republic in the manner referred to in Sub-regulation (a), (b) or (c).

Proof of advertising

34. An applicant required to advertise an application shall, after the date of advertisement, lodge with the Municipal Manager:

- (a) the full sheet with the heading and the date of the newspaper and, where applicable, the *Provincial Gazette*, containing the relevant publication;
- (b) if notices were served by prepaid registered mail, a copy of any notice so served and documentary proof of postage;
- (c) if any supplementary method of making known was used, such proof of advertisement as the Municipal Manager may require.

Public participation and public meetings

35. (1) The Municipal Manager may cause the Municipality, or require the applicant, to advertise an application by convening public meetings, community meetings, exhibitions or group meetings or by any other means which he or she considers appropriate.

(2) The Municipal Manager may stipulate:

- (a) the time, number and other requirements with regard to the press notices advertising a public meeting as well as additional methods of informing interested and affected parties of the public meeting;
- (b) requirements regarding the dates, venues and any other aspect of a public meeting.

(3) An applicant that is required to hold a public meeting must:

- (a) publish a notice in the press advertising each meeting;
- (b) inform those present at the meeting of the date by which they must lodge objections or comments with the Municipal Manager or his or her nominee;
- (c) within five working days of the meeting send the Municipal Manager written confirmation that the provisions of (a) and (b) were complied with.

Petitions

36. Petitions regarding applications made in terms of these Regulations and submitted to the Municipality for consideration must clearly indicate:

- (a) the full names and physical address of each signatory;
- (b) the full name, postal address, telephone numbers and facsimile numbers of two persons to whom further communications relating to the application or proposal is to be directed, and
- (c) the full text of the objection on each page of the petition that is signed by a petitioner.

Response to comments and objections

37. (1) The Municipal Manager must give the applicant copies of any objections or comments received within the prescribed period.

(2) The applicant must give written responses to the objections and comments to the Municipal Manager in writing, either within 30 working days of being sent the objections and comments, failing which the applicant will be regarded as having waived the right to respond.

(3) The Municipal Manager may extend the 30 working day period referred to in (2), in writing, at any time before that period expires.

Consideration of environmental and heritage impact assessment reports

38. If an assessment of the potential environmental, social or heritage impact of proposed development is being conducted in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), the National Heritage Resources Act, 199 (Act 25 of 1999), the Minerals and Petroleum Resources Development Act, 2002 (Act 28 of 2002), or any other national or provincial legislation, the Municipality must not approve an application made in connection with that development for approval to subdivide, consolidate or rezone any land, or for a departure or consent use, without first considering the final report produced by that impact evaluation process.

Considerations in deciding applications

39. The Municipality, when considering an application in terms of these Regulations, must in addition to the requirements of the land use by-law and LUPA, as the case may be:
- (a) take account of any impact assessment report referred to in Regulation 38;
 - (b) apply the relevant principles set out in Section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998) and in Chapter 1 of the Development Facilitation Act, 1995 (Act 67 of 1995) and any other applicable principles prescribed in national or provincial legislation;
 - (c) evaluate the desirability of the proposed land use, which includes considering its compatibility and consistency with:
 - (i) the purpose and objectives of the Zoning Scheme referred to in Regulation 6 and the purpose of any applicable zone and overlay zone;
 - (ii) its compatibility and consistency with any approved statutory plan and land management objective that applies to the application or area concerned;
 - (iii) the effect on existing rights (except any alleged right to protection against trade competition);
 - (d) fulfil its duty in terms of Section 24 of the Constitution to take measures for the benefit of present and future generations that: prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development;
 - (e) take account of its duty under Section 152 of the Constitution to strive, within the limits of its financial and administrative capacity, to achieve the objects of local government, including the objects of ensuring the provision of services to communities in a sustainable manner, to promote social and economic development and to promote a safe and healthy environment;
 - (f) take account of any objections and comments received in response to the advertisement of the application, as well as comments received from other organs of state, and
 - (g) take account of any response received from the applicant to objections or comments.

Decisions on applications

40. (1) The Municipality must refuse an application if the Municipality believes that:
- (a) approving the application would be inconsistent with the legal duties of the Municipality, including the Constitutional obligations referred to in Regulation 39(d) and (e);
 - (b) the proposed development or other activity to which the application relates is undesirable on the basis that:
 - (i) it is inconsistent with the purpose and objectives of the Zoning Scheme as specified in Regulation 6;
 - (ii) it is inconsistent with the principles referred to in Regulation 39(b), or
 - (iii) it is inconsistent with a statutory plan or land management objective referred to in Regulation 39(c)(ii);
 - (c) the proposed development or other activity to which the application relates would have an unreasonably negative impact on existing land use rights; excluding any alleged right to protection against trade competition.
- (2) The Municipality may grant an application subject to whatever conditions of approval it considers appropriate, to give effect to the purpose and objectives of the Zoning Scheme, the land use by-law and LUPA.
- (3) The Municipality must decide an application within 85 (when no referrals are required) or 150 (when referrals have been made) working days of the application being made, failing which, the Municipality is deemed to have refused the application and the applicant may appeal.

(4) In calculating the period to decide an application referred to in Sub-regulation (3) the Municipal Manager may disregard any period taken by the applicant:

- (a) to respond to objections or comments which the Municipal Manager submitted to the applicant;
- (b) to complete any required impact assessment and lodge with the Municipal Manager an assessment report, or
- (c) to submit an advertisement to the press from date of the Municipal Manager's written request to the applicant to publish same, and to re-advertise an application in terms of Regulation 29(2).

Notification of decision on application

41. (1) The Municipal Manager must, within 30 working days of the Municipality deciding whether or not to approve an application, send a written notice by registered mail to the applicant, all objectors and all persons who submitted written comments within the stipulated period:

- (a) notifying them of the Municipality's decision;
- (b) giving reasons for the decision, and
- (c) drawing their attention to their right of appeal in terms of the land use by-law and LUPA, as the case may be and of any rights of appeal that they may have under the Municipal Systems Act, 2000 (Act 32 of 2000), .

(2) If any written objection or comment was in the form of a petition, the Municipality may give written notification as required by this Regulation by:

- (a) sending written notification to the two persons who have been identified as the contact persons for future notifications in relation to the petition in accordance with Regulation 36(b) or if that provision has not been complied with, by notifying any two persons who signed the petition, and/or
- (b) by publishing a notice in the press and the *Provincial Gazette* confirming that a decision has been taken in the matter and specifying the place where, and the hours during which particulars of the matter will be available for perusal.

Suspension of approvals pending appeals

42. (1) If the Municipality grants an application against which an objection was received within the time period stipulated, that approval shall be suspended until either:

- (a) the Municipal Manager advises the applicant in writing that no appeal has been lodged against the approval, or
- (b) if an appeal is lodged, that appeal has been decided by the relevant authority.

(2) If no appeal is lodged within the prescribed period, the Municipal Manager must within 10 working days of the end of that period, notify the applicant in writing.

Conditions of approval

43. (1) The Municipality, in granting an approval under these Regulations, may impose conditions consistent with the requirements of the land use by-law and LUPA, as the case may be that have the same force and effect as if they were part of these Regulations.

(2) Conditions of approval imposed by the Municipality in terms of Sub-regulation (1) may include any reasonable conditions that give effect to the general purpose and objectives of the Zoning Scheme as set out in Regulation 6, and may include, but are not limited to, conditions that:

- (a) are not contained in these Regulations;
- (b) are either more or less restrictive than the standard provisions which apply to the zone concerned;
- (c) prohibit the development or use of land in a manner that is inconsistent with a site development plan approved by the Municipality;
- (d) promote water conservation, rain-water harvesting, energy conservation and efficiency, and
- (e) discourage the generation of waste and promote the efficient use of natural resources.

(3) Conditions of approval imposed under the Townships Ordinance, shall continue to apply to the land concerned in so far as such conditions are more restrictive than the provisions of these Regulations, unless amended by the Municipality in accordance with these Regulations.

Consent use and departure approvals

44. (1) The Municipality:

- (a) must not approve a consent use or departure that is likely to adversely affect the potential of that property for its primary uses in terms of these Regulations;
- (b) may impose as a condition of the approval of the consent use or departure, the requirement that the consent use or departure does not adversely affect the potential of that property for its primary use in terms of these Regulations;
- (c) may grant a consent use or departure for a limited period of time;

(2) The Municipality may require a person to whom a consent use approval has been granted to acknowledge receipt of the conditions of approval in writing within 30 working days.

(3) If the Municipality does notify any person in writing who has not acknowledged receipt in accordance with Sub-regulation (2), that it intends cancelling the approval if the acknowledgement is not received within a period specified in the notice, and if the written acknowledgement is not received within that period, the Municipality may cancel the consent use approval and must notify the person to whom the approval had been granted, of its decision.

(4) Approval for a consent use or departure lapses:

- (a) if the consent use or departure has not been exercised, either 2 years after the date of approval or, if the Municipality has granted an extension of this period, at the end of that extended period;
- (b) if the exercising of the consent use rights or departure have been suspended, 24 months after the date of suspension;
- (c) if the owner does not comply with the conditions of approval and refuses or omits to do so, after 21 working days of being required in writing to comply with the conditions;
- (d) if the person to whom the consent or departure was granted, is no longer directly involved in the exercising of the right.

(5) The Municipality is not liable for any compensation with regard to any costs undertaken or damages suffered as a result of the lapsing of an approval.

Access to information

45. (1) The Municipality must, in terms of the Promotion and Access to Information Act, 2000 (Act 2 of 2000):

- (a) maintain up-to-date records of all approvals, consents and departures or any other authorisations approved by it in terms of these Regulations as well as by other authorities in respect of an appeal against any decision taken by the Municipality;
- (b) ensure that a copy of these Regulations, the Register and any zoning map or amendment to a zoning map that has been approved or advertised for public comment are available for public scrutiny at the offices of the Municipality;
- (c) give any person access to and an opportunity to examine the records and documents referred to in (a) and (b) during office hours.

(2) The Municipality must, at the request of any person, provide information in a form that is easy to comprehend regarding the land use rights that apply to a particular land unit.

Appeals

46. (1) Any person who is aggrieved by a decision of the Municipality, or failure of the Municipality to take a decision, in terms of these Regulations may lodge an appeal against that decision in terms of Section 44(1) of the land use by-law and LUPA, as the case may be.

(2) Any applicant who is aggrieved by a decision taken in terms of these Regulations by an official or structure of the Municipality exercising delegated powers, may lodge an appeal to the Council in terms of Section 62 of the Municipal Systems Act, 2000 (Act 32 of 2000).

(3) An applicant who wishes to appeal against a decision of the Municipality both in terms of the land use by-law and LUPA, as the case may be and the Municipal Systems Act, 2000 (Act 32 of 2000), must:

- (a) submit both appeals simultaneously;
- (b) indicate in each appeal that the same decision is also the subject of a separate appeal, and

- (c) submit a copy of the appeal made under the land use by-law and LUPA, as the case may be to the Municipal Manager.

(4) Any person who is aggrieved by the failure of the Municipality to take a decision within a prescribed period or to follow a prescribed procedure may appeal to the Council, within 15 working days of the end of the prescribed period or from the date on which it came to their notice that the Municipality failed to follow a prescribed procedure.

(5) An appeal in terms of Sub-regulation (4):

- (a) must set out the grounds on which it is based and must include a statement relating to the relief sought on appeal, and
- (b) must be served by registered mail on the applicant (unless the appeal is being made by the applicant) and on each person who has objected to the application.

(6) An appellant must within five working days of making an appeal furnish the Municipality with acceptable proof that Sub-regulation 5(b) above has been complied with.

(7) The Council must within 60 working days of the lodging of an appeal consider the decision or the procedure against which an appeal has been lodged, and notify the appellant and any other interested and affected parties of the Council's decision.

Validity of Regulations

47. If a court finds that any provision of these Regulations is invalid, the invalidity of that provision shall not affect the validity of the remaining provisions of these Regulations.

Validity of acts

48. (1) Whenever an action is required to be done in terms of these Regulations in a certain manner, or by a certain time, and such action has not been so done, the Municipality may, if it is satisfied that the manner in which the action was done will not substantially affect the rights of any other person, authorise the doing of such action in such manner or by such time as it may direct, and the action shall be deemed to have been validly done in accordance with the provisions of these Regulations.

(2) Whenever public notification is required in terms of these Regulations, and the provisions for such notification are not fully complied with, the Municipality may, if it is satisfied that such non-compliance will not substantially affect the rights of any other person, condone such non-compliance and such notification shall be deemed to have been validly given in accordance with the provisions of these Regulations.

(3) Except where provided to the contrary in these Regulations, no Municipal approval, exemption, notice, order or action relating to the exercising of the provisions of these Regulations shall be invalid or set aside merely because it is not in the correct form.

CHAPTER 6 COMPLIANCE AND ENFORCEMENT

Compliance with Zoning Scheme

49. The Municipality must comply with, and enforce compliance with, the Zoning Scheme.

Offences and penalties

50. (1) Subject to Regulation 22, it is an offence in terms of Sections 39(2) and 46 of the land use by-law and LUPA, as the case may be for any person:

- (a) to use any land for a purpose or in a manner that does not conform to the Zoning Scheme;
- (b) to contravene or fail to comply with any provision of these Regulations or any conditions imposed in any authorisation or consent granted in terms of the land use by-law and LUPA, as the case may be or these Regulations.

(2) The provisions of Section 34 of the National Environmental Management Act, 1998 (Act 107 of 1998) and Section 46(1) of the land use by-law and LUPA, as the case may be apply to offences under these Regulations.

Enforcement directive

51. (1) Any person who believes that a provision of these Regulations or a condition of approval imposed under the Townships Ordinance, the land use by-law and LUPA, as the case may be or these Regulations, has been, or is being, contravened, may lodge a written complaint with the Municipal Manager requesting action in terms of Section 40 of the Ordinance.

(2) The Municipality may serve a written directive on a person whom the Municipality has reason to believe has contravened these Regulations or a condition of approval imposed under the land use by-law and LUPA, as the case may be, and on the owner of the land where the contravention is alleged to have occurred, requiring them to rectify the contravention.

(3) A directive in terms of Sub-regulation (2) shall contain the following additional information, namely:

- (a) the full particulars of the owner of the property concerned;
- (b) a detailed description of the alleged contravention;
- (c) the directives to be complied with in order to regularize the matter;
- (d) the penalties payable in the event of a conviction, and
- (e) the date specified for compliance with the directive.

(4) The persons on whom a directive are served in terms of this Regulation must comply with such directive within the time period stipulated, even if they dispute the existence of the contravention, failing which the Municipality may obtain an interdict or other appropriate relief against them in a Court of Law.

(5) The Municipality may, when issuing a directive in terms of this Regulation, suspend any approval granted under the land use by-law and LUPA, as the case may be or these Regulations pending the outcome of a hearing in terms of Regulation 52.

(6) If the Municipality has issued a directive regarding non-compliance with these Regulations, conditions of approval imposed under the land use by-law and LUPA, as the case may be or conditions of approval imposed under these Regulations and the persons to whom such directives were issued in terms of this Regulation, fail to punctually comply with the provisions thereof within the time periods stipulated, the Municipality may forthwith withdraw the relevant approval by written notification to the affected parties.

Hearings

52. (1) If the person on whom a notice was served in terms of Regulation 51 disputes the existence or the nature and extent of the alleged contravention and submits a written statement to the Municipal Manager in terms of Section 40(1)(c) of the land use by-law and LUPA, as the case may be, the Municipal Manager must:

- (a) arrange a special hearing for the purpose of establishing the facts and must set a date and time and stipulate a venue for consideration of the matter at the earliest possible opportunity, with due regard to:
 - (i) matters previously set down for consideration and which have not yet been finalised;
 - (ii) considerations of cost-effectiveness, and

- (iii) any prejudice suffered as a result of the notice.
 - (b) cause not less than 14 working days' written notice thereof to be served on the parties to the matter concerned, and
 - (c) if no Municipal committee has been tasked to undertake such special hearings, appoint a committee of Municipal employees and a chairperson of that committee, to consider the matter.
- (2) The rules of evidence shall not apply in respect of the proceedings of the committee and the chairperson may ascertain any relevant fact in whatever manner she or he considers to be appropriate and fair.
- (3) The parties and their duly authorised representatives shall be entitled to appear at all proceedings of the committee where the matter concerned is to be considered and:
- (a) the parties may, with the chairperson's permission, produce documents relevant to the matter and examine any document filed in the matter at convenient times, and
 - (b) the committee may, if any party fails to appear on the date appointed in the notice or set down or on any date to which the proceedings have been postponed, continue with the proceedings in the absence of such party.
- (4) Evidence to prove or disprove any fact in issue, shall be submitted in writing or, with the chairperson's permission, orally: provided that no person called to address the committee or to give evidence, shall speak for more than 10 minutes, except in exceptional circumstances and then only with the chairperson's permission.
- (5) A party may, with the chairperson's permission, call one or more witnesses to prove that party's allegations, provided that the chairperson may at any stage of the proceedings decide that sufficient evidence has been led on which a decision can be arrived at and may order that no further evidence shall be led.
- (6) A party shall not question or cross-examine any other party to the proceedings or a witness called by the latter party, but the chairperson may question any party or witness at any stage of the proceedings to ascertain the relevant facts; and may permit any party to put a question to any other party or any witness.
- (7) If any person present at the proceedings of the committee interrupts or disrupts such proceedings or otherwise misbehaves him or herself, the chairperson may order that such person be removed from the place where the session is held.
- (8) Any person who wilfully insults a member during the session of the committee or who wilfully interrupts the proceedings of the committee or otherwise misbehaves himself or herself in the place where the session of a committee is held, shall be guilty of an offence and on conviction liable to a fine and/or to a period of imprisonment not exceeding that stipulated in Section 46 of the land use by-law and LUPA, as the case may be.
- (9) The chairperson shall decide the order of business at meetings of the committee and may adjourn any proceedings to a date, time and venue decided by the chairperson.
- (10) The committee may conduct an inspection in loco and may put questions to persons appearing before it, to clarify any matter in issue in proceedings before the committee.

Decisions of the committee

- 53.** (1) A committee established to conduct the special hearings referred to in Regulation 52 must as soon as reasonably possible after the conclusion of the hearings, submit to the Municipal Manager in writing, its findings, recommendations regarding what action should be taken, and the reasons for those recommendations.
- (2) The recommendations may include a recommendation that an enforcement directive served in accordance with Regulation 51 should be enforced, amended and reserved, or cancelled.
- (3) The Municipal Manager must give effect to the recommendations of the committee unless the Council directs otherwise.

Right of entry

- 54.** Any person authorised in writing by the Municipality may at any reasonable time, after reasonable notice and causing as little inconvenience as possible, subject to the right of privacy conferred in terms of the Constitution, enter upon any land unit in order:
- (a) to do anything which the Municipality, as the case may be, is permitted or required to do in terms of the land use by-law and LUPA, as the case may be or these Regulations, or
 - (b) to make enquiries or conduct an investigation or survey in connection with the powers or duties of the Municipality, in terms of the land use by-law and LUPA, as the case may be or these Regulations.

CHAPTER 7 METHODOLOGIES FOR MEASUREMENT AND CALCULATION

Appointment of registered surveyor

55. The Municipality may require an applicant or owner of a land unit to appoint a registered surveyor to supply or verify information necessary for the Municipality to make a decision about compliance with distances or levels required in terms of these Regulations.

General principles

56. (1) Where reference is made to a distance, ground level, height of a point on a building or other measurement, then that distance, level or height shall be calculated in accordance with recognised geometric principles.

(2) In any case where the distance, level or height involved is so irregular that calculation in accordance with geometric principles is impractical or leads to a result which is clearly not in accordance with the intent of the Zoning Scheme, the Municipality must determine the distance, level or height concerned for the purpose of administering the Zoning Scheme.

