

UMDONI URBAN PLANNING SCHEME CLAUSES



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URBAN PLANNING SCHEME

SCHEME CLAUSES

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PART 1: GENERAL PROVISIONS

CHAPTER 1

BASIC PROVISIONS

1.1 TITLE

This Scheme shall be known as the “Umdoni Urban Planning Scheme” in course of preparation, hereinafter referred to as the Scheme.

1.2 PURPOSE

The purpose of this Planning Scheme is to promote the co-ordinated and harmonious development of the Umdoni area in such a way as will most effectively tend to promote health, safety, order, amenity, convenience and general welfare, as well as efficiency and economy in the process of development, and the improvement of communications. In furtherance of this purpose, the Local Council desires to achieve a pattern and distribution of land uses which will generally:

- 1.2.1 Retain and enhance established residential neighbourhoods, commercial and industrial districts, sub-regional-serving uses, recreation and amenity.
- 1.2.2 Allow for the infill and recycling of areas at their prevailing scale and character.
- 1.2.3 Allow for the intensification of commercial and industrial uses within certain designated areas.
- 1.2.4 Allow for mixed residential density in select residential neighbourhoods.
- 1.2.5 Accommodate expansion of development into vacant and low-use lands within environmental and infrastructure constraints, and in accordance with the Integrated Development Plan (IDP).
- 1.2.6 Maintain and enhance significant environmental resources.
- 1.2.7 Provide a diversity, within the area, of areas characterised by differing land use activity, scale and intensity, so as to cater for the needs of the wider community across the socio-economic spectrum.
- 1.2.8 Establish Umdoni, as a unique and distinctive place on the KwaZulu-Natal South Coast with a high quality of life and aesthetic, secure environment for the residences and businesses.

1.3 SCHEME AREA

The area to which this Scheme applies consists of the area of land under the jurisdiction of the Local Authority as set out below:

1.3.1	Scottburgh / Scottburgh	
	Central:	Proclamation Nos 6 of 1945 and 42 of 1949
	Scottburgh South:	Proclamation Nos 25 of 1955 and 63 of 1956
	Scottburgh Freeland Park:	Proclamation No. 8 of 1958
1.3.2	Umzinto North:	Proclamation No. 9 of 1958
1.3.3	Umzinto:	Proclamation No. 9 of 1958
1.3.4	Park Rynie:	Proclamation No. 64 of 1956
1.3.5	Esperanza:	Proclamation No. 275, 276, 277 of 2001
1.3.6	Pennington	Proclamation No. 130 of 1968
1.3.7	Pennington (Retirement Village)	Proclamation No. 51 of 1986
1.3.8	Selborne Park	Proclamation No. 41 of 1988
1.3.9	Bazley	Proclamation No. 34 of 1967
1.3.10	Ifafa	Proclamation No. 32 of 1967
1.3.11	Elysium	Proclamation No. 27 of 1967
1.3.12	Mtwalume	Proclamation No. 70 of 1970
1.3.13	Sezela	Proclamation No. 60 of 1995
1.3.14	Scheme Extension areas including Shayamoya, Ocean View, Ifafa Glebe, Darlington all as at illustrated on Resolution Map Drawing UMDSCHEXTENSION UMD782 dated October 2002.	

1.4 EFFECTIVE DATE

The effective date is the date of the former Administrator's or the MEC's approval of the resolution of the Local Authority to prepare a scheme as set out below:

1.4.1	Scottburgh	
	Scottburgh Central:	11 December 1952
	Scottburgh South:	13 November 1956
	Scottburgh: Freeland Park:	22 May 1958
1.4.2	Umzinto North:	6 October 1966
1.4.3	Umzinto:	6 October 1966
1.4.4	Park Rynie:	23 December 1958
1.4.5	Esperanza:	26 July 2001
1.4.6	Pennington	11 September 1970
1.4.7	Pennington (Retirement Village)	8 August 1986
1.4.8	Pennington (Selborne Park)	26 September 1988
1.4.9	Bazley	20 February 1974
1.4.10	Ifafa	20 February 1974
1.4.11	Elysium	7 November 1974
1.4.12	Mtwalume	20 February 1974
1.4.13	Sezela	1 January 1999
1.4.14	Scheme Extension Areas	4 September 2003

1.5 PLANNING AUTHORITY

The Umdoni Local Council or any subsequent elected Council, hereinafter referred to as the Local Authority, shall be the authority, responsible for enforcing and carrying into effect the provisions of the Scheme.

