

***BUFFALO CITY  
ZONING SCHEME REGULATIONS***

**AUGUST 2007**

**BUFFALO CITY**

**ZONING SCHEME REGULATIONS IN TERMS  
OF SECTION 9(2) OF THE LAND USE PLANNING ORDINANCE, 1985  
(ORDINANCE NO. 15 OF 1985)(CAPE)**

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**CONTENTS**

	<b>Page</b>
<b>1.1 PREAMBLE</b>	<b>5</b>
<b>1.2 GENERAL</b>	<b>6</b>
<b>1.3 DEFINITIONS</b>	<b>8</b>
<b>2.0 LAND USE</b>	<b>23</b>
<b>2.1 AREA OF ZONING SCHEME</b>	<b>23</b>
<b>2.2 ZONING ACCORDING TO UTILISATION</b>	<b>23</b>
<b>2.3 COMPONENTS OF THE ZONING SCHEME</b>	<b>23</b>
<b>2.4 ZONING OF LAND IN SPECIFIED USE ZONES</b>	<b>23</b>
<b>TABLE A</b>	<b>24</b>
<b>2.5 ERECTION OF BUILDINGS AND UTILISATION OF LAND IN SPECIFIED USE ZONES</b>	<b>26</b>
<b>3.0 PLANNING CONTROL</b>	<b>27</b>
<b>3.1 AGRICULTURAL ZONE</b>	<b>27</b>
<b>3.2 RESIDENTIAL ZONE I</b>	<b>29</b>
<b>3.3 RESIDENTIAL ZONE II</b>	<b>30</b>
<b>3.4 RESIDENTIAL ZONE III</b>	<b>33</b>
<b>3.5 RESIDENTIAL ZONE IV</b>	<b>36</b>
<b>3.6 RESIDENTIAL ZONE V</b>	<b>38</b>
<b>3.7 RESIDENTIAL ZONE VI</b>	<b>40</b>
<b>3.8 BUSINESS ZONE I</b>	<b>42</b>
<b>3.9 BUSINESS ZONE II</b>	<b>43</b>
<b>3.10 BUSINESS ZONE III</b>	<b>44</b>
<b>3.11 BUSINESS ZONE IV</b>	<b>45</b>
<b>3.12 BUSINESS ZONE V</b>	<b>46</b>

# CONTENTS

	<b>Page</b>
<b>3.13 INDUSTRIAL ZONE I</b>	<b>48</b>
<b>3.14 INDUSTRIAL ZONE II</b>	<b>50</b>
<b>3.15 INSTITUTIONAL ZONE I</b>	<b>52</b>
<b>3.16 INSTITUTIONAL ZONE II</b>	<b>53</b>
<b>3.17 INSTITUTIONAL ZONE III</b>	<b>53</b>
<b>3.18 RESORT ZONE</b>	<b>54</b>
<b>3.19 OPEN SPACE ZONE I</b>	<b>54</b>
<b>3.20 OPEN SPACE ZONE II</b>	<b>55</b>
<b>3.21 OPEN SPACE ZONE III</b>	<b>55</b>
<b>3.22 TRANSPORT ZONE I</b>	<b>56</b>
<b>3.23 TRANSPORT ZONE II</b>	<b>57</b>
<b>3.24 TRANSPORT ZONE III</b>	<b>57</b>
<b>3.25 TRANSPORT ZONE IV</b>	<b>57</b>
<b>3.26 AUTHORITY ZONE I</b>	<b>58</b>
<b>3.27 AUTHORITY ZONE II</b>	<b>58</b>
<b>3.28 SPECIAL ZONE</b>	<b>58</b>
<b>TABLE B</b>	<b>59</b>
<b>4.0 GENERAL</b>	<b>61</b>
<b>4.1 USE OF ZONED LAND</b>	<b>61</b>
<b>4.2 RESERVATION OF REMAINDER</b>	<b>61</b>
<b>4.3 IMPOSED CONDITIONS</b>	<b>61</b>
<b>4.4 COMPLIANCE WITH REGULATIONS</b>	<b>61</b>
<b>4.5 NON-CONFORMING SITES</b>	<b>61</b>
<b>4.6 APPLICATIONS FOR CONSENT USE</b>	<b>62</b>
<b>4.7 ADVERTISEMENT OF INTENDED APPLICATION FOR CONSENT USE</b>	<b>62</b>

# CONTENTS

	<b>Page</b>	
<b>4.8</b>	<b>CONDITIONS APPLICABLE TO CONSENT USES</b>	<b>62</b>
<b>4.9</b>	<b>PERMISSION FOR MINING ACTIVITIES</b>	<b>63</b>
<b>4.10</b>	<b>TITLE CONDITIONS</b>	<b>63</b>
<b>4.11</b>	<b>COMBINED-USE BUILDINGS</b>	<b>63</b>
<b>4.12</b>	<b>EXTERNAL APPEARANCE OF BUILDINGS</b>	<b>63</b>
<b>4.13</b>	<b>PARKING AND LOADING</b>	<b>64</b>
<b>4.13.1</b>	<b>PARKING ACCOMMODATION</b>	<b>64</b>
<b>4.13.1.1</b>	<b>Alternative Parking Requirements</b>	<b>64</b>
<b>4.13.1.2</b>	<b>Further Parking and Site Access Requirements</b>	<b>65</b>
<b>4.13.1.3</b>	<b>CBD Parking</b>	<b>66</b>
<b>4.13.1.4</b>	<b>Occupation Certificate</b>	<b>66</b>
<b>4.13.2</b>	<b>LOADING AND OFF-LOADING FACILITIES</b>	<b>66</b>
<b>4.13.2.1</b>	<b>Demarcation of a Loading Area</b>	<b>66</b>
<b>4.13.2.2</b>	<b>Treatment of Loading Areas</b>	<b>67</b>
<b>4.13.2.3</b>	<b>Screening of Loading Areas</b>	<b>67</b>
<b>4.13.2.4</b>	<b>Occupation Certificate</b>	<b>67</b>
<b>4.13.2.5</b>	<b>Loading Area Additional to Parking Area</b>	<b>67</b>
<b>4.13.2.6</b>	<b>Loading Requirements</b>	<b>67</b>
<b>4.13.2.7</b>	<b>Loading Area</b>	<b>67</b>
<b>4.14</b>	<b>USE OF OUTBUILDINGS</b>	<b>67</b>
<b>4.15</b>	<b>CARPORTS</b>	<b>67</b>
<b>4.16</b>	<b>COUNCIL'S DUTIES</b>	<b>68</b>
<b>4.17</b>	<b>SERVICE OF DOCUMENTS</b>	<b>68</b>
<b>4.18</b>	<b>TOWNSHIPS AND MINOR SUBDIVISIONS IN TERMS OF THE TOWNSHIP ORDINANCE 1934</b>	<b>69</b>
<b>4.19</b>	<b>AESTHETICS AND LANDSCAPING</b>	<b>69</b>
<b>4.20</b>	<b>FIXING OF BUILDING LINES</b>	<b>69</b>
<b>4.21</b>	<b>SPECIFIC STREET BUILDING LINES</b>	<b>69</b>
<b>4.22</b>	<b>ROAD WIDENING</b>	<b>69</b>

# CONTENTS

	<b>Page</b>	
<b>4.23</b>	<b>SITE DEVELOPMENT PLANS</b>	<b>70</b>
<b>5.0</b>	<b>APPROVAL OF DEPARTURES AND SUBDIVISIONS BY COUNCIL</b>	<b>71</b>
<b>5.1</b>	<b>DEPARTURES</b>	<b>71</b>
<b>5.2</b>	<b>SUBDIVISIONS</b>	<b>71</b>
<b>5.3</b>	<b>REMOVAL OF RESTRICTIONS</b>	<b>71</b>
 <b><u>ANNEXURES</u></b>		<b>Page</b>
<b>ANNEXURE A</b>	<b>NOXIOUS USE/TRADE/INDUSTRY</b>	<b>72</b>
<b>ANNEXURE B</b>	<b>POLICY FOR INFORMAL ALCOHOL RETAIL OPERATIONS: TAVERNS</b>	<b>73</b>
<b>ANNEXURE C</b>	<b>POLICY FOR INFORMAL RETAILING OPERATIONS HOUSE SHOPS (SPAZA SHOPS)</b>	<b>75</b>
<b>ANNEXURE D</b>	<b>POLICY FOR THE ERECTION OF A SECOND DWELLING UNIT</b>	<b>78</b>
<b>ANNEXURE E</b>	<b>POLICY FOR BED AND BREAKFAST ESTABLISHMENTS AND GUESTHOUSES</b>	<b>80</b>
<b>ANNEXURE F</b>	<b>PARKING REQUIREMENTS</b>	<b>85</b>
<b>ANNEXURE G</b>	<b>POLICY FOR PRACTICING OF AN OCCUPATION IN A RESIDENTIAL DWELLING</b>	<b>87</b>
<b>ANNEXURE H</b>	<b>BUFFALO CITY ZONING SCHEME AREA</b>	<b>88</b>

## 1.1 **PREAMBLE**

These are regulations in terms of Section 9(2) of the Land Use Planning Ordinance 1985 (Cape Ordinance 15 of 1985). These regulations determine use rights and provide for control over use rights and control over the utilisation of land within the area of jurisdiction of the Buffalo City Municipality.

The emphasis of this Zoning Scheme is on the coordinated and harmonious development of the city in such a way that it will effectively contribute to the health, safety, order, beauty and general well-being of the city.

This document is drawn up in line with new national legislation such as the Development Facilitation Act 67 of 1995 and it supports the principles thereof as well as modern general trends such as higher residential densities, more compact cities, mixed land uses and support for a sustainable city.

## 1.2 **GENERAL**

### 1. **Title**

These regulations shall be known as the Buffalo City Zoning Scheme Regulations.

### 2. **Scheme Area**

The Zoning Scheme applies to the area within the scheme boundary as indicated on the zoning map (also see attached plan: Annexure H).

These regulations replace the current regulations applicable to East London, King William's Town, Breidbach and the Land Use Planning Ordinance 15 Of 1985 - Section 8 Scheme Regulations (applicable to areas of Buffalo City Municipality that were previously under the jurisdiction of the Amatole District Municipality).

The following areas are excluded from this scheme:

- a) The former Ciskei areas (including Bhisho, Mdantsane, Fort Jackson, Zwelitsha, Phakamisa, Dimbaza and rural settlement areas).
- b) Act 4 of 1984 areas such as Duncan Village and Ginsberg (until such time as the necessary legal processes are completed which will enable implementation of these regulations).

The Buffalo City Zoning Scheme Regulations can be made applicable to these areas, provided that:

- Township Establishment takes place in terms of Act 113 of 1991.
- No leaseholds have been registered on any of the properties forming part of such Township.
- The Act 113 Township – Conditions of Establishment specifies that the provisions of the Buffalo City Zoning Scheme shall be applicable to such township area.
- A General Plan is registered.
- A Township Register is opened in the Deeds Office.

### 3. **Erf Register**

Notwithstanding the fact that the zoning for erven in the scheme area is indicated on the Scheme Map, the Council shall cause a register to be kept of all erven in the said area in which shall be recorded details of the zoning and any other relevant information in respect of each erf and if there should be any uncertainty on the identification of the zoning of an erf according to the scheme map, the evidence of the erf register shall be deemed to be correct.

### 4. **Scheme Open For Inspection**

The Council shall allow any person to inspect this Scheme and the Map at the offices of the Council during office hours.

5. **Conflict Of Laws**

- 5.1 (a) When any provision of this Zoning Scheme is in conflict with another ordinance or by-laws or regulations made hereunder, the said provision shall prevail, subject to the provisions of regulation 5.1 (b)l.
- (b) The provisions of any other ordinance, in so far as they relate to the determination of the boundaries and the widths of and the erection of structures within a specified distance of the boundaries or centre line of roads, shall have preference above the provisions of a Zoning Scheme except in so far as such a zoning scheme:
- (i) provides for a road width greater than that determined by or in terms of such other ordinance; or
  - (ii) requires structures to be at a distance from the boundary or centre line of a road greater than that determined by or in terms of such other ordinance.
- 5.2 The provisions of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and Act 21 of 1940, in so far as they require buildings to be erected at a greater distance from the boundaries of an erf than is required in terms of these regulations, shall have preference above the provisions of the Zoning Scheme.
- 5.3 Nothing in these regulations shall be construed as permitting any person to do anything that is in conflict with the conditions registered against the Title Deed of the land.

## 1.3

### **DEFINITIONS**

In these Regulations, unless inconsistent with the context :-

**“Adult Shop”** or adult premises - means a premises where publications and or films, classified as X18 by the Publications Board, or which fall within Schedule 2 (read with Schedule 5) of Act 65 of 1996, are exhibited and/or distributed. Such a shop or premises must also be licensed in terms of Section 2 of the Business Act (Act 71 of 1991) to conduct the business of adult shop or premises.

**“Advertise”** - means as prescribed by Ordinance 15 of 1985 and in relation to a matter under this Ordinance, means to serve a notice on every owner of land who in the opinion of the Director or a Chief Executive Officer or City Manager or Secretary, has an interest in the matter and whose address he /she knows or can obtain and, if he/she so decides, to publish in the Official Gazette and /or in the press a notice –

- (a) stating the intention of the application,
- (b) specifying the place where and the hours during which particulars of the matter will be available for inspection, and
- (c) stating that objections may be lodged with a person specified in the notice before a date likewise specified, being not less than 21 days after the date on which the notice is served, or is so published,

and “advertisement” shall have a corresponding meaning.

Also see definition of “owner” and specific requirements stipulated in Clause 4.17

**“Agriculture”** - means the cultivation of land for crops and plants or the breeding of animals, or the operation of a game farm on an extensive basis on the natural veld or land; it includes only such activities and buildings which are reasonably connected with the main agricultural activity on the land, including a dwelling house(s).

**“Agricultural Industry”** - means an enterprise or concern for the processing of agricultural products on land used for agricultural purposes owing to the nature, perishableness and fragility of such products, but does not include service industry, or industry.

**“Attached Housing”** - means a dwelling unit that may be attached to other dwelling units on the same or adjacent erven.

**“Authority usage”** - means a use that is practiced by a public authority or utility company (such as private water services authorities) and of which the locality factors are such that it cannot be classified or defined under other uses in these regulations, and includes uses practiced by-

- (a) the National Government, such as military training centres and installations, telecommunication facilities, police stations and jails;
- (b) the Provincial Government, such as road stations and road camps, and
- (c) a Municipality, such as fire services, sewage treatment works, dumping grounds, reservoirs, composting installations, cemeteries, water purification works and electrical substations
- (d) a utility company such as water services, telecommunications etc.

**"Basement"** - means that portion of a building, where such basement is not a habitable room, the finished floor level of which is at least 2m below, or the ceiling of which is at most 1m above the grade line applicable to the building. ,

**"Bed and Breakfast Establishment"** - means an owner managed commercial accommodation establishment of not more than 4 guest-rooms and which has as its primary source of business the supply of short-term accommodation and breakfast for resident guests.

**"Boarding House"** - means any house, building or premises in which both meals and lodging are supplied by the proprietor.

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

**"Building"** - means in addition to the meaning assigned thereto in the Municipal Ordinance (Cape Ordinance 20 of 1974), any structure or erection irrespective of its nature or size, i.e. any structure that complies with the National Building Regulations.

**"Building line"** - means the line delimiting the area measured from the boundary of a land unit, or from a setback where applicable, within which no building or other structure (including gazebos and patios), except a boundary fence, may be erected; or in the case of a departure relaxation of the Building Line granted with the written approval of the affected abutting property owners and upon the discretion of the Directorate of Development Planning.

**"Business premises"** - means a site or building or structure on or in which retail and wholesale business is done and includes shops, warehouses, offices, financial houses, bottle stores, restaurants or buildings/structures/premises for similar purposes, but does not include institutions, service stations, industries, noxious trades.

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

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

**"Caravan Park"** - means any land used or intended to be used for the accommodation of caravans, including mobile homes.

**"Combined Open Space"** - means land or space in a Town House site where there is no distinction between communal open space and private outdoor space.

**"Commercial premises"** - means a building or land-usage whether it is a service industry, retail or wholesale, which is primarily involved in the rendering of a service, which can reasonably be regarded as being out of character in the residential or business area of the town.

**"Commercial workshop"** - means an activity within a business premises which caters specifically for the local customer, or provides a service directly to the retail customer and which is directly associated with the business premises to which the public has access and where such business premises comprise the frontage of the whole building except entrances and exits and may include panel beating and spray painting.

**"Communal Open Space"** or "Common Area" - means land or space that is intended for common ownership and for common use of the owners of town-house erven in a town-housing site and may include private roads that provide access to all or certain of the group erven.

**"Conservation usage"** *in the context of Historic Areas* - means a building or part thereof or an area or a use that should be preserved in the opinion of the Council in consultation with the *South African Heritage Resources Agency*; *in the context of Natural Areas or land* - means the use or maintenance of land in its natural state with the object of preserving the bio-physical characteristics of the land, including flora and fauna living on the land.

**"Convenience shop"** - means a shop that does not exceed 100m<sup>2</sup> in floor space, including storage space and is used for the purposes of carrying on a retail trade specifically directed at the supply of convenience goods (predominantly foodstuffs) to a localized area.

**"Council"** - means the Buffalo City Council.

**"Coverage"** - means the total percentage area of a site that may be covered by buildings measured over the outside walls and covered by a roof or projection; provided that the area covered by the first meter (as measured from the outside of the exterior wall concerned) of an eave or other projection shall not be included in the calculation of the permissible coverage.