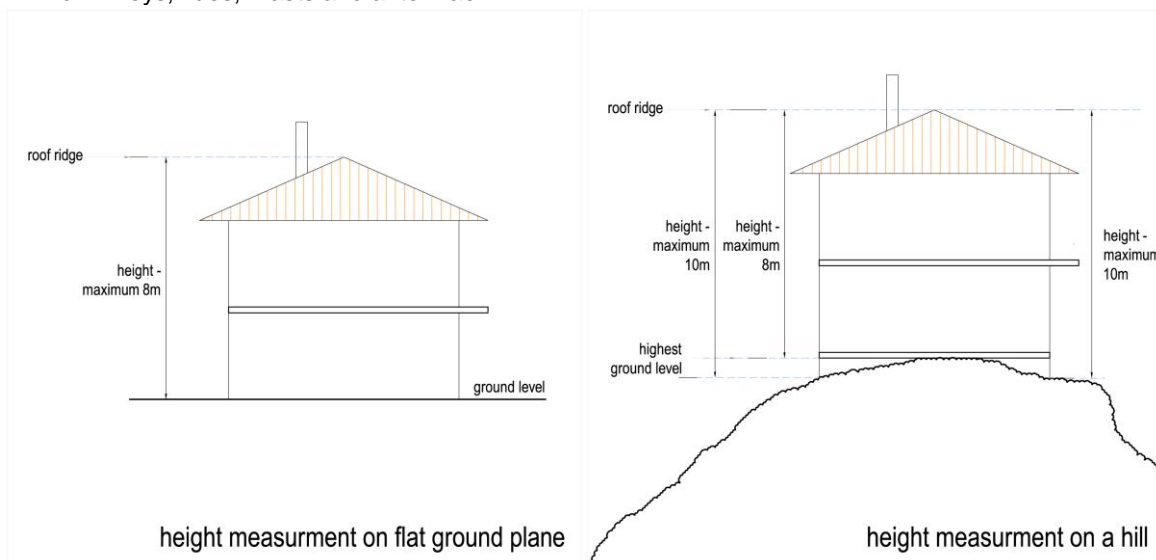
Natural level of the ground

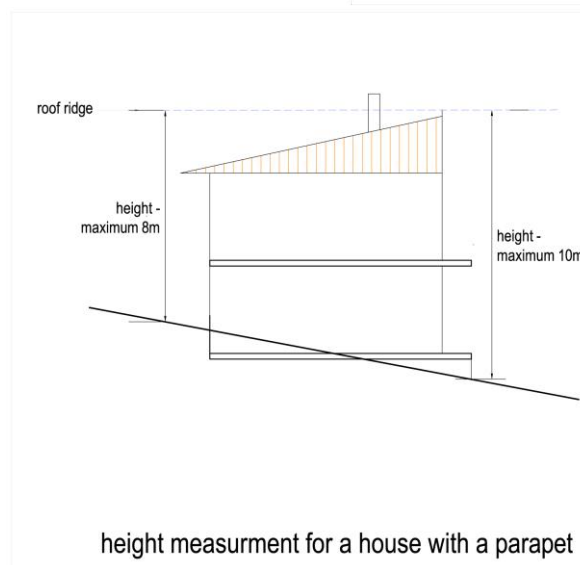
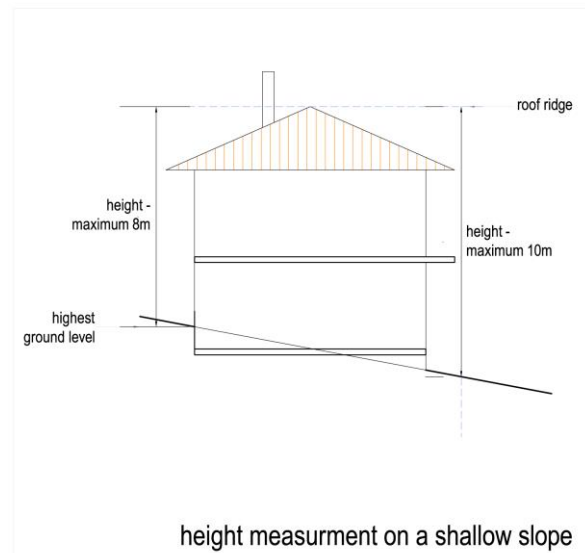
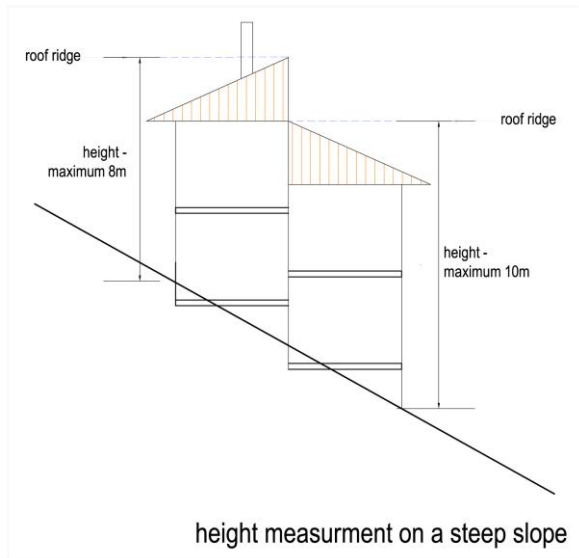
57. For the purposes of these Regulations the “natural level of the ground” in relation to a site:
- (a) that has been excavated and not filled, means the excavated level;
 - (b) where it is not possible to determine the natural level of the ground due to irregularities or disturbances of the land, means the level determined by the Municipality.

Height

58. (1) The height of a building must be measured in the vertical plane in metres from the natural ground level immediately adjacent to the building to the highest point of the building measured.

(2) For the purposes of calculating whether or not a building complies with any height restriction, the height must be calculated from the natural level of the ground immediately adjacent to the building or other level specified in law or in the relevant authorisation, to the highest point of the building measured excluding chimneys, flues, masts and antennae.





Distances between points

59. The distance between boundaries or between a building and a boundary, must be determined by:
- projection of the boundary or boundaries and all points of the building onto a horizontal plane, and
 - measurement of the shortest distance between the point on the building and the boundary, or between boundaries, on the horizontal plane.

Boundary opposite

60. Where reference is made to the portion of a boundary "opposite" a building, that portion of the boundary shall be defined by the drawing of lines from points on that building, at right angles to the boundary.

Corner properties

61. (1) A land unit that abuts on a curved street or streets shall be regarded as a corner property if the bend creates an interior angle of not more than 135 degrees.
- (2) A corner property shall be considered to have two street boundaries and two lateral boundaries.

Panhandle properties

62. (1) A panhandle property shall be considered to have two rear and two lateral boundaries and the Municipality must determine which boundaries are the rear boundaries of a panhandle property.

(2) Building lines apply only to that section of the property that does not fall within the panhandle part of the land unit.

(3) The panhandle portion of a panhandle property must be:

- (a) not less than 4,0m wide for its entire length;
- (b) disregarded for the purposes of calculating coverage on the property.

Floor space

63. (1) The floor space of a building shall be measured from the outer face of the exterior walls or similar supports of the building, and where the building consists of more than one storey, the total floor space shall be the sum of the floor space of all the storeys, including that of basements.

(2) For the purposes of calculating the floor space of a building:

- (a) any balconies, terraces, stairs, stairwells, verandahs, common entrances and common passages covered by a roof shall be included, but in the case of multi-storey buildings any atrium and any stairwells, lift-wells or other wells, must only be counted once;
- (b) the following must be excluded:
 - (i) any area, including a basement, which is reserved for parking or loading of vehicles;
 - (ii) external entrance steps and landings, any stoep and any area required for external fire escapes;
 - (iii) a projection including a projection of eaves, and a projection which acts as a sunscreen or an architectural feature, which projection does not exceed 1,0m beyond the exterior wall or similar support;
 - (iv) any uncovered internal courtyard, light-well or other uncovered shaft which has an area in excess of 10m²;
 - (v) any arcade that is 2,0m or more in width, which provides access through the building concerned from public parking, a public street or open space, to some other public parking, public street or open space, and which at all times is open to the public, as well as any covered walkway, the roof of which allows light to pass through, and
 - (vi) any covered paved area outside and immediately adjoining a building at or below the ground floor level, which is part of a forecourt, yard, external courtyard, pedestrian walkway, parking area or vehicular access.

Coverage

64. (1) The calculation of coverage for the purposes of determining the percentage of a land unit that is, or will be, covered by buildings, must take account of:

- (a) walls and buildings;
- (b) solid roofs;
- (c) stairs, steps, landings (except entrance landings and steps); galleries, passages and similar features, whether internal or external, and
- (d) canopies, verandahs, balconies, terraces and similar features.

(2) The calculation of coverage for the purposes of determining the percentage of a land unit that is, or will be, covered by buildings, must disregard:

- (a) the panhandle portion of a panhandle property;
- (b) stoeps, entrance steps and landings;
- (c) cornices, chimney breasts, pergolas, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500mm from the wall of the building;
- (d) eaves not projecting more than 1,0m from the wall of the building, and
- (e) a basement provided that the basement ceiling does not project above the finished ground level.

PART FOUR: LAND USE RIGHTS AND STANDARDS WITHIN ZONES

CHAPTER 8 GENERAL STANDARDS

Building lines

65. (1) Subject to the following Sub-regulations of this Regulation and to Regulation 75, no person shall, without the written consent of the Municipality, erect a building or structure between the boundary of a land unit and the building line that applies in respect of that boundary.
- (2) The following structures or portions of structures may be erected within the prescribed building lines:
- (a) boundary walls and fences;
 - (b) open and uncovered stoeps;
 - (c) entrance steps, landings and entrance porches;
 - (d) eaves projecting no more than 1,0m from the wall of the building;
 - (e) cornices, chimney breasts flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500mm from the wall of the building;
 - (f) screen-walls not exceeding 2,1m in height above the natural level of the ground, provided that no screen-wall shall be erected over the street building line without the Municipality's consent;
 - (g) swimming pools not closer than 1,0m from any boundary;
 - (h) drying yards, provided that no drying yard shall be erected over the street building line without the Municipality's consent;
 - (i) a basement, provided that the basement ceiling does not project above ground level.
- (3) The Municipality may permit the erection of an outbuilding or second dwelling unit which encroaches into the lateral or rear building line subject to the following conditions:
- (a) no building shall exceed the height of 5,0m
 - (b) no door or window shall be permitted in any wall which is closer than 1,5m to the lateral or rear boundary concerned;
 - (c) an access way, other than through a building and at least 1m wide, shall be provided from a public street to every vacant portion of the land unit concerned, other than a court yard;
 - (d) no runoff of rainwater from the roof shall be discharged directly onto any adjoining property.
- (4) In circumstances where there is a zero lateral or rear building line, the following restrictions shall apply:
- (a) no door or window shall be permitted in any wall which is closer than 1,5m to the lateral or rear boundary concerned;
 - (b) no runoff of rainwater from the roof shall discharge onto any adjoining land unit.
- (5) The Municipality may grant an application for exemption from an obligation to comply with a building line restriction if it believes that:
- (a) the architectural appearance of a public street will be enhanced as a result;
 - (b) there are other special circumstances such as the topography of the site, that warrant doing so.

Off-street parking requirements

66. (1) The off-street parking standards in this Regulation apply within all zones except the Incremental Housing zone.
- (2) The off-street parking standards are set out in table A below:

Table A: Off-street Parking Requirements

Land Use	Normal Areas
Dwelling house	1 bay per dwelling unit
Group dwelling	2 bays per dwelling unit
Flats	1.25 bays per dwelling unit 0.25 bays/unit for visitors
Second dwelling / double dwelling house	1 additional bay per unit
Residential building Guest Accommodation	1 bay per guest suite
Gymnasium	6 bays per 100m ² GLA
Hotel	1.2 bays per guest suite or room
Hotel, with facilities available to overnight guests only	1 bay per guest suite or room
Retirement Village	1 bay per 2 bedrooms
Hospital (general and private)	1 bay PER FOUR BEDS
Clinic/Medical consulting rooms	4 bays per consulting room
Funeral chapel/Place of assembly/ worship/ entertainment	1 bay per 25 seats or persons calculated at 1,5m ² GLA per person
Single shops	4 bays per 100m ² GLA
Shopping centre	4 bays per 100m ² GLA
Offices	4 bays per 100m ² GLA
Industry	2 bays per 100m ² GLA
Industrial hive	4 bays per 100m ² GLA
Service station	4 bays per 100m ² GLA
Schools (including crèches)	1 bay per classroom/office plus 1 per 30 children/learners
Place of instruction (other than schools)	1 bay per classroom/office plus 1 per 5 children/learners
Restaurant	1 bay per 25m ² of seating area (INSIDE AND OUTSIDE), provided that the seating area is clearly indicated on the building plan
Recreation, sport	1 bay per 8 seats or persons calculated at 1,5m ² GLA per person
Conference facility	8 bays per 10 seats or persons calculated at 1,5m ² GLA per person

GLA means "gross leasable area"

(3) The Municipality shall determine off-street parking requirements for land uses not stipulated in Table A.

(4) With regard to the parking requirement for shopping centres, the Municipality may require an increased number of bays should this be needed in its opinion.

Alternative parking requirements

67. (1) As an alternative to compliance with the required off-street parking, the owner may with the approval of the Municipality:

- (a) acquire the prescribed area of land for the required parking facilities elsewhere in a position approved by the Municipality, and level, surface and maintain this land to the satisfaction of the Municipality, or
- (b) acquire rights to a parking facility for the required parking elsewhere in a position approved by the Municipality, and

(2) If the Municipality approves the provision of alternative parking in accordance with Sub-regulation (1), the owner shall register a notarial deed against such land or parking rights to the effect that the Municipality and the public shall have access to that parking area, and the cost of registration of the servitude shall be borne by the owner.

Additional parking and site access requirements

68. (1) The additional parking and site access requirements in this Regulation apply to all zones except Incremental Housing and Service Station.

(2) Vehicle access shall be limited to one carriageway crossing per site per public street or road abutting the site.

(3) A carriageway crossing may comprise a single lane not exceeding 4,0m in width where it crosses the street boundary, or combined entrance and exit lanes not exceeding 8,0m in width where they cross the street boundary.

(4)

(5) Notwithstanding Sub-regulation (3) above, where the total length of any street boundary of a site exceeds 30m in length, one additional carriageway crossing may be permitted provided that no two carriageway crossings are closer than 15m to each other.

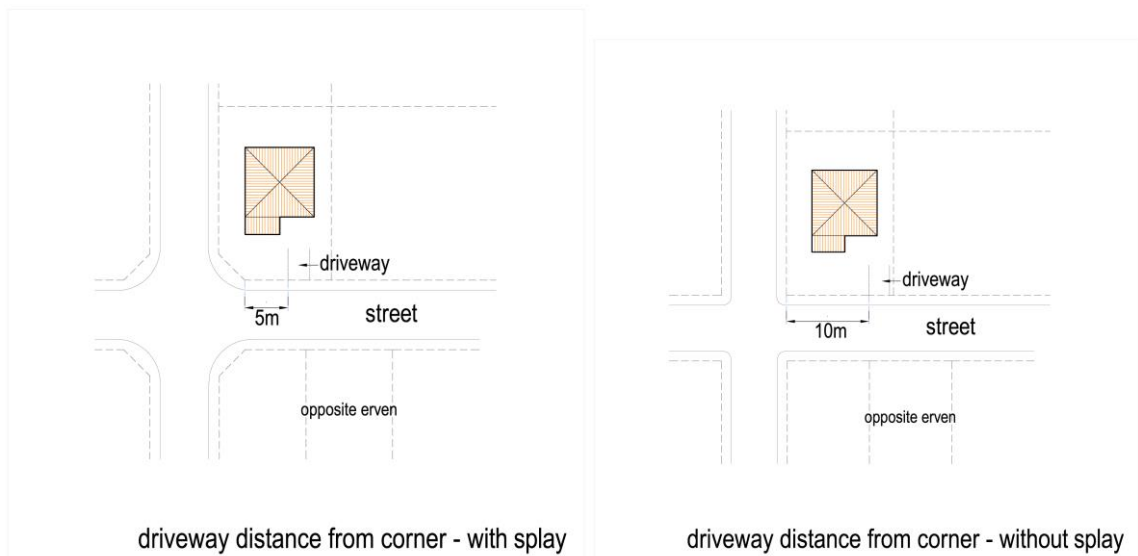
(6)

(7) If the corner at a street intersection is not splayed, vehicle carriageway crossings shall not be closer than 10m to such corner.

(8)

(9) If the corner at a street intersection is splayed, vehicle carriageway crossings shall not be closer than 10m from such corner or 5,0m measured from the point where the splay reaches the road boundary, whichever is the greater distance from the corner.

(10)



(11)

(12)

(13) Parking areas shall be used for the parking of vehicles that are lawfully allowed on them and any activity that causes an obstruction for the vehicular traffic, or pedestrians in the use of the pavement, is prohibited.

(14)

(15) Additional parking for a public restaurant and/or conference facility at a hotel may be required to the satisfaction of the Municipality.

(16)

(17) Parking areas shall be constructed to the satisfaction of the Municipality.

(18)

(19) Driveways and parking spaces shall be smoothly graded, adequately drained and constructed with suitable sub-grade, base and surfacing to be durable under the use and maintenance contemplated.

(20)

(21) Any grade transitions shall be designed and constructed to prevent undercarriages and bumper guards from scraping the pavement surface.

(22)

(23) Such parking facilities shall be property maintained and aisles shall remain open and free for traffic flow.

(24) Each parking space shall be separated with proper striping, or other designation to the satisfaction of the Municipality.

(25)

(26) The Municipality may lay down more restrictive requirements in connection with parking and site access than are provided for in this Regulation if it considers it necessary from a pedestrian or traffic safety point of view.

Parking layout plan

69. (1) A parking layout plan must:

- (a) be submitted to the Municipality for all parking areas in excess of 6 parking bays, or if required by the Municipality for a lesser number of bays, and
- (b) indicate the way in which it is intended that vehicles shall park, the means of entrance and exit, and landscaping proposals.

(2) The Municipality may approve or refuse the parking layout plan and impose conditions of approval.

Motorcycle and bicycle spaces

70. (1) The Municipality may require that parking be provided for motorcycles and bicycles.

(2) For every four motorcycle and six bicycle parking spaces provided, a credit of one parking bay may be given towards the parking requirements provided that:

- (a) the total credit shall not exceed 2,5% of the parking bays required;
- (b) the minimum dimension for a motorcycle space shall be 2,2m in length and 1,0m in width;
- (c) the minimum dimension for a bicycle space shall be 2,0m in length and 0,6m in width;
- (d) bollards and racks, or other devices for storing and protecting the bicycles and motorcycles, must be installed to the satisfaction of the Municipality.

Parking for the physically disabled

71. (1) The owners and occupiers of land must provide parking to ensure easy and convenient access for physically disabled persons to services and facilities generally open to the public and to residential uses in special circumstances.

(2) The Municipality may require that at least one parking bay per land unit is suitable for use by a physically disabled person.

(3) In any parking facility serving the public, parking for physically disabled persons shall be provided as follows:

Total no of parking bays	Required number of bays accessible to the physically disabled
1-50	1
51-100	2
101-150	3
151-200	4
For every additional 100 bays	1 additional parking bay

(4) Parking bays for physically disabled persons must:

- (a) be a minimum of 2,5m in width and 5,5m in length;
- (b) be provided with an adjacent level access aisle that shall be a minimum of 1,5m in width (access aisles may be shared between two adjacent bays for physically disabled persons);
- (c) be level;
- (d) be located as near as possible to accessible building or site entrances and shall be located to provide convenient access to curb ramps;
- (e) be reserved for physically disabled persons;
- (f) be marked on the parking surface with the international symbol of accessibility.

(5) Additional signage indicating the parking bay as reserved for exclusive use by physically disabled persons may be required by the Municipality, including a sign warning drivers of the possibility of towing due to unauthorised use and providing information regarding the recovery of vehicles.

(6) Where five or less parking bays are provided, at least one bay shall be 4,0m wide and marked to provide a parking bay of 2,5m with an access aisle 1,5m, but the bay need not be reserved exclusively for physically disabled persons only.

(7) Physically disabled parking provided in terms of this Regulation shall count toward fulfilling off-street parking requirements.

Combined parking requirements

72. (1) Where two or more land uses share a common parking area, the Municipality may reduce the amount of parking that would be required to be provided for the independent uses, provided that the Municipality is satisfied that the utilisation of the same parking area by different activities is not concurrent.

(2) Common bays may not subsequently be reallocated to selective uses, without the consent of the Municipality.

Loading and off-loading facilities

73. (1) A loading bay shall have vehicular access to a public street to the satisfaction of the Municipality.

(2) The Municipality may, for the purpose of preventing the obstruction of traffic on any public street adjacent to a land unit, require the owner to submit proposals, to the satisfaction of the Municipality, for suitable and sufficient space on the land unit for any loading, off-loading or fuelling of vehicles which are likely to occur under normal circumstances.

(3) No owner or occupant of a land unit referred to in Sub-regulation (1) above, shall undertake or knowingly permit loading, off-loading or refuelling of vehicles other than in accordance with the proposals as approved by the Municipality.

(4) The following minimum requirements shall apply:

- (a) a loading bay shall measure not less than 4,5m x 10m for perpendicular loading and 2,5m x 12m for parallel loading;
- (b) no entrance or exit way to be used for loading shall be less than 3,0m in width and no combined entrance and exit way shall be less than 6,0m in width;
- (c) covered loading areas shall have a minimum headroom of 3,7m.

Garages, carports and parking areas

74. (1) The Municipality may permit the erection of a garage within the street building line if, in the Municipality's opinion, the garage cannot reasonably be sited at the prescribed distance due to the slope of the land unit, or for other reasons provided that:

- (a) the height of such garage from the finished floor level to the top of its roof shall not exceed 4,0m;
- (b) the garage shall not be closer than 5,0m to the road kerb.