1.6 SCHEME MAP

The Scheme Maps comprise Drawing Numbers: UMD 782 P1 to P14 dated February 2005, as updated in March 2009 and as referenced UMD 1004 P1 to P14, and as further updated from time to time.

1.7 THE GENERAL PURPOSE, CONTENT AND LEGAL STATUS OF A PLANNING SCHEME

Any proposal or application to develop or use land and /or buildings within a Local Authority area must have regard for the provisions of the Planning Scheme and for the provisions of the Integrated Development Plan. The latter Plan is a Policy document accompanied by a map or plan which sets out goals for a town or city, based on its role, character and its expected or planned growth, and provides policy and strategy for achieving those goals. Therefore, such a Plan acts as a further guide in assessing the appropriateness of the intended development or use in question.

However, the main planning and development regulation instrument is undoubtedly the Planning Scheme.

The general purpose of this section is to provide a context within which land and/or buildings may be used or developed in terms of the provisions of a Planning Scheme, and then to examine in some detail the content of the Planning Scheme.

A Planning Scheme is prepared and enacted in terms of the Town Planning Ordinance No. 27 of 1949 (As Amended).

In view of the wide range and scope of a Scheme it could be argued that the preparation of a Planning Scheme and its subsequent administration is the single most important management function of a Local Authority.

1.8 MAIN COMPONENTS OF A SCHEME

The legal provisions of the Planning Scheme comprise two main components which operate in tandem, namely:

- (i) a Scheme map depicting “zoning”, and
- (ii) the Scheme Clauses or text containing regulations.

The Scheme map is prepared on a cadastral base that depicts all registered subdivisions of land and existing roads on which is overlaid the nature and extent of each use zone and the reservation of all land for public purposes such as new roads, road closures and widenings and open space.

In this form the Scheme map forms a dual purpose, i.e. firstly, it enables identification of any erf or portion of land in terms of its physical relationship with its surroundings,

including matters that might have a direct effect on the erf or portion such as street widening or the allocation of adjoining land for shopping or other purposes.

The second role of the Scheme map is as a property zoning key for the application of the regulations. It should be noted however that the map does not record existing land usage and development, although in many cases, zonings and land reservations might accurately reflect such conditions. For example, there is no distinction, where land is reserved for public open space, between a developed park and land that still has to be acquired and developed for such purpose. Equally, an existing shop might be located within a residential zone although the use Shop is a precluded use in that zone, which would be the case for a pre-scheme, non-conforming existing use.

The demarcation and zoning of areas of land for particular use purposes, has become the most significant and debated feature of a Planning Scheme. In practice, zoning attempts to achieve its purpose by the physical separation of various activities and the grouping of compatible activities within a specific zone. In this latter regard, zoning employs a cascade or hierarchical principle in terms of which zoning for a certain order of use - for example; high density residential development - will usually permit a variety of lower order uses such as - medium density and low density residential developments. Conversely, zoning that permits low density residential developments may not permit medium or high residential developments and related activities such as launderette and a block of flats.

It may therefore be observed that since zoning can permit a range of uses or intensities of use, it affords a degree of flexibility to the extent of what might be deemed desirable at some future time. As a result, zoning should be treated with caution as a basis for accurately assessing the magnitude of future development or the development potential of an area.

In order to cater for this future development potential within a zone, the town planning regulations permit a degree of flexibility via 3 categories of provisions. These provisions specify the usage and development of land and buildings, within each zone, according to those that are:

- * Expressly permissible (i.e. a free entry right)
- * Expressly prohibited
- * Conditionally permitted by “Special Consent” of the Local Authority.
- * In certain instances, where neighbours written consent is obtained Special Consent may be waived.

1.9 TYPES OF TOWN PLANNING APPLICATIONS

In light of the above, a person or entity wishing to initiate a development or use for which the regulations require application to be made, is faced with a number of alternatives:

- (i) In the case where the intended use is expressly permissible (a “Free Entry” right) there is clearly no need for a Town Planning application. It remains for the developer to prepare and submit the necessary building plans (which comply with the planning scheme and the building regulations) to the authority concerned. (See Section 11.5).