**"Crèche"** - see Day Care Centre.

**"Day Care Centre"** - means a building or a site, excluding a hostel or educational institution, which is maintained and utilised on a profit or non-profit basis, for the acceptance, protection, and temporary caring of a maximum of 50 or less children on behalf of their parents and which building or site is registered as a place of care in terms of the Child Care Act (Act 74 of 1983).

**"Departure"** as defined in the Land Use Planning Ordinance 15 of 1985 means:

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

**"Developable area"** in relation to an erf, means the total area of an erf, excluding areas taken up by a panhandle driveway and/or servitude.

**"Dwelling house"** - means a detached building containing only one dwelling unit complying with the National Building Regulations. In the event of sectionalisation of a second dwelling unit on a Single Residential Erf (Residential Zone III), such dwelling house and second dwelling unit may be attached.

**"Dwelling unit"** - means a self-contained interleading group of rooms with not more than one kitchen, used only for the living accommodation and housing of a single family at an occupation ratio not exceeding three persons per habitable room, together with such outbuildings as are ordinarily used therewith.

**"Enterprise"** - means any commercial undertaking.

**"Escort Agency"** – means the carrying on of business by making the services of an escort available to any person, as described in the Business Act (Act 71 of 1991), and where the business is licensed in terms of Section 2 of the Business Act (Act 71 of 1991).

**"Estate Housing"** - means a harmoniously designed and built estate or holiday housing development with an informal clustered layout, where the housing may be rented out or may be separately alienated by means of time sharing, sectional title division, the selling of block shares or the subdivision of the property on condition that a home owners' association be established, but does not include a hotel.

**"Erection of a building"** - including the structural alteration of, or the making of any addition to, a building.

**"Existing erf or lot"** - means any erf, including any subdivision of an erf registered in the Deeds Registry before the date of the approval of this scheme.

**"Existing use"** - means the use/uses which, in the opinion of the Council, is/are practiced lawfully on or in a property, structure or building or part thereof.

**"Factory shop"** - means a building or site that is utilised as a business of a small or large enterprise, where goods that are manufactured on the site are sold to the public.

**"Farm stall"** - means a building or structure which does not exceed 100m<sup>2</sup> in floor space, including storage facilities, where a farmer sells products and produce whether to his employees or to the general public.

**"Feed-pen farming"** - means the keeping and breeding of livestock on a land unit on an intensive basis and where the animals are fed with little or no opportunity to graze off the natural veld.

**"Flats"** - means a building containing three or more dwelling units for human habitation, together with such outbuildings as are ordinarily used therewith; provided that in those zones where flats are permissible, fewer than three dwelling units shall also be permissible.

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

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

**"Funeral Parlour"** - means the business of an Undertaker and may include any or all of the following :-

A chapel, office, workshop, garage, warehouse.

A Funeral Parlour does not include a mortuary.

**"Grade Line"** - means an imaginary surface that corresponds with straight lines connecting the highest and lowest natural ground levels immediately contiguous to a building, and for the purpose of height control can be regarded as a horizontal plane encompassing the outer edges of a building, equivalent to the natural ground level of the middle point of the footprint of the building – or in the event of a multi-level building, the middle point of the footprint of each level of such building.

**"Gross leasable area"** (GLA) - means the total floor area that is leasable, measured from the internal surface of the outer walls of the leasable area – including basements. The following areas shall be excluded when calculating GLA:

- a) any area, including a basement area - that is reserved solely for the parking of vehicles;
- (b) any area required for a fire escape;
- (c) any balconies, terraces, verandas, common entrances, common passages and common areas covered by a roof;
- (d) any stairs, lift wells or other wells, in the case of multi-storey buildings.

**"Gross parking space"** - means an area or areas which incorporate one parking bay plus manoeuvring and landscaping space for one parking bay.

**"Ground floor"** - means the lowest floor of a building, which is not a basement.

**"Guest-house"** - means an owner managed commercial accommodation establishment of not less than 5 guest-rooms and not more than 16 guest-rooms and which has as its primary source of business the supply of short-term accommodation and meals for resident guests.

**"Habitable room"** - means any room for human habitation as per approved building plan, and excludes bathrooms, toilets, kitchens, verandas, garages, passages and basements.

**"Height"** in relation to a building - means the height specified in these regulations, of the highest point of such building, above the natural ground level and directly below such point.

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

**"Holiday Housing"** - means a harmoniously designed and built estate or holiday housing development with an informal clustered layout, where the housing may be rented out or may be separately alienated by means of time sharing, sectional title division, the selling of block shares or the subdivision of the property on condition that a home owners' association be established, but does not include a hotel.

**"House shop"** (spaza shop) - means a shop that is operated from a dwelling unit, provided that:

- (a) such activities are restricted to one room of the principal dwelling or a garage or outbuilding with such an area not exceeding 30m<sup>2</sup>;
- (b) the dwelling unit is to have a primarily residential function;
- (c) not more than two persons should be involved in the operating of such a shop;
- (d) such a shop should not impact negatively on the surrounding neighbours; and
- (e) all signs of trade, including advertising, should be kept to a minimum as specified in 1.3 in Annexure C.

**"Hypermarket"** - means a single or group of several retail concerns on a common site, the square meterage of which exceeds 4 000 m<sup>2</sup> and represents a regional or metropolitan retail facility.

**"Industrial Café"** - means a building or structure which does not exceed 100m<sup>2</sup> in floor space, including storage facilities, and where delicacies and fast foods are sold to employees only.

**"Industry"** - means an enterprise for the manufacture, wholesaling, warehousing, distribution, dispatching, assembly or processing of a product or the breaking up of a product or raw materials, which is not included under the definition of "Noxious Trade", and includes any place or site where any such trade is carried on, providing that retail on any such place or site shall be restricted to the selling of goods manufactured, processed or directly associated with the industrial activities on such place or site, as well as a caretaker's dwelling, an office or offices, an industrial café and any other use incidental to an industry.

**"Institution"** - means a building or portion of a building used or intended to be used as a social or welfare institution or for the administration thereof, and includes a hospital, certified industrial school, clinic, children's home, reformatory or place of detention, whether private or public, but does not include a jail (e.g. Hospice).

**"Intensive agronomy"** - means the cultivation of crops and plants on an intensive scale and includes the indoor cultivation thereof, but does not include the retail sale of plants on the property concerned.

**"Land"** - means land with or without improvements.

**"Land unit"** - means a portion of land registered or capable of being registered in a deeds registry and may include a servitude right or lease.

**"Land use restriction"** - means a restriction, in terms of a zoning, on the extent of the improvement of land.

**"Licensed hotel"** - means a building designed to comply with the requirements of a hotel as laid down in the relevant liquor laws of the Republic of South Africa and includes an off-sales facility.

**"Limited Development Area"** (in relation to the Municipality's approved Spatial Development Framework or Local Spatial Development Framework) – means areas that are generally environmentally sensitive where low intensity, environmentally and culturally sensitive development can be permitted.

**"Linked"** in relation to the definitions of "town housing" - means to be connected by means of a common wall or garage.

**"Maximum floor space"** - means the greatest total floor space which is allowed for a building or buildings with all of its floors on a site; such floor space is calculated by multiplying the floor factor with the net erf area of a site or that portion of the site which is situated within the particular zone; provided that where a site has more than one zoning to which different floor factors apply, the maximum floor space for the whole site shall be the total of the maximum floor space for each portion of the site; further provided that for the purpose of determining the floor space of a building:

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

**"Mining"** - means an enterprise practicing the extraction of raw materials whether by means of surface or underground methods, and includes the removal of stone, sand, clay, kaolin, ores, minerals and precious stones, and the processing thereof, but not the manufacturing of any related products.

Refer to section 4.9

**"Mobile home"** - means an assembled structure with the necessary service connections, which can be transported without the removal of units or panels, and which may be designed so that it can be used as a permanent dwelling.

**"Mortuary"** - means a place where bodies are stored on a temporary basis.

**"Motor vehicle"** - means a vehicle designed or intended for propulsion by other than human or animal power, and includes a motorcycle and a trailer and caravan, but does not include a vehicle moving exclusively on rails or an aircraft.

**"Natural Ground Level"** - means the level of the land surface at any point on a land unit:

- (a) in its unmodified, natural state; or
- (b) if the natural state has been modified, as established from a contour plan lodged with an official agency such as the Municipality or the office of the Surveyor General which, in Council's opinion, depicts the natural ground level; or
- (c) if the natural state has been altered by way of grading or excavation, with Council's approval, for the purpose of development; provided that:
  - (i) any grading for the purpose of development shall connect evenly with the existing levels of abutting land units;
  - (ii) where land is excavated, the excavated level is deemed to be the natural level of the ground;
  - (iii) where it is not possible to determine the natural level of the ground due to irregularities or disturbances of the land, the Council shall determine a level for the purpose of administering this scheme; and
  - (iv) where land is excavated and the excavated material is used to extend the building site (cut and fill), the Council shall determine a level for the purpose of administering this scheme.

**"Nature Reserve"** - means a national park or other nature park in public ownership or that has been declared as such in terms of legislation and remains in private ownership; it includes an area which is used as a game park or reserve for fauna or flora in their natural habitat and includes the provision of accommodation facilities for tourists or holidaymakers.

**"Net erf area"** - means the total area of a land unit, excluding all land zoned or reserved for public purposes.

**"Noxious trade/industry"** - means a trade or industry which constitutes a nuisance or a risk to health in neighbouring premises arising from vapours, effluvia, fluids, liquid waste matter, solid waste matter, noise, disturbance and dust, including but not limited to:

- i) enterprises associated with chemical, explosive or nuclear-based manufacturing, warehousing, packaging or distribution; and
- ii) the activities listed in Annexure A hereto.

**"Nursery"** - means a property or part thereof that is utilised for the sale of plants and gardening products.

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

**"Occupational practice"** - means the practicing of an occupation (excluding any noxious activities) from a dwelling unit by the tenant or owner of that specific dwelling unit, provided that :

- i) the persons so practicing including employees do not exceed 3;
- ii) the tenant or owner must reside and work on the property;
- iii) such occupational practice is not to result in disturbances such as noise, traffic congestion, air pollution, a congregation of people, excessive traffic generation or lowering of the aesthetics (e.g. visual) or adversely impact on the residential character of the area; and
- iv) a maximum of 40% of the total floor area of a property is used for the practice of such occupation.

**"Occupation ratio"** - means the restriction of occupation of any structure for residential purposes, with such occupation ratio being up to 3 persons per habitable room.

**"Offices"** - means a room or set of rooms or a building that is used for the performance of an administrative function of an enterprise, but excludes shops and business premises and does not include the storage, handling, distribution or sale of goods.

**"Outbuilding"** - means a structure either attached to or separate from the main unit and designed for the housing of domestic assistants, for the parking of motor vehicles, for domestic storage purposes and for such other uses that are reasonably associated with the use of the main structure.

**"Owner"** in relation to any building, structure or land - means and includes:

- (a) the person in whose name the title to such building, structure or land is registered and includes the holder of the stand license; or
- (b) if such person or holder is dead, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested, whether as executor, guardian or in any other capacity whatsoever; or
- (c) if the premises are under lease, the registration whereof is in law necessary for the validity of such lease, the lessee.

When an owner as herein defined is absent from the area or his whereabouts are unknown, the expression "owner" includes an agent of such owner or any person receiving or entitled to receive rent in respect of the premises.

**"Pan-handle access"** - means an access way forming part of an erf. In the event of it serving a single dwelling, the minimum width shall be 4m. In the event of it serving more than one erf or more than one dwelling, the minimum width shall be 6m.

**"Parking bay"** - means an area measuring not less than 5,0m by 2,5m or an area as determined by the Director of Development Planning or an area as contained in the Municipality's Guidelines for Off-Street Parking Facilities, which is clearly outlined and demarcated for the parking of one motor vehicle, and which is accessible to the satisfaction of the local authority.

**"Parking garage"** - means a building designed for the parking of motor vehicles but does not include a building any part of which is designed for use as a workshop for the repair of motor vehicles.

**"Parsonage"** - means a dwelling house for the accommodation of a spiritual leader who is a full-time employee of an organization that practices religion in a house of worship, and includes the accommodation of the spiritual leader's family, but does not include a monastery or convent.

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

**"Place of entertainment"** - means a theatre, cinema, dance hall, disco, amusement park, sports centre, billiard room, skating rink or similar use, but excludes an adult shop and escort agency.

**"Place of instruction"** - means:

- (a) a school, college, technical institute, industrial school, academy, university, lecture hall or other centre of instruction, whether public or private, and includes a hostel and staff accommodation appertaining thereto, and
- (b) a convent, monastery, library, public art gallery, museum, gymnasium or day care centre, whether public or private, but does not include a building/complex used or intended to be used wholly or primarily as a certified reformatory or industrial school, or as a school for the mentally disabled.

**"Place of worship"** - means a church, synagogue, mosque, temple, chapel or other place for practicing religion and includes any building in connection therewith but does not include a funeral parlour.

**"Premier"** - means the Premier of the Eastern Cape Province.

**"Private Open Space"** - means any land which has been set aside in this scheme for use as a primarily private site for club buildings, sport, play, rest or recreational facilities or as an ornamental garden or a pleasure garden, and includes public land which is or will be leased on a long term basis, whether public or private.

**"Private parking"** - means a site or building or part of a building that is used for parking purposes under the control of a private individual or agency.

**"Professional services"** - means a vocation which is governed by the rules and conduct of a professional institution or body, and in which the practitioners offer their time and skills as a particular service to their clients, as distinct from the sale of a tangible commodity.

**"Public accessible area"** means that part of a building that is accessible to the public (e.g. including, but not limited to foyers, public bars and restaurants in a residential building).

**"Public funded residential"** - means dwelling units which are erected with funds made available by a State department, local authority, semi-state agency, regional or services authority.

**"Public garage"** - means a building, including the site, for an undertaking that offers a complete range of services for motor vehicles, including panel beating, blacksmithing, spray-painting, bodybuilding and a shop.

**"Public notice"** - means a notice displayed on the notice board of the municipality and of the magistrate of the district and at such other place in the municipal area where it will come to the attention of the public or a notice in the press.

**"Public Open Space"** - means land which falls under, or is intended to come under, the ownership of the local authority, which is not leased or intended to be leased on a long term basis and which is utilised or will be utilised as an open space, park, garden, playground or square and includes a public place.

**"Public parking"** - means a site or building or part thereof that is accessible to the general public for parking purposes and excludes taxi ranks, bus termini and truck stops.

**"Public place"** - means any square, park, recreation ground, sports ground, or other land that has at any time been declared or rendered such by a council or other competent authority.

**"Public road"** - means any road or street for public use or any land intended for such purposes.

**"Public servitude"** - means a servitude in favour of the public over property in whatever manner it may have been established but does not include the right of the public to use a public street, public road or declared road.

**"Public Street"** - means:

- (a) any street that has at any time been:
  - (i) dedicated to the public; or
  - (ii) used without interruption by the public for a period of at least thirty years; or
  - (iii) declared or rendered such by a council or other competent authority; or
  - (iv) constructed by a local authority; or
- (b) any land with or without buildings or structures thereon, which is shown as a street on:
  - (i) any plan or subdivision of a diagram approved by a council; or other competent authority and acted upon; or
  - (ii) any general plan registered or filed in the Deeds Registry or the office of the Surveyor-General.

**"Publish in the press"**, in relation to a notice - means to publish the notice in such newspaper or newspapers as the City Manager may from time to time determine.

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

**"Register"**, when used as a noun - means documents held by a local authority in connection with all departures and rezonings, special consents and subdivisions concerned.

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

**"Residential room"** - means a habitable room, which forms part of a residential building, in which the proprietor provides lodging, but does not provide meals.

**"Resort"** - means a resource based holiday or recreational development that is accessible to the public (which may be subject to booking and fee arrangements).

**"Resort accommodation"** - means a number of dwelling or accommodation units belonging to one owner, which are only utilised for short term accommodation by travellers or tourists or holidaymakers and which comprise a single business enterprise, which is accessible to the public and of which the individual dwelling units are marketed only by means of renting, and includes a caravan park and a camping site, but does not include a hotel.

**"Resource"** (in relation to a resort) - means a unique or special environmental or recreational attribute.

**"Restaurant"** - means a business establishment where meals and liquid beverages 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 premises.

**"Retail"** - means the sale and supply in any quantities of goods not manufactured nor produced to the order of any person and which are sold to any person for use or consumption by that person, and not for resale.

**"Retirement village"** - means a town housing scheme or general residential building that conforms to the following additional conditions:

- (a) Each dwelling unit shall only be occupied by a retired person or by a family of whom at least one member is a retired person;
- (b) a full spectrum of care and other recreational facilities shall be provided to the satisfaction of the Council;
- (c) development rules other than those applicable in a zone may in respect of a retirement village be determined by the Council; and
- (d) as defined in Section 1 of the Housing Development Schemes for Retired Persons Act, 1988 (Act 65 of 1988).

**"Riding school"** - means a place or enterprise used for instruction and training in the riding of horses and includes hiring out horses for payment.

**"Scheme regulations"** - means the Buffalo City Zoning Scheme Regulations made by the Premier in terms of Section 9 of the Ordinance.

**"Scrap yard"** - means a building or land that is used for one or more of the following purposes:

- (a) the storing, depositing or collecting of junk or scrap material or articles of which the value depend entirely or partially on the material out of which they are manufactured;
- (b) the dismantling of second-hand vehicles or machines to recover components or material, and
- (c) the storing or sale of second-hand pipes, poles, steel section, wire, lumber, tyres, bricks, containers or other articles which are suitable to be left in the open without any serious damage being incurred.