(2) The Municipality may permit the erection a carport on the street boundary provided that:

- (a) the width of such carport measured edge to edge of the roofing and guttering and parallel to the street boundary shall not exceed 6,5m. Upon written application, the Municipality may permit the 6,5m to be extended.
- (b) the roof of the carport shall be supported by metal or wrought timber posts or brick, concrete or masonry pillars; provided that there is a space of at least 0,5m between each pillar;
- (c) the carport is not be enclosed on two sides except by:
 - (i) a boundary wall or fence not exceeding 2,1m in height;
 - (ii) a wall which forms an external wall to the building;
 - (iii) a wall or fence, not being a wall or fence referred to above, which does not exceed 1,25m in height;
- (d) the height of such carport from the floor to the highest point of its roof shall not exceed 3,0m;
- (e) the edges of the roof sheeting shall be neatly trimmed with a fascia board not less than 150mm in depth.

(3) The Municipality may permit the erection of a carport or garage in the lateral building line.

Second dwelling units and double dwelling houses

- 75.** (1) A second dwelling unit must have a floor area that is less than that of the main dwelling house on that land unit and must not extend beyond that cadastral unit.

(2) Building plans for a second dwelling unit must include a site development plan, showing the siting of existing and proposed buildings, access and egress, parking and driveway access, the position of the living areas of the residences, partition walls and landscaping, existing and proposed paved areas, existing and proposed wash-line and refuse areas, street elevations of the proposed building, and materials and finishes of the proposed building.

- (3) Building plan approval for a second dwelling unit is subject to the following conditions:

- (a) only one additional residential unit is allowed per erf;
- (b) all the developments on the site must comply with the development rules, including building lines, height and bulk restrictions that apply to the specific zone in question
- (c) its total floor space will not be less than 30m² and shall not exceed 120m², excluding a garage and may be built within the 8 meter height restriction of the main dwelling;
- (d) the materials, exterior finishes and architectural style of the second dwelling will be compatible with the existing dwelling unit;
- (e) it will not exceed 8m in height measured from the natural ground level;
- (f) that the Municipality has adequate capacity to provide municipal services to the additional unit;
- (g) it will not have a detrimental impact on conservation-worthy buildings, building complexes or streetscapes, and
- (h) the applicant may be required to pay a bulk services contribution levy as may be determined by the Municipality from time to time.

- (4) Unless otherwise specified in the approval of the consent for a double dwelling house:

- (a) both dwelling units in a double dwelling house shall be designed to give the appearance of a single large dwelling house. Both units may have a ground storey, or one unit may be on the ground storey and one on the storey above.
- (b) the applicant may be required to pay a bulk services contribution levy as may be determined by the Municipality from time to time.

(5) The Municipality may stipulate minimum subdivision sizes and maximum density ratios for specified areas, as a requirement when considering the approval of building plans for a second dwelling unit, or granting consent for a double dwelling house.

(6) A second dwelling unit or one dwelling unit of a double dwelling house may not be separately alienated in terms of the Sectional Titles Act, 1986 (Act 95 of 1986) and shall not be deemed as sufficient reason for the Municipality to approve the subdivision of the land unit containing a second dwelling unit.

Letting of rooms

- 76.** An owner or occupant of a dwelling house may let rooms to lodgers subject to the following conditions:

- (a) the dominant use of the dwelling house or unit must be for the living accommodation of a single family;
- (b) the owner of the dwelling house must reside on the property;
- (c) no more than five lodgers may be permitted to lodge on any one property;
- (d) every room let to lodgers shall have an entrance inside the dwelling house, and
- (e) no self-sufficient accommodation may be provided and no cooking facilities, except kettles, may be provided in lodger rooms.
- (f) Rooms may not be let to transient persons.

Occupational practice

- 77.** An owner or occupant of a dwelling house may undertake an occupational practice subject to the conditions set out in Sub-regulation (a) to (r). Where an approval for an occupational practice consent use is required, it will be granted subject to the following conditions, unless otherwise specified in the conditions of approval:

- (a) the dominant use of the dwelling house or unit shall be for the living accommodation of a single family;

- (b) the occupational practice must clearly be secondary to the use of the dwelling unit for dwelling purposes and must not change the residential character of the dwelling unit or erf in any manner when seen from the abutting street or streets;
- (c) where the occupational practice will be undertaken on a property that falls under the jurisdiction of a home owners' association, the written permission of such home owners' association shall be obtained before the occupational practice is commenced;
- (d) the maximum floor-space of a house allowed for residential business purposes must not exceed 25% of the floor-space of the dwelling unit, while this floor space may not be more than 40m²;
- (e) the economic activity must not result in the employment of more than two employees, and the employee(s) may not practice a profession as such from the premises;
- (f) no portion of such dwelling, and no home occupation, shall be used for the purposes of a noxious trade, risk activity or sale of alcoholic beverages;
- (g) the economic activity may not involve the breeding and keeping of animals, including birds and livestock for commercial purposes;
- (h) the economic activity must not create interference with radio or television reception in the immediate vicinity of the dwelling unit;
- (i) the display of goods to the public, be it in a window or elsewhere is not allowed;
- (j) no advertising sign shall be displayed other than a single un-illuminated sign or notice not projecting over a street. Such sign shall not exceed 2 000cm² in area and shall indicate only the name, telephone number and profession or occupation of the occupant;
- (k) no more than one commercial vehicle, not exceeding 3 500kg gross weight, may be utilised for the occupational practice, provided that a vehicle used by an occupant exclusively for personal purposes shall not be regarded as a commercial vehicle;
- (l) the regular parking or storing of smaller vehicles used for transport of goods, materials, passengers, or otherwise is not allowed, unless it is registered in the applicant's own name or belong to *bona fide* visitors, during such a visit only;
- (m) the economic activity may not cause a traffic volume inconsistent with the normal traffic flow where the dwelling house or unit is situated;
- (n) on-site parking for clients and employees may be required to the satisfaction of the Municipality;
- (o) no products, goods, or supplies connected with the home occupation may be stored on the property outside a building;
- (p) the Municipality may specify the operating hours of the occupational practice;
- (q) the undertaking of an occupation in the single residential, incremental housing, agriculture or smallholding zones does not establish business rights to the premises in respect of those premises, and
- (r) the continued exercising of the rights mentioned above, will be subject to the approval of the Municipality in the case of complaints being received by the Municipality about the manner in which these rights are exercised.

Guest accommodation

- 78.** (1) Unless otherwise specified in the approval, an approval for a guest accommodation consent use is subject to the following conditions:
- (a) the dominant use of the property must remain as a dwelling for the living accommodation of a single family;
 - (b) the owner and/or manager of the guest accommodation must reside on the property;
 - (c) no more than twelve rooms per land unit in total shall be used for bedroom accommodation for paying guests or lodgers and no more than 24 guests or lodgers shall be supplied with lodging or meals at any time. In granting its consent the Municipality will indicate the maximum number of rooms and guests that may be accommodated;
 - (d) no self-CATERING accommodation may be provided and no cooking facilities, except kettles, may be provided in guest rooms;
 - (e) a conference facility may be allowed with the specific consent of the Municipality;
 - (f) meals may only be provided to guests or lodgers who have lodging at the guest accommodation;
 - (g) no advertising sign shall be displayed other than a single un-illuminated sign or notice not projecting over a street. Such sign shall not exceed 2 000cm² in area with no commercial advertising attached.

(2) The consent for guest accommodation will be granted subject to the approval of a site development plan, which indicates as a minimum, the siting of existing and proposed buildings, access and egress, parking and drive way access.

Day care centres

79. Unless otherwise specified in the approval, an approval for a day care centre consent use is subject to the following conditions:

- (a) no more than 15 children shall be enrolled at the day care centre at a time;
- (b) at least one toilet and one hand basin shall be available for the use of children attending the day care centre;
- (c) a minimum area of indoor play space and outdoor place space shall be provided as follows:
 - (i) 1,8m² indoor play space per child, of which no more than one third may be enclosed verandah space, and
 - (ii) 4,5m² outdoor play space per child, to be fenced off from any public street;
- (d) the services provided shall be primarily day care and educational and not medical;
- (e) the services are not provided outside the hours of 06:00 to 18:00;
- (f) the dominant use of the dwelling house shall remain for the living accommodation of a single family, and
- (g) the Municipality shall be satisfied that drop-off and collection arrangements are adequate and will not cause undue traffic flow blockages in the immediate vicinity of the area.

House shops

80. Unless otherwise specified in the approval, an approval for a house shop consent use is subject to the following conditions:

- (a) the extent and position of the retail component shall be clearly defined on a plan, and shall not exceed 25m² or 50% of total floor space of the dwelling unit (excluding any toilet, change room and storeroom), whichever is the lesser area;
- (b) in addition to the house shop, the property must contain a dwelling house, which must be occupied by the proprietor of the house shop;
- (c) any new structure, or alteration to the existing dwelling or outbuilding, must conform to the residential character of the area concerned;
- (d) the retail activities may not be conducted from a caravan or freight container;
- (e) no more than three persons, including the occupant of the dwelling house, are permitted to be engaged in retail activities on the property;
- (f) the retail activities may only be conducted during the operating hours specified by the Municipality;
- (g) only one un-illuminated sign of not more than 2 000cm² in area indicating the name of the owner, name of the business and nature of the retail trade may be displayed to advertise the house shop;
- (h) the following are not permitted in a house shop:
 - (i) the sale of liquor or alcoholic beverages;
 - (ii) the storage or sale of gas and gas containers;
 - (iii) the sale of any other flammable substances;
- (i) the use of vending machines, video games and pool tables are only permitted if allowed in terms of the consent approval;
- (j) no food may be produced or processed on the site;
- (k) only pre-packaged food from registered suppliers may be offered for sale;
- (l) perishable food stuffs, if frozen must be stored and displayed below -12°C and if cooled, below +7°C;
- (m) the Municipality may require on-site parking to its satisfaction;
- (n) consent to operate a house shop applies to particular land unit, and is not transferable to other land, and
- (o) the continued exercising of the rights mentioned above, will be subject to the approval of the Municipality in the case of complaints being received by the Municipality about the manner in which these rights are exercised, and the Municipality may revoke consent.

Portable buildings

81. (1) Portable buildings must comply with the development rules, including building lines, height and bulk restrictions that apply to the specific zone in question.

(2) The Municipality reserves the right to order the screening to its satisfaction or removal of portable buildings, where such structures detract, in its opinion, from the amenity of the area.

(3) The placement and use of portable buildings require approved building plans as per the requirements of the National Building Act, 1977 (Act 103 of 1977).

(4) No more than one portable building per property will be permitted in residential zones.

(5) The floor area of such portable building must not exceed 18m².

House taverns

82. Unless otherwise specified in the approval, an approval for a house tavern consent use is subject to the following conditions:

- (a) the total area used for the house tavern on the property, including storage, shall not consist of more than 40% of the total floor area of the dwelling unit(s) on the property or 30m², whichever is the lesser;
- (b) in addition to the house tavern, the property must contain a dwelling house, which must be occupied by the proprietor or manager of the house tavern;
- (c) the house tavern must be accommodated in a permanent structure;
- (d) the applicant must take adequate measures to the satisfaction of Municipality to mitigate the following potential negative impacts:
 - (i) visual impact;
 - (ii) impact of built form;
 - (iii) impact on privacy of surrounding properties;
 - (iv) noise;
- (e) the applicant must make adequate provision to the satisfaction of Municipality for the following:
 - (i) parking and loading;
 - (ii) disposal of garbage;
 - (iii) ablution facilities;
- (f) provision must be made for all goods connected with the house tavern to be stored inside a building or screened from the neighbours and the street;
- (g) the Municipality may restrict the maximum number of patrons and number of staff related to the house tavern;
- (h) the Municipality may require structural alterations to the property for fire or health reasons and to ensure that the impact of the house tavern on neighbouring uses is minimised;
- (i) the following uses are not permitted in a house tavern except if allowed in terms of the consent approval: vending machines, gambling machines, video games, pool tables, amusement centre and discotheque;
- (j) a liquor license shall be obtained from the Western Cape Provincial Liquor Board in terms of the relevant legislation within a reasonable period of time from the granting of the consent. In the event of the liquor license being withdrawn or suspended, the Municipality's consent for the operation of a house tavern shall automatically lapse;
- (k) consent to operate a house tavern applies to a particular land unit, and is not transferable to another land unit;
- (l) no external evidence of the house tavern may be visible from the street, except for one un-illuminated sign, which shall be affixed to the wall of the dwelling or outbuilding, which may not exceed 2 000cm² in area and such sign shall indicate only the name of the owner, name of the business, and nature of the retail trade;
- (m) no house tavern may be authorized or established where its proximity to community uses, such as schools, places of worship, old age homes, crèches, public open spaces, hospitals, clinics, libraries, is likely to have a negative impact on the facility in the opinion of Municipality;
- (n) trading may only be conducted during the operating hours specified by the Municipality.

Preservation of trees

83. (1) When an application is submitted in terms of these Regulations, the Municipal Manager may require the applicant to submit a plan of the land unit concerned showing any tree that is not classified under Section

2(3) of the Conservation of Agriculture Resources Act; 1983 (Act 43 of 1983) as an invader plant for the Western Cape, and that:

- (a) is a protected tree listed under Section 12 of the National Forest Act, 1998 (Act 84 of 1998), or
- (b) is taller than 6,0m, or
- (c) has a trunk circumference of more than 1,5m at a height of one metre above the ground.

(2) The Municipality may decide which trees it considers to be worthy of preservation and must indicate these when approving a plan referred to in Sub-regulation (1).

(3)

(4) No person may damage, destroy or remove any tree that has been indicated on a plan referred to in this Regulation as worthy of preservation except with the prior approval of the Municipal Manager.

Keeping of animals in residential zones

84. (1) Unless expressly authorised in these Regulations or by the written permission of the Municipality, no person shall keep on any land unit within a residential zone:

- (a) any animal for business purposes, or
- (b) any cattle, sheep, goats, horses, donkeys, pigs, indigenous mammals or other wild animals for any purpose.

(2) Poultry, rabbits and other small animals may be raised for domestic, non-commercial use in residential areas subject to any municipal by-law relating to the keeping of poultry and animals.

External appearance of buildings

85. The Municipality may require any person intending to erect any building or structure to submit proposals (in addition to any other plans and particulars required in terms of any other of the Municipality's regulations) with drawings or other sufficient illustration of the external appearance of the proposed building or structure, including particulars of the materials to be used for that purpose, to the satisfaction of the Municipality. The Municipality may require such alteration to the external appearance and building materials, as it may deem necessary.

Combined use buildings

86. 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 zone shall be applicable, and the following conditions shall apply with regard to all other land use restrictions:

- (a) where a use 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, except those with regard to floor factor, height and coverage, applicable to the primary use in the other zone;
- (b) where a use which is permitted in a combined-use building in a particular zone is not a primary use in another zone, the use concerned shall be subject to the conditions applicable to the primary use in the zone in which the use concerned is permitted.

Earth banks and retaining structures

87. No person shall, without the prior written consent of the Municipality, construct:

- (a) an earth bank, retaining structure, column, suspended floor, any other device used for holding back earth or loose rock, or series of such devices, that enables a ground floor of a building to be raised more than 2,0m above the existing ground level;
- (b) an earth bank or retaining structure, whether associated with a building or not, to a height of more than 2,0m above the existing ground level;
- (c) a series of earth banks or retaining structures to a cumulative height of more than 2,0m above the existing ground level, unless an approximately level area of at least 3,0m wide is incorporated between successive embankments or retaining structures for every 2,0m of cumulative height.

Rooftop base station and transmission tower as primary use

88. A rooftop base station or transmission tower which may be erected as a primary use in terms of these Regulations shall be subject to any relevant requirements of the National Environmental Management Act 1998 (Act 107 of 1998).

Rooftop base station and transmission tower as consent use

89. (1) An application for municipal consent to erect a rooftop base station or transmission tower shall not exempt the applicant from compliance with the requirements of the National Environmental Management Act, 1998 (Act 107 of 1998).
- (2) The Municipality may require the following information when considering an application for the consent of the municipality to erect a rooftop base station or transmission tower:
- (a) a locality plan of the proposed site, indicating the erf number, street address, current zoning of the site, and the land uses of the subject and surrounding properties;
 - (b) information about the type of proposed antenna or telecommunications infrastructure, including a dimensioned plan of the structure in relation to the site boundaries, a front and side elevation of the structure to scale including any other buildings or structures on the site, and proposed lighting of the structure;
 - (c) in the case of an application for a shared site, the total projected radio-frequency emission levels for the entire installation;
 - (d) a site development plan including proposed mitigation measures, and
 - (e) if required by the Municipality, a visual impact assessment of the proposal, including photographic material in order to adequately evaluate the proposal.
- (3) If the applicant is not the land owner, the applicant must submit to the Municipality, a duly executed power of attorney from the land owner that authorises the applicant to make the application.
- (4) If an assessment of the potential impacts of erecting or modifying a rooftop base station or transmission tower or altering the radio-frequency emissions of a rooftop base station or transmission tower on the environment or heritage resources is required by national or provincial legislation, the Municipality must consider a copy of any environmental or heritage impact assessment report before deciding whether or not to grant its consent to an application under this Regulation.
- (5) If no impact assessment report is required by national or provincial legislation, the Municipality may request the applicant to provide information about technically viable alternative sites or structures, and to motivate why co-location at such sites or structures is not proposed.

Decommissioned antennae, rooftop base stations or transmission towers

90. (1) The owner or operator of a decommissioned antenna system, rooftop base station or transmission tower must:
- (a) remove all infrastructure relating to the antenna system, rooftop base station or transmission tower, and
 - (b) rehabilitate the site to its original state or to a state acceptable to the Municipality.
- (2) Where the owner or operator fails to comply with (a) and (b) above, the Municipality may remove the antenna system, rooftop base station, transmission tower and related infrastructure, and rehabilitate the site at the cost of the owner or operator.

Domestic satellite dish antenna systems

91. (1) Domestic satellite dish antenna systems that are mounted on the ground shall be placed in a position which minimises the visual impact on the surrounding area.
- (2) Domestic satellite dish antenna systems which are mounted to the side of a building shall be:
- (a) placed so that they are not visible from the public street or surrounding area, or
 - (b) architecturally screened so as to minimise the impact on the surrounding properties and from the public streets.
- (3) Domestic satellite dish antenna systems that are mounted on the roof of a building shall be:
- (a) set back as far as practically possible from the edge of the building, or

- (b) architecturally screened so as to minimise the impact on the surrounding properties and from the public streets.

(4) The colour of satellite dish antenna systems shall be a single, non-glossy shade of cream, off-white, beige, dark green, black or grey.

Retirement village

92. Building plan approval for a retirement village is subject to the following conditions:

- (a) each dwelling unit in a retirement village shall be owned by a person who is 50 years of age or older, and occupied by at least one person who is 50 years of age or older, and
- (b) the full spectrum of care and recreational facilities must be provided in the retirement village to the satisfaction of the Municipality.

PART FIVE: ZONES

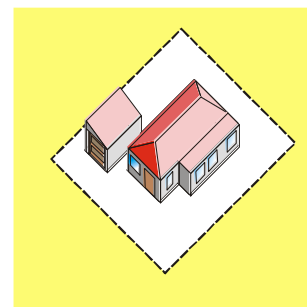
CHAPTER 9 SINGLE RESIDENTIAL

Designation

93. The Single Residential Zone may be referred to by the code “SR” and must be indicated on a zoning map in yellow.

Purpose of the zone

94. The purpose of the single residential zone is:
- to ensure healthy, safe and pleasant living conditions for single families living in separate dwelling units, and
 - to allow for limited opportunities for home-based economic activity, provided that the general character and amenity of the zone is not adversely affected.



Policy guidelines

95. (1) In considering applications for consent uses, the Municipality must refer to all approved Spatial Development Framework and other statutory plans, to ensure that these uses are appropriately located.
- (2) Informal housing is not permitted in this zone. Informal housing will be provided for in the Incremental Housing zone as well as an overlay zone to facilitate the rezoning of those areas to this zone once the informal housing complies with the parameters of formal housing.

Land use within zone

96. (1) The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Dwelling house• Occupational practice• Second dwelling unit• Urban agriculture	<ul style="list-style-type: none">• Day care centre• Guest accommodation• Double dwelling house• House shop• House tavern

(2) The Municipality may allow the use of a dwelling house or dwelling unit for overnight accommodation for transient guests, provided that such use does not cause an undue disturbance to the neighbourhood. The continued use of the property for self-catering accommodation will be subject to the approval of the Municipality in the case of complaints being received by the Municipality about the manner in which these rights are exercised, and the Municipality may revoke such rights at its discretion, or alternatively, set conditions to control the use of the property for self-catering accommodation.

(3)

Development rules

97. (1) The following development rules apply to buildings in this zone:

Net erf size	Maximum coverage	Maximum height	Street building line		Lateral building lines			Rear building lines
Less than or equal to 150m²	80%	8m from highest point of the natural ground level immediately adjacent to the building provided that if the building is situated on a slope it may at no point exceed 10 m	1,0m		Average width* of less than 13m: 1,0m from one lateral boundary and zero from the other	Average width of 13m – 20m: 1,5m	Average width of more than 20m: 2,0m	1,0m
Greater than 150m² but not more than 250m²	75%		2,0m					1,0m
Greater than 250m² but not more than 500m²	60%		2,5m					2,0m
Greater than 500m²	50%	when measured from the natural ground level immediately adjacent to that point.	Average depth of less than 20m: 3,0m	Average depth of 20m or more: 4,0m	Average width of less than 20m: 1,5m	Average width of 20m or more: 2,0m		2,0m

Comments ?????????