- (ii) Where the desired use is expressly prohibited the applicant must prepare and submit an application in terms of Section 47 *bis* of the Ordinance No. 27 of 1949, to amend the Planning Scheme by rezoning the property in question to a zone which expressly permits the use in question. In making such an application, the applicant is required to demonstrate, to the Local Authority's satisfaction, that the proposed amendment is necessary, and desirable in the public's interest. Should this application be refused for some reason or reasons which cause the applicant to be "aggrieved" then he/she may take the matter on appeal in terms of Section 47 *bis C* of the Ordinance No. 27 of 1949. See also the operational guidelines for the processing of town planning applications within the municipality.
- (iii) In the third category, namely, conditionally permitted uses, which may be permitted with the Special Consent of the Local Authority, the applicant is required to prepare and submit an application in terms of Section 67 *bis* of the Ordinance No. 27 of 1949, and the applicant is required to demonstrate the appropriateness of the proposed use and, in particular, that the proposed use or development will not interfere with the amenity of the neighbourhood. See also the operational guidelines for the processing of town planning applications within the municipality.
- On reaching a decision, the opportunity to appeal to the Appeals Board, is then provided to the applicant if the Local Authority refuses to grant its consent, or to any objector to the application if the Local Authority approves the application.
- In either case, the aggrieved party may appeal to the Town Planning Appeals Board who would consider the facts and either uphold or dismiss the appeal.
- (iv) A fourth category has been included which allows, in certain instances, for the Special Consent procedure to be waived where the surrounding neighbours consent is obtained.

CHAPTER 2

DEFINITIONS AND TYPES OF BUILDING AND LAND USE

(Note: Building shall *mutatis mutandis* include use of land)

2.0 In these Clauses, unless the context otherwise indicates, any word shall, when used in the Scheme, have the same meaning as is assigned to it in the Ordinance, otherwise it shall have the meaning assigned to it in these definitions:

2.1 **ABUTTING (ADJACENT)**

Means two or more erven sharing a common boundary, of at least 1 point.

2.2 **ACCESS**

Means safe, adequate, and usable ingress to or egress from a property or use.

2.3 **ACCESS WAY**

Means a public or private way, at the rear or side of property, reserved, but not necessarily registered in the Deeds Registry, as an ancillary means of vehicular or pedestrian access to abutting property. (See also Public or Private Right-of-Way).

2.4 **ACCESSORY BUILDING OR STRUCTURE**

Means a structure detached from the structure of the principal use on the same Erf or subdivision, and being incidental to the principal use.

2.5 **ACCESSORY USE**

Means a use which is incidental to the principal use.

2.6 **ADMINISTRATOR**

See Member of the Executive Council.

2.7 **AGRICULTURAL BUILDING**

Means a building used in connection with, or which would ordinarily be incidental to, or reasonably necessary in connection with, the use of the site or that building as agricultural land.

2.8 **AGRICULTURAL INDUSTRY**

Means a use or building used for the intensive production in any form whatsoever, of fish, poultry, game birds, livestock (e.g. feedlots) and allied products, and includes any final processing of these commodities.

2.9 AGRICULTURAL LAND

Means arable, meadow or pasture land, market gardens, poultry farm, nursery garden and land used for the purpose of breeding or keeping domestic animals, poultry or bees and includes any buildings connected therewith, but excludes Agricultural Industry use and buildings, and buildings connected with the housing of cats and dogs.

2.10 ALTERATION

Means any construction or physical change in the exterior and/or internal arrangement of rooms or the supporting members of a building or structure, or material change in the appearance of any building or structure.

2.11 ANCILLARY USE

Means a use incidental to and customarily associated with a specific principal use, located on the same Erf or subdivision.

2.12 ANTENNA

Means a device for transmitting or receiving radio, television, or any other transmitted signal.

2.13 APPEALS BOARD

Is the Town Planning Appeals Board established in terms of Section 73 *bis* of the Ordinance.

2.14 APPLICANT

Means the owner(s) or lessee(s) of property, or their agent(s), or person(s) who have contracted to purchase property contingent upon their ability to acquire the necessary consents under this Scheme or the agent(s) of such persons.

2.15 ARCADE

Means an area forming part of a building which may or may not be covered, reserved exclusively for pedestrian traffic, but may include fountains, benches and other similar features and shall nowhere have a total width of less than 4 metres and an unobstructed width of less than 2 metres.

2.16 ARCHITECT