**"Second dwelling"** - means a dwelling that may be erected in addition to the primary dwelling unit, with such an erection being a primary right in Residential Zone II, III and in Agricultural Zone I.

**"Service industry"** - means the utilisation of a building or of a premises for an enterprise that is –

- (a) primarily involved in the rendering of a service for the local environs, such as the repair of household appliances and the supply of household services; and
- (b) which is not likely, in the event of fire, to cause excessive combustion or explosions, or give rise to poisonous fumes being released; and
- (c) but does not include an abattoir, a brickmaking site, sewerage works, a service station or public garage.

**"Service Station"** - means a business or concern where motor vehicles are provided with fuel for payment or reward and includes trading in motor vehicles, oil, tyres and motor spares, the servicing of motor vehicles or the operation of a restaurant or convenience shop, but excludes spray painting, panel beating or body or blacksmith work.

**"Setback"** - means the line delimiting the area measured from the centre line of the street, or from another line as specified, within which no building or other structure, including a boundary fence, may be erected.

**"Shop"** - means a site or building or structure used for the purpose of carrying on a retail trade and includes a restaurant, launderette, a dry cleanette or a retail concern where goods which are sold in such concern are manufactured or repaired, provided that the floor area relating to such manufacture or repair, comprises not more than one third of the floor area of the shop.

But shop does not include an industry, noxious trade, industry, service station or supermarket.

**"Side boundary"** - means any boundary of a land unit that does not constitute the common boundary with a public street or public road and does not include a rear boundary.

**"Special usage"** means a use which is such, or a use of which the land use restrictions are such, that it is not catered for in these regulations; and which is set out in detail and of which the land use parameters are set out in detail by means of conditions of approval and a Site Development Plan.

**"Storey"** - means a single level of a building, excluding a basement, which does not exceed a height of 3m, measured from finished floor level to finished floor level or to the ceiling in the case of the top storey, or to a level equivalent to the height of the outside wall of a building if no horizontal ceiling is present; provided that

- (a) a roof, or dome which forms part of a roof, shall not constitute a separate storey unless the space within the roof is designed for, or used for human occupation, in which case it is deemed to be a storey; and
- (b) any storey which is greater than 3m but equal to or less than 6m in height, shall for the purposes of height measurement be deemed to be two storeys, any additional 3m in height or portion thereof, shall be deemed to be an additional storey.

**"Street boundary"** - means the boundary of a site or land unit which is also its boundary with a street; provided that where a portion of a site or land unit is reserved for street or street widening purposes in terms of the zoning scheme or any other law, the street boundary of the site or land unit shall be the boundary of such proposed new street or proposed street widening; and provided further that in the event of a panhandle erf, the street boundary shall be the boundary facing the street or the boundary which affords access to the street.

**"Stud"** - means an enterprise for the purpose of farming with livestock to improve certain qualities of the particular breed.

**"Subdivide and subdivision"** have the meanings assigned to them in the Ordinance.

**"Subdivisional area"** - means land contemplated by Section 22(1)(a) of the Ordinance that has been rezoned to a subdivisional area in terms of Section 14(4), 16 or 18 and is subject to:

- (a) a density requirement,
- (b) the conditions and stipulations contained in these regulations,
- (c) the planning stipulations of any applicable structure plan or Spatial Development Framework, and
- (d) any other conditions determined by the Council at the time of the approval of the rezoning.

**"Supermarket"** - means a shop with a net retail floor space of not less than 350 m<sup>2</sup>, which is utilised for sales on a basis of self-service.

**"Tenement"** - means a building containing rooms separately occupied as dwelling units.

**"The Ordinance"** - means the Land Use Planning Ordinance, 1985 (Cape Ordinance 15 of 1985).

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

**"Town house"** - means a dwelling unit, which forms part of a town-housing scheme.

**"Town housing"/"Town Housing Scheme"** - means a walled free standing, row or group of linked and/or attached dwelling units which is planned, designed and built as a harmonious architectural entity and of which every dwelling unit has a ground floor; the dwelling units may either be cadastrally subdivided or not.

**"Town housing site"** - means a land unit or more than one land unit on which a town-housing scheme has been or is to be erected.

**"Transport facility"** - means a designated area with associated facilities that serves as a taxi rank, bus terminus or truck stop, but does not include public parking.

**"Transport usage"** - means a transport undertaking based on the provision of a transport service and includes public as well as private undertakings.

**"Urban Edge"** (in relation to the Municipality's approved Spatial Development Framework or Local Spatial Development Framework) - means a demarcated line (and interrelated policy) that defines the zone within which the municipality will endeavour to upgrade levels of infrastructure over a period of time and according to available resources, to support higher densities of residential, industrial, and commercial development.

**"Warehouse"** - means either a site/building/room where goods are stored, or a wholesale business.

**"Wholesale"** - means the sale and supply in any quantity of goods to a bona fide retailer for resale to the public.

**"Zone"**, when used as a noun - means land set apart by a zoning scheme 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 set apart the land for a particular zoning.

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

**"Zoning map"** - means:

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

**"Zoning scheme"** - means the Buffalo City Zoning Scheme consisting of scheme regulations and a register, with or without a zoning map.

## **2. LAND USE**

### **2.1 AREA OF ZONING SCHEME**

The extent of the zoning scheme is indicated on the zoning map(s) in so far as the zoning scheme is mapped and shall be inclusive of only the areas of Buffalo City Municipality as shown in Annexure H.

### **2.2 ZONING ACCORDING TO UTILISATION**

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

### **2.3 COMPONENTS OF THE ZONING SCHEME**

This zoning scheme consists of three components, namely the scheme regulations, the zoning map(s), in so far as the scheme is mapped, and the register, in so far as any departures, rezonings or special consent uses have been approved by the Council.

### **2.4 ZONING OF LAND IN SPECIFIED USE ZONES**

The land indicated on the zoning map, as indicated in Columns 2 or 3 of Table A, is zoned for the respective purposes indicated in Column 1 of Table A and shall not be used for any other purpose whatsoever.

**TABLE A**

COLUMN 1 ZONING	COLUMN 2 COLOUR NOTATION	COLUMN 3 ELECTRONIC NOTATION			VISUAL REPRESENTATION	COLUMN 4 LETRATONE
		RGB CODES				
		R	G	B		
Agricultural Zone	Light green	194	254	194	 AGR1	LT 177
Residential Zone I	Yellow with fine black diagonal hatching	255	255	0	 RES1	LT 121
Residential Zone II	Yellow with fine black hatching	255	255	0	 RES2	LT 132
Residential Zone IIIA	Yellow-brown	186	165	0	 RES3A	LT 973
Residential Zone IIIB	Yellow	255	255	0	 RES3B	LT 145
Residential Zone IIIC	Yellow with wide black hatching	255	255	0	 RES3C	LT 126
Residential Zone IV	Orange	255	170	0	 RES4	LT 905
Residential Zone V	Orange with black hatching	255	170	0	 RES5	LT 916
Residential Zone VI	Orange with black diagonal hatching	255	170	0	 RES6	S 52102
Business Zone I	Dark blue	0	150	255	 BUS1	LT 84
Business Zone II	Light blue with black diagonal broken line hatching	190	232	255	 BUS2	LT 923
Business Zone III	Light blue with black diagonal hatching	190	232	255	 BUS3	LT 928
Business Zone IV	Blue-purple with black diagonal broken line hatching	193	189	255	 BUS4	LT 130
Business Zone V	Blue-purple with black hatching	173	189	255	 BUS5	S 52107
Industrial Zone I	Purple	197	0	255	 IND1	S 52104
Industrial Zone II	Red-purple with fine black hatching	197	0	255	 IND2	LT 167
Institutional Zone I	Grey	210	210	210	 INS1	LT 949
Institutional Zone II	Grey with fine black hatching	210	210	210	 INS2	LT 224
Institutional Zone III	Grey with black diagonal broken line hatching	204	204	204	 INS3	LT 175

**TABLE A (continued)**

COLUMN 1 ZONING	COLUMN 2 COLOUR NOTATION	COLUMN 3 ELECTRONIC NOTATION			COLUMN 4 LETRATONE	
		RGB CODES				VISUAL REPRESENTATION
		R	G	B		
Resort Zone	Pink	255	190	232	 RET1	LT 956
Open Space Zone I	Dark-green	1	129	0	 POS1	LT 139
Open Space Zone II	Dark-green with black diagonal broken line hatching	1	129	0	 POS2	LT 995
Open Space Zone III	Dark-green outline	1	129	0	 POS1	S 52106
Transport Zone I	Dark-brown	137	90	68	 TPT1	LT 124
Transport Zone II	Light-brown	172	153	138	 TPT2	
Transport Zone III	Light-brown with black diagonal hatching	172	153	138	 TPT3	LT 166
Transport Zone IV	Dark-brown with black diagonal hatching	115	76	0	 TPT4	LT 240
Authority Zone I	Light green outline	194	254	194	 AUT1	S 52105
Authority Zone II	Red	255	0	0	 AUT2	LT 158
Special Zone	Light blue	0	197	255	 SPEZ	LT 164
Municipal Boundary	Broken black outline	255	190	232	 BCM	ACS 13083

## **2.5 ERECTION OF BUILDINGS AND UTILISATION OF LAND IN SPECIFIED USE ZONES**

- 2.5.1 The purposes, called primary uses, for which land and buildings may be used in the various zones indicated in Column 1 of Table B, are shown in Column 2 of Table B.
- 2.5.2 The purposes, called consent uses, for which land and buildings may be used or erected with the consent of the Council in the various zones indicated in Column 1 of Table B, are set out in Column 3 of Table B.
- 2.5.3 Any use not reflected in Columns 2 or 3 of Table B shall not be permitted in the zone concerned.
- 2.5.4 No land shall be used for a purpose for which a building shall not be erected or used on such land, provided that where a building may be erected and used for a particular purpose on land with the special consent of the Council, such land may be used for such purpose with such special consent.
- 2.5.5 The buildings and uses permitted in terms of Table B or which may be approved with the consent of the Council, may be subject to departures, which may in effect make the right attached to a land unit greater or lesser than may appear from the notation on the map. In such cases the relevant information relating to the land unit shall be recorded in the register kept for this purpose.

### **3. PLANNING CONTROL**

#### **3.1 AGRICULTURAL ZONE**

##### **3.1.1 COLOUR NOTATION: Light Green**

Primary Use : Intensive agronomy, stud farming, dwelling-house, feed pen farming, agriculture, 2nd dwelling

Consent Uses : Farm stall, agricultural industry, riding school, boarding kennels, nursery, tourist facilities, day care centre, further additional dwellings.

##### **3.1.2 LAND USE RESTRICTIONS**

Street Building Line : At least 10m

Side Building Line : At least 10m

Minimum Erf/Farm Size : Within the Urban Edge - 0,8 ha

Outside the Urban Edge – 10 ha

Parking : All parking to be on-site  
All on and off-loading to be on-site

3.1.3 No building or use that is not directly related to agricultural activity on the relevant agricultural unit shall be erected or practised in this zone.

3.1.4 Nothing in this scheme shall prohibit or restrict a dwelling or part of a dwelling in this zone being utilised as a bed and breakfast establishment or a guesthouse, provided that the requirements as contained in Annexure E, are complied with.

3.1.5 Second Dwellings and Special Consent for a 3rd, 4th and 5th dwelling shall be subject to:

- (a) A single primary dwelling per land unit and further dwelling units with a density of one unit per 10ha up to a maximum of five additional dwelling units per land unit;
- (b) Such dwellings not being erected below the 1:100 year flood line of any river or estuary; and
- (c) Such dwellings not being erected within 1km of the high-water mark of the sea.
- (d) Separate ownership of dwelling units is only permitted by way of Sectional Title.

3.1.6 Bona fide servants' quarters or a dwelling unit related to bona fide agricultural activities shall not be regarded as a second primary dwelling unit for the purposes of these regulations.

- 3.1.7 Nothing in this scheme, subject to the approval of a special consent by Council, shall prohibit or restrict the erection of a third, fourth or fifth dwelling unit. The Second Dwelling Policy, as contained in Annexure D, shall be made applicable to such additional units.
- 3.1.8.1 Bed and Breakfast Establishment and Guest-houses - Nothing in this scheme shall prohibit or restrict a dwelling or part of a dwelling being utilised as a bed and breakfast establishment or a guesthouse, provided that the requirements as contained in Annexure E, are complied with.

**3.2 RESIDENTIAL ZONE I : PUBLIC FUNDED RESIDENTIAL** - (as provided for in the Land Reform and Settlement Plan and Spatial Development Framework)

**3.2.1 COLOUR NOTATION** : Yellow with fine black diagonal hatching

Primary Use: Dwelling-house

Consent Use : Day Care Centre

**3.2.2 LAND USE RESTRICTIONS**

Minimum Erf Size : As determined by Council

Floor Factor : No restriction

Coverage : At most 70% subject to rear and side spaces to accommodate services servitudes

Height : At most 2 storeys

No point of a building shall exceed a vertical distance above the grade line of:

- 6m – in the case of flat roofed buildings, or
- 8m – in the case of inclined or pitched roofed buildings, and only the roof structure may exceed 6m above the grade line; provided that chimneys, flues and antennae are exempt from this height restriction.

Street Building Line : At least 1m; provided that there shall be no restriction in respect of a garage with a roll-up door

Side Building Line : At least 1m on one boundary; provided that where a building is erected less than 1m from a side boundary, no doors or windows shall be permitted in the wall concerned.

Rear Building Line: At least 1m, provided further that if a midblock sewage system is provided a suitable servitude will be registered in favour of the Municipality.

Setback : No restriction

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

**3.2.3 ADDITIONAL RIGHTS PERTAINING TO RESIDENTIAL USAGE:**

**3.2.3.1 Occupational Practice**

Without prejudice to any powers of the Council under any law, nothing in the zoning scheme shall be construed as prohibiting or restricting the utilisation of a portion of the dwelling unit for the purposes of occupational practice, provided that the requirements of the Policy for Occupational Practice in a Dwelling Unit as contained in Annexure G, are complied with.

**3.3 RESIDENTIAL ZONE II : RESIDENTIAL WITHIN LIMITED DEVELOPMENT AREA** – (as determined by the approved Spatial Development Framework or Local Spatial Development Framework)

3.3.1 COLOUR NOTATION : Yellow with fine black hatching

Primary Use : Dwelling house, Holiday Housing, Estate Housing

Consent Uses : Day Care Centre, Licensed Hotel, Tourist Facilities

3.3.2 LAND USE RESTRICTIONS

Permitted Density: Within Limited Development Area – 2 Dwellings / hectare

Minimum Erf size: Within Limited Development Area – No restriction

Maximum Erf size: Within Limited Development Area – 1500m<sup>2</sup>

Coverage : At most 50%

Height : At most 2 storeys

Additional Height Restrictions:

No point of a building shall exceed a vertical distance above the grade line of:

- 6m– in the case of flat roofed buildings, or
- 8m – in the case of inclined or pitched roofed buildings, and only the roof structure may exceed 6m above the grade line;

provided that chimneys, flues and antennae are exempt from this height restriction.

Street Building Line : 5m

Side Building Line : 3m

Rear Building Line : 3m

Parking : All parking to be provided on-site.

Access: Roads must be Private Roadway or Servitude.

3.3.3 NOTWITHSTANDING PARAGRAPH 3.3.2

(a) An eaves projection may exceed the prescribed street, side or rear building line by at most 1m.

(b) The Council may approve the erection of an outbuilding which exceeds the side and rear building line by means of a departure subject to:

- (i) compliance with the street building line;
- (ii) no doors or windows being permitted in any wall situated within 1 meter of such building line; and
- (iii) consent of the affected neighbours.

(c) The Council may also permit the erection of screen and yard walls and pergolas or similar unroofed ornamental structures within the building lines of the erf subject to such structures being erected in such manner and of such dimensions as in the opinion of the Council would not be likely to cause injury to the amenities of neighbouring properties, provided

that the heights of such structures shall not exceed 1,8m unless accompanied by a building plan.

- (d) The fixing of building lines will be subject to Section 4.20.
- (e) No portion of a swimming pool may be erected nearer to the erf boundary than the maximum depth of the pool, or 2,0m, whichever is the more restrictive.

### 3.3.4 ADDITIONAL RIGHTS PERTAINING TO RESIDENTIAL USAGE

#### 3.3.4.1 **Occupational Practice**

Without prejudice to any powers of the Council under any law, nothing in the zoning scheme shall be construed as prohibiting or restricting the utilisation of a portion of the dwelling unit for the purposes of occupational practice, provided that the requirements of the Policy for Occupational Practice in a Dwelling Unit as contained in Annexure G, are complied with.

#### 3.3.4.2 **Letting**

No part of any dwelling, nor any additional free-standing building which may be erected for use in conjunction with such dwelling, may be used as a separate tenement.

Provided that this sub-regulation shall not restrict Council from granting its approval to the use of a dwelling as a boarding house where such a dwelling is situated in a use zone where boarding houses may be erected and used, and provided further that the permission of Council shall not, in terms of this Scheme, be required for the lodging of five or fewer persons in a dwelling.

Provided that:

- i) No person shall use or cause or permit to be used as a dwelling, any room, group of rooms or building which does not constitute a habitable room.
- ii) Adequate off-street parking shall be provided for lodgers and tenants.

#### 3.3.4.3 **Bed and Breakfast Establishment and Guest-houses**

Nothing in this scheme shall prohibit or restrict a dwelling or part of a dwelling being utilised as a bed and breakfast establishment or a guesthouse, provided that the requirements as contained in Annexure E, are complied with.