(2) For outbuildings ONLY used for the storage of vehicles AND GOODS the lateral and rear building lines are 1,5m, where the provisions above are more restrictive.

(3) ???????

Building line

98. Notwithstanding Regulation 97, a 5,0m street building line is required where the street boundary abuts a declared road.

Minimum subdivision area

99. A zoning map may designate areas within this zone within which subdivisions will not be permitted unless the net area of each land unit created by the subdivision and any remainder, to be zoned as Single Residential, is not less than a minimum size specified in the zoning map.

Maximum density

100. (1) A zoning map may designate areas within this zone within which a maximum density is specified for a land unit, area or precinct and no development that will result in this maximum density being exceeded, will be authorised.

(2) No land owner or occupier of land may exceed the maximum density specified in a zoning map.

Window and door placement

101. (1) Any wall of a building which contains a window or door facing directly onto a lateral or rear boundary, shall be placed a distance of at least 1,0 m away from that boundary.

(2) In addition to Sub-regulation (1), regulations related to fire protection as promulgated by the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1997) as amended, will be applicable.

* The average width of the property is calculated by adding the length of the street boundary and the rear boundary and dividing it by two.

Rainwater harvesting

- 102.** (1) The Municipality may require a person who applies for land to be zoned or rezoned into this zone to undertake rainwater harvesting to the satisfaction of the Municipality.
- (2) If the Municipality imposes a condition in respect of rainwater harvesting, it:
- (a) must approve the placement of the storage facility; and
 - (b) may require the screening of such facilities to its satisfaction.

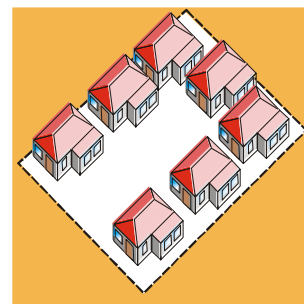
Renewable energy

- 103.** The Municipality may require a person who applies for land to be zoned or rezoned to this zone to use renewable energy sources in the development and use of the property, such as solar water heating, or to install devices designed to conserve energy in the use of the property to the satisfaction of the Municipality.

CHAPTER 10 MEDIUM DENSITY RESIDENTIAL

Designation

104. The Medium Density Residential Zone may be referred to by the code “MDR” and must be indicated on a zoning map in yellow with black hatching.



Purpose of the zone

- 105.** The purpose of this zone is:
- (a) to promote and regulate medium density residential development, such as group housing or town house schemes, and
 - (b) to ensure that adequate provision is made for open space, community facilities, traffic circulation and parking.

Policy guidelines

106. The design of the dwelling units, communal spaces and circulation areas must result in a harmonious architectural entity, and attention must be given to aesthetics, urban design and landscaping.

Land use within zone

107. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none"> • Group housing • Town housing • Retirement village • Occupational practice 	<ul style="list-style-type: none"> • Institutional building • Double dwelling house • Flats

Development rules

108. The following development rules shall apply to buildings in this zone:

Maximum gross density	Maximum height	Street building line	Lateral and rear building lines	Garages
40 dwelling units per hectare, provided that the Municipality is satisfied that environmental, aesthetic, planning or topographical concerns are adequately addressed.	8,0m from the highest point of the natural ground level immediately adjacent to the building provided that where the building is situated on a slope it may at no point exceed 10m when measured from the natural ground level immediately adjacent to that point.	4,0m along external roads, 0m along internal roads, unless a more restrictive building line is required to accommodate traffic flow.	0m, provided that no doors and windows are permitted and in the case of erven abutting another zone, the building line of the last mentioned zone shall apply, or unless otherwise required for firefighting purposes by the Municipality.	0m set back from the internal street boundary and 4 m set back from an external street boundary provided that 2 parking areas are provided on the site.

Building line

109. Notwithstanding Regulation 108, a 5,0m street building line is required where the street boundary abuts a declared road.

Open space

110. (1) Each dwelling unit shall have access to an outdoor living area, which may include private, public or communal open space but excludes roads, service yards and parking areas.

(2) A minimum outdoor living area of 25m² or 25% of the floor area of the dwelling unit, whichever is the greatest, shall be provided on the erf containing the dwelling unit, and a minimum of 50m² per dwelling unit shall be provided as public or communal open space within the medium density housing site. Circulation space in the form of internal roads and pathways may constitute 50% of such communal space.

(3)

(4) Where there is no distinction between public or communal open space, and outdoor living area is provided on each erf, the open space requirements shall be replaced by a combined open space requirement of at least 100m² per dwelling unit within the medium density housing site. Circulation space in the form of internal roads and pathway may constitute 50% of such communal space.

(5)

(6) Outdoor living areas shall be provided in a form which shall not exceed a ratio of 2:1 (length to width), and which in the opinion of the Municipality, can be effectively used as open space.

(7)

(8) Garages and carports shall be excluded in the calculation of floor space for the purpose of determining the area of outdoor living area.

(9)

(10) A landscape plan shall be prepared to the satisfaction of the Municipality.

Service yard

111. (1) A service yard shall be provided for each dwelling unit, or a combined service yard may be provided for several units.

(2) Service yards must be of an adequate area to accommodate a washing line and must be screened from the communal area by a wall, to the satisfaction of the Municipality.

Internal road width

112. The minimum internal road reserve width is 6,0m, but the Municipality may require a greater road reserve width where it is of the opinion that the vehicular use or length of road justifies such greater road reserve width.

Proximity of medium density residential schemes

113. The Municipality shall not approve the establishment of an additional medium density housing scheme adjacent to, or in close proximity to, an existing medium density housing scheme unless, in its opinion, the following minimum conditions are met:

- (a) no medium density housing site has an area greater than 2,0ha;
- (b) adequate provision has been made outside any walls surrounding the additional group housing scheme for landscaping, either on the medium density housing site, in the road reserve, or on public open space in the vicinity of the medium density housing site;
- (c) any boundary walls or fences situated between the additional group housing site and a public street, must be designed and constructed to allow adequate visual contact between the additional medium density site and the public street, and
- (d) a plan must be prepared which co-ordinates the provision of public amenities, including community facilities, public streets, open space and public transport requirements, to the satisfaction of the Municipality.

Minimum property size

114. The minimum property size for applications to rezone and subdivide a property to this zone is 2500m², except where an approved spatial development framework provides an alternative guideline.

Site development plan

115. (1) The Municipality may require a person who applies for land to be zoned or rezoned to this zone or for approval of a consent use, to submit a site development plan for approval by the Municipality.

(2) The Municipality:

- (a) may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, engineering services and other matters relevant to achieving the purposes and objects of the zone and of the Zoning Scheme, but
- (b) may not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval.

(3) The Municipality may require that any development in this zone be fenced in a style that is in keeping with the architectural style of the development and may prohibit the use of any material they perceive to be undesirable to be used as fencing.

Homeowners' association

116. The Municipality may require the developer of a medium density housing scheme:

- (a) to establish a homeowners' association and for each erf to be part thereof, prior to the transfer of the subdivided portions, and
- (b) to submit the constitution of such homeowners' association to the Municipality for approval.

Occupational practice

117. Occupational practice may be exercised in this zone provided that:

- (a) the owner has obtained the permission of a relevant homeowners' association, and
- (b) the Municipality may at any time impose conditions that may include or be more restrictive than the conditions stipulated in Part Four of these Regulations.

(4)

CHAPTER 11 HIGH DENSITY RESIDENTIAL

Designation

118. The High Density Residential Zone may be referred to by the code “HDR” and must be indicated on a zoning map in orange.

Purpose of the zone

119. The purpose of this zone is to provide for high density residential development, such as flats. Limited mixed use development may be allowed with the consent of the Municipality.



Policy guidelines

120. Note that this zone has particular locational requirements, such as proximity to public transport, amenities and socio-economic opportunities, as might be prescribed by the relevant strategic plans applicable to the site.

Land use within zone

121. (1) The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none"> • Flats • Group housing • Town housing • Retirement village • Residential building • Occupational practice 	<ul style="list-style-type: none"> • Business on the ground floor • Guest accommodation • Institutional building • Hotel • Place of assembly • Place of instruction • Dwelling house • Double dwelling house • Rooftop base station

(2) Where premises for the rendering of personal services such as a beauty salon, are included in a hotel development, the floor area used for such purposes shall not exceed 10% of the total floor area of the hotel.

(3)

(4) The support structure or equipment room of a rooftop base station that is not part of the building, may not extend more than 2,5m above the top of the building.

Development rules

122. The following development rules shall apply to buildings in this zone:

Floor factor	Maximum coverage	Maximum height	Street building line	Lateral and rear building lines
2.5	50%	12m from highest point of the natural ground level immediately adjacent to the building provided that where the building is situated on a slope, it may at no point exceed 15m when measured from the natural ground level immediately adjacent to that point.	5,0m	4,5m or half the height of the building, whichever is more restrictive.

Open space

123. (1) Every block of flats, residential building or hotel in this zone shall have access to an outdoor living area on the land unit, which may include private or communal open space, but excludes roads, service yards and parking areas.

(2) A minimum outdoor living area of 15% of the net erf area shall be provided, and such outdoor living area must be of reasonable proportions and located to allow for leisure or recreational use by residents.

(3) The Municipality may consider a relaxation of the open space requirements, if, in its opinion, adequate open space in the form of public open space is accessible within reasonable proximity to the site.

(4)

(5) Where the Municipality concedes a relaxation of the open space requirements in terms of Sub-regulation (3) it may require a reasonable levy as contribution to the development and maintenance of public open spaces.

Minimum property size

124. The minimum property size for applications to rezone a property to this zone is 1000m².

Site development plan

125. The Municipality may require a site development plan to be submitted to its satisfaction, provided that:

- (a) the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, engineering services or similar concerns, and
- (b) the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval.

Homeowners' association

126. (1) The Municipality may require the developer of any site in this zone to establish a homeowners' association, prior to the transfer of portions of such development.

(2) The constitution of such homeowners' association must be submitted to the satisfaction of the Municipality.

Group housing, town housing, retirement village

127. The development rules applicable to the Medium Density Residential Zone apply to town housing, group housing and retirement villages in this zone.

Institutional building, place of instruction, place of assembly

128. The development rules, including parking requirements that apply to an institutional building or place of instruction or place of assembly in the Civic and Social Zone shall apply in this zone. However, in cases where the institutional building, place of instruction or place of assembly is situated within a building that is also used for flats, then the coverage, height and building line requirements for the flats shall apply.

Occupational practice

129. Occupational practice may be exercised in this zone provided that:

- (a) the owner has obtained the permission of a relevant homeowners' association, and
- (b) the Municipality may at any time impose conditions that may include or be more restrictive than the conditions stipulated in Part Four of these Regulations.

Business

130. The Municipality may grant its consent for a business to be incorporated within the ground floor of a block of flats, provided that the gross leasable area of the business does not exceed 50m², or 25% of the floor space of the ground floor, whichever is the lesser.

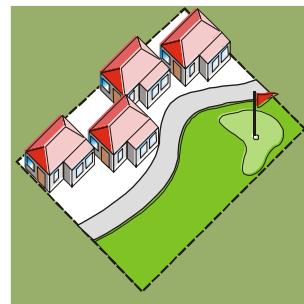
CHAPTER 12 ESTATE HOUSING

Designation

131. The Estate Housing Zone may be referred to by the code “EH” and must be indicated on a zoning map in orange with black hatching.

Purpose of the zone

132. The purpose of the zone is to provide a high degree of flexibility for low to medium density residential projects that require site specific controls. The zone does not accommodate a resort, but is particularly suitable for residential estates governed by a homeowners’ association, with access control and co-ordinated design requirements, such as golf estates.



Policy guidelines

133. In order to combat urban sprawl it is essential that this zone only be allowed within an urban edge.

Land use within zone

134. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Dwelling unit• Retirement village• Public open space• Private open space• Group housing• Occupational practice	<ul style="list-style-type: none">• Hotel• Restaurant• Place of entertainment• Conference facility• Rooftop base station

Development rules

135. (1) The Municipality may stipulate conditions with regard to the use of buildings and land, density, height, coverage, layout, building design, open space, landscaping, parking, access and environmental management.

(2) A site development plan must be submitted to the satisfaction of the Municipality.

(3) The constitution for a homeowners’ association must be submitted to the satisfaction of the Municipality, and all owners of property within this zone shall be a member of an approved homeowners’ association.

(4) Architectural guidelines and a system of architectural control must be submitted to the satisfaction of the Municipality.

(5) An environmental management plan must be submitted to the satisfaction of the Municipality.

(6) The land unit must be developed in accordance with the site development plan, architectural guidelines and environmental management plan as approved by the Municipality, and to the satisfaction of the Municipality.

Locational requirements

136. When considering the rezoning of a land unit to this zone, the Municipality must take into consideration any relevant forward planning policies aimed at combating urban sprawl, in particular the location of the land in relation to a demarcated urban edge.

CHAPTER 13 INCREMENTAL HOUSING

Designation

137. The Incremental Housing Zone may be referred to by the code IH and must be indicated on a zoning map in mustard yellow.

Purpose of the zone

138. The purpose of this zone is to provide for upgrading of housing from informal settlements to formal settlements. In recognition of the realities of poor and marginalised communities, development rules are not restrictive and local employment generation is encouraged within this zone. Once upgrading of an area has reached an appropriate stage, as determined by the Municipality, it is contemplated that the area may be rezoned to Single Residential Zone or another zone.



Land use within zone

139. (1) The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Dwelling house• Second dwelling unit• Occupational practice• House shop• Shelter• Urban agriculture	<ul style="list-style-type: none">• Guest accommodation• House tavern• Day care centre• Double dwelling house• Place of instruction

(2) Notwithstanding the uses listed under Sub-regulation (1), an occupant of any dwelling house, second dwelling unit or shelter may utilise such unit for any social, educational, religious, occupational or business purposes subject to the following conditions:

- (a) the dominant use of the property shall remain residential, and
- (b) the use concerned shall not interfere with the amenity of the neighbourhood.

Development rules

140. (1) The following development rules apply to buildings in this zone:

Maximum coverage	Maximum height	Street building line	Lateral building lines	Rear building lines
80%	8,0m from highest point of the natural ground level immediately adjacent to the building provided that where the building is situated on a slope, it may at no point exceed 10m when measured from the natural ground level immediately adjacent to that point.	1,0m	If the Municipality is satisfied that adequate fire protection measures exist, a land unit may have a zero lateral building line on one lateral boundary, provided there is at least 1,0m lateral building line on the other lateral boundary, and that the combined distance between two structures on adjacent erven amounts to 2,0m. If, in the Municipality's opinion, there are inadequate fire protection measures on the land unit, the lateral building line shall be at least 1,0m from both lateral boundaries. Where a building is erected closer than 1,0m to the lateral boundary, no windows or doors will be allowed in that wall.	The rear building line is 1,0m, provided further that if a mid-block sewerage system is installed, a rear building line of 2,0m may be imposed by the Municipality.

(2) For outbuildings used for the storing of vehicles and which utilizes a roll-up garage door, the street building line shall be 0m.

Parking and access

141. Parking shall be provided on the land unit in accordance with the following table:

Use of land or building	Parking standard
Shelter	No parking required
Dwelling house, second dwelling unit, occupational practice, guest accommodation, house tavern	One parking bay if required by the Municipality
Place of instruction, place of worship, house shop	As required by the Municipality

CHAPTER 14 BUSINESS

Designation

142. The Business Zone may be referred to by the code “B” and must be indicated on a zoning map in blue.

Purpose of the zone

143. The purpose of the zone is to provide for the establishment of mixed uses in business nodes and along activity streets.

Land use within zone

144. (1) The following uses are allowed in this zone:

Primary Use	Consent Uses
<ul style="list-style-type: none"> • Business premises • Flats (provided that flats may only be provided above ground floor along a street boundary) • Public parking • Place of entertainment • Restaurant • Hotel • Gymnasium • Funeral parlour • Rooftop base station 	<ul style="list-style-type: none"> • Warehouse • Place of worship • Guest accommodation • Residential building • Service trade • Bottle store • Supermarket • Gambling machine • Pornographic entertainment business • Place of instruction • Place of assembly • Transmission tower

(2) Where a property in this zone has two street boundaries, flats may be provided on the ground floor facing onto one of the street boundaries and the Municipality will decide which of the two street boundaries may accommodate flats.

(3)

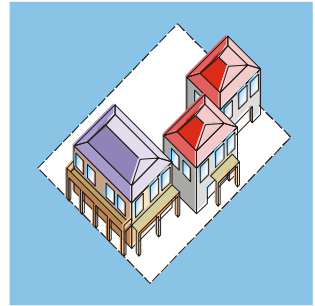
(4) Where premises for the rendering of personal services such as a beauty salon, are included in a hotel development, the floor area used for such purposes shall not exceed 10% of the total floor area of the hotel.

Development rules

145. (1) The following development rules apply to buildings in this zone:

Floor Factor	Coverage	Height	Street building line	Lateral and Rear building lines
(5) 2.0	100%	16m from highest point of the natural ground level immediately adjacent to the building, provided that where the building is situated on a slope it may at no point exceed 20m when measured from the natural ground level immediately adjacent to that point.	0m	<p>0m, provided that no doors, windows, ventilations or other openings are inserted.</p> <p>Where a lateral or rear boundary of a property in this zone abuts a residential zone, the building line shall be 3m from the lateral or rear boundary adjacent to the residential zone.</p>

(2) The Municipality may waive the requirement of a 3,0m lateral building line where a business property abuts a residential property, in circumstances where such a residential property is situated within an area clearly earmarked for future business use in an approved spatial development framework.



Canopy or balcony projection

- 146.** (1) The Municipality may require, and may permit, a canopy or balcony projection over the street boundary in accordance with the following conditions:
- (a) the canopy shall not project nearer than 500mm to a vertical plane through the kerb line or proposed kerb line;
 - (b) no portion of a canopy projection shall be less than 3,0m above the pavement.
- (3)
- (2) The Municipality may lay down more restrictive requirements relating to the dimensions, design and materials of the canopy or balcony.

Building projection over the street boundary

- 147.** Notwithstanding the street building line, the Municipality may permit a projection of the building over the street boundary subject to the following conditions:
- (a) the projection may not exceed the width of the pavement within the road reserve or 3,0m, whichever is the lesser distance;
 - (b) the ground floor level of the projection shall be used exclusively as a public pedestrian way, with or without a colonnade;
 - (c) the projection shall provide at least 2,8m clearance above the level of the pavement;
 - (d) the floor space of the additional storey that may be erected over the ground floor level of the projection, shall not be included in the calculation of maximum floor space, and
 - (e) the owner must enter into an encroachment agreement with the Municipality.

Street corners

- 148.** The Municipality may require that the owner of a building, to be situated at a public street corner that the Municipality considers to be significant, shall incorporate in the building architectural features which focus visual interest on the corner, and which emphasize the importance of pedestrian movement around the corner. Such features may include building cut-offs, walk through covered arcades, plazas or other elements.

Façades

- 149.** The Municipality may stipulate requirements regarding the façades of buildings in this zone at ground floor level, with a view ensuring adequate visual and physical permeability, which is in its opinion required to create a vibrant streetscape.

Screening

- 150.** The Municipality may require:
- (a) that any part of the land unit which is used for the storage or loading of goods, be enclosed with a suitable brick wall, concrete wall or landscape screening;
 - (b) any external utility service or equipment which is required for a building, whether on the roof, side of the building or ground, shall be appropriately screened from view, and such enclosure of screening shall be integrated with the building in terms of materials, colour, shape and size and shall be to the Municipality's satisfaction.

Site development plan

- 151.** The Municipality may require a site development plan to be submitted to its satisfaction, provided that:
- (a) the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval;
 - (b) the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, engineering services or similar concerns.

Place of assembly, place of instruction, place of worship

- 152.** The development rules, including access and parking requirements for the above uses that apply in the Civic and Social Zone, apply in this zone.

Visual impact assessment

- 153.** When considering an application for any proposed development in this zone, the Municipality to may require a visual impact assessment of the proposed development to be submitted to its satisfaction.

CHAPTER 15 LOCAL BUSINESS

Designation

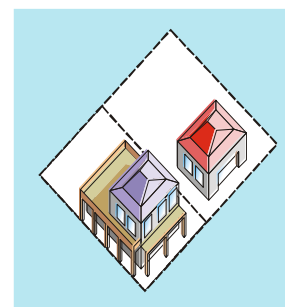
154. The Local Business Zone may be referred to by the code “LB” and must be indicated on a zoning map in blue with black hatching.

Purpose of the zone

155. The purpose of this zone is to provide for a mix of uses in local business nodes and along activity streets, as well as for convenience stores.

Land use within zone

156. (1) The following uses are allowed in this zone:



Primary Use	Consent Uses
<ul style="list-style-type: none"> • Business premises • Flats • Public parking • Restaurant • Rooftop base station 	<ul style="list-style-type: none"> • Service trade • Place of assembly • Place of entertainment • Place of instruction • Place of worship • Funeral parlour • Guest accommodation • Hotel • Residential building • Bottle store • Transmission tower

(2) Where premises for the rendering of personal services such as a beauty salon, are included in a hotel development, the floor area used for such purposes shall not exceed 10% of the total floor area of the hotel.

Development rules

157. (1) The following development rules apply to buildings in this zone:

Floor Factor	Coverage	Height	Street building line	Lateral and Rear building lines
(3) 0.8	75%	8,0m from highest point of the natural ground level immediately adjacent to the building, provided that where the building is situated on a slope, it may at no point exceed 12m when measured from the natural ground level immediately adjacent to that point.	0m	<p>0m, provided that no doors, windows, ventilations or other openings are inserted.</p> <p>Where a lateral or rear boundary of a property in this zone abuts a residential zone, the building line shall be 3,0m from the lateral or rear boundary.</p>

(2) The Municipality may waive the requirement of a 3,0m lateral building line where a business property abuts a residential property, in circumstances where such a residential property is situated within an area clearly earmarked for future business use in an approved spatial development framework.

Canopy or balcony projection

- 158.** (1) The Municipality may require, and may permit, a canopy or balcony projection over the street boundary in accordance with the following conditions:
- (a) the canopy shall not project nearer than 500mm to a vertical plane through the kerb line or proposed kerb line;
 - (b) no portion of a canopy projection shall be less than 3,0m above the pavement.
- (3)
- (2) The Municipality may lay down more restrictive requirements relating to the dimensions, design and materials of the canopy or balcony.

Building projection over the street boundary

- 159.** Notwithstanding the street building line, the Municipality may permit a projection of the building over the street boundary subject to the following conditions:
- (a) the projection may not exceed the width of the pavement within the road reserve or 3,0m, whichever is the lesser distance;
 - (b) the ground floor level of the projection shall be used exclusively as a public pedestrian way, with or without a colonnade;
 - (c) the projection shall provide at least 2,8m clearance above the level of the pavement;
 - (d) the floor space of the additional storey that may be erected over the ground floor level of the projection, shall not be included in the calculation of maximum floor space, and
 - (e) the owner must enter into an encroachment agreement with the Municipality.

Street corners

- 160.** The Municipality may require that the owner of a building, to be situated at a public street corner that the Municipality considers to be significant, shall incorporate in the building architectural features which focus visual interest on the corner, and which emphasize the importance of pedestrian movement around the corner. Such features may include building cut-offs, walk through covered arcades, plazas or other elements.

Façades

- 161.** The Municipality may stipulate requirements regarding the façades of buildings in this zone at ground floor level, with a view to ensuring adequate visual and physical permeability, which is in its opinion required to create a vibrant streetscape.

Screening

- 162.** The Municipality may require that:
- (a) any part of the land unit which is used for the storage or loading of goods, shall be enclosed with a brick or concrete wall or suitable landscape screening;
 - (b) any external utility service or equipment which is required for a building, whether on the roof, side of the building or ground, shall be appropriately screened from view, and such enclosure of screening shall be integrated with the building in terms of materials, colour, shape and size and shall be to the Municipality's satisfaction.

Site development plan

- 163.** The Municipality may require a site development plan to be submitted to its satisfaction, provided that:
- (a) the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval, and
 - (b) the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, engineering services or similar concerns.

Place of assembly, place of instruction, place of worship

- 164.** The development rules, including access and parking requirements for the above uses that apply in the Civic and Social Zone, apply in this zone.

CHAPTER 16 SERVICE BUSINESS

Designation

165. The Service Business Zone may be referred to by the code “SB” and must be indicated on a zoning map in blue-purple.

Purpose of the zone

166. The purpose of this zone is to allow for the transitional area between business and industrial uses, and in particular for service trade, motor repair garages, and low impact, small-scale industry and manufacturing, factory shops and warehousing.

Land use within zone

167. The following uses are allowed in this zone:



Primary uses	Consent uses
<ul style="list-style-type: none"> • Light Industry • Service trade • Motor repair garage • Business premises • Warehouse • Public Parking • Place of entertainment • Restaurant • Gymnasium • Rooftop base station 	<ul style="list-style-type: none"> • Place of Worship • Place of Instruction • Scrapyard and salvage buildings • Flats (above ground floor) • Transport usage • Pornographic entertainment business • Transmission tower

Development rules

168. The following development rules apply to buildings in this zone:

Floor factor	Coverage	Maximum height	Street building line	Lateral and rear building lines
1.5	75%	8,0m	5,0m	See below

Lateral building lines

169. (1) Where an external wall is constructed of a material which has one hour fire resistance, where there are no openings in such external walls, and the land unit abuts another service business or industry zone, a 0m lateral building line is permitted, provided there is at least a 1,0m lateral building line on the other lateral boundary.

(2) Where the land unit abuts a zone that is not a service business or industry zone, or no fire wall as contemplated above is provided, a 3,0m lateral building line shall apply.

Rear building line

170. (1) No building shall be erected closer than 3,0m to the rear boundary.

(2) In cases where a building extends to both side boundaries, and there is no other means of obtaining access to the rear of the property, other than through the building, at least one opening in the external wall of the building shall be provided to the rear boundary, and such opening shall be protected by automatic fire shutters to the satisfaction of the Municipality.

Boundary walls

171. Where a land unit has a common boundary with another land unit that is not zoned for service business purposes, the Municipality may require a wall to be erected, between 2.1m to 3m along the boundary, to its satisfaction.

Screening

172. The Municipality may require any part of the land unit that is used for storage or the loading of goods, to be enclosed with a brick or concrete screen wall to its satisfaction.

Environmental management plan

173. No activity that includes storage of on-site hazardous substances shall be permitted unless a risk management and prevention plan has been approved by the Municipality.

Site development plan

174. The Municipality may require a site development plan to be submitted to its satisfaction, provided that:

- (a) the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval; and
- (b) the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, engineering services or similar concerns.

Place of worship, place of instruction

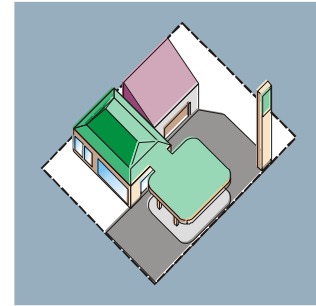
175. The development rules, including access and parking requirements, for the above uses that apply in the Civic and Social Zone, apply in this zone.

Designation

176. The Service Station Zone may be referred to by the code "SS" and must be indicated on a zoning map in blue-purple with grey hatching.

Purpose of the zone

177. The purpose of this zone is to provide opportunities for petrol filling stations, service stations, motor repair garages and associated facilities. These have specific vehicle access requirements and potential negative impacts on the adjoining area.

**Land use within zone**

178. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none"> • Service station • Rooftop base station 	<ul style="list-style-type: none"> • Restaurant • Motor repair garage • Shop • Transmission tower

Development rules

179. The following development rules apply to buildings in this zone:

Floor factor	Coverage	Maximum height	Street building line	Lateral and rear building lines
(3) 1.0	75%	8,0m	3,0m	0m, provided that no doors, windows, ventilations or other openings are inserted. Where a lateral or rear boundary of a property in this zone abuts a residential zone, the building line shall be 3,0m from the lateral or rear boundary.

Site access requirements

180. (1) The total width of vehicle carriageway crossings shall, where they cross the street boundary, not exceed 10m.

(2) A wall, at least 100mm thick and 200mm high, shall be erected on the street boundary between different carriageway crossings. The wall shall continue along such boundary unless the property is otherwise enclosed.

(3) The vehicle carriageway crossings shall be limited to two per site, unless the total length of a street boundary exceeds 30m, in which case one additional carriageway crossing may be permitted.

(4) At the point where it crosses the street boundary, a vehicle carriageway crossing shall not be closer than:

- (a) 30m to the intersection of a declared road with any other road of a like status;
- (b) 30m to the nearest point of an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island;

- (c) 10m from the corner of an intersection not referred to above, if such intersection is not splayed, or 5,0m from the point where the splay meets the road boundary if such intersection is splayed, and
- (d) 1,5m from a lateral boundary.

Screening

181. Any part of the property of a service station which is used for the repair of motor vehicles or the storage of inoperable motor vehicles or parts of motor vehicles, empty containers such as oil drums and packing cases, or any other scrap whatsoever, shall be enclosed with a brick or concrete screen wall, to the satisfaction of the Municipality, at least 2,1m high, or contained in a building.

Alternative development rules

182. The Municipality may approve a site development plan of a proposed service station, as a substitution for the development rules set out above, provided that:

- (a) the site development plan of the proposed service station be submitted to the satisfaction of the Municipality, and
- (b) the site development plan indicates that adequate provision has been made for vehicle access, risk management of fuel pumps and fuel storage areas, screening of areas used for the storage of inoperable motor vehicles or parts of motor vehicles, empty containers such as oil drums or any other scrap, and minimising any visual intrusion, on, or operational disturbance to adjoining properties.

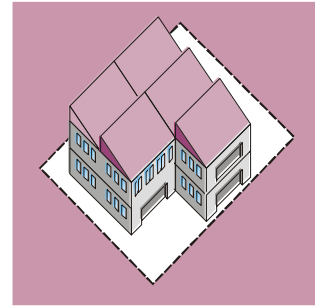
CHAPTER 18 INDUSTRY

Designation

183. The Industry Zone may be referred to by the code "I" and must be indicated on a zoning map in red-purple.

Purpose of the zone

184. The purpose of this zone is to provide for all forms of industry, except noxious industry. Additional uses are allowed to support such industry, as well as uses that could reasonably be accommodated in such a zone, because they take place outside of normal business hours.



Land use within zone

185. (1) The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Industry• Light industry• Service trade• Warehouse• Public parking• Motor repair garage• Rooftop base station• Transmission tower	<ul style="list-style-type: none">• Place of worship• Place of assembly• Place of instruction• Dwelling unit incidental to industry• Funeral parlour• Transport Usage• Restaurant• Spray painting and motor vehicle body repair shop• Place of entertainment• Shop• Scrap yard and salvage building• Aquaculture

(2) The land uses of industry and service trade may include the selling of goods that have been completely or partially manufactured on the property, and such other goods as the Municipality may permit, provided that:

- (a) the total floor space devoted to the sale of goods shall not exceed 10% of the total floor space of all the buildings on the land unit, and
- (b) such other goods that are offered for sale but that are not manufactured on the property, are connected with the goods that are manufactured or partially completed on the property.

Development rules

186. (1) The following development rules apply to buildings in this zone:

Floor factor	Coverage	Street building line	Lateral and rear building lines
2.0	75%	3,0m	See below

(2) The Municipality may determine a height restriction for particular land units in this zone.

Lateral building lines

187. (1) Where an external wall is constructed of a material which has one hour fire resistance, where there are no openings in such external walls, and the land unit abuts another service business or industry zone, a 0m lateral building line is permitted, provided there is at least a 1,0m lateral building line on the other lateral boundary of the same property.

(2) Where the land unit abuts a zone that is not a commercial or industry zone, or no fire wall as contemplated above is provided, a 3,0m lateral building line shall apply.

Rear building line

188. No building shall be erected closer than 3,0m to the rear boundary.

Boundary walls

189. Where a land unit has a common boundary with another land unit that is not zoned for industrial purposes, the Municipality may require a wall that is between 2.1m and 3m high, to be erected along the boundary to its satisfaction.

Screening

190. The Municipality may require any part of the land unit that is used for storage or the loading of goods to be enclosed with a brick or concrete screen wall to the Municipality's satisfaction.

Accommodation incidental to industry and warehouses

191. The Municipality may consider granting its consent for on-site accommodation of employees of an industry or warehouse, provided that not more than one dwelling unit with a maximum floor area of 70m² shall be provided, and that Municipality is satisfied that provisions regarding outdoor space, building lines and service yards are adequately addressed. In particular the Municipality should ensure that such units do not have, in its opinion, a significant negative impact on surrounding uses.

Place of assembly, place of worship, place of instruction

192. The development rules, including access and parking requirements for the above uses, that apply in the Civic and Social Zone apply in this zone.

Environmental management plan

193. No activity that includes storage of on-site hazardous substances shall be permitted unless a risk management and prevention plan has been approved by the Municipality.

Site development plan

194. The Municipality may require a site development plan to be submitted to its satisfaction, provided that:

- (a) the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval, and
- (b) the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, engineering services or similar concerns.

CHAPTER 19 NOXIOUS INDUSTRY

Designation

195. The Noxious Industry Zone may be referred to by the code “NI” and must be indicated on a zoning map in red-purple with black hatching.

Purpose of the zone

196. To provide for industries which are noxious in terms of emissions, run-off, smell or solid waste storage or disposal, or for any other reason regarded as such and which carry a high risk in the case of fire or accidents.

Policy Guidelines

197. This zone may not be located close to residential areas, or places which attract a high number of people on a daily basis, e.g. a taxi rank or school.

Land use within zone

198. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Noxious trade• Spray painting and motor vehicle body repair shop• Rooftop base station• Transmission tower	<ul style="list-style-type: none">• Industry• Service trade• Warehouse• Public parking• Shop• Waste disposal site• Scrap yard and salvage building• Crematorium• Aquaculture

Development Rules

199. (1) The following development rules apply to buildings in this zone:

Floor factor	Coverage	Street building line	Lateral and rear building lines
2.0	75%	5.0m	5.0m

(2) The Municipality may determine a height restriction for particular land units in this zone.

Boundary walls

200. Where a land unit has a common boundary with another land unit that is not zoned for industrial purposes, the Municipality may require a wall, between 2.1m and 3m high, to be erected along the boundary to its satisfaction.

Screening

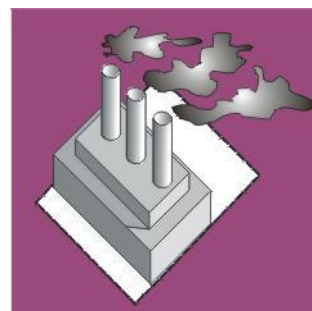
201. The Municipality may require any part of the land unit that is used for storage or the loading of goods, to be enclosed with a brick or concrete screen wall to the satisfaction of the Municipality.

Environmental management plan

202. No activity that includes the storage of on-site hazardous substances shall be permitted unless a risk management and prevention plan has been approved by the Municipality.

Site development plan

203. The Municipality may require a site development plan to be submitted to its satisfaction, provided that:



- (a) the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval, and
- (b) the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, engineering services or similar concerns.

CHAPTER 20 MINING

Designation

204. The Mining Zone may be referred to by the code “M” and must be indicated on a zoning map in red-purple with black cross-line hatching.

Purpose of the zone

205. The purpose of this zone is to provide for the extraction of minerals and raw materials and to allow for limited associated business operations.

Land use within zone

206. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Mining• Rooftop base station• Transmission tower	<ul style="list-style-type: none">• Industry• Noxious trade



Application requirements

207. (1) When applying for a rezoning to the Mining Zone, the owner shall provide proof to the satisfaction of the Municipality that the proposed operation complies with national and provincial statutory requirements applicable to mining, including but not limited to:

- (a) the permits and licences necessary in accordance with the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002);
- (b) the authorisations or exemptions necessary in accordance with the National Environmental Management Act, 1998 (Act 107 of 1998).

(2) Any application to rezone a land unit to Mining shall contain an explanation of the measures that will be implemented to address safety and environmental concerns, including but not limited to:

- (a) control of drainage, sedimentation and erosion;
- (b) preservation of natural vegetation and wildlife habitats;
- (c) protection of surface and sub-surface water;
- (d) preservation of topsoil;
- (e) the disposal of waste;
- (f) provision for restoration and the re-use of the site;
- (g) provision for noise and visual buffering;
- (h) accommodation of heavy traffic and vehicles on roadways;
- (i) provision for a phased programme of commitments and liabilities commensurate with the restoration requirements.

(3) In the assessment of an application to conduct industrial activities in this zone, particular consideration shall be given to the potential nuisance or risk such activity may pose to the surrounding area and persons or community.

Site development plan

208. A site development plan shall be submitted to the satisfaction of the Municipality.

Operational requirements

209. (1) A person undertaking a mining activity must:

- (a) notify the Municipality of any seasonal, temporary or permanent cessation of mining activities;
- (b) ensure that drainage and water runoff to any adjacent property or watercourse is not increased;
- (c) provide adequate on site dust control to the satisfaction of the Municipality, and
- (d) obtain the approval of the Municipality for all haulage routes for vehicles and equipment to and from the site, before using those routes.

(4)

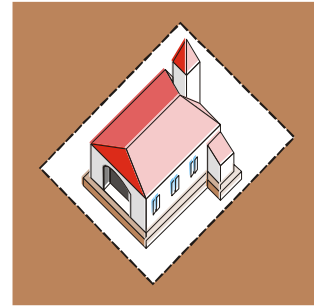
(2) The Municipality may impose such other conditions and development rules, as it deems necessary.

Designation

210. The Civic and Social Zone may be referred to by the code “CS” and must be indicated on a zoning map in grey.

Purpose of the zone

211. The purpose of this zone is to provide for uses directed at serving community needs related to education, religion, health, social interaction, and recreation. Some of these uses require only consent in zones such as business and service business. However, where it is considered that such uses may potentially have a significant impact on surrounding uses, in residential areas for instance, rezoning will be required.

**Land use within zone**

212. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none"> • Place of instruction • Place of worship • Institutional building • Public open space • Urban agriculture 	<ul style="list-style-type: none"> • Conference facility • Cemetery • Dwelling house • Place of assembly • Rooftop base station • Transmission tower

Development rules

213. (1) The following development rules apply to buildings in this zone:

Type of building	Floor factor	Maximum coverage	Maximum height	Street building line	Lateral and rear building lines
Place of instruction	1.0	60%	8,0m	5.0m	4,5m
Place of worship	1.0	60%	8,0m, provided that tower features designed to signify the significance of the building, may be higher with the consent of the Municipality.	5.0m	4,5m
Institutional building	1.5	60%	8,0m	5.0m	4,5m

(2) Where the Municipality grants its consent for a dwelling house of a religious leader, the development rules for the Single Residential Zone shall apply.

Site development plan

214. The Municipality may require a site development plan to be submitted to its satisfaction, provided that:

- the Municipality shall not unreasonably refuse a site development plan that is consistent with the development rules of this zone, or conditions of a rezoning approval, and
- the Municipality may require amendments to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban design, landscaping, engineering services or similar concerns.

Environmental management plan

- 215.** The Municipality may require an environmental management plan as a condition of rezoning to the Civic or Social Zone or of its consent for any of the uses indicated above.

CHAPTER 22 AUTHORITY USAGE

Designation

216. The Authority Usage Zone may be referred to by the code “AU” and must be indicated on a zoning map in red.

Purpose of the zone

217. The purpose of this zone is to provide for such uses related to all spheres of government, which do not readily fall into any other use zone, such as prisons, military installations, electricity substations, etc. However, the general principle should be that land used by any sphere of government should be classified according to its use and not ownership. The zone also provides for the mitigation of the impact of such government uses on surrounding areas.



Land use within zone

218. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Authority usage• Rooftop base station• Transmission tower	<ul style="list-style-type: none">• As may be determined by the Municipality

Development rules

219. (1) No structure shall be erected on land in this zone, unless it is considered by the Municipality to be compatible with the permitted uses in this zone.

(2) The Municipality shall determine the development rules for land units in this zone.

(3) The Municipality may require an environmental management plan for uses and structures in this zone.

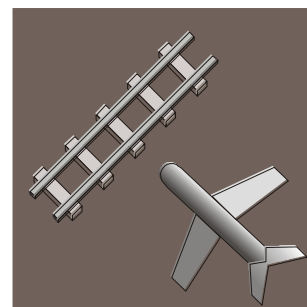
CHAPTER 23 TRANSPORT USAGE

Designation

220. The Transport Usage Zone may be referred to by the code “TU” and must be indicated on a zoning map in dark-brown.

Purpose of the zone

221. The purpose of this zone is to reserve land for transportation systems, excluding private roads and public streets, but including all other transport undertakings such as airports, heliports, harbours, railway lines, bus depots, taxi ranks, cable car stations and modal interchanges.



Land use within zone

222. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Transport usage• Public parking• Rooftop base station• Transmission tower	<ul style="list-style-type: none">• Business premises• Restaurant• Warehouse• Industry• Service trade• Service station• Place of entertainment• Place of assembly• Institutional building• Motor repair garage

Development rules

223. (1) The following development rules apply to buildings in this zone:

Maximum coverage	Floor factor	Street building line	Lateral and rear building lines
75%	(4) 2.0	0m	0m, except where a boundary abuts a zone which is not a transport usage, street or parking zone in which case the building line shall be 3,0m.

(2) The Municipality may determine a height restriction for particular land units in this zone.

Air rights and underground rights

224. The Municipality may grant permission for consent uses to be implemented as air rights above or below land in this zone, provided that:

- (a) the Municipality is satisfied that structural components, clearance and operational characteristics are sufficient to ensure safe and efficient operation of the transport usage or public parking, and
- (b) an agreement defining the extent of rights, ownership and maintenance obligations relating to property affected by air and/or underground rights, is concluded between the parties concerned and is approved by the Municipality.