#### 3.3.4.4 **Informal Retailing Operations : House Shops (Spaza Shops)**

Nothing in this scheme, subject to the approval of a departure by Council, shall prohibit or restrict the operation of a house shop in a dwelling, provided that the requirements of the Policy for Informal Retailing Operations; House Shops (Spaza Shops), as contained in Annexure C, are complied with.

#### 3.3.4.5 **Informal Alcohol Retail Operations : Taverns**

Nothing in this scheme, subject to the approval of a departure by Council, shall prohibit or restrict the operation of a tavern in a dwelling, provided that the requirements of the Policy on Informal Alcohol Retail Operations (Taverns) as contained in Annexure B, are complied with.

#### 3.3.4.6 **Agricultural Activities**

No structure for the housing of animals may be erected in this zone, nearer than 45m to any boundary or any building used for human habitation.

### 3.3.5 HOME OWNERS' ASSOCIATION

In terms of Section 29, of the Land Use Planning Ordinance, upon subdivision and rezoning of a property to Residential Zone II, it will be required that a Home Owners Association be established to take responsibility for all matters of common interest.

### 3.3.6 ZONING OF COMMON PROPERTY

Upon subdivision and rezoning of any property in the Limited Development Area (as determined by the approved Spatial Development Framework or Local Spatial Development Framework), the remainder of the property, meaning all land not subdivided and rezoned to Residential Zone II, shall be registered as Common Property and be Zoned to Open Space Zone II or III.

### 3.4 RESIDENTIAL ZONE III : (SINGLE RESIDENTIAL)

#### 3.4.1 COLOUR NOTATION : Residential IIIA - Yellow-brown

Residential IIIB – Yellow

Residential IIIC – Yellow with wide black hatching

Primary Usage : Dwelling house, second dwelling unit

Consent Uses : Day care centre

#### 3.4.2 LAND USE RESTRICTIONS

There are three density zones in the single residential zone III. The Land Use Restrictions applicable to each zone are indicated in the table below :

	<b>Density Zone A</b>	<b>Density Zone B</b>	<b>Density Zone C</b>
Minimum Erf Size	150m <sup>2</sup>	500m <sup>2</sup>	1 200m <sup>2</sup>
Normal Erf Size Range	150 – 499m <sup>2</sup>	500 – 1 199m <sup>2</sup>	> 1 200m <sup>2</sup>
Minimum Road Reserve Width	12,0m	13,0m	13,0m
Street Building Line	3,0m	4,5m	4,5m
Rear Building Line	2,0m	2,0m	2,0m
Side Building Line	1,0m	2,0m	2,0m
Coverage	66%	50%	50%
Maximum Height	2 Storeys	2 Storeys	2 Storeys

#### Minimum Developable Area of an Erf:

Please note that the developable area of an erf, within each of the density zones (A, B or C), may not be less than 75% of the minimum erf size stipulated for each density zone.

#### Additional Height Restrictions:

No point of a building shall exceed a vertical distance above the grade line of:

- 6m – in the case of flat roofed buildings, or
- 8m – in the case of inclined or pitched roofed buildings, and only the roof structure may exceed 6m above the grade line;

provided that chimneys, flues and antennae are exempt from this height restriction.

Parking: At least 1 parking space per land unit or dwelling unit, on the land unit.

Street: Roads must be Public Roads

#### 3.4.3 NOTWITHSTANDING PARAGRAPH 3.4.2

- (a) An eaves projection may exceed the prescribed street, side or rear building line by at most 1m.
- (b) The Council may approve the erection of an outbuilding that exceeds the side and rear building line by means of a departure subject to:

- (i) compliance with the street building line;
  - (ii) no doors or windows being permitted in any wall situated within 1 meter of such building line; and
  - (iii) consent of the affected neighbours.
- (c) The Council may also permit the erection of screen and yard walls and pergolas or similar unroofed ornamental structures within the building lines of the erf subject to such structures being erected in such manner and of such dimensions as in the opinion of the Council would not be likely to cause injury to the amenities of neighbouring properties, provided that the heights of such structures shall not exceed 1,8m unless accompanied by a building plan.
- (d) The fixing of building lines will be subject to Section 4.20.
- (e) No portion of a swimming pool may be erected nearer to the erf boundary than the maximum depth of the pool, or 2,0m, whichever is the more restrictive.

#### 3.4.4 **ADDITIONAL RIGHTS PERTAINING TO RESIDENTIAL USAGE**

##### 3.4.4.1 **Occupational Practice**

Without prejudice to any powers of the Council under any law, nothing in the zoning scheme shall be construed as prohibiting or restricting the utilisation of a portion of the dwelling unit for the purposes of occupational practice, provided that the requirements of the Policy for Occupational Practice in a Dwelling Unit as contained in Annexure G, are complied with.

##### 3.4.4.2 **Second Dwelling Unit**

Nothing in the scheme, in respect of any land unit on which there is a right to erect one dwelling house, shall prohibit or restrict the erection of a second dwelling unit, provided that the requirements of the Policy for the Erection of a Second Dwelling Unit as contained in Annexure D, are complied with.

##### 3.4.4.3 **Letting**

No part of any dwelling, nor any additional free-standing building which may be erected for use in conjunction with such dwelling, may be used as a separate tenement.

Provided that this sub-regulation shall not restrict Council from granting its approval to the use of a dwelling as a boarding house where such a dwelling is situated in a use zone where boarding houses may be erected and used, and provided further that the permission of Council shall not, in terms of this Scheme, be required for the lodging of five or fewer persons in a dwelling.

Provided that:

- i) No person shall use or cause or permit to be used as a dwelling, any room, group of rooms or building which does not constitute a habitable room.
- ii) Adequate off-street parking shall be provided for lodgers and tenants.

##### 3.4.4.4 **Bed and Breakfast Establishment and Guest-houses**

Nothing in this scheme shall prohibit or restrict a dwelling or part of a dwelling being utilised as a bed and breakfast establishment or a guesthouse, provided that the requirements as contained in Annexure E, are complied with.

**3.4.5.5 Informal Retailing Operations : House Shops (Spaza Shops)**

Nothing in this scheme, subject to the approval of a departure by Council, shall prohibit or restrict the operation of a house shop in a dwelling, provided that the requirements of the Policy for Informal Retailing Operations; House Shops (Spaza Shops), as contained in Annexure C, are complied with.

**3.4.5.6 Informal Alcohol Retail Operations : Taverns**

Nothing in this scheme, subject to the approval of a departure by Council, shall prohibit or restrict the operation of a tavern in a dwelling, provided that the requirements of the Policy on Informal Alcohol Retail Operations (Taverns) as contained in Annexure B, are complied with.

### **3.5 RESIDENTIAL ZONE IV: TOWN HOUSES (LOW DENSITY) – UP TO 50 du/ha**

#### 3.5.1 COLOUR NOTATION: Orange

Primary Use: Town house - up to 50 units per Ha, dwelling house

Consent Uses : Retirement village, day care centre, boarding house.

#### 3.5.2 TOWN HOUSES: LAND USE RESTRICTIONS

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

Minimum Erf Size of parent property (in the event of a rezoning to this zone):  
2 000m<sup>2</sup>

Coverage: At most 70%

Height : At most 2 storeys

No point of a building shall exceed a vertical distance above the grade line of:

- 6m – in the case of flat roofed buildings, or
- 8m – in the case of inclined or pitched roofed buildings, and only the roof structure may exceed 6m above the grade line;

provided that chimneys, flues and antennae are exempt from this height restriction.

Public Street Building Line : 4,5 m

Side and Rear Building Line of parent property: 3,0 m

Parking : At least 2 parking bays shall be provided per town house, provided that both may be provided as part of the required parking provision at some of the units and the remainder in the form of communal parking for the particular scheme, or the entire requirement in the form of communal parking, and provided further communal parking areas should be clearly demarcated and signposted to the satisfaction of Council.

Streets: Internal roads must be private roads

#### 3.5.3 ADDITIONAL PROVISIONS

- (a) A refuse collection area, screened by a wall from the view of anyone else than the resident(s) of the relevant dwelling units, shall be provided to the satisfaction of the Council.

#### 3.5.4 NOTWITHSTANDING PARAGRAPH 3.5.2

- (a) An eaves projection may exceed the prescribed street, side or rear building line by at most 1m.
- (b) A zero building line is applicable to internal private roads and common boundaries, subject to safe traffic circulation, or for other reasons such as development in the area or for fire fighting purposes.
- (b) The Council may approve the erection of an outbuilding that exceeds the side and rear building line of the parent property by means of a departure subject to:
- (i) compliance with the public street building line;

- (ii) no doors or windows being permitted in any wall situated within 1 meter of such building line; and
- (iii) consent of the affected neighbours.

### 3.5.5 HOME OWNERS' ASSOCIATION

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

Section 29(1) – *“Either the Premier or the Council concerned, as the case may be, may impose conditions under Section 42 as to the granting of an application for subdivision in terms of Section 25(1), in relation to the compulsory establishment by the applicant for subdivision of a home owners' association.”*

### 3.5.6 OCCUPATIONAL PRACTICE

Without prejudice to any powers of the Council under any law, nothing in the zoning scheme shall be construed as prohibiting or restricting the utilisation of a portion of the dwelling unit for the purposes of occupational practice, provided that the requirements of the Policy for Occupational Practice in a Dwelling Unit as contained in Annexure G, are complied with.

Occupational practice in this zone is restricted to the occupant and subject to the consent of the Home Owners' Association or Body Corporate (in the event of a Sectional Title Scheme) being obtained.

### **3.6 RESIDENTIAL ZONE V: TOWN HOUSES AND FLATS (HIGH DENSITY) - ABOVE 50du/ha**

3.6.1 COLOUR NOTATION: Orange with black hatching

Primary Use: Town house, Flats above 50 units / Ha, dwelling house

Consent Uses : Retirement village, residential building, day care centre.

#### 3.6.2 TOWN HOUSES: LAND USE RESTRICTIONS

Density : Above 50du/ha Maximum as specified by Council

Minimum Erf Size of parent property (in the event of a rezoning to this zone): 2000m<sup>2</sup>

Floor Factor: At most 3

Coverage: At most 70%

Communal Open Space: At least 10% of the size of the Erf must be provided for as combined, communal and functional open space

Height: Residential areas - at most 3 storeys

Other areas – to be determined by Council

No point of a building shall exceed a vertical distance above the grade line of:

- the equivalent of 3m per permissible storey – in the case of flat roofed buildings, or
- in the case of inclined or pitched roofed buildings, the equivalent of 3m per permissible storey for the building and an additional 3m which is allowed for the roof;

provided that chimneys, flues and antennae are exempt from this height restriction.

Public Street Building Line : 4,5 m

Side and Rear Building Line of parent property: 3,0 m (subject to Regulation 3.6.4)

Parking: At least 2 parking bays shall be provided per dwelling unit and a communal parking area shall be clearly demarcated and signposted to the satisfaction of Council.

Street: Internal roads must be private roads

#### 3.6.3 ADDITIONAL PROVISIONS

- (a) A refuse collection area, screened by a wall from the view of anyone else than the resident(s) of the relevant dwelling units, shall be provided to the satisfaction of the Council.

#### 3.6.4 NOTWITHSTANDING PARAGRAPH 3.6.2

- (a) An eaves projection may exceed the prescribed street, side or rear building line by at most 1m.
- (b) A zero building line is applicable to internal private roads and common boundaries, subject to safe traffic circulation, or for other reasons such as development in the area or for fire fighting purposes.

- (c) The Council may approve the erection of an outbuilding that exceeds the side and rear building line of the parent property by means of a departure subject to:
- (i) compliance with the public street building line;
  - (ii) no doors or windows being permitted in any wall situated within 1 meter of such building line; and
  - (iii) consent of the affected neighbours.

### 3.6.5 HOME OWNERS' ASSOCIATION

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

Section 29(1) – “*Either the Premier or the Council concerned, as the case may be, may impose conditions under Section 42 as to the granting of an application for subdivision in terms of Section 25(1), in relation to the compulsory establishment by the applicant for subdivision of a home owners' association.*”

### 3.6.6 OCCUPATIONAL PRACTICE

Without prejudice to any powers of the Council under any law, nothing in the zoning scheme shall be construed as prohibiting or restricting the utilisation of a portion of the dwelling unit for the purposes of occupational practice, provided that the requirements of the Policy for Occupational Practice in a Dwelling Unit as contained in Annexure G, are complied with.

Occupational practice in this zone is restricted to the occupant and subject to the consent of the Home Owners' Association or Body Corporate (in the event of a Sectional Title Scheme) being obtained.

3.7 **RESIDENTIAL ZONE VI : HOTELS and OTHER RESIDENTIAL BUILDINGS SUCH AS BOARDING HOUSES AND GUEST-HOUSES**

3.7.1 COLOUR NOTATION : Orange with black diagonal hatching

Primary Use : Residential building, Guest-house

Consent Use : Flats

3.7.2 LAND USE RESTRICTIONS

Minimum Erf Size : Residential Building - 2 000m<sup>2</sup>

Guest House – 1 200 m<sup>2</sup>

Floor Factor : At most 2,0

Coverage : At most 80%

Height : At most 3 storeys in residential areas

No point of a building shall exceed a vertical distance above the grade line of:

- the equivalent of 3m per permissible storey – in the case of flat roofed buildings, or
- in the case of inclined or pitched roofed buildings, the equivalent of 3m per permissible storey for the building and an additional 3m which is allowed for the roof;

provided that chimneys, flues and antennae are exempt from this height restriction.

Street Building Line : At least 8m

Side and Rear Building Line : At least 4m subject to Section 3.7.3 (a)

Parking : (refer Annexure F)

(i) *Hotels:*

1 bay/bedroom and 10 bays per 100m<sup>2</sup> Public Accessible Area

(ii) *Residential Hotels and Boarding Houses:*

0,6 bays/bedroom

(iii) *Bed and Breakfast:*

1 - 2 guest-rooms : no additional bays

3 - 4 guest-rooms : 2 bays

(iv) *Guest-house:*

5 - 16 guest-rooms : 2 bays per 3 guest-rooms

more than 16 guest-rooms : 2 bays per 3 guest-rooms

- (v) Children's Home and Old Age Home:  
0.3 bays per bedroom

### 3.7.3 NOTWITHSTANDING SECTION 3.7.2:

The Council may approve the erection of an outbuilding that exceeds the side and rear building line by means of a departure subject to:

- (a) compliance with the street building line;
- (b) no doors or windows being permitted in any wall within 1m of such building line;
- (c) consent of the affected neighbour; and
- (d) consent of the Home Owners' Association.

### 3.7.4 OCCUPATIONAL PRACTICE

Without prejudice to any powers of the Council under any law, nothing in the zoning scheme shall be construed as prohibiting or restricting the utilisation of a portion of the dwelling unit for the purposes of occupational practice, provided that the requirements of the Policy for Occupational Practice in a Dwelling Unit as contained in Annexure G, are complied with.

Occupational practice in this zone is restricted to the occupant and subject to the consent of the Home Owners' Association or Body Corporate (in the event of a Sectional Title Scheme) being obtained.

### **3.8 BUSINESS ZONE I**

#### **3.8.1 COLOUR NOTATION: Dark blue**

Primary Use : Business premises, supermarkets, bottle stores, town houses, flats, residential buildings, funeral parlours, place of worship.

Consent Use : Commercial workshop, place of assembly, place of instruction, institution, day care centre, service station, hypermarket, place of entertainment, adult shop, mortuary, escort agency.

#### **3.8.2 LAND USE RESTRICTIONS**

Floor Factor : Unrestricted

Coverage : 100%

Street Building Line : Zero, subject to 10,0m from centre line of road reserve if the road reserve width is less than 20,0m

Side Building Line : Zero, provided that:

- (a) Buildings on the ground floor may be erected on the lateral boundary of an erf, provided that no openings are provided in such wall;
- (b) Council may lay down side building lines in the interest of public health or in order to enforce any law or right; and
- (c) In the event of the common boundary between the two erven forming the boundary between this zone and a residential zone, the side space applicable to the latter shall apply on both sides of the boundary insofar as it is more restrictive.

Rear Building Line : Zero, provided that:

- (a) Buildings on the ground floor may be erected on the rear boundary of an erf, provided that no openings are provided in such wall;
- (b) Council may lay down rear building lines in the interest of public health or in order to enforce any law or right; and
- (c) In the event of the common boundary between the two erven forming the boundary between this zone and a residential zone, the rear space applicable to the latter shall apply on both sides of the boundary insofar as it is more restrictive.

Parking: For the ground floor - 6 bays/100m<sup>2</sup> G.L.A. shall be required subject to Section 4.13.1 on parking alternatives and Sub-Section 4.13.1.3 on a reduction in parking requirements for the CBD and provided that the residential or other use of the property may not affect this parking requirement. For other storeys parking requirement is to be determined based on the use – as set out in Annexure F.

Loading: As per the Municipality's Guidelines for Off-Street Loading Facilities and subject to Section 4.13.2.

Height: Unrestricted

### 3.8.3 PROJECTIONS

In this zone projections, excluding advertising signs approved by the Council in accordance with the provisions of any other law, over streets and building lines shall be limited to minor architectural features and one cantilevered open canopy to within 0,5m of the pavement edge, provided that no portion of a projection shall be less than 3m above the pavement, that there shall be no access from the building to the canopy and that eaves shall not project more than 1m over the space about buildings.

## 3.9 **BUSINESS ZONE II**

### 3.9.1 COLOUR NOTATION: Light Blue with black diagonal broken line hatching

Primary Use: Shop, offices, professional services, town house, flats, residential building, place of worship, restaurant.

Consent Use: place of assembly, funeral parlour, supermarket, place of entertainment, adult shop, bottle store, business premises, day care centre, place of instruction.