CHAPTER 24 STREETS

Designation

225. The Street Zone may be referred to by the code "S" and must be indicated on a zoning map in light-brown.

Purpose of the zone

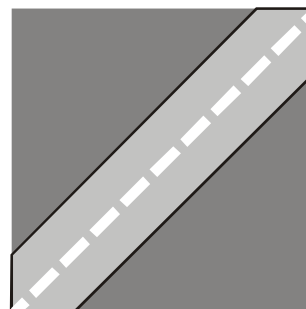
226. The purpose of this zone is to provide for public and private roads and streets, whether existing or to be constructed.

Land use within zone

227. (1) The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Public street• Private road• Public parking• Private parking	

(2) The Municipality may allow utility services within this zone provided that such services do not compromise the movement of vehicles and/or pedestrians.



Street vendors

228. Use of the road reserve and parking in a public street for esthetically pleasing business by street vendors, peddlers or hawkers within the road reserve of a public street is permitted subject to:

- (a) compliance with any applicable Municipal by-law relating to street vendors, peddlers or hawkers, and
- (b) the Municipality terminating such use if, in its opinion, there is interference with pedestrian or vehicular movement, or with the amenity of the area, or such use constitutes a public nuisance.
- (c) Sufficient parking provided within proximity of the facility

Construction and deposit of materials

229. No person shall:

- (a) construct a private crossing, bridge or culvert onto or across a public street;
- (b) construct or lay a pavement on a public street;
- (c) construct a verandah, stoep, wall, steps or other projection in or over a public street;
- (d) deposit or leave any goods, articles, building materials or waste in a public street, other than for a reasonable period for the purpose of loading, off-loading or removal thereof, except in accordance with the written permission and requirements of the Municipality.

Air rights and underground rights

230. The Municipality may grant permission for consent uses to be implemented above or below the primary uses, provided that:

- (a) the Municipality is satisfied that structural components, clearance and operational characteristics are sufficient to ensure safe and efficient operation of the street, road or parking, and
- (b) an agreement defining the extent of rights, ownership and maintenance obligations relating to the property affected by air and/or underground rights, is concluded between the parties concerned and is approved by the Municipality.

Proposed public street, street widening and street closure

231. (1) The Municipality may indicate on its zoning map:

- (a) new public streets which it proposes to establish;
- (b) public streets which it proposes to widen, and
- (c) public streets which it proposes to close.

(2) Such indications provided for in Sub-regulation (1) are intended for the information of the public, and to assist the Municipality in achieving the general planning and development principles of the Zoning Scheme. The zoning of the land in question does not change until the new public street, widening or closure has been approved in terms of relevant legislation, and any further legal procedures relating to rezoning have been complied with.

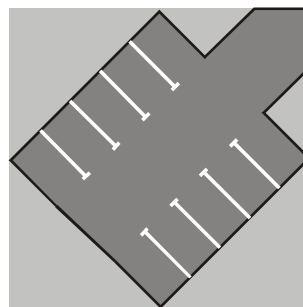
CHAPTER 25 PARKING

Designation

232. The Parking Zone may be referred to by the code “P” and must be indicated on a zoning map in light-brown with black hatching.

Purpose of the zone

233. The purpose of this zone is to provide for parking of operable motor vehicles on a temporary basis in order to meet a parking demand, with or without a fee. Such parking may be provided in buildings as well as open parking lots, and may be privately or publicly owned. This zone should be used where only parking is required as a primary use and other uses need to be restricted.



Land use within zone

234. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Public parking• Private parking• Rooftop base station• Transmission tower	<ul style="list-style-type: none">• Wind turbines

Development Rules

235. (1) The Municipality may determine the development rules applicable to a land unit in this zone.

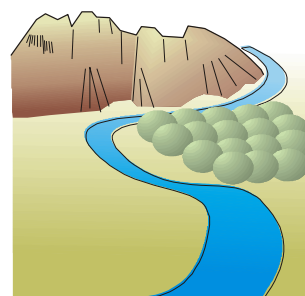
(2) Alternatively the Municipality may require a site development plan for a parking facility and such approved site development shall constitute the development rules for development in this zone, which include disabled parking, according to ratio.

- (3)
- (4)
- (5)
- (6)

CHAPTER 26 NATURE CONSERVATION AREA

Designation

236. The Nature Conservation Area Zone may be referred to by the code "NCA" and must be indicated on a zoning map in dark-green with black hatching.



Purpose of the zone

237. The purpose of this zone is to provide for open spaces that are not actively used for recreational purposes, but form part of the visual amenity of an area and play an ecological or conservation role. Consent for limited tourism related uses may be granted in such zones.

Land use within zone

238. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Nature conservation• One dwelling unit• Public open space• Private open space	<ul style="list-style-type: none">• 4x4 trail• Place of instruction• Tourist facilities• Holiday accommodation• Rooftop base station• Transmission tower

Additional Conditions

239. Land may only be rezoned to the Nature Conservation Zone, should the property in question be declared a nature reserve by the official conservation body, or form part of an official contractually agreed conservation programme, administered by the relevant official conservation body, such as a contractual stewardship programme and managed according to a long term environmental management plan as approved by the official conservation body and the Provincial Department of Environmental Affairs of the time.

Development Rules

240. The Municipality may determine development rules in accordance with the purpose of this zone.

Dwelling unit density

241. The gross density in this zone shall not exceed 1 dwelling unit per 40 hectares.

Environmental management plan

242. The Municipality may require an environmental management plan as a condition of rezoning to conservation area or of its consent for any of the consent uses indicated above.

Site development plan

243. The Municipality may require a site development plan to be submitted to its satisfaction as a condition of rezoning to conservation area or of its consent for any of the consent uses indicated above.

Visual impact assessment

244. When considering an application for any proposed development in this zone, the Municipality may require a visual impact assessment of the proposed development to be submitted to its satisfaction.

CHAPTER 27 OPEN SPACE

Designation

245. The Open Space Zone may be referred to by the code “OS” and must be indicated on a zoning map in dark green.

Purpose of the zone

246. The purpose of this zone is to provide for active and passive open space and public spaces in urban areas. This may include spaces that are intensively landscaped (green) and which are used for recreational purposes, and which add to the amenity of an area, or spaces that may be used for a variety of community and commercial uses on a non-permanent basis such as informal trading, periodical markets, concerts or public meetings.



Land use within zone

247. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Public open space• Private open space• Urban agriculture• Rooftop base station	<ul style="list-style-type: none">• Cemetery• Place of worship• Place of assembly• Crematorium• Informal trading• Institutional building• Place of instruction• Restaurant• Boat launching facility• Transmission tower• Container facility

Development rules

248. The Municipality may determine development rules in accordance with the purpose of this zone.

Informal trading

249. Use of public space for business by street vendors, peddlers or hawkers may be permitted subject to:

- (a) compliance with any applicable Municipal by-law relating to street vendors, peddlers or hawkers,
- (b) the Municipality terminating such use if, in its opinion, there is interference with pedestrian movement, or with the amenity of the area, or such use constitutes a public nuisance; and
- (c) loading and offloading of goods not causing undue traffic and pedestrian movement disturbances.

Use of public space for assembly

250. The Municipality may grant its consent for the use of public spaces for assembly purposes, provided that it is satisfied that:

- (a) adequate traffic management and pedestrian safety measures have been put in place;
- (b) adequate provision has been made for emergencies of any nature;
- (c) access, egress and emergency evacuation measures are adequate, and
- (d) the management of the event complies with any applicable Municipal by-law.

Facilities for informal trading, public ablution facilities, institutional buildings and places of assembly

251. In granting its consent for the erection for facilities for informal trading, public ablution facilities, institutional buildings or places of assembly, the Municipality shall consider the impact of such buildings on the use and amenity of the public place and determine the development rules in accordance with such considerations.

Cemeteries

252. The Municipality may grant its consent for the establishment of cemeteries in this zone subject to any applicable Municipal by-laws.

Environmental management plan

253. The Municipality may require an environmental management plan as a condition of rezoning to open space or of its consent for any of the uses indicated above.

Site development plan

254. The Municipality may require a site development plan to be submitted to its satisfaction as a condition of rezoning to conservation area or of its consent for any of the consent uses indicated above.

Visual impact assessment

255. When considering an application for any proposed development in this zone, the Municipality to may require a visual impact assessment of the proposed development to be submitted to its satisfaction.

Use of public space for parking

256. The Municipality may allow public open spaces that are not being used for the purposes of this zone, to be used for public parking purposes on a temporary basis.

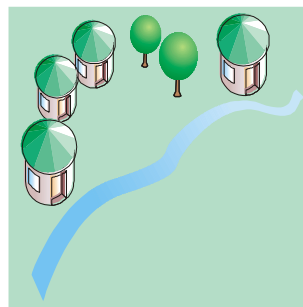
CHAPTER 28 RESORT

Designation

257. The Resort Zone may be referred to by the code “R” and must be indicated on a zoning map in pink.

Purpose of the zone

258. The purpose of the zone is to promote tourist and holiday facilities in areas with special environmental or recreational attributes so as to encourage access to these facilities by the general public.



Policy Guidelines

259. Where this zone applies to areas outside built-up areas or urban edges, particular care is needed to minimise the potentially negative impacts of development on sensitive environments and the guidelines for resort development published by the Western Cape Provincial Government shall apply. A resort must not detract from the amenity that attracted the holiday facilities in the first place, nor should it cause a public nuisance for people living and working in the vicinity.

Land use within zone

260. (1) The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Holiday accommodation• Nature conservation• Open space• Conference facility	<ul style="list-style-type: none">• Tourist facilities• Hotel• Transmission tower• Rooftop base station

(2) Where premises for the rendering of personal services such as a beauty salon, are included in a hotel development, the floor area used for such purposes shall not exceed 10% of the total floor area of the hotel.

(3)

(4) The Municipality may place a restriction on the capacity of a conference facility.

Development rules

261. (1) The Municipality shall stipulate development rules with regard to density, height, coverage, layout, building design, landscaping, parking, access and the use of buildings or land.

(2) A site development plan shall be submitted to the satisfaction of the Municipality.

(3) A landscape plan shall be prepared to the satisfaction of the Municipality.

(4) An environmental management plan shall be prepared to the satisfaction of the Municipality.

(5) The Municipality may require that a qualified landscape architect form part of the design team that prepares the site development plan, and to supervise implementation of the landscaping proposals.

(6) The Municipality may require an environmental contract to form part of any civil and building contracts for development on the property.

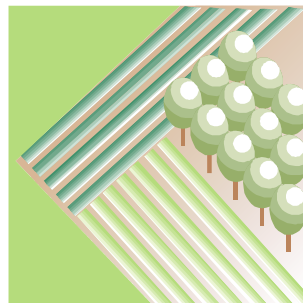
CHAPTER 29 AGRICULTURE

Designation

262. The Agriculture Zone may be referred to by the code "A" and must be indicated on a zoning map in yellow-green.

Purpose of the zone

263. The purpose of the zone is to provide for and protect agricultural activities and viable agricultural units as an important economic, environmental and cultural resource. Provision is made for non-agricultural activities, in particular tourism related activities, so as to allow for the realisation of the optimum economic potential of agricultural properties, provided that these do not have a significant impact on the agricultural resource base. Environmental management plans should be required for tourism related uses, such as 4X4 trails, as well as other uses that may in the opinion of the Municipality have a potentially significant impact on the resource base.



Land use within zone

264. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Agriculture• Occupational practice• Dwelling house• Intensive horticulture• Intensive animal farming• Dwelling unit for use by <i>bona fide</i> farm manager• Farm worker accommodation	<ul style="list-style-type: none">• Second dwelling unit• Guest accommodation• Farm shop• Farm stall• Restaurant• Tourist facilities• Riding school• Plant nursery• 4x4 trail• Commercial kennels• Aquaculture• Service industry• Rooftop base station• Transmission tower• Renewable energy structure

Additional requirements

265. (1) Notwithstanding the uses allowed, where an Agricultural Zone abuts any other zone, intensive horticulture and intensive animal farming uses are subject to the consent of the Municipality.

(2) When assessing such applications, the Municipality may require a visual impact assessment.

(3)

(4) In addition to a dwelling house, the total number of dwelling units allowed on a land unit in the Agricultural Zone, including a dwelling unit used by a *bona fide* farm manager, a second dwelling and guest accommodation, but excluding farm worker accommodation, shall not exceed 1 unit per 10 hectares, up to a maximum of 5 dwelling units.

(5)

(6) Notwithstanding the provisions of Regulation 78, guest accommodation in the Agricultural Zone may include self-catering units.

(7)

(8)

Development rules

266. (1) The following development rules apply to this zone:

Area of land unit	Maximum height	Street building line	Lateral and rear building lines
Greater than 10ha	8,0m	30m	30m
≤ 10ha and ≥1ha	8,0m	10m	10m
< 1ha	8,0m	4,0m	4,0m

(2) The total floor area of a second dwelling unit and dwelling units for farm worker accommodation shall not exceed 120m².

(3)

(4) Agricultural buildings other than dwelling units shall not exceed 10m in height and where the Municipality is satisfied that a greater height is required for the agricultural function of the building, it may permit such greater height.

(5)

(6) The total floor area of a farm shop or farm stall shall not exceed 100m².

(7)

(8) The Municipality may stipulate stipulate floor area and height limitations for other consent uses in this zone taking into account the character of the area and operational requirements of a particular use.

Minimum subdivision

267. (1) No subdivision shall be approved in this zone unless the remaining extent after subdivision is in the Municipality's opinion a viable agricultural unit. The Municipality should consult the Department of Agriculture on this matter.

(2) If it is impossible to achieve the objective of Sub-regulation (1), the remainder must be rezoned in conjunction with subdivision, and the Municipality may grant or refuse such rezoning application.

Farm worker accommodation

268. Dwelling units provided for persons engaged in genuine farming activities or retired persons previously engaged in genuine farming activities on the property, shall not be regarded as second dwellings for the purpose of these Regulations, provided that the Municipality may require reasonable documentation, such as a business plan, in support of the application for building plan approval of such dwelling units.

Service industry

269. Consent for service industry use in this zone may only be granted if the use applied for is directly related to agricultural activities reasonably associated with the area.

Environmental management

270. (1) The Municipality may require an environmental management plan as a condition of granting its consent for any of the uses indicated above.

(2) When making an application for a consent use in the Agriculture Zone, the applicant must be able to demonstrate that all applicable legislation regarding the use of water and disposal of effluent will be satisfied.

Site development plan

271. The Municipality may require that a site development plan be submitted to its satisfaction when considering an application for a consent use in this zone.

Special provisions applying to a renewable energy structure

272. The following special provisions apply to a renewable energy structure:

(1) Definitions applicable to these measures

- (a) "Appurtenant structure" means any structure or accessory necessary for, or directly associated with generation of renewable energy;
- (b) "Owner" has the same meaning as in the Land Use Planning land use by-law and LUPA, as the case may be, 1985.
- (c) "Site" means the land utilised for renewable energy structures, regardless of cadastral boundaries, and inclusive of the renewable energy structures.

(2) Development rules

- (a) Height
 - (i) A maximum height of 200m for a wind turbine, measured from the mean ground level of the footprint of each structure to the highest point of the blade.
 - (ii) The height of a structure for solar generation facilities will be technology-dependent.
 - (iii) The height of buildings is restricted to a maximum of 8,0m.
- (b) Setback
 - (i) In the case of a wind turbine, the setback required is a distance equal to 1.5 times the overall blade tip height of the turbine, measured from the nearest residential, commercial or critical agricultural structures such as animal housing, outbuildings, store rooms, but excluding structures such as water troughs, feed dispensers and windmills; the cadastral boundary of the land unit, and any public road or public right of way.
 - (ii) This setback requirement does not apply to a cadastral boundary in the case of a renewable energy site which straddles such cadastral boundary. Setbacks are required for safety reasons and may not be deviated from.

(3) Additional requirements

- (a) Site development plans
 - (i) As part of the application or as a condition of approval, a site development plan must be submitted to the competent authority and all development and building plans must be in general accordance with the approved site development plan.
 - (ii) To the extent necessary, any relevant measures contained in these Regulations must be incorporated into a site development plan.
 - (iii) Each renewable energy structure must be surveyed and coordinates of the exact delineation shown on the site development plan.
- (b) Initial measure in the case of failing
 - (i) As a condition of consent use approval, the owner must make financial provision, to the satisfaction of the competent authority, for the rehabilitation or management of negative environmental impact of decommissioning or of abandonment in the case of the owner not being financially able to fulfil any obligations in this regard.
 - (ii) If the owner fails as contemplated above, the competent authority may, after written notice to the owner, use all or part of the financial provision to rehabilitate or manage negative environmental impact or to remove the facility.
- (c) Visual and environmental impacts must be taken into account for height determination and in general, to the satisfaction of the competent authority.
- (d) Land clearing, soil erosion and habitat impact
 - (i) The clearing of natural vegetation is limited to that which is necessary for the construction, operation and maintenance of the renewable energy structure as regulated by the applicable environmental legislation.
 - (ii) Wind turbines, solar structures, access roads and other infrastructure must be located to minimise damage to natural vegetation, water courses and wetlands.
 - (iii) All land cleared and which does not form part of the footprint of a renewable energy structure, must be rehabilitated according to a rehabilitation plan for the land concerned, approved by the competent authority.
 - (iv) Soil erosion may not take place, and the rehabilitation of any high risk erosion area, to the satisfaction of the competent authority, is essential.
 - (v) The applicant must prove, to the satisfaction of the competent authority, that all impacts in respect of, and necessary distances which should be maintained from, wetlands, water bodies, threatened ecosystems, mountains, ridges, hills, coastal

- buffers, settlements, telecommunication towers, transmission towers and power lines, have been considered and accounted for.
- (vi) The exact coordinates in the above regard must be provided to determine possible environmental impacts.
- (e) With regard to noise, air quality and nuisance, the development must be compliant with regulations controlling pollution, including:
- (i) the National Environmental Management Act, 1998 (Act 107 of 1988);
 - (ii) the provincial regulations in force, and
 - (iii) municipal bylaws.
- (f) Finishing and colour
- (i) A wind turbine structure must be treated with a neutral, non-reflective colour designed to blend with the surrounding natural environment, to the satisfaction of the competent authority.
 - (ii) A solar structure may not cause any adverse effects due to its reflective nature and must be designed and erected accordingly, as required by the competent authority.
- (g) Appurtenant structures
- (i) All appurtenant structures to a renewable energy structure prescribed by the competent authority, concerning bulk, height, yard sizes, building lines, open space, parking and building coverage requirements, must be subject to regulations.
 - (ii) Appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers and substations, must be architecturally compatible with the receiving environment as required by the competent authority, and contained within a renewable energy structure site development plan as part of the approval.
 - (iii) Appurtenant structures shall only be used for the storage of equipment or other uses directly related to the operation of the particular facility.
 - (iv) Appurtenant structures must be screened from view by indigenous vegetation and/or located in an underground vault, or be joined and clustered to avoid adverse visual impacts.
- (h) Lighting
- (i) A renewable energy structure or any part thereof may only be lit for safety and operational purposes and the lighting must be appropriately screened from abutting land units.
 - (ii) The lighting requirements of the South African Civil Aviation Authority in accordance with aeroplane safety standards must be adhered to.
- (i) Signs on renewable energy structures must comply with national and local signage regulations and be limited to:
- (i) those necessary to identify the operator;
 - (ii) provide 24 hour emergency contact numbers, and
 - (iii) warning of any danger.
- (j) No commercial advertising, including in respect of the service provider and operator, may be displayed on renewable energy structures.
- (k) The owner is responsible to maintain a renewable energy structure in good condition. Maintenance must include, but is not restricted to:
- (i) painting;
 - (ii) structural repairs;
 - (iii) rehabilitation measures, and
 - (iv) the upkeep of security and safety measures.
- (l) The owner is responsible for the cost of maintaining the facility and any access road, unless deemed a public way, and for the cost of repairing any damage resulting from construction or operation.
- (m) Any modification, excluding inconsequential *in situ* technical improvements to a renewable energy structure made after approval and which is not largely in accordance

with the approval, requires authorisation from the competent authority within the parameters of these Regulations by means of:

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

(n) Decommissioning

- (i) Any renewable energy structure which has reached the end of its productive life or has been abandoned must be removed.
- (ii) When a renewable energy structure is scheduled to be commissioned or operations have been discontinued or it has been abandoned, the land owner must notify the competent authority by registered mail of the proposed or past date concerned, and of plans for removal.
- (iii) The owner is responsible for the removal of the structure in all its parts within 150 days after the date of the discontinued operation or as agreed upon by the competent authority after submission of a plan for decommissioning. The competent authority, where justifiable in its opinion, may grant extension of time for removal of the structure. The land must then be rehabilitated, to the satisfaction of the competent authority, to the condition it was in prior to the construction of the facility.
- (iv) Decommissioning must include, inter alia, the removal of all wind turbines, solar voltaic structures and appurtenant structures, including equipment, bases, foundations, security barriers and transmission lines; the disposal of all solid and hazardous waste in accordance with provincial and local waste disposal regulations, and the stabilisation and re-vegetation of the site to minimise erosion.
- (v) The competent authority may, in order to minimise erosion and disruption to natural vegetation and habitats, grant approval to the owner not to remove landscaping or underground foundations.
- (vi) If the owner fails to remove the structure or part thereof in accordance with the requirements of these Regulations within 150 days of abandonment or the date of decommissioning or an approved extension time, the competent authority may enter the property and remove the structure or parts thereof. All removal costs in such a case may be recovered from the owner.

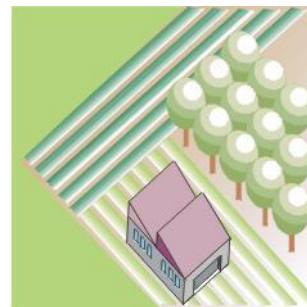
(o) A renewable energy structure shall be considered abandoned when the structure fails to continuously operate for more than one year, unless the owner can prove otherwise.

Designation

273. The Agricultural Processing Zone may be referred to by the code “AP” and must be indicated on a zoning map in yellow-green with black hatching.

Purpose of the zone

274. The purpose of the agricultural processing zone is to make provision for the processing of agricultural products on farms or portions of farms where such processing may, in the Municipality’s opinion, potentially impact negatively on the amenity of the surrounding area in terms of the size or intensity of the activity, but for reasons of efficiency these activities are best situated within an agricultural area, as opposed to an urban or industrial area. The use category “agricultural industry” has a different meaning to “agriculture” to protect the agricultural resource base and amenity of agricultural areas.

**Land use within zone**

275. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none"> • Agricultural industry • Abattoir • Rooftop base station • Transmission tower 	<ul style="list-style-type: none"> • Tourist facilities • Farm shop • Farm stall • Aquaculture

Development rules

276. (1) The following development rules apply to this zone:

Area of land unit	Street building line	Lateral and rear building lines
Greater than 10ha	30m	30m
≤ 10ha and ≥1ha	10m	10m
< 1ha	4,0m	4,0m

(2) The Municipality may stipulate floor area and maximum height limitations for buildings used for agricultural industry, an abattoir and buildings related to aquaculture, taking into account the character of the area and the operational requirements of the particular agricultural industry, abattoir or aquaculture undertaking.

(3)

(4) The total floor area of a farm shop, farm stall or tourist facilities shall not exceed 100m².

(5) The maximum height of a building housing a farm shop, farm stall or tourist facility shall not exceed 8m.

Additional conditions

277. (1) With the rezoning of land to the Agricultural Processing Zone, the Municipality may prescribe any special conditions in respect of permissible uses, parking and loading requirements, access, fencing and aesthetic treatment so that the land use will have the minimum impact on the environment.

(2) When making an application for the rezoning of land to the Agricultural Processing Zone, the applicant must be able to demonstrate that all applicable legislation regarding the use of water and disposal of effluent will be satisfied.

Site development plan

278. The Municipality may require a site development plan for any proposed development to its satisfaction.

Environmental management plan

279. The Municipality may require an environmental management plan as a condition of granting its consent for any of the uses indicated above.

Visual impact assessment

280. When considering an application for any proposed development in this zone, the Municipality to may require a visual impact assessment of the proposed development to be submitted to its satisfaction.

Rainwater harvesting

281. (1) The Municipality may require a person who applies for land to be zoned or rezoned to this zone, to undertake rainwater harvesting to the satisfaction of the Municipality.

- (2) If the Municipality imposes a condition in respect of rainwater harvesting, it:
- (a) must be satisfied with the placement of the storage facility, and
 - (b) may require the screening of such facilities to its satisfaction.

Renewable energy

282. The Municipality may require a person who applies for land to be zoned or rezoned to this zone, to use renewable energy sources in the development of the property, such as solar water heating, or to install devices designed to conserve energy in the development of the property to the satisfaction of the Municipality.

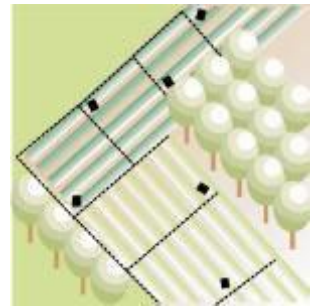
CHAPTER 31 SMALLHOLDING

Designation

283. The Smallholding Zone may be referred to by the code “SH” and must be indicated on a zoning map in light-green.

Purpose of the zone

284. The purpose of the zone is to accommodate larger residential properties which may be used for limited agriculture, but primarily serve as places of residence for people who seek a rural lifestyle. Such properties often occur close to towns and villages, and should only occur within a demarcated urban edge. Development of this type should conform to provincial policy on the establishment of agricultural smallholdings in the urban fringe.



Land use within zone

285. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Agriculture• Dwelling house• Second dwelling unit• Occupational practice	<ul style="list-style-type: none">• Guest accommodation• Tourist facilities• Riding school• Plant nursery• Intensive horticulture• Commercial kennels• Service industry

Development Rules

286. (1) The following development rules apply to this zone:

Total coverage	Maximum height	Street building line	Lateral and rear building lines
30%	8,0m	10m	10m

(2) Any new subdivision or any remainder to be zoned Smallholding, shall make use of municipal water distribution and sewerage services.

Minimum subdivision size

287. (1) Land units or any remainder zoned Smallholding shall be at least 3,0ha in extent if no minimum subdivision size is specified on the zoning map or spatial development framework, or

(2) the specified minimum size if the zoning map or spatial development framework specifies a minimum subdivision size for a land unit in this zone.

Screening

288. The Municipality may require any part of the land unit that is used for storage or the loading of goods, to be enclosed with a brick or concrete screen wall, or any other form of screening to the satisfaction of the Municipality.

Site development plans

289. The Municipality may require that a site development plan be submitted to its satisfaction when considering an application for a consent use in this zone.

Visual impact assessment

290. When considering an application for any proposed development in this zone, the Municipality to may require a visual impact assessment of the proposed development to be submitted to its satisfaction.

Rainwater harvesting

291. (1) The Municipality may require a person who applies for land to be zoned or rezoned to this zone, to undertake rainwater harvesting to the satisfaction of the Municipality.

- (2) If the Municipality imposes a condition in respect of rainwater harvesting, it:
- (a) must be satisfied with the placement of the storage facility, and
 - (b) may require the screening of such facilities to its satisfaction.

Renewable energy

292. The Municipality may require a person who applies for land to be zoned or rezoned to this zone, to use renewable energy sources in the development of the property, such as solar water heating, or to install devices designed to conserve energy in the development of the property to the satisfaction of the Municipality.

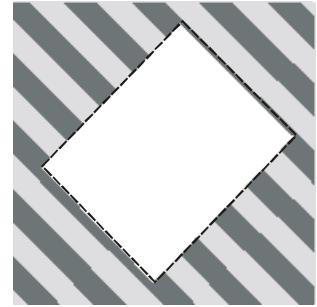
CHAPTER 32 UNDETERMINED

Designation

293. The Undetermined Zone may be referred to by the code “U” and must be indicated on a zoning map in blue-green.

Purpose of the zone

294. The purpose of this zone is to enable the Municipality to defer a decision regarding a specific land use and development rules until the circumstances affecting the land unit have been properly investigated; or until the owner of the land makes an application for rezoning; or a zoning determination is made by Municipality.



Land use within zone

295. The following use restrictions apply to property in this zone:

- (a) No primary uses apply in this zone, provided that it shall not preclude the owner of the property to carrying on any lawful utilisation on the land, which commenced before the date of commencement of these Regulations.
- (b) No consent uses apply in this zone.

Development rules

296. No new development shall be permitted on any land portion in this zone.

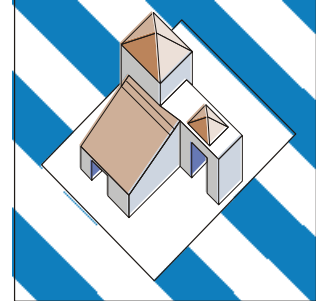
CHAPTER 33 SPECIAL

Designation

297. The Special Zone may be referred to by the code “SP” and must be indicated on a zoning map in olive green.

Purpose of the zone

298. The objective of this zone is to provide for circumstances where special or unique factors justify the creation of specific development rules for a specific site or sites without justifying the creation of a new zone in these Regulations. In addition it provides an opportunity to introduce collaboration between the Municipality and the owner/developer in the development process. It allows for unforeseen or special circumstances where it is not possible to accommodate the use or activity in an existing use zone, and it allows for innovative design, architectural styles, building forms and site layout.



Land use within zone

299. The following uses are allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none">• Special usage	<ul style="list-style-type: none">• Any use specified by the Municipality• Rooftop base station• Transmission tower

Development rules

300. (1) The Municipality may, at its discretion, employ one of the following methods of development management in this zone:

- (a) Special development rules may be determined by the Municipality and described as a separate Special Zone in an annexure to these Regulations. This method is known as the Special Zone Annexure.
- (b) The development rules may also be determined by the Municipality, by means of a site development plan. This method is known as the Special Zone Site Development Plan.
- (c) The Municipality may combine both the Special Zone Annexure method and the Special Zone Site Development Plan method.

(3)

(2) Once a land unit has been zoned Special, Special Zone Annexures and Special Zone Site Development Plans may be adopted or amended by the Municipality in terms of a Municipal resolution, and do not require the formal amendment of these Regulations.

(3) When the Municipality employs the Special Zone Annexure method of development management, it shall identify the area concerned on the zoning map by way of a separate number, and shall stipulate the development land use restrictions for that area as a separate Special Zone in an annexure to these Regulations.

(4)

(5) Each Special Zone where the land use restrictions differ from those of another Special Zone, shall be given a separate number, and each number with the accompanying development rules, shall be described as a separate Special Zone in the annexure to these Regulations.

(6)

(7) Where the Municipality employs the Site Development Plan method of development management, it shall require a site development plan to be submitted to its satisfaction.

(8)

(9) The reference number of a site development plan approved by the Municipality shall be recorded in the register.

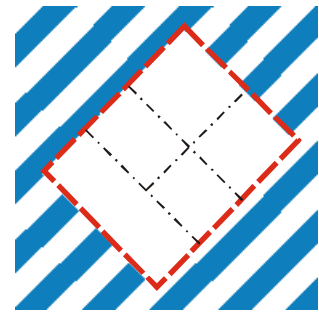
CHAPTER 34 SUB-DIVISIONAL AREA

Designation

301. The Subdivisional Area Zone may be referred to by the code “SA” and must be indicated on a zoning map with a purple outline.

Purpose of the zone

302. The objective of this zone is to designate land where future subdivision and development rights are granted in terms of the land use by-law and LUPA, as the case may be subject to conditions including the submission of a detailed subdivision application.



Development rules

303. (1) The zoning of the land unit as Subdivisional Area, shall not exempt an owner from compliance with the provisions of relevant planning laws that govern the subdivision of land.

(2) The density requirement and other conditions that are laid down at the time of approval of the rezoning to Subdivisional Area shall apply.

(3) Such conditions may include, but are not limited to, requirements for a development framework, environmental management plans, traffic impact assessments, landscape master plans, precinct plans or site development plans.

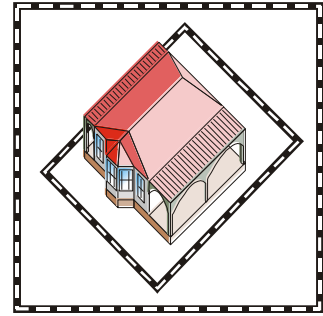
(4) At the confirmation of a subdivision for land which has been zoned as Subdivisional Area, the zoning parameters approved by the Municipality as part of the subdivision approval shall be deemed to be a substitution scheme.

Designation

304. The Heritage Conservation Overlay Zone may be referred to by the code “HCO” and must be indicated on a zoning map with a brown dash outline.

Purpose of the zone

305. The heritage conservation overlay provides for the protection of the heritage resources in specific areas in the Cape Agulhas Municipality. As such the overlay zone is not so much concerned with the use of land, but the impact of land use changes, or any construction work, landscaping or any other action on conservation-worthy resources such as historic buildings or streetscapes. The overlay zone provides for the regulation and management of such changes.



Designation of a heritage conservation overlay area

306. The Municipality may designate an area of exceptional historic interest, architectural significance or conservation worthy aesthetic or cultural value as a heritage conservation area.

Guidelines for heritage conservation areas

307. The Municipality may prepare guidelines for a heritage conservation area, which indicates acceptable architectural form and treatment of existing and new development in such areas, urban design and landscaping measures, and the treatment and protection of streetscapes and vistas.

Development rules

308. (1) No demolition of or alterations to any buildings, fencing, landscaping, public spaces and streetscapes located in a heritage conservation area may be undertaken without the prior consent of the Municipality.

(2) The Municipality may require a heritage impact assessment and a site development plan in addition to building plans when considering any application within a heritage conservation area.

(3) The Municipality shall take into account any such guidelines as prepared in terms of Regulation 307 above when considering its consent for any application in a heritage conservation area.

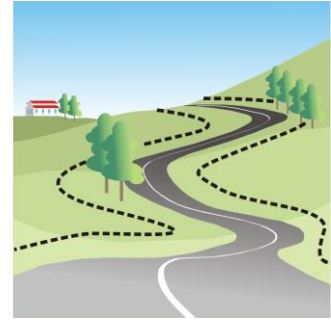
Advisory committee

309. (1) The Municipality may convene an advisory committee to consider any applications in heritage conservation areas, and make recommendations to the Municipality with regard to such applications.

(2) Such an advisory committee may consist of conservation architects in private practice on a rotational basis, heritage specialists on a rotational basis, representatives of other heritage authorities, members of the community and officials from the Cape Agulhas Municipality.

Designation

310. The Scenic Drive Overlay Zone may be referred to by the code “SDO” and must be indicated on a zoning map with a green dash outline.



Purpose of the zone

311. The purpose of the Scenic Drive Overlay Zone is to protect, conserve and enhance the scenic resources adjacent to important tourist and transport routes. The visual amenity of specific routes in the Cape Agulhas Municipality is a significant resource that should be protected in order to ensure the quality of the environment as a whole, as well as promote the tourism and recreational potential of the Municipal area. It is therefore important that development, in particular along tourist routes, be managed to prevent development that may detract from the natural beauty of the landscape or cultural significance of the built environment. This zone is directed at protecting views of scenic beauty alongside designated roads, while at the same time allowing reasonable development to occur. The Scenic Drive Overlay Zone should therefore ensure that new development is managed in a sensitive manner so that important views from the scenic drive are not impaired.

Designation of a scenic drive overlay area

312. The Municipality:

- (a) may designate a public street or portion of a public street to be a Scenic Drive;
- (b) may determine the scenic drive corridor associated with the Scenic Drive, and
- (c) shall record all Scenic Drive designations.

Management provisions for scenic drive areas

313. (1) The Municipality may, at its discretion, employ one of the following methods of development management in a Scenic Drive Overlay Zone:

- (a) specific development rules may be adopted for particular scenic drive corridors or portions of scenic drive corridors, or
- (b) in an area where no specific development rules have been adopted, the Municipality may apply the general provisions stipulated in this Section of these Regulations.

(2) The Municipality may require that a site development plan be submitted to its satisfaction in terms of Regulation 26 for all new development within the Scenic Drive Overlay Zone, and in addition to the standard requirements, the site development plan should identify but not be limited to:

- (a) the nature of the scenic amenity of the property;
- (b) the particular views that need to be preserved and enhanced;
- (c) the location, nature and form of the development, and
- (d) compliance with the provisions of this Overlay Zone.

(3) The Municipality shall take into consideration the relevant development rules adopted in terms of Sub-regulation 313(1)(a) before approving any site development plan.

Development rules

314. The following principles apply to the placement of buildings:

- (a) buildings and structures shall be sited so as to limit alteration of the natural topography, land forms, tree removal and earthworks;
- (b) buildings shall be designed to blend with the natural setting, or if applicable the cultural setting;
- (c) buildings shall be located to retain existing panoramic and scenic views as seen from the scenic drive.

Height

315. The following provisions apply to the height of buildings in relation to scenic amenity and views:

- (a) on the down-slope side of a scenic drive, no portion of a building or structure shall project to a height above the footway in the public street, unless the Municipality grants its approval on the basis that:
 - (i) exceptional circumstances exist which directly affect the land, building or use concerned;
 - (ii) the building design is of a unique character or landmark as seen from the scenic drive; or
 - (iii) they deem that circumstances exist which make it impossible to erect a building on the land unit, without such projection;
- (b) on the up-slope side of a scenic drive, no portion of a building shall project so as to impair the view of the top of a ridge, hill or mountain, identified as significant by the Municipality, when viewed from a point 1,0m above the centreline of the scenic drive at a position or positions determined by the Municipality;
- (c) building heights must, in the Municipality's opinion, be compatible with existing development and avoid creating sharp contrasts with neighbouring structures or with the landscape;
- (d) all plumbing, rooftop equipment, air conditioning units, elevator shafts, and other mechanical equipment shall be screened from view as seen from the scenic drive.

Buffer areas

316. The following provisions apply to the creation of buffer areas alongside a scenic drive:

- (a) Buffer areas shall be provided along any street boundary which abuts a scenic drive, and the width of the buffer areas shall not be less than:
 - (i) 5,0m in urban areas,
 - (ii) 10m in suburban areas,
 - (iii) 30m in rural areas;provided that the Municipality shall determine which is an urban, suburban or rural area;
- (b) Within the buffer area:
 - (i) no parking is permitted unless the floor or ground level of such parking is at least 2,0m below the level of the footway of the scenic driveway concerned;
 - (ii) any portion of a fence or wall which exceeds 1,2 m in height shall be constructed of open work which allows visual permeability to the satisfaction of the Municipality;
 - (iii) berms and soft landscaping may be used to provide privacy and screening, provided that important views and the scenic amenity of the scenic drive are not, in the Municipality's opinion, adversely affected.

Parking areas

317. The following provisions apply to the establishment of parking areas alongside a scenic route:

- (a) for land uses requiring large amounts of parking, the Municipality may require that parking areas are broken up into smaller units not exceeding 50 parking bays per area, resulting in a series of smaller parking areas;
- (b) loading bays, refuse rooms and unsightly accessory equipment shall be located in such a manner as to be screened from view from the scenic drive;
- (c) all surface parking areas visible from the scenic drive shall include at least one tree for every six parking bays, and such trees shall be located so as to help screen parked vehicles, and
- (d) where possible indigenous species of trees shall be used to the satisfaction of the Municipality.

Land alongside a scenic drive

318. The following landscaping requirements apply to property alongside a scenic drive:

- (a) plants, shrubs and trees shall be selected to fit in with the predominant landscape character of the area, with the emphasis on indigenous, low maintenance species or locally appropriate species;
- (b) significant natural features shall be preserved and the development on a land unit shall respect ridgelines, gullies, streams, wetlands, rocky outcrops, endangered species and trees worthy of conservation;
- (c) where existing trees or shrubs have to be removed, an equivalent number of trees or shrubs shall be replanted on the land unit and the type of plants to be replanted shall be compatible with the surrounding vegetation and micro-climatic conditions to the satisfaction of the Municipality; provided that where possible indigenous species should be used.

Exterior lighting

319. The following requirements apply to exterior lighting on property alongside a scenic drive:

- (a) all exterior lighting shall be located and controlled so as to avoid direct illumination, glare or reflection onto any adjoining property or scenic drive;
- (b) all non-residential exterior lighting shall be turned off during non-business hours, except lighting deemed necessary for public safety or for security on the land unit, to the satisfaction of the Municipality.

Earthworks

320. The following requirements apply to grading and earthworks on property alongside a scenic drive:

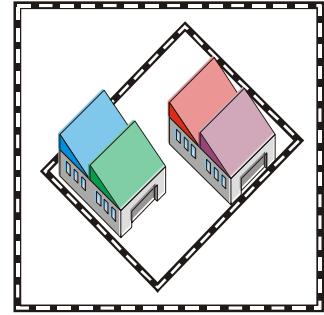
- (a) grading shall be permitted only to the extent necessary to construct buildings and access roads, and shall not adversely affect views from the scenic drive;
- (b) graded slopes shall be rounded to blend with the existing topography, to fit in with the natural contours of the land, and to establish a transition between constructed and existing slopes;
- (c) the natural surface drainage system shall be maintained;
- (d) cut and fill surfaces shall be stabilised by the planting of low maintenance indigenous or locally appropriate ground cover and shrubs.

Designation

321. The Urban Renewal Overlay Zone may be referred to by the code “URO” and must be indicated on a zoning map with a blue dash outline.

Purpose of the zone

322. The purpose of the zone is to provide for development incentives so as to encourage investment in specific areas in the Cape Agulhas Municipality in accordance with the Integrated Development Plan, Spatial Development Framework, or any other Municipal policy. The overlay zone allows for the introduction of a variety of incentives to promote investment and development.



Designation of an urban renewal overlay area

323. (1) The Municipality may designate an area or areas as an Urban Renewal Overlay area and indicate such areas on the zoning map.