### 3.9.2 LAND USE RESTRICTIONS

Floor Factor: At most 2,0

Coverage: 100%

Street Building Line: Zero

Specific Street Building Lines: The Council may specify minimum building lines.

Side Building Line: Zero, provided that:

- (a) Buildings on the ground floor may be erected on the lateral boundary of an erf, provided that no openings are provided in such wall;
- (b) Council may lay down side building lines in the interest of public health or in order to enforce any law or right; and
- (c) In the event of the common boundary between the two erven forming the boundary between this zone and a residential zone, the side space applicable to the latter shall apply on both sides of the boundary insofar as it is more restrictive.

Rear Building Line : Zero, provided that:

- (a) Buildings on the ground floor may be erected on the rear boundary of an erf, provided that no openings are provided in such wall;
- (b) Council may lay down rear building lines in the interest of public health or in order to enforce any law or right; and
- (c) In the event of the common boundary between the two erven forming the boundary between this zone and a residential zone, the rear space applicable to the latter shall apply on both sides of the boundary insofar as it is more restrictive.

Parking : For the ground floor - 6 bays/100m<sup>2</sup> G.L.A. shall be required subject to Section 4.13.1 on parking alternatives and Sub-Section 4.13.1.3 on a

reduction in parking requirements for the CBD and provided that the residential or other use of the property may not affect this parking requirement. For other storeys parking requirement is to be determined based on the use – as set out in Annexure F.

Height : At most 2 storeys

### 3.9.3 PROJECTIONS

In this zone projections, excluding advertising signs approved by the Council in accordance with the provisions of any other law, over streets and building lines shall be limited to minor architectural features and one cantilevered open canopy to within 0,5m of the pavement edge, provided that no portion of a projection shall be less than 3m above the pavement, that there shall be no access from the building to the canopy and that eaves shall not project more than 1m over the space about buildings.

## 3.10 **BUSINESS ZONE III**

### 3.10.1 COLOUR NOTATION : Light Blue with black diagonal hatching

Primary Use : Commercial premises, place of worship, funeral parlour, public garage, adult shop, mortuary, place of entertainment, escort agency.

Consent Use : Other uses over and above uses listed as primary uses.

### 3.10.2 LAND USE RESTRICTIONS

Floor Factor : At most 3

Coverage : 100%

Street Building Line: Zero

Side Building Line : Zero, provided that:

- (a) Buildings on the ground floor may be erected on the lateral boundary of an erf, provided that no openings are provided in such wall;
- (b) Council may lay down side building lines in the interest of public health or in order to enforce any law or right; and
- (c) In the event of the common boundary between the two erven forming the boundary between this zone and a residential zone, the side space applicable to the latter shall apply on both sides of the boundary insofar as it is more restrictive.

Rear Building Line : Zero, provided that:

- (a) Buildings on the ground floor may be erected on the rear boundary of an erf, provided that no openings are provided in such wall;
- (b) Council may lay down rear building lines in the interest of public health or in order to enforce any law or right; and
- (c) In the event of the common boundary between the two erven forming the boundary between this zone and a residential zone, the rear space applicable to the latter shall apply on both sides of the boundary insofar as it is more restrictive.

Parking :Subject to Section 4.13.1, with the following parking requirements:

- (i) *Business (including office use)* : 6 bays/100m<sup>2</sup> G.L.A.

- (ii) *Manufacturing* : 1 bay/100m<sup>2</sup> G.L.A.
- (iii) *Warehousing* : 1 bay/100m<sup>2</sup> G.L.A.
- (iv) *Dairies, Bakeries and Laundries* : 1 bay/100m<sup>2</sup> G.L.A.
- (v) *Storage Yards* : 1 bay/100m<sup>2</sup> G.L.A.

Loading : As per the Municipality's Guidelines for Off-Street Loading Facilities and subject to Section 4.13.2.

Height : 3 storeys

### 3.10.3 PROJECTIONS

In this zone projections, excluding advertising signs approved by the Council in accordance with the provisions of any other law, over streets and building lines shall be limited to minor architectural features and one cantilevered open canopy to within 0,5m of the pavement edge, provided that no portion of a projection shall be less than 3m above the pavement, that there shall be no access from the building to the canopy and that eaves shall not project more than 1m over the space about buildings.

## 3.11 **BUSINESS ZONE IV**

### 3.11.1 COLOUR NOTATION : Blue-purple with black diagonal broken line hatching

Primary Use : Offices, professional services, town house, flats, residential building

Consent Uses: place of assembly, place of worship, place of entertainment, place of instruction, day care centre.

### 3.11.2 LAND USE RESTRICTIONS

Floor Factor : At most 2

Coverage : 70%

Height : At most 3 storeys

Street Building Line : At least 5m

Side Building Line : At least 3m

Rear Building Line : At least 3m

Parking : Offices - 2,5 bays/100m<sup>2</sup> G.L.A. subject to Section 4.13.1 on parking and provided that the residential use of the property may not affect the parking requirement.

Medical and Veterinary Consulting Rooms and Hair Dressers – 6 bays per 100m<sup>2</sup> GLA

### 3.11.3 FLATS AND RESIDENTIAL BUILDINGS

Notwithstanding the land use restrictions for Residential Zones IV, V and VI, the restrictions applicable to Business Zone IV shall be applicable to flats and residential buildings in Business Zone IV.

#### 3.11.4 HOME OWNERS' ASSOCIATION

For combined office and town house developments, or in cases where ownership is separated by way of sectional or separate title, a home or business owners' association shall be established.

### 3.12 **BUSINESS ZONE V**

#### 3.12.1 COLOUR NOTATION : Blue-purple with black hatching

Primary Use : Service station, restaurant, convenience shop

Consent Use : Residential building, flats, townhouses

#### 3.12.2 LAND USE RESTRICTIONS

Floor Factor : At most 2,0

Coverage : At most 75%

Height : At most 2 storeys

Street Building Line : Zero, with a 3,6m building line applicable to the pump islands

Side and Rear Building Line : Zero, provided that in the event of the common boundary between two erven forming the boundary between this zone and a residential zone, the side or rear space, as the case may be, applicable to the latter, shall apply on both sides of the boundary insofar as it is more restrictive and provided further that the Council may require side and rear building lines in the interest of public health or in order to enforce any law or right.

Parking : 4 bays plus 2 bays per 100m<sup>2</sup> spares and sales area

#### 3.12.3 ADDITIONAL PROVISIONS

- (a) The vehicular access and exit ways to and from the premises of a service station or public garage shall, where they cross the road boundary, not be more than 10m wide, and a wall at least 100mm thick and 200mm high shall be erected on the road boundary between the points of access and exit. The wall shall be continued along such boundary unless the premises are otherwise enclosed and vehicular access shall be restricted to a single ingress and a single egress per street frontage.
- (b) In an urban area the vehicular access and exit ways to and from the premises of a service station where they cross the road reserve boundary, shall:
  - i) not be less than 30m from the nearest point of the inter-section of a declared road, proclaimed road, prospective main road or any other road of a like status or of an intersection where traffic is controlled, or is proposed to be controlled, by a robot or traffic circle; and
  - ii) not be less than 1,5m from the lateral boundary of the premises; provided that in the case of an intersection other than one referred to in Section 3.12.3 (b) (i), if the corner at the intersection is not splayed, not be less than 10m from such corner, or if the corner at the intersection is splayed, not be less than 10m from such corner

or 5m from the point where the line of splay meets the road reserve boundary, whichever is the greater distance from the corner.

- (c) In an area other than an urban area, the vehicular access and exit ways to and from the premises of a service station where they cross the road reserve boundary, be not less than 500m from the nearest point of:
  - i) the intersection of a declared road, proclaimed road, prospective main road or any other road of a like status;
  - ii) an intersection where traffic is controlled, or is proposed to be controlled, by a robot or traffic circle; and
  - iii) any vehicular access and exit ways where they cross the road boundary to and from motor vehicle fuel pumps on the premises of another service station or public garage on the same side of the road.
- (d) Any part of the premises of a service station which is used for the storage of disused motor vehicles or parts of motor vehicles, any other scrap whatsoever, or empty containers such as oil drums and packing cases, or for the assembly, repair, painting or dismantling of motor vehicles shall, unless it is enclosed by buildings at least 2m high, be enclosed with a suitable brick or concrete screen wall at least 2m high.
- (e) Where a service station includes panel beating and spray painting, such service station will be restricted to the Business III (commercial) Zone or Industrial Zone I or II.
- (f) Notwithstanding Section 3.12.2, the inclusion of the following activities associated with a service station shall be subject to Council's discretion with regard to site suitability, surrounding land use, access and circulation, and the provision of additional on-site parking:
  - (i) Outdoor display of vehicles, boats, caravans, and motor cycles, and the sale of such goods;
  - (ii) Car wash;
  - (iii) Drive-in restaurant;
  - (iv) Any retail activities not associated with the service station trade;
  - (v) Convenience shop (daily food requisites);
  - (vi) Prepared food outlets (restaurant, fast foods);
  - (vii) Truck stop;
  - (viii) Transient sites such as trunk road and freeway service stations, for example Ultra City and Petroport
- (g) Council may require that the activities referred to in Section 3.12 be accommodated on a separate site and zoned accordingly.

### 3.13 INDUSTRIAL ZONE I

#### 3.13.1 COLOUR NOTATION : Purple

Primary Use : Industry, industrial café, service station, commercial workshop, warehouse, public garage, funeral parlour and mortuary.

Consent Uses: Rooms to accommodate security guards, caretakers and the like.

#### 3.13.2 LAND USE REGULATIONS

Floor Factor : At most 1,5

Coverage : At most 75%

Street building line : Zero, provided that no gates or security installations protrude into the road reserve

Side Building Line : Zero, provided that the Council may require side-building lines in the interest of public health or in order to enforce any law or right

Rear Building Line : Zero

Parking : Subject to Section 4.13.1, with the following parking requirements:

- (i) *Manufacturing* : 1 bay/100m<sup>2</sup> G.L.A.
- (ii) *Warehousing* : 1 bay/100m<sup>2</sup> G.L.A.
- (iii) *Dairies, Bakeries and Laundries* : 1 bay/100m<sup>2</sup> G.L.A.
- (iv) *Storage Yards* : 1 bay/100m<sup>2</sup> G.L.A.

And provided that where a retail outlet is located on the industrial premises, an additional parking requirement of 6 bays/100m<sup>2</sup> G.L.A. of the retail outlet shall be provided.

Height : At most 4 storeys

#### 3.13.3 LOADING AND UNLOADING (To be provided on-site)

- (a) As per the Municipality's Guidelines for Off-Street Loading Facilities and subject to Section 4.13.2.
- (b) The loading bays referred to in Section 3.13.3.(a) shall have vehicular access to a street which shall be to the satisfaction of the Council and shall in any event not be less than 5m wide, and if carried through a building, not less than 3m in height.

#### 3.13.4 FENCING

- (a) The Council may require any land used in connection with a scrap yard, builder's yard or transport business to be completely or partially walled to its satisfaction.
- (b) Where any other industrial site, in the opinion of Council, is visually intrusive by nature of its location or use, such site shall be walled to the satisfaction of Council.

### 3.13.5 CARETAKER'S PREMISES

The erection of a caretaker's cottage shall be permitted subject to Council's approval and the following restrictions:

- (i) The caretaker's cottage, complete with outbuildings, shall not exceed 90m<sup>2</sup> and 1 storey, and shall form part of the permitted coverage of the industrial zone in which it is located;
- (ii) Occupation of the said cottage shall be on a non-permanent basis and restricted to security personnel;
- (iii) The said cottage shall be free-standing and shall be subject to the same building lines as the industrial zone in which it is located; and
- (iv) If the function of a caretaker's cottage is ceased, the structure shall only be utilised for purposes permitted in the industrial zone in which it is located.

### 3.13.6 INDUSTRIAL CAFÉ

Maximum of 100m<sup>2</sup> floor space including storage.

### **3.14 INDUSTRIAL ZONE II**

3.14.1 COLOUR NOTATION : Red-purple with fine black hatching

Primary Use : Noxious trade

Consent Uses : Rooms to accommodate security guards, caretakers and the like.

3.14.2 LAND USE RESTRICTIONS

Floor Factor : At most 1,5

Coverage : At most 75%

Street Building Line : 10,0m

Side Building Line : 10,0m

Rear Building Line : 10,0m

Parking : 1 bay/100m<sup>2</sup> G.L.A. subject to Section 4.13.1

Height : At most 4 storeys

3.14.3 LOADING AND UNLOADING (To be provided on-site)

(a) As per the Municipality's Guidelines for Off-Street Loading Facilities and subject to Section 4.13.2.

(b) The loading bays referred to in Section 3.14.3 (a) shall have vehicular access to a street which shall be to the satisfaction of the Council and shall in any event not be less than 5m wide, and if carried through a building, not less than 3m in height.

3.14.4 FENCING

(a) The Council may require any land used in connection with a scrap yard, builder's yard or transport business to be completely or partially fenced to its satisfaction.

(b) Where any other industrial site, in the opinion of Council, is visually intrusive by nature of its location or use, such site shall be walled to the satisfaction of Council.

3.14.5 CARETAKER'S PREMISES

The erection of a caretaker's cottage shall be permitted subject to Council's approval and the following restrictions:

(i) The caretaker's cottage, complete with outbuildings, shall not exceed 90m<sup>2</sup> and 1 storey, and shall form part of the permitted coverage of the industrial zone in which it is located;

(ii) Occupation of the said cottage shall be on a non-permanent basis and restricted to security personnel;

(iii) The said cottage shall be free-standing and shall be subject to the same building lines as the industrial zone in which it is located; and

- (iv) If the function of a caretaker's cottage is ceased, the structure shall only be utilised for purposes permitted in the industrial zone in which it is located.

3.14.6 INDUSTRIAL CAFÉ

Maximum of 100m<sup>2</sup> floor space including storage.

### 3.15 INSTITUTIONAL ZONE I

#### 3.15.1 COLOUR NOTATION : Grey

Primary Use : Place of instruction, school, place of assembly, day care centre

Consent Use : Place of worship

#### 3.15.2 LAND USE RESTRICTIONS

Coverage : At most 50%

Height : At most 2 storeys

Street Building Line : At least 10m

Side Building Line : At least 10m

Rear Building Line : At least 10m

Parking :

Places of Instruction : (Subject to General Section 4.13.1 on parking)

- (i) *Day Care Centres* : 1 bay/teacher or assistant
- (ii) *Nursery School* : 1 bay/classroom or office
- (iii) *Primary School* : 1 bay/classroom or office
- (iv) *Secondary School* : 1 bay/classroom or office
- (v) *Colleges* : 0,25 bays/student
- (vi) *Universities* : 0,4 bays/student

Provided that all places of instruction shall have sufficient on and off-loading areas.

Places of Assembly : (Subject to General Section 4.13.1 on parking)

- (i) *Community Centres* : 2 bays/100m<sup>2</sup> G.L.A.
- (ii) *Halls* : 0,25 bays/seat or 20 bays/100m<sup>2</sup> G.L.A.
- (iii) The provisions of Annexure F shall apply to all Places of Assembly.

### **3.16 INSTITUTIONAL ZONE II**

3.16.1 COLOUR NOTATION : Grey with fine black hatching

Primary Use : Place of worship, church, parsonage, place of assembly, day care centre

Consent Uses : Place of Instruction

3.16.2 LAND USE RESTRICTIONS

Coverage : At most 50%

Height : At most 2 storeys

Street Building Line : At least 4,5m

Side Building Line : At least 4,5m

Rear Building Line : At least 4,5m

Parking : 0,15 bays/seat, subject to Section 4.13.1 on parking and the provisions of Annexure F.

3.16.3 Notwithstanding Paragraph 3.17.2 the parsonage shall be subject to the provisions pertaining to single residential (Single Residential Zones I-III).

### **3.17 INSTITUTIONAL ZONE III**

3.17.1 COLOUR NOTATION : Grey with black diagonal broken line hatching

Primary Use : Institution, hospital, place of assembly, day care centre

Consent Use : Residential building, place of instruction, place of worship.

3.17.2 LAND USE RESTRICTIONS

Coverage : At most 50%

Height : At most 3 storeys

Street Building Line : At least 4,5m

Side Building Line : At least 4,5m

Rear Building Line : At least 4,5m

Parking : Subject to Sub-Section 4.13.1 on parking

(i) *Old age homes and orphanages* : 0,3 bays/bedroom

(ii) *Medical:*

– Consulting rooms : 6 bays/100m<sup>2</sup> G.L.A.

– Small private hospitals and clinics : 1 bay/bed

– General Hospitals : 1 bay/bed

(iii) *Other institutions:* (e.g. mental, cripple care) : 0,3 bays/bedroom

Loading : As per the Municipality's Guidelines for Off-Street Loading Facilities and subject to Section 4.13.2.

### **3.18 RESORT ZONE**

#### **3.18.1 COLOUR NOTATION : Pink**

Primary Use : Resort, Resort accommodation, Holiday accommodation, caravan park, camping site, place of assembly, recreation complex, caretaker's cottage, convenience shop, tourist facilities.

Consent Use : Hotel

Building Line : 10,0m on all sides

Parking : Subject to Section 4.13.1 and the provisions of Annexure F.

Height : At most 2 storeys

#### **3.18.2 LAND USE RESTRICTIONS**

- (a) The parameters of the existing lawful development shall apply as land use restrictions with regard to land, which is deemed to be rezoned as a Resort Zone with effect from the date of commencement of the Ordinance.
- (b) With the rezoning of land to the Resort Zone, conditions shall be laid down with regard to density, layout, building design, and on-site parking requirements and need to be reflected in terms of a site development plan.
- (c) Permitted densities, coverage and building footprints for Accommodation facilities in the Limited Development and Rural Zones (as defined in the approved Spatial Development Framework of the Municipality) - the prescribed parameters as per the approved Spatial Development Framework of the Municipality, shall apply.