(2) When designating an area as an Urban Renewal Overlay area, the Municipality, must consider:

- (a) the provisions of the Integrated Development Plan and/or Spatial Development Framework, or any other Municipal policy, and
- (b) the likely impact of the declaration of such a zone on surrounding areas.

Land use within zone

324. The overlay zone does not impact on the uses permitted in the underlying zone.

Development rules

325. The development rules specified in the underlying zone, may be relaxed within the overlay zone as an incentive to development and investment.

Types of incentives

326. When designating an Urban Renewal Overlay Zone, the Municipality may formulate incentives and policies related to, but not limited to, the following:

- (a) property tax rebates;
- (b) development rules as specified in the underlying zones;
- (c) contributions towards municipal service provision;
- (d) improved cleansing and management of the area, and
- (e) improved landscaping and public spaces.

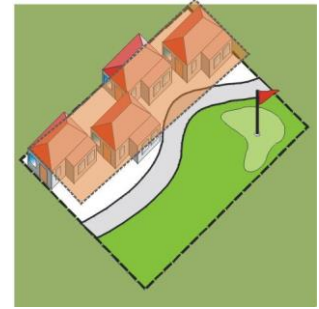
Designation

327. The Urban Edge Overlay Zone may be referred to by the code “UEO” and must be indicated on a zoning map with a red dash outline.

Purpose of the zone

328. The purpose of this zone is:

- (a) to demarcate the outer edge of urban areas in order to contain urban sprawl, promote densification within urban areas and to allow for the application of different development rules in relation to rural and conservation areas beyond the urban edge;
- (b) to ensure a sensitive transition between urban areas and rural or conservation areas, and
- (c) to protect valuable natural, agricultural and rural landscapes and resources adjacent to urban development.



Components of the Urban Edge Overlay Zone

329. The Urban Edge Overlay zone:

- (a) must incorporate a demarcated line, being the urban edge that defines the outer limits of urban development;
- (b) may designate management areas, on either one or both sides of the urban edge, including designation of one or more areas:
 - (i) within the urban edge that are adjacent to existing or planned urban development and associated facilities as an urban transition sector, and
 - (ii) beyond the urban edge as a non-urban sector, and
- (c) may define different land management objectives and development rules in respect of each management area.

Development rules

330. (1) Any person who makes an application under these Regulations or the land use by-law and LUPA, as the case may be to develop a site within this zone must submit a site development plan.

(2) The Municipality may, when demarcating an urban edge, determine development rules that are applicable to the Urban Edge Overlay Zone or to areas within the zone, such rules may include, but are not limited to, rules intended:

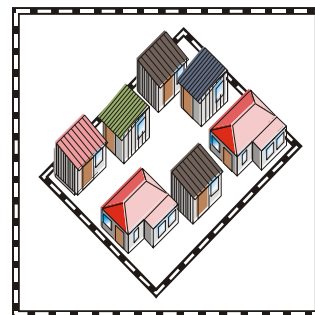
- (a) to increase density within urban areas and reduce density outside the urban edge;
 - (b) to reduce the visual impact of development along the urban edge;
 - (c) to reduce the risk of fire;
 - (d) to protect natural vegetation, areas of cultural or environmental importance and ecological corridor, and
 - (e) to protect agricultural land.
- (3)

Designation

331. The Intermediate Housing Overlay Zone may be referred to by the code “IHO” and must be indicated on a zoning map with a yellow dash outline.

Purpose of the zone

332. The Intermediate Housing Overlay Zone recognises the reality that many of the residents of the Cape Agulhas Municipality do not live in permanent housing structures and that this situation is likely to persist for the foreseeable future, until housing delivery has caught up with demand for housing. The zone provides for areas designated by the Municipality where informal housing structures will be allowed, with a view to formalising such areas over time. As such housing becomes formalised the overlay zone will no longer be applicable, but the zoning will now relate to the permanent use of the land.

**Designation of an intermediate housing overlay area**

333. (1) The Municipality may designate an area or areas as an Intermediate Housing Overlay area and indicate such areas on the zoning map.

- (2) When designating an area as an Intermediate Housing Overlay Zone the Municipality, must consider:
- the provisions of the underlying zone;
 - the provisions of the Less Formal Townships Establishment Act, 1991 (Act 113 of 1991);
 - the provisions of the Integrated Development Framework, Spatial Development Framework or any other relevant policy;
 - the impact of the proposed area on surrounding areas;
 - any relevant policies such as an urban edge policy;
 - the availability of services;
 - geo-technical stability of the land;
 - any surface run-off that may affect the land;
 - environmental issues,
 - the proximity of socio-economic opportunities, and
 - the ability to serve the area with public transport.

Land use within zone

334. Notwithstanding the provisions of the underlying zone the following uses shall be allowed in this zone:

Primary uses	Consent uses
<ul style="list-style-type: none"> • Dwelling house • Second dwelling unit • Occupational practice • House shop • Shelter 	<ul style="list-style-type: none"> • Guest accommodation • House tavern • Day care centre • Place of instruction

Development rules

335. The following development rules shall apply to buildings in this zone:

Maximum coverage	Maximum height	Street building line	Lateral building lines	Rear building lines
80%	8,0m from the highest point of the natural ground level immediately adjacent to the building provided that the building may at no point exceed 10m when measured from the natural ground level immediately adjacent to that point.	1,0m	If the Municipality is satisfied that adequate fire protection measures exist, a land unit may have a zero lateral building line on one lateral boundary, provided there is at least a 1,0m lateral building line on the other lateral boundary, and that the combined distance between two structures on adjacent erven amounts to 2,0m. If, in the Municipality's opinion, there are inadequate fire protection measures on the land unit, the lateral building line shall be at least 1,0m from both lateral boundaries.	The rear building line is 1m, provided further that if a mid-block sewerage system is installed, a rear building line of 2,0m may be imposed by the Municipality.

Parking and access

336. Parking shall be provided in this zone in accordance with the following table:

Use of land or building	Parking standard
Shelter	No parking required
Dwelling house, second dwelling unit, occupational practice, guest accommodation, house tavern	One parking bay if required by the Municipality
Place of instruction, place of worship, house shop	As required by the Municipality

CHAPTER 40 LOCAL AREA OVERLAY ZONE

Designation

337. The Local Area Overlay Zone may be referred to by the code “LAO” and must be indicated on a zoning map with a black dash outline.

Purpose

338. The purpose of the Local Area Overlay Zone is to provide the opportunity for communities to determine specific local development management provisions to reflect local circumstances. It is recognised that different communities may have different requirements, and that local area identities add to the diversity and richness of the urban and social fabric. The Local Area Overlay Zone also provides the Municipality with the opportunity to determine specific local development management provisions to encourage development in support of the local economy.



Development Rules

339. The development rules contained in the Local Area Overlay Zone may vary between local areas and may include, but are not limited to, the following issues:

- (a) requirements for the minimum size of new subdivisions in order to preserve the character of an area;
- (b) limitations on the maximum permissible density or maximum permissible floor space of new development in order to preserve the character of an area or to optimise the capacity of utility services;
- (c) requirements for a minimum density or minimum permissible floor space of new development in order to promote efficiency or higher density development;
- (d) specifications for boundary walls and fences in order to preserve the character of an area, and to maintain a visual relationship between the street and adjacent development;
- (e) limitations on the maximum height of buildings in order to preserve the character of an area, protect important views or maintain an appropriate scale of development;
- (f) architectural design guidelines required for new development in order to promote good design, to harmonise new development with existing development and to promote the special architectural character of an area;
- (g) limitations on the Municipality's discretion to grant specified consent applications within the local area to ensure that such consent uses do not occur within the local area concerned;
- (h) deemed approval for consent uses in order to permit such uses without requiring a separate application in terms of these Regulations;
- (i) policy guidelines and requirements for the approval of consents and conditions to be imposed by the Municipality;
- (j) policy regarding specific activities to be allowed such as the keeping of animals, and
- (k) limitations and design guidelines for outdoor advertisements within a local area.

PART SIX: SUB-DIVISION

CHAPTER 41 SUB-DIVISION OF LAND

Subdivision applications

340. The Municipality may grant or refuse an application for the subdivision of a land unit in accordance with the land use by-law and LUPA, as the case may be subject to conditions, which include any conditions imposed in terms of a Subdivisional Area zoning.

Granting of subdivision

341. The Municipality shall not grant a new subdivision unless it is satisfied that, for each land unit created, there is adequate and lawful means of:

- (a) access to and from a public street;
- (b) water supply, if required, and
- (c) sewage disposal, if required.

Refusal of subdivision

342. (1) The Municipality shall not grant an application for the subdivision of a land unit that is protected or provisionally protected under Section 29 of the National Heritage Resources Act, 1999 (Act 25 of 1999).

(2) Where the Municipality issued the protection notice, it shall not withdraw the protection and grant the subdivision without first considering a heritage impact assessment report which meets the minimum requirements set out in Section 38(3) of the National Heritage Resources Act, 1999 (Act 25 of 1999).

Minimum subdivision size

343. The zoning map may designate areas where a minimum subdivision size is specified for a land unit, in which case the net erf area of a new subdivision and any remainder, shall not be less than the minimum size specified.

Subdivision permitting attached dwelling units

344. Subsequent to the granting of a subdivision permitting two or more adjoining land units with attached dwelling units to be held under separate title, the owners shall:

- (a) maintain such part of any retaining wall, roof, pipe, gutter, wiring or other structure that is common to the adjoining land units or attached dwelling units;
- (b) maintain every part of such wall, roof, pipe, gutter, wiring, or other structure which is on or traverses such land units or attached dwelling units;
- (c) permit access to such land units or dwelling units for the purposes of maintaining, repairing, renewing or altering of any wall, roof, pipe, gutter, wiring or any other structure;
- (d) not make any alterations to or demolish any part of the buildings erected on such land units, including boundary walls and fences, or change the exterior colour scheme or materials of such buildings, without the consent of the Municipality.

Utility services

345. Subsequent to the granting of a subdivision, the owner of any land unit must, without compensation allow:

- (a) gas mains, electricity, telephone and television cables, water pipes, foul sewers, storm water pipes, ditches and channels from any other land unit or land units to be conveyed across the land unit concerned,
- (b) installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if considered necessary by the Municipality, in such manner and position as may from time to time be reasonably required, and
- (c) must allow right of access to the land unit at any reasonable time for the purpose of the construction, removal or inspection of any works connected with the above.

Bank stability

346. Subsequent to the granting of a subdivision, the owner of any land unit:

- (a) must, without compensation, receive such material or permit such excavation on the land unit as may be required to allow the 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, or
- (b) may elect to build retaining walls to the satisfaction of, and within a period to be determined by the Municipality.

Application of development rules to consolidated land units

347. When two or more individual land units are consolidated, the boundaries of the consolidated land unit shall for the purposes of administering these Regulations, be the new cadastral boundaries as shown on an approved land survey diagram. Former building lines, coverage and other provisions which previously applied to individual land units, shall not remain in force over those former land units, but shall apply to the consolidated land unit in accordance with these Regulations. If two or more pieces of land has separate zonings, the former cadastral boundaries will apply to determine the boundary between the zonings.

Additional development rules

348. The Municipality may impose additional development rules where two or more individual land units are combined to form a consolidated land unit, and the Municipality receives a pre-application enquiry or building plan application which would, in its opinion:

- (a) substantially alter the character of the area, with negative consequences, as a direct result of the size of the consolidated land unit, and
- (b) include a larger surface area of building, larger massing of structure, or reduction of space between built elements, than would have been possible prior to consolidation due to the building lines, floor space or coverage provisions that formerly applied to the individual land units in terms of these Regulations.


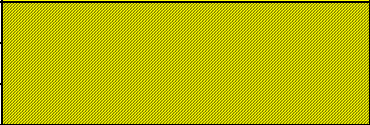








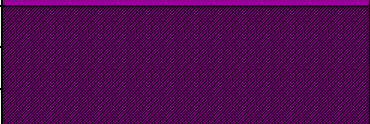
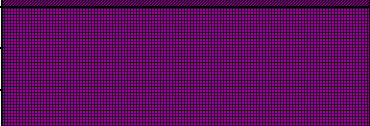
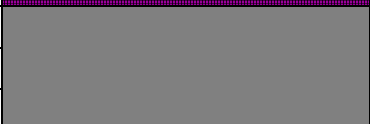

Application of additional development rules

349. The additional development rules referred to above may:








- (a) relate to the massing, spacing and position of buildings on the consolidated land unit, and
- (b) be more restrictive than the development rules that would normally apply to the consolidated land unit in terms of these Regulations, but
- (c) not be more restrictive than the development rules which applied to the former individual land units, prior to consolidation, unless the land is rezoned.

ANNEXURE A

NOTATIONS OF ZONINGS FOR LAND UNITS ON THE ZONING MAP

Zoning	Description	RGB Code	Colour Notation
Single Residential	Yellow	R: 255	
		G: 255	
		B: 0	
Medium Density Residential	Yellow with black hatching	R: 255	
		G: 255	
		B: 0	
High Density Residential	Orange	R: 236	
		G: 113	
		B: 20	
Estate Housing	Orange with black hatching	R: 249	
		G: 65	
		B: 7	
Incremental Housing	Mustard yellow	R: 218	
		G: 152	
		B: 20	
Business	Blue	R: 0	
		G: 176	
		B: 240	
Local Business	Blue with black hatching	R: 0	
		G: 176	
		B: 240	
Service Business	Blue-purple	R: 68	
		G: 23	
		B: 233	
Service Station	Blue-purple with grey hatching	R: 68	
		G: 23	
		B: 233	
Industry	Red-purple	R: 153	
		G: 0	
		B: 153	
Noxious Industry	Red-purple with black hatching	R: 153	
		G: 0	
		B: 153	
Mining	Red-purple with black cross-line hatching	R: 153	
		G: 0	
		B: 153	
Civic and Social	Grey	R: 128	
		G: 128	
		B: 128	
Authority Usage	Red	R: 255	
		G: 0	
		B: 0	

Transport Usage	Dark-brown	R: 122	
		G: 60	
		B: 40	
Streets	Light-brown	R: 175	
		G:70	
		B: 5	
Parking	Light-brown with black hatching	R: 175	
		G:70	
		B: 5	
Nature Conservation Area	Dark-green with black hatching	R: 3	
		G: 101	
		B: 22	
Open Space	Dark-green	R: 3	
		G: 101	
		B: 22	
Resort	Pink	R: 255	
		G: 102	
		B: 255	
Agriculture	Yellow-green	R: 147	
		G: 176	
		B: 4	
Agricultural Processing	Yellow-green with black hatching	R: 147	
		G: 176	
		B: 4	
Smallholding	Light-green	R: 100	
		G: 215	
		B: 91	
Undetermined	Blue-green	R: 36	
		G: 168	
		B: 80	
Special	Olive green	R: 90	
		G: 112	
		B: 46	

Subdivisional Area	Purple outline	R: 112	
		G: 48	
		B: 160	
Heritage Conservation Overlay	Brown dash outline	R: 121	
		G: 57	
		B: 5	
Scenic Drive Overlay	Green dash outline	R: 4	
		G: 172	
		B: 24	
Urban Renewal Overlay	Blue dash outline	R: 0	
		G: 112	
		B: 192	
Urban Edge Overly	Red dash outline	R: 255	
		G: 0	
		B: 0	
Intermediate Housing Overlay	Yellow dash outline	R: 255	
		G: 255	
		B: 0	
Local Area Overlay	Black dash outline	R: 0	
		G: 0	
		B: 0	

ANNEXURE B

LIST OF SPECIAL ZONE ANNEXURES IN TERMS OF CHAPTER 33

NAME OF THE SPECIAL ZONE	ANNEXURE NUMBER FOR SPECIAL ZONE REGULATIONS (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)

ANNEXURE C

LIST OF HERITAGE AREA OVERLAY ZONE ANNEXURES IN TERMS OF CHAPTER 35

NAME OF THE HERITAGE AREA OVERLAY ZONE	ANNEXURE NUMBER FOR HERITAGE AREA S (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)

ANNEXURE D

LIST OF SCENIC DRIVE OVERLAY ZONE ANNEXURES IN TERMS OF CHAPTER 36

NAME OF THE SCENIC DRIVE OVERLAY ZONE	ANNEXURE NUMBER FOR SCENIC DRIVE OVERLAY ZONE REGULATIONS (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)

ANNEXURE E

LIST OF URBAN RENEWAL OVERLAY ZONE ANNEXURES IN TERMS OF CHAPTER 37

NAME OF THE URBAN RENEWAL OVERLAY ZONE	ANNEXURE NUMBER FOR URBAN RENEWAL OVERLAY ZONE REGULATIONS (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)

ANNEXURE F

LIST OF URBAN EDGE OVERLAY ZONE ANNEXURES IN TERMS OF CHAPTER 38

NAME OF THE URBAN EDGE OVERLAY ZONE	ANNEXURE NUMBER FOR URBAN EDGE OVERLAY ZONE REGULATIONS (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)

ANNEXURE G

LIST OF INTERMEDIATE HOUSING OVERLAY ZONE ANNEXURES IN TERMS OF CHAPTER 39

NAME OF THE INTERMEDIATE HOUSING OVERLAY ZONE	ANNEXURE NUMBER FOR INTERMEDIATE HOUSING OVERLAY ZONE REGULATIONS (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)

ANNEXURE H

LIST OF LOCAL AREA OVERLAY ZONE ANNEXURES IN TERMS OF CHAPTER 40

NAME OF THE LOCAL AREA OVERLAY ZONE	ANNEXURE NUMBER FOR LCOAL AREA OVERLAY ZONE REGULATIONS (IF APPLICABLE)	REFERENCE NUMBER (IF APPLICABLE)
Napier Local Area Overlay Zone	G	OZ1-N/LA

ANNEXURE G: NAPIER LOCAL AREA OVERLAY ZONE – OZ1- N/LA

1. Notwithstanding the fact that a particular land use was allocated to particular areas in terms of this Zoning Scheme, this overlay allows for the control of development and use through special development rules, irrespective of the normal development rules prescribed elsewhere in the Zoning Scheme within the area designated as the Napier Local Area Overlay Zone.

Purpose of the Napier Local Area Overlay Zone

2. The purpose of this overlay zone is to:
 - (i) protect the unique rural character of the town;
 - (ii) protect the unique settlement pattern and townscape that has evolved over time, and
 - (iii) allow for uses that would be appropriate to Napier and beneficial to the local economy, but not necessarily appropriate elsewhere within the Cape Agulhas Municipality.

Development Rules

3. Notwithstanding restrictions prescribed elsewhere in the Zoning Scheme, animals may be kept within the area designated as the Napier Local Area Overlay Zone as follows:

(2) Designated areas	(3) Animals
(4) Commonage & smallholdings	(5) Cattle, sheep, pigs, goats, horses, donkeys, poultry and birds and any other animals as may regarded appropriate by the Municipality.
Bo-Dorp from Almond Street eastwards, and between Reservior and Sarel Cilliers Streets, including the erven on the northern side of Sarel Cilliers Street, and (6) Tamatiekraal: the area between Sarel Celliers Street and Eskom Street, which is the area on both sides of the Klippedrift River	(7) All of the above excluding pigs
Remainder of the Napier LAO area	(8) Poultry and birds

4. The Municipality may prescribe, for appropriate management and control purposes, additional regulations with regard to, but not restricted to:
 - (i) the number of animals that may be kept per square meter area;
 - (ii) health regulations for animals, and
 - (iii) rights of animals to have appropriate nutrition, shelter, space, and nurturing.
5. Notwithstanding restrictions prescribed elsewhere in the Zoning Scheme, urban agriculture may be practiced within the area designated as the Napier Local Area Overlay Zone, provided that the Municipality may prescribe additional regulations with regard to but not restricted to:
 - (i) the use of pesticides and organic fertilizers, and
 - (ii) the storage of implements and produce.
6. With regard to the preservation of the historical character of the town, the Municipality may with the assistance of heritage specialists and in consultation with the local community formulate additional development rules concerning, but not restricted to the aspects listed below. The purpose of such development rules should be to retain the remaining conservation-worthy fabric and to control new development so as not to detract from the natural, historic and architectural character of the town.
 - (i) the street elevation of buildings;
 - (ii) building lines;
 - (iii) the provision of parking on sites;
 - (iv) the height of buildings;
 - (v) alterations to and maintenance of existing buildings;
 - (vi) the external appearance of buildings, including finishes;
 - (vii) coverage of buildings;
 - (viii) the preservation of trees;
 - (ix) landscaping;

- (x) the subdivision of properties;
- (xi) garden walls and fences;
- (xii) irrigation furrows;
- (xiii) street lights;
- (xiv) street furniture, and
- (xv) the display of advertisements and signposts.

7. The Municipality may initiate the formation of a special advisory committee or committees with representation from the local community, and specialists in the relevant fields to advise it with regard to:
- (i) the formulation of regulations regarding the keeping of animals;
 - (ii) the formulation of regulations regarding practice of urban agriculture, and
 - (iii) the formulation of regulations and guidelines regarding the preservation of the rural character of the town and the assessment of any development applications within the Napier Local Area.
- (2)
- (3)
- (4)