### **3.19 OPEN SPACE ZONE I**

#### **3.19.1 COLOUR NOTATION : Dark-green**

Primary Use : Public open space

Consent Uses : Certain associated structures and activities.

Building Line : 10,0m on all sides

Parking : Subject to Section 4.13.1 and the provisions of Annexure F.

3.19.2 No structure shall be erected or use practised except that which is compatible with the definition of "public open space" in Section 1 or which has been approved by Council.

3.19.3 The provisions contained in a relevant guide plan that is in force in terms of Section 6A of the Physical Planning Act, 1967 (Act 88 of 1967) shall mutatis mutandis apply as additional land use restrictions in this zone.

### **3.20 OPEN SPACE ZONE II**

3.20.1 COLOUR NOTATION : Dark-green with black diagonal broken line hatching

Primary Use : Private open space

Consent Uses : Certain associated structures and activities, Agriculture

Building Line : 10,0m on all sides

Parking : Subject to Section 4.13.1 and the provisions of Annexure F and provided that all parking for patrons and guests shall be on-site.

3.20.2 No structure shall be erected or use practised except that which is compatible with the definition of "private open space" in Section 1, which has been approved by Council.

3.20.3 The provisions contained in a relevant guide plan that is in force in terms of Section 6A of the Physical Planning Act, 1967 (Act 88 of 1967) shall mutatis mutandis apply as additional land use restrictions in this zone.

### **3.21 OPEN SPACE ZONE III**

3.21.1 COLOUR NOTATION : Dark-green outline

Primary Use : Conservation, nature reserve

Consent Uses : Dwelling Units, Certain associated structures and activities, place of assembly

3.21.2 LAND USE RESTRICTIONS

Building Line : 10,0m on all sides

Parking: Subject to Section 4.13.1 and the provisions of Annexure F, and provided that all parking for patrons and guests shall be on-site.

3.21.2.1 Within the Rural Area (as defined in the approved Spatial Development Framework of the Municipality) Dwelling Units may be permitted within Private Nature Reserves or conservation areas, subject to the following:

- (a) Upon application for rezoning of land in the Rural Area to Open Space Zone III, such Nature Reserve or Conservation area shall first be formalised in terms of relevant legislation, before the rezoning can be finalised.
- (b) The maximum permissible erf size will be 1000 m<sup>2</sup>, maximum coverage will be 50% and maximum height will be 2 storeys.
- (c) In terms of Section 29, of the Land Use Planning Ordinance, upon subdivision of a property to accommodate dwelling units, it will be required that a Home Owners Association be established to take responsibility for all matters of common interest.
- (d) A detailed site development plan shall be submitted.
- (e) Separate ownership of dwelling units will be permitted.
- (f) The entire nature reserve shall be registered as Common Property.

### **3.22 TRANSPORT ZONE I (RAILWAY LINES, HARBOUR, AIRPORT)**

#### **3.22.1 COLOUR NOTATION : Dark-brown**

Primary Use : Transport usage

Consent Uses : Certain associated structures and activities

#### **3.22.2 LAND USE RESTRICTIONS**

Floor Factor : At most 1,5

Coverage : At most 75%

Setback : At least 8m from the centre of the road

Street Building Line : Zero, provided that no gates or security installations protrude into the road reserve.

Side Building Line : Zero, provided that the Council may require side building lines in the interest of public health or in order to enforce any law or right and provided further that in the event of a common boundary between two erven forming the boundary between this zone and a residential zone, the side building line of the latter will apply on both sides of the boundary insofar as it is more restrictive.

Rear Building Line : Zero, provided that in the event of a common boundary between two erven forming the boundary between this zone and a residential zone, the rear boundary line of the latter will apply on both sides of the boundary insofar as it is more restrictive.

Parking : 1 bay/100m<sup>2</sup> G.L.A. subject to Section 4.13.1

Height : At most 4 storeys

#### **3.22.3 LOADING AND UNLOADING (To be provided on-site)**

(a) As per the Municipality's Guidelines for Off-Street Loading Facilities and subject to Section 4.13.2.

(b) The loading bays referred to in Section 3.25.3 (b) shall have vehicular access to a street which shall be to the satisfaction of the Council and shall in any event not be less than 5m wide and, if carried through a building, not less than 3m in height.

#### **3.22.4 FENCING**

The Council may require any land used in connection with a transport business to be completely or partially walled to its satisfaction.

#### **3.22.5 CARETAKER'S PREMISES**

The erection of a caretaker's cottage shall be permitted subject to the Council's approval and the following restrictions:

(i) The caretaker's cottage, complete with outbuildings, shall not exceed 90m<sup>2</sup> and 1 storey, and shall form part of the permitted coverage of the Transport I Zone.

- (ii) Occupation of the said cottage shall be on a non-permanent basis and restricted to security personnel.
- (iii) The said cottage shall be free-standing and shall be subject to the same building lines as the Transport I Zone.
- (iv) If the function of a caretaker's cottage is ceased, the structure shall only be utilised for purposes permitted in the Transport I zone.

### **3.23 TRANSPORT ZONE II (PUBLIC ROAD)**

3.23.1 COLOUR NOTATION : Light-brown

Primary Use : Public road

Consent Uses : Certain associated structures and activities.

3.23.2 No structure shall be erected or use practised except that which is compatible with the definition of "public road" in Section 1 or that which is permitted in the Residential Zone I and approved by Council.

3.23.3 No trading, hawking and such like may take place except with the consent of the Council and subject to any trading complying with the relevant By-laws.

### **3.24 TRANSPORT ZONE III (PARKING)**

3.24.1 COLOUR NOTATION : Light-brown with black diagonal hatching

Primary Use : Public parking

Consent Uses : Certain associated structures and activities.

3.24.2 No structure shall be erected or use practised except that which is compatible with the definition of "public parking" in Section 1 and which Council shall have approved.

### **3.25 TRANSPORT ZONE IV (TAXI RANK, BUS DEPOT)**

3.25.1 COLOUR NOTATION : Dark-brown with black diagonal hatching

Primary Use : Transport facility, taxi rank, bus terminus, truck stop.

Consent Uses : Certain associated structures and activities.

3.25.2 LAND USE RESTRICTIONS

The land use restrictions (coverage, building lines, parking) applicable to this zone shall apply for every site or use or type of building if authorised thereto by the Council.

**3.26 AUTHORITY ZONE I: MUNICIPAL**

- 3.26.1 COLOUR NOTATION : Light Green outline  
Primary Use : Local Municipal authority usage  
Consent Use: None

**3.27 AUTHORITY ZONE II: GOVERNMENT**

- 3.27.1 Colour Notation: Red  
Primary Use: Government and District Municipal authority usage  
Consent Uses: None

3.27.2 LAND USE RESTRICTIONS

The land use restrictions (coverage, building lines, parking) and additional provisions applicable to this zone shall apply as for every site or use or type of building, as approved by the Council.

**3.28 SPECIAL ZONE**

- 3.28.1 COLOUR NOTATION : Light Blue  
Primary Use : Special usage

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

**TABLE B**

<b>COLUMN 1 ZONING</b>	<b>COLUMN 2 PRIMARY USE</b>	<b>COLUMN 3 CONSENT USES</b>
Agricultural Zone	Intensive agronomy, stud farming, dwelling-house, agriculture, feed pen farming, 2nd dwelling	Farm stall, riding school, agricultural industry, boarding kennels, nursery, tourist facilities, day care centre
Residential Zone I	Dwelling-house	Day care centre
Residential Zone II	Dwelling-house, Holiday Housing, Estate Housing	Day care centre, Licensed Hotel, Tourist Facilities
Residential Zone III	Dwelling-house, second dwelling, Holiday	Day care centre
Residential Zone IV	Town House - up to 50 units/ha, dwelling house	Retirement village, day care centre, boarding house
Residential Zone V	Town house, flats - above 50 units/ha, dwelling house	Retirement village, residential building, day care centre
Residential Zone VI	Residential building	Flats
Business Zone I	Business premises, supermarket, bottle stores, town houses, flats, residential buildings and funeral parlours, place of worship	Commercial workshop, place of assembly, place of instruction, institution, service station, hypermarket, place of entertainment, adult shop, day care centre, escort agency, mortuary.
Business Zone II	Shop, offices, professional services, town house, flats and residential building, place of worship, restaurant	Place of assembly, supermarket, funeral parlours, place of entertainment, adult shop, bottle store, business premises, day care centre, place of instruction
Business Zone III	Commercial premises, commercial workshop, funeral parlour, mortuary, public garage, adult shop, escort agency, place of entertainment and place of worship	Buildings and uses other than that referred to in column 2.
Business Zone IV	Offices, professional services, town house, flats, residential building	Place of assembly, place of entertainment, place of instruction, place of worship, day care centre
Business Zone V	Service station, restaurant, convenience shop	Residential building, flats, town houses

<b>COLUMN 1 ZONING</b>	<b>COLUMN 2 PRIMARY USE</b>	<b>COLUMN 3 CONSENT USES</b>
Industrial Zone I	Industry, industrial café, service station, commercial workshop, warehouse, public garage, funeral parlour and mortuary.	Rooms used for security guards or caretakers
Industrial Zone II	Noxious trade	Rooms used for security guards or caretakers
Institutional Zone I	Place of instruction, school, place of assembly, day care centre	Place of worship
Institutional Zone II	Place of worship, parsonage, place of assembly, day care centre	Place of instruction
Institutional Zone III	Institution, hospital, place of assembly, day care centre	Residential building, place of instruction, place of worship.
Resort Zone	Resort, Resort accommodation, Holiday accommodation, caravan park, camping site, place of assembly, recreation complex, caretaker's cottage, convenience shop, tourist facilities.	Hotel
Open Space Zone I	Public open space	Certain associated structures and activities
Open Space Zone II	Private open space	Certain associated structures and activities, Agriculture
Open Space Zone III	Conservation, nature reserve	Dwelling Units, Certain associated structures and activities, place of assembly
Transport Zone I	Transport usage	None
Transport Zone II	Public road	Certain associated structures and activities
Transport Zone III	Public parking	Certain associated structures and activities
Transport Zone IV	Transport facility, taxi rank, bus terminus, truck stop	Certain associated structures and activities
Authority Zone I	Local Municipal authority usage	None
Authority Zone II	Government and District Municipal authority usage	None
Special Zone	Special usage	Not applicable

## **4.0 GENERAL**

### **4.1 USE OF ZONED LAND**

- 4.1.1 No person shall damage or destroy zoned land so as to destroy or impair its use for the purpose for which it is zoned, provided that the Council may consent to the deposit on such land of waste materials or refuse.
- 4.1.2 In giving its consent under Section 4.1.1 the Council may impose such conditions as it deems fit.
- 4.1.3 Subject to the provisions of any other law, nothing contained in Section 4.1.1 shall be construed as prohibiting the reasonable fencing of land.
- 4.1.4 The provisions contained in a relevant approved Spatial Development Framework or Local Spatial Development Framework in terms of the Municipal Systems Act (Act 32 of 2000), applicable to any part of the area subject to these scheme regulations, shall mutatis mutandis apply as additional land use restrictions in the area of this scheme.

### **4.2 RESERVATION OF REMAINDER**

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

- 4.2.1 in the opinion of the Council, the remainder will be too small to develop as a separate entity, or
- 4.2.2 the development of the remainder will be undesirable.

### **4.3 IMPOSED CONDITIONS**

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

### **4.4 COMPLIANCE WITH REGULATIONS**

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

### **4.5 NON-CONFORMING SITES**

Before written authority is granted in terms of Section 96(1) of the Municipal Ordinance, 1974 (Ordinance 20 of 1974), by the Council with regard to a site for which there is no valid licence on the date of coming into operation of these scheme regulations, or when a building is extended or changed, the Council may require that all the buildings on the site as well as the site itself be brought

into line with the land use restrictions contained in these regulations, with the by-laws of the Council and with any other laws which are applicable, provided that in the event of the non-conforming use lapsing, the usage will revert to that contained in the zoning regulations.

#### **4.6 APPLICATIONS FOR CONSENT USE**

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

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

#### **4.7 ADVERTISEMENT OF INTENDED APPLICATION FOR CONSENT USE**

4.7.1 Any person intending to make application to the Council for its consent to the erection or utilisation of a building or to the use of land, whether wholly or partly, for any purpose requiring the Council's special consent, shall first advertise the application concerned.

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

4.7.3 Any decision of the Council given in terms of section 4.7.2 shall be by special resolution of the Council as defined in the Municipal Ordinance, 1974 (Ordinance 20 of 1974).

#### **4.8 CONDITIONS APPLICABLE TO CONSENT USES**

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

- (a) Any consent use in a relevant zone, which is a primary use in any other zone, shall be subject to the same conditions applicable to the primary use in the other zone;
- (b) Any consent use in a relevant zone which is not a primary use in another zone shall be subject to the same conditions as the primary use in the relevant zone; and
- (c) The Council may, in both of the above-mentioned cases, lay down other conditions with regard to any specific property.
- (d) There is no right to appeal on a consent use.

#### **4.9 PERMISSION FOR MINING ACTIVITIES**

Permission for mining activities in terms of these scheme regulations shall be obtained by way of a departure application. Conditions of departures granted shall be in accordance with stipulations of the permit and/or license granted by the Department of Mineral and Energy Affairs.

#### **4.10 TITLE CONDITIONS**

Nothing in the provisions of this scheme shall be construed as permitting or enabling the Council to permit in any township the erection or use of any building or the use of any land for the purpose which is prohibited under any approved conditions of title applying to such township or the conditions of title under which any land may be held.

#### **4.11 COMBINED-USE BUILDINGS**

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

- 4.11.1 Where a use which is permitted in a combined-use building is a primary use in another zone, the relevant use 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; and
- 4.11.2 Where a use that is permitted in a combined-use building is not a primary use in any other zone, the relevant use shall be totally subject to the conditions applicable to the primary use in the relevant zone.

#### **4.12 EXTERNAL APPEARANCE OF BUILDINGS**

- 4.12.1 Any person intending to erect any building shall furnish the Council for its consideration, if it so requires (in addition to any plans and particulars required to be submitted under any of the Council's regulations) with drawings or some other sufficient indication of the external appearance, the extent, materials to be used and compatibility of the building with the surrounding urban fabric.
- 4.12.2 The drawings shall be upon suitable and durable material to a scale of 1:100, except that where the building is so extensive as to render a smaller scale necessary, the drawings may be to a scale of 1:200.
- 4.12.3 The Council may require such alteration to the external appearance and building materials as it may deem necessary.
- 4.12.4 The drawings shall be referred to the Aesthetic Committee for approval.

## **4.13 PARKING AND LOADING**

### **4.13.1 PARKING ACCOMMODATION**

#### **4.13.1.1 Alternative Parking Requirements**

(a) As an alternative to the parking requirement in Section 3.12, the owner may, with the consent of the Council, where it is of the opinion that it is undesirable or impractical from a planning point of view to provide the required parking area on the site, acquire the prescribed area of land for the parking facilities concerned elsewhere in the position approved by the Council; provided that he/she registers a notarial deed against such land to the effect that the Council and the public shall have free access thereto for the purpose of parking and provided further that the owner shall be bound to level this land and surface and maintain it to the satisfaction of the Council; and that the cost of registration of the servitude shall be borne by the owner.

(b) As an alternative to Section 4.13.1.1(a), the owner may, with the consent of the Council, pay a cash sum to the Council, equal to the assessed cost of constructing the shortfall in parking bays – estimated as follows:

estimated market value per m<sup>2</sup> of the land on which the building is erected, multiplied by the area in m<sup>2</sup> of the land which is required to be provided, multiplied by a factor of 1.075

in which event the Council shall be responsible for acquiring the necessary land for such parking purposes when and where the Council desires.

The above described assessed cost of constructing the parking bays is based on:

- (i) Each required bay being the equivalent of an area of 25m<sup>2</sup>
- (ii) The market value of land being obtained in the relevant area;
- (iii) A contribution to demolition and land clearing and construction (expressed as 0.025 of the market value of the area required, reflected in 4.13.1.1 (b)(ii)); and
- (iv) A contribution to the transfer cost of the said land (expressed as 0.05 of the market value of the area required, reflected in Section 4.13.1.1 (b) (ii)).

Council's consent shall be subject to the following:

- the road onto which the property is bordering being of sufficient width to accommodate on-street parking.
- the maximum number of parking bays to be accommodated in terms of this alternative may not exceed 25% of the overall required parking bays – or – the total number of bays that can be accommodated on the property's side of the length of street directly bordering onto the site.

- (c) Council may consider amendments to the contributions as contained in Section 4.13.1.1(b).

#### 4.13.1.2 Further Parking and Site Access Requirements

- (a) The vehicular access/exit way shall be restricted to one per site per street frontage. In specific cases, a separate ingress and egress can be considered.
- (b) The vehicular access/exit way shall be restricted to a maximum total width of 6m where such access/exit crosses the road reserve boundary.
- (c) If the corner at a street intersection is not splayed, the vehicular access/exit way shall not be closer than 10m to such corner.
- (d) If the corner at a street intersection is splayed, the vehicular access/exit way shall not be closer than 10m to such corner or 5m measured from the point where the splay reaches the road reserve boundary, whichever is the longest distance from the corner.
- (e) If the corner is situated at a high volume street intersection or a street intersection with traffic signals, the vehicular access/exit way shall not be closer than 20m to such corner.
- (e) Such parking areas shall be duly constructed and surfaced to the satisfaction of the Council.
- (f) Such parking areas shall only be used for the parking of vehicles, which are lawfully allowed on them and may not be used for trading or any other purposes.
- (g) The way in which it is intended that vehicles should park in and gain access to or exit from such parking areas shall be indicated on a site development plan, which shall be submitted to the Council, which may approve or reject it or lay down any conditions deemed necessary by it.
- (h) The Council may lay down more restrictive requirements than those in Sub Section 4.13.1.2 (a) to (g), if deemed necessary from a traffic point of view.
- (i) Parking bays shall be clearly demarcated as per approved site development plan referred to in Section 4.13.1.2 (g) to the satisfaction of the Council.
- (j) Parking areas will be clearly signposted to the satisfaction of the Council.
- (k) The standards relating to parking bays as provided in Annexure F and the Municipality's Guidelines for Off-Street Parking Facilities shall apply.
- (l) The size of parking bays shall be as provided for in the Municipality's Guidelines for Off-Street Parking Facilities.
- (m) Panhandles providing access to erven containing a single dwelling unit shall have a minimum width of 4,0m. Double panhandles or panhandles providing access to erven containing more than one dwelling unit, shall have a minimum width of 6,0m. An access to two or more additional dwelling units on an erf, or an access to two or more townhouse units on a townhouse erf, shall have a minimum width of 6,0m. Panhandles

and accesses have to comply with the Municipality's Guidelines for Ramp Design.

#### **4.13.1.3 CBD Parking**

- (a) The CBD area shall be exempt from the parking requirements for Business Zone I (as provided for in Section 3.8) except where new buildings are erected or existing buildings are substantially modified. Such new buildings and modified buildings will be subject to the following on-site parking provision requirements:
  - (i) New buildings are subject to the full on-site parking provisions.
  - (ii) In the case of substantially modified buildings, all new work will be subject to the full on-site parking provisions.
- (b) As an alternative to the parking requirements in Section 4.13.1.3, Council may, where it is of the opinion that it is undesirable or impractical from a planning point of view to provide the required parking area on site, recommend the parking alternatives as contained in Section 4.13.1.1.

#### **4.13.1.4 Occupation Certificate**

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

### **4.13.2 LOADING AND OFF-LOADING FACILITIES**

#### **4.13.2.1 Demarcation of a Loading Area**

- (a) The loading or off-loading of goods and persons onto or from vehicles, where such activity is associated with one or more of the buildings or land-use types described in this Scheme, shall not be permitted to take place in or upon any street except within such portions of a street which have been specifically demarcated for such purposes by Council, or with the permission of Council.
- (b) Except in Industrial Zones I, II and III the Council may, for the purpose of preventing the obstruction of traffic on any street or proposed street on which a proposed building will front or abut, require the owner to submit for its approval proposals for ensuring, to the Council's satisfaction, suitable and sufficient space on the site for any loading, unloading or fuelling of vehicles which the utilisation of the building is likely to entail.
- (c) No owner or occupant of the building in respect of which proposals under this subsection have been required shall undertake or knowingly permit the continued loading or unloading or fuelling of vehicles otherwise than in accordance with approved proposals.

#### **4.13.2.2 Treatment of Loading Areas**

The provisions of Section 4.13.1.2 (a) regarding the treatment of parking areas shall apply *mutatis mutandis* to all loading areas required in terms of Section 4.13.2.

#### **4.13.2.3 Screening of Loading Areas**

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

#### **4.13.2.4 Occupation Certificate**

The provisions of Section 4.13.1.4, shall apply mutatis mutandis to all loading areas required in terms of Section 4.13.2.

#### **4.13.2.5 Loading Area Additional to Parking Area**

Loading areas required to be provided under Section 4.13.2, shall be in addition to any parking provided in terms of Regulation 3.0 and Annexure F.

#### **4.13.2.6 Loading Requirements**

Loading requirements shall be as required in Section 3 and Annexure F.

#### **4.13.2.7 Loading Area**

Loading area space shall be determined by land use and approved by Council, as per the Municipality's Guidelines for Off-Street Loading Facilities .

### **4.14 USE OF OUTBUILDINGS**

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

### **4.15 CARPORTS**

Subject to the Council's approval, a carport, which will exceed a street or side building line, may be erected subject to the following conditions:

4.15.1 The width of the carport, measured parallel to the street boundary, shall not be more than 6m.

4.15.2 The carport shall be supported by metal, wooden, brick or cement poles or pillars. These poles or pillars may have a maximum external dimension of 350mm and at most four poles or pillars may be provided on one side of the carport.

4.15.3 No walls, except boundary walls, shall be constructed in such a way as to enclose the carport.

- 4.15.4 The height of the carport, measured from the floor to the top of the roof, may not exceed 3m.
- 4.15.5 The sides of the roof shall be neatly finished with a fascia not exceeding a depth of 300mm.
- 4.15.6 The facade of the carport shall not be closer than 300mm to the street boundary.
- 4.15.7 No gates which open onto the pavement shall be permitted.
- 4.15.8 Provision shall be made for the collection and run-off of rainwater from the carport.
- 4.15.9 Written confirmation, from the adjoining owner(s) of both adjoining land units if a street building line will be exceeded, to the effect that they have no objection to the proposed carport, shall be obtained.

#### **4.16 COUNCIL'S DUTIES**

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

#### **4.17 SERVICE OF DOCUMENTS**

- (a) The provisions of Section 211 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974) shall mutatis mutandis apply to this zoning scheme.
- (b) Any notice or other document which the Council is required or authorised to serve under this scheme may be signed by the Municipal Manager or other duly authorised official and may be served by delivery of a copy thereof in one or other of the following manners:
  - (i) by delivering it to the person to whom it is addressed, or by sending it by registered post to his/her last known place of abode;
  - (ii) if the notice or document is to be served on any company or other incorporated body, by delivering it at the registered office of such company or body, or by sending it by registered post to such registered office; or
  - (iii) if the Council is unable after reasonable inquiry to ascertain the name or address of the person upon whom such notice should be served, by addressing it to him/her/it by the description of "owner" or "occupier" of the premises to which it relates, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

**4.18 TOWNSHIPS AND MINOR SUBDIVISIONS IN TERMS OF THE TOWNSHIPS ORDINANCE, 1934**

Notwithstanding anything to the contrary contained in these regulations, conditions of ownership imposed by the Premier upon the approval of townships and minor subdivisions in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934), shall be applicable in so far as such conditions are more restrictive than the provisions of the zoning scheme.

**4.19 AESTHETICS AND LANDSCAPING**

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

**4.20 FIXING OF BUILDING LINES**

- (a) In any street existing at the date of approval of this scheme for which no building line is shown on the map or for which no building line has been fixed in terms of the proviso to this subsection, the building line on any particular side of any particular section of the street shall be at a distance from the boundary of the street equal to the average of the distances between the street boundary and all the existing buildings on that side and in that section of the street at the date when this scheme comes into operation, but shall not exceed the building lines for the respective zones laid down in Section 3, provided that if on any side of any section of the street there are no existing buildings the Council may fix a building line for that side of the section of the street in accordance with Section 3.
- (b) In this Subsection the term "section of a street" means the portion of the street lying between the corners of two adjacent intersecting streets or between the point where the boundary of a township crosses the street and the nearest intersecting street.
- (c) Any person on whom a notice is required to be served under this Clause, and whom the fixing of the building line aggrieves, may appeal.

**4.21 SPECIFIC STREET BUILDING LINES**

Council may specify minimum building lines or setbacks for certain areas as required.

**4.22 ROAD WIDENING**

Council may identify areas of land for road widening purposes as required and allocate an appropriate zoning to such land.

## 4.23

### SITE DEVELOPMENT PLANS

The following further conditions shall apply to all erven in all use zones:

A site development plan, compiled to a scale of 1:500 or any other scale as may be approved by the Council, shall be submitted for approval to the Council and no building shall be erected on the site until such site development plan and building plans in accordance with the site development plan, have been approved by the Council. The entire development of the Erf shall be in accordance with the approved site development plan, provided that:

- (a) The plan may be amended by way of an application for an amendment of the approved site development plan;
- (b) The Council may exempt the owner from submission of all or certain provisions contained within this regulation; and
- (c) The site development plan shall indicate at least the following;
  - (i) The location and height of all buildings and structures;
  - (ii) Vehicular and pedestrian entrances to and exists from the site and all buildings;
  - (iii) Proposed subdivision lines, if the Erf is to be subdivided;
  - (iv) Building lines and all existing and proposed servitudes;
  - (v) 1:100 Year flood lines where applicable;
  - (vi) Parking, loading and unloading areas;
  - (vii) Vehicular and pedestrian circulation;
  - (viii) Elevation of all buildings and structures – if required by Council.
  - (ix) The phasing of the development, if it is envisaged that the total development will not take place simultaneously;
  - (x) A land use schedule which specifies the zoning of the property, applicable controls and controls used for the development;
  - (xi) A contour map indicating 1 meter contour intervals; and
  - (xii) Any other requirement deemed necessary by Council.
  - (xiii) For Townhouse, Business and Office developments, the position of centralised refuse collection points.
- (e) An Occupation Certificate as contemplated in terms of the National Building Regulations shall not be issued if the development of a property does not comply with the approved Site Development Plan.

## **5. APPROVAL OF DEPARTURES AND SUBDIVISIONS BY COUNCIL**

### **5.1 DEPARTURES**

5.1.1 The Council may in terms of subsections (1)(b) or (5) of Section 15 of the Ordinance, respectively grant or refuse an application for a departure, in terms of Section 15 (1)(a)(i), or determine an extended period after which such departure shall lapse.

### **5.2 SUBDIVISIONS**

5.2.1 Council may, without reference to the Premier, grant or refuse an application for the subdivision of land in terms of Section 25(1) of the Ordinance.

### **5.3 REMOVAL OF RESTRICTIONS**

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

**NOXIOUS USE/TRADE/INDUSTRY****THE FOLLOWING ACTIVITIES ARE CLASSIFIED AS NOXIOUS USE/TRADE/INDUSTRY:**

1. Any use, trade or industry which constitutes a nuisance or a risk to health in neighbouring premises arising from vapours, effluvia, fluids, liquid waste matter, solid waste matter, noise, disturbance and dust – or which carry a high risk in the event of a fire or accident.
2. Or any activities which do not comply with the requirements of the following legislation (or amendments of legislation, or relevant new legislation), or any activities which constitute a nuisance as envisaged in regulations that are promulgated from time to time in terms of such legislation:
  - (a) National Water Act (No. 36 of 1998)
  - (b) Environmental Conservation Act (No. 73 of 1989 as amended by Act No. 98 of 1991)
  - (c) Physical Planning Act (No. 125 of 1991)
  - (d) Air Pollution Prevention Act (No. 45 of 1965) as amended by Act No. 17/1973, No. 21/1981, No. 15/1985
  - (e) Public Health Act (No. 36 of 1919 as amended)
  - (f) Industrial Development Act (No. 22 of 1940 as amended)
  - (g) Mineral Act (No. 50 of 1991)
  - (h) Explosives Act, 1956 (Act 26 of 1956)
  - (i) Health Act, 1977 (Act 63 of 1977)
  - (j) National Environment Management Act (NEMA – No. 107 of 1998)
3. Any installation, which in terms of the Occupational Health and Safety Act No. 85 of 1993 is classified as a "**major hazard installation**". The act defines a "major hazard installation as follows:
  - (a) where more than the prescribed quantity of any substance is or may be kept, whether permanently or temporarily; or
  - (b) where any substance is produced, processed, used, handled or stored in such a form and quantity that it has the potential to cause a major incident.

**POLICY FOR INFORMAL ALCOHOL RETAIL  
OPERATIONS: TAVERNS****1. APPLICATION**

- a) Application to operate a tavern will have to be made as a departure in terms of Section 15(1)(a)(l) of the Land Use Planning Ordinance 15 of 1985, which is temporary and valid for five years, after which re-application has to be made.
- b) Application forms required for a departure are available from the Town Planning Department and an application fee will be payable by the applicant.
- c) The applicant shall maintain a suitable notice on the site to the satisfaction of the Director of Development Planning.
- d) The notice on the site shall give full details of the tavern that the applicant proposes to establish and shall state that any objection shall be lodged with the Council within 14 days of the notice being displayed.
- e) The applicant shall serve written notices by registered mail to the surrounding property owners identified by the Director of Development Planning and provide proof to the Director of Development Planning of such notices having been sent.
- f) The consent to a departure by the Council for a tavern shall apply to the applicant only while he resides on the property and will not be transferable in any form or manner.

**2. TOWN PLANNING REGULATIONS**

- a) Only one room of a principal dwelling or garage or outbuilding with an area not exceeding 50m<sup>2</sup> is to be converted for tavern use.
- b) The house is to have a primarily residential function.
- c) The tavern should not impact negatively on the surrounding neighbours and measures should be taken to limit operating hours, to facilitate off-loading of goods and to ensure adequate refuse removal, etc. Operating hours should be restricted to between 10:00 and 24:00 on any day.
- d) Not more than two people should be involved in operating a tavern.

**3. ADVERTISING ON THE PREMISES**

- a) Advertising will be restricted to one flat sign 600mm x 450mm in size to be affixed either to a wall of the house or to a fence containing only the name of the tavern and the operating hours.
- b) No other forms of advertising will be permitted for taverns.

#### **4. MUNICIPAL PROCEDURES**

- a) The applicant will submit a departure application to operate a tavern to the Director of Development Planning.
- b) The Town Planning Department will send details of the application to the Health Department.
- c) A memorandum must be returned to the Director of Development Planning giving a report of the investigation and the Health Department's recommendation and requirements.
- d) The Town Planning Department shall also carry out an investigation and make a recommendation to the Director of Development Planning.
- e) The Director of Development Planning shall then consider the application in terms of his delegated powers and advise the applicant in writing of the outcome thereof.
- f) In cases where an insoluble dispute arises between the Health Department and the Director of Development Planning, the Directorate of Development Planning will submit a report to the Development Planning Standing Committee, who will decide on the application.
- g) If the departure application is granted, the applicant must be advised to apply for a liquor licence.
- h) A complete record of all taverns shall be kept by the Director of Development Planning in this regard.
- i) All taverns will be inspected on a regular basis by the Health Department.

#### **5. WITHDRAWAL OF DEPARTURE RIGHTS**

- a) Any contravention of the guidelines mentioned above or any written complaints verified by officials of the Council will be reported to the Development Planning Standing Committee and could result in the closure of the tavern and the withdrawal of the departure rights.

**POLICY FOR INFORMAL RETAILING OPERATIONS:  
HOUSE SHOPS (SPAZA SHOPS)****1.1 APPLICATION**

- (a) Application to operate a house shop will have to be made as a departure in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance 15 of 1985, which is temporary, and valid for five years after which re-application has to be made.
- (b) Application forms required for a departure are available from the Town Planning Department and an application fee will be payable by the applicant.
- (c) The applicant shall maintain a suitable notice on the site to the satisfaction of the Director of Planning and Engineering Services.
- (d) The notice on the site shall give full details of the shop that the applicant proposes to establish and shall state that any objection shall be lodged with the Council within 14 days of the notice being displayed.
- (e) The applicant shall serve written notices by registered mail to the surrounding property owners identified by the Director of Development Planning and provide proof to the Director of Development Planning of such notices having been sent.
- (f) The consent to a departure by the Council for a house shop shall apply to the applicant while he resides on the property and will not be transferable in any form or manner.

**1.2 TOWN PLANNING REGULATIONS**

- (a) Only one room of a principal dwelling or garage or outbuilding with an area not exceeding 30 m<sup>2</sup> is to be converted for retail use.
- (b) The house is to have a primarily residential function.
- (c) The house shop should not impact negatively on the surrounding neighbours and measures should be taken to limit operating hours, to facilitate off-loading of goods and to ensure adequate refuse removal, etc. Operating hours should be restricted to between 07:00 - 18:00 on weekdays and 08:00 - 13:00 on weekends.
- (e) Not more than two people should be involved in operating a house shop.

### **1.3 ADVERTISING ON THE PREMISES**

- (a) Advertising will be restricted to one flat sign 600mm x 450mm in size to be affixed either to a wall of the house or to a fence containing only the name of the specific house shop and the operating hours. Signs may be illuminated, but flashing lights are not permitted.
- (b) No other forms of advertising will be permitted for house shops.

### **1.4 HEALTH DEPARTMENT REGULATIONS**

- (a) An inspection of the premises by the Health Inspector must be carried out to determine whether suitable facilities are available.
- (b) Structures that are acceptable for use as a house shop are an outbuilding, garage or an approved portion of the main dwelling of adequate size (minimum 6sq.m).

Wood and iron or similar structures are unacceptable as are the kitchen, lounge and dining-room within the main dwelling. If an existing bedroom is to be used, the Health Inspector should satisfy himself that the use of such room would not result in overcrowding of other rooms.

- (c) Customers must have direct access to the house shop from the street and not through the dwelling house. Serving customers through a window or hatch to the outside is acceptable.
- (d) The outbuilding or room used must be authorised and comply structurally with the National Building Regulations and normal health requirements for buildings used for food shops.
- (e) Adequate and easily accessible toilet and hand-washing facilities must be available for all persons employed in the house shop.
- (f) A sink should be provided in the house shop or if the dwelling house kitchen sink is to be used, this should be easily accessible.
- (g) Should any perishable foodstuffs be sold, there should be adequate refrigeration facilities available and such foodstuffs must be pre-wrapped and obtained only from approved manufacturers and dealers.

### **1.5 MUNICIPAL PROCEDURES**

(Not required by the applicant - for information purposes only)

- (a) The applicant will submit a departure application to operate a house shop to the Director of Development Planning.
- (b) The Town Planning Department will send details of the application to the Health Department.
- (c) The Health Department will conduct an inspection and the Health Inspector must record all information resulting from the investigation on a progress report.

- (d) A memorandum must be sent to the Director of Development Planning giving a report of the investigation and the Health Department's recommendation.
- (e) The Town Planning Department shall also carry out an investigation and make a recommendation to the Director of Development Planning.
- (f) The Director of Development Planning shall then consider the application in terms of his delegated powers and advise the applicant in writing of the outcome thereof.
- (g) In cases where an insoluble dispute arises between the Health Department and the Director of Development Planning as to whether or not the application should be granted, the Directorate of Development Planning will submit a report to Council, who will decide on the application.
- (h) If the departure application is granted, the applicant must be advised to apply for a trade licence or permit as applicable.
- (i) When the licence application is received a further inspection of the premises will be carried out by the Health Department.
- (j) A complete record of all house shops shall be kept by the Directorate of Development Planning in this regard.
- (k) All house shops will be inspected on a regular basis by the Health Department.

## **1.6 WITHDRAWAL OF DEPARTURE RIGHTS**

- (a) Any contravention of the guidelines mentioned above or any written complaints verified by officials of the Council will be reported to the Development Planning Standing Committee and could result in the closure of the house shop and the withdrawal of the departure rights.

**POLICY FOR THE ERECTION OF A SECOND DWELLING UNIT**

The erection of a second dwelling unit shall be subject to the following conditions:

- (a) Erf Size:  
A minimum erf size of 300m<sup>2</sup>.
- (b) Size of Second Dwelling Unit:  
A minimum of 35m<sup>2</sup> and a maximum size as determined by the permissible coverage and floor area ratio.
- (c) Coverage:  
Maximum coverage in terms of the density zone.
- (d) Building Lines: Street, Lateral and Rear  
As applicable to the prime dwelling unit.
- (e) Height:  
2 Storeys  
No point of a building shall exceed a vertical distance above the grade line of:
- 6m – in the case of flat roofed buildings, or
  - 8m – in the case of inclined or pitched roofed buildings, and only the roof structure may exceed 6m above the grade line;
- provided that chimneys, flues and antennae are exempt from this height restriction.
- (e) Parking:  
At least one on-site parking bay to be provided for the second dwelling unit.
- (f) Vehicular Access:  
Only one vehicular access per street frontage is to be permitted in terms of the Buffalo City Zoning Scheme.
- (g) Outbuildings:  
Outbuildings normally incidental to a main dwelling will be permitted with a second dwelling unit on condition that the permissible coverage is complied with.
- (h) Municipal Services:  
The second dwelling unit is required to make use of the existing Municipal service connections serving the primary unit on the site.
- (i) Ownership  
Sectional title or other form of separate ownership (e.g. sub-division) for the main and second dwelling shall be permitted, provided that with subdivisions both dwellings shall have direct access to public roadway and both dwellings shall have direct connections to Municipal infrastructure.

(j) Subdivisions

Council shall be under no obligation to consider subdivisions of erven on which sectional title units have already been approved.

**POLICY FOR BED AND BREAKFAST ESTABLISHMENTS  
AND GUEST-HOUSES****1. GENERAL INFORMATION**

1.1 There are 4 categories of Bed & Breakfast/Guest-house establishments:

- (a) 1 & 2 guest-rooms: No special regulations apply.
- (b) 3 & 4 guest-rooms: If situated in Residential Zones I, II, III a departure from the Town Planning Scheme is necessary.
- (c) 5 -16 guest-rooms: If situated in Residential Zone V a special consent is necessary.

If situated in Residential Zone IV, or in Residential Zones I, II, III that are situated on roads of metropolitan significance - a departure is necessary. If the Residential Zones I, II and III property is not on Roads of Metropolitan Significance, it will have to be rezoned to Residential Zone VI (Guest House only). Such rezoning will only be considered on erven of 1200m<sup>2</sup> or larger. All guest-houses (in all areas) must comply with the provisions of this policy.

1.2 In Residential Zones I, II, III, IV and V and Agricultural Zone – guest-rooms need to form part of an approved dwelling unit (primary dwelling, second dwelling, or if approved in Agricultural Zone – such additional dwellings) and are not to be provided as free-standing rooms.

1.3 2 persons (with 2 children) shall be allowed per guest-room.

1.4 Applicants must note that:

- (a) A departure is a temporary measure, usually for 5 years, after which the applicant must make a new application to renew the departure. Prospective applicants must keep this in mind, especially if they plan to invest huge sums of money in alterations etc. A renewed departure may not be granted after 5 years.
- (b) The application for a departure takes approximately 1 month to process.
- (c) Letters of no objection from the adjoining property owners must be furnished to the City Planning Division.
- (d) All building regulations must be complied with.

1.5 The B&B/Guest House policy and application forms are available from the City Planning Division's counter.

1.6 An application should include the following:

- (a) Covering letter (with postal address of applicant, the address of the establishment, number of rooms)
- (b) Application form.
- (c) Letters from the adjoining property owners.
- (d) Building plans if any changes have been made to the building, with relevant application fee.
- (e) Site plan showing parking and marked rooms to be used as guest-rooms (hand drawn sketch is acceptable).
- (f) Departure application fees as determined by Council.

## **2. CATEGORIES OF BED AND BREAKFAST ESTABLISHMENTS AND GUEST HOUSES**

### **2.1 CATEGORY 1: DWELLING HOUSE WITH ONE OR TWO GUEST-ROOMS, WHICH ARE RENTED OUT AS SHORT TERM ACCOMMODATION**

No special regulations are applicable other than normal Building and Town Planning regulations. No additional parking bays are required.

### **2.2 CATEGORY 2 : BED & BREAKFAST ESTABLISHMENTS**

#### **2.2.1 Definition**

A B&B is an owner managed commercial accommodation establishment of not more than 4 guest-rooms, and which has as its primary source of business the supply of short-term accommodation and breakfast for resident guests.

#### **2.2.2 Guidelines for approval**

If an erf is located in Residential Zone I, II or III and Agricultural Zone, the owner needs to make an application for a departure from the Buffalo City Municipality Zoning Scheme in order to operate such an establishment. If the erf is located in Residential Zone IV, V and VI or Business Zone I, II and III no departure is necessary but the applicant must still comply with the applicable provisions of this policy.

#### **2.2.3 Parking**

3 - 4 Guest-rooms: 2 bays (refer Annexure F).

#### **2.2.4 Signs**

- (a) One sign with a maximum size of 2 700cm (60cm x 45cm) stating only the name of the establishment and the words "Bed 'n Breakfast" will be permitted.
- (b) Signs may be illuminated, but flashing lights are not permitted.
- (c) No directional signs to the establishments are permitted without prior approval from the Program Manager – Traffic Engineering.

### 2.2.5 **Food and Liquor**

No self-catering accommodation in the main dwelling (other than the main kitchen) is permitted. It is, however, permitted in a second dwelling.

### 2.2.6 **Advertising**

The establishment must furnish the Town Planning Department with letters from all the adjoining property owners stating that they do not have any objection to the establishment. If the objections are valid, the application will not be approved.

### 2.2.7 **Health Requirements**

The regulations of the City Health Department must be complied with.

### 2.2.8 **General**

- (a) In terms of the Town Planning regulations, only two dwellings and domestic employee's quarters are permitted on a residential erf (that is the main dwelling and a second dwelling). Additional dwellings may be permitted on an agricultural property.
- (b) Accommodation may be provided on a short-term basis only.
- (c) No conference facilities are permitted.
- (d) All alterations and second dwellings must be legal in terms of the Buffalo City Zoning Scheme.
- (e) The householder or a manager must be resident on the premises and in the main dwelling.
- (f) These provisions are for Town Planning purposes only and their coming into effect will not constitute a repeal of other relevant regulations or the policies of other departments of Buffalo City.

## 2.3 **CATEGORY 3 : GUEST HOUSES**

### 2.3.1 **Definition**

A guest house is an owner managed commercial accommodation establishment of not less than 5 guest-rooms and not more than 16 guest-rooms, and which has as its primary source of business, the supply of short-term accommodation and breakfast for resident guests, and the provision of dinner where such facility is not readily available in the vicinity.

### 2.3.2 **Guidelines for approval**

- (a) Establishments that have between 5 and 16 guest-rooms are permitted in Residential Zone VI and Business Zone I, II and IV.
- (b) Additionally, in Residential Zone IV and Agricultural Zone, and Residential Zone I, II and III, that are situated on Roads of Metropolitan Significance (according to the ELMET Guidance Signage Plan & Policy), establishments that have between 5 and 16 guest-rooms will only be considered by way of a departure. In Residential Zone V establishments that have between 5 and 16 guest-rooms will be considered by way of a special consent.

- (c) Establishments in Residential Zones I, II and III that are not on Roads of Metropolitan Significance will have to be rezoned to Residential Zone VI (Guest House only). Such rezonings will only be considered on erven of 1200m<sup>2</sup> or larger. All guest houses (in all areas) must comply with the provisions of this policy.

### **2.3.3 Parking**

2 Parking bays shall be provided for every 3 guest-rooms; and 2 additional parking bays for the owners/permanent residents.

### **2.3.4 Signs**

- (a) If situated in Residential Zones I, II and III, one sign with a maximum size of 2 700cm<sup>2</sup> (60 cm x 45 cm) stating only the name of the establishment and the words "Guest House" will be permitted.
- (b) No directional signs to the establishments are permitted without prior approval from the Program Manager – Traffic Engineering.
- (c) If situated in Residential Zone IV, V and VI, Agricultural Zone and Business Zone I, II and IV signage shall be as prescribed by the Architects Department of the Municipality.

### **2.3.5 Food and Liquor**

No self-catering accommodation in the main dwelling is permitted. It is, however, permitted in a second dwelling.

### **2.3.6 Advertising**

Approval is subject to no valid objections being received from the neighbours of such an establishment. The establishment must furnish the Town Planning Department with letters from the adjoining neighbours stating that they do not have any objection to the establishments.

### **2.3.7 Health Requirements**

The regulations of Buffalo City's Health Department must be complied with.

### **2.3.8 Rates and Service Charges**

- (a) A guest house is seen as a business and should be rated accordingly, including the levying of business service charges.
- (b) The Rates Department shall advise on the correct rates and service charges for these establishments.

### **2.3.9 General**

- (a) In terms of Buffalo City's Zoning Scheme regulations, only two dwellings are permitted on a residential erf that is the main dwelling, a second dwelling with a kitchen and domestic employee's quarters.
- (b) Accommodation may be provided on a short term basis only.

- (c) All alterations and second dwellings must be legal in terms of the Zoning Scheme.
- (d) If situated in a residential zone (Residential Zone I II and III), the householder or a manager must be resident on the premises and in the main dwelling.
- (e) These provisions are for Town Planning purposes only and their coming into effect will not constitute a repeal of other relevant regulations or the policies of other departments of Buffalo City.

### **3. SPECIAL NOTES**

- (a) The Town Planning Department reserves the right to approve or not approve any application (especially Guest Houses with more than 8 guest-rooms) if it feels that the application will have a negative effect on the area surrounding the specific erf or the services in the vicinity.
- (b) Should any of these above-mentioned establishments become detrimental to the surrounding areas, the Council reserves the right to regulate and control such establishments, regardless of how much has been spent on it and regardless of the fact that the establishments have complied with the regulations.
- (c) Important: If an applicant wants to open a Guest house with more than 16 guest-rooms in Residential Zones I, II, III and IV and Agricultural Zone, his/her property has to be rezoned to Residential Zone VI (Guest House only). The usual Town Planning regulations and procedure will apply in this regard.
- (d) Any development on the premises of a B&B/Guest House will be subject to the requirements of the Buffalo City Zoning Scheme, and compliance with building regulations and requirements.
- (e) If there are no objections to applications, the final decision lies with the Town Planning Department. If there are any objections to an application, the proposal will have to be submitted to Council for approval.

**ANNEXURE  
F**

<b>PARKING REQUIREMENTS FOR BUFFALO CITY</b>	
<b>USE</b>	<b>REQUIREMENT</b>
<b>A : RESIDENTIAL</b>	
<b>1. General Residential:</b> Flats, town houses, etc.	2 bays/unit
<b>2. Hotels</b>	1 bay/bedroom and 10 bays per 100m <sup>2</sup> Public Accessible Area
<b>3. Residential Hotels, boarding houses, etc.</b>	0,6 bays/bedroom
<b>4. Old Age Homes, Orphanages, etc.</b>	0,3 bays/bedroom
<b>5. Bed &amp; Breakfast</b> 1 - 2 guest-rooms 3 - 4 guest-rooms	No additional bays 2 bays
<b>6. Guest House</b> 5 - 16 guest-rooms	2 bays per 3 guest-rooms
<b>B : OFFICES AND BUSINESS</b>	
<b>1. General Offices (Business Zone IV) - Office only zoning</b>	2,5 bays/100m <sup>2</sup> GLA (no space to be deducted for kitchens, passages, etc.)
<b>2. Professional Services such as Medical and Veterinary Consulting rooms, Hairdressers, etc.</b>	6 bays/100m <sup>2</sup> GLA
<b>3. Business Shops, Shopping Centres, Hypermarkets, Banks, etc.</b>	6 bays/100m <sup>2</sup> GLA, for Business Zone I and II. The <u>use</u> of property may not affect this requirement.
<b>C : MEDICAL</b>	
<b>1. Consulting Rooms</b>	6 bays/100m <sup>2</sup> GLA
<b>2. Small private hospitals and clinics</b>	1 bay/bed
<b>3. General hospitals</b>	1 bay/bed
<b>D : INDUSTRIAL AND COMMERCIAL</b>	
<b>1. Manufacturing</b>	1 bay (etc.) /100m <sup>2</sup> GLA
<b>2. Warehousing</b>	1 bay (etc) /100m <sup>2</sup> GLA
<b>3. Dairies, Bakeries and Laundries</b>	1 bay (etc) /100m <sup>2</sup> GLA
<b>4. Storage Yards</b>	1 bay (etc)/100m <sup>2</sup> GLA

<b>E : PUBLIC GARAGES</b>	
<b>1. Petrol Filling Station</b>	4 working bays plus 2 bays per 100m <sup>2</sup> spares and sales area
<b>F : PLACES OF PUBLIC WORSHIP</b>	
<b>1. Place of Public Worship, Church</b>	0,15 bays/seat
<b>G : EDUCATIONAL</b>	
<b>1. Day care Centres</b>	1 bay/teacher or assistant
<b>2. Nursery School</b>	1 space/class-room or office + Sufficient on and off loading area
<b>3. Primary School</b>	1 space/class room or office + Sufficient on and off loading area
<b>4. Secondary School</b>	1 space/class room or office + Sufficient on and off loading area
<b>5. Colleges and Technikons</b>	0.25 spaces per student
<b>6. Universities</b>	0.4 spaces per student
<b>H : RECREATION, SPORT AND ENTERTAINMENT</b>	
<b>1. Community Centres</b>	2 spaces/100m <sup>2</sup> GLA
<b>2. Halls</b>	0,25 spaces/seat <u>or</u> 20 spaces/100m <sup>2</sup> GLA
<b>3. Cinemas and Theatres</b> - within shopping centre - isolated	0,1 spaces/seat 0,2 spaces/seat
<b>4. Sport Stadiums</b>	0,25 spaces/seat
<b>5. Swimming Pools</b>	0,25 spaces/seat
<b>6. Libraries and Museums</b>	2 spaces/100m <sup>2</sup>
<b>7. Other Public Facilities</b>	2 spaces/100m <sup>2</sup> or at Council's discretion

**POLICY FOR PRACTICING OF AN OCCUPATION IN A  
RESIDENTIAL DWELLING**

Where a portion of a dwelling unit is utilised for the purposes of occupational practice, the following conditions shall apply:

- (a) The person practicing the profession, occupation, enterprise or trade, (excluding employees), whether or not such person is a tenant or owner of the dwelling unit, must reside on the property.
- (b) The primary utilisation remains that of a dwelling unit.
- (c) Such portion of the dwelling unit (dwelling house, flat or residential building) may not be utilised for the purpose of a shop, business premises, industry or noxious industry.
- (d) No goods sold or traded should be openly displayed and the practicing of the occupational practice should not be visible, except for the display notice in terms of item (e) below.
- (e) No advertising shall be displayed other than an unilluminated sign or notice not projecting over the road reserve boundary and not exceeding 2 000cm<sup>2</sup> in size and indicating only the name and occupation of the occupant.
- (f) No activities shall be carried on which are, or are likely to be, a source of disturbance or nuisance to occupants of other dwelling units or portion thereof.
- (g) In Residential Zone IV and V, prior permission is required from the Home Owner's Association and the practising occupant may not employ any person/s.
- (h) If any person with a direct interest is of the opinion that any condition referred to in this policy or in the definition of "occupational practice" has been or is being contravened, such person may lodge a written complaint with the Council requesting action in terms of Section 39(1)(b) of the Ordinance.
- (i) The Council shall consider a complaint mentioned in (h) above, and if in the opinion of the Council a contravention of any condition referred to in this policy or in the definition of "occupational practice" has occurred, the Council shall act in terms of Section 39(1)(b) of the Ordinance, or as otherwise provided for by law.
- (j) Adequate off-street parking, as determined by Council, must be provided for staff vehicles and other vehicles associated with the occupational practice and such parking shall be provided in such a manner that it does not detract from the amenity of the area, and, where required by Council, be screened.

# ANNEXURE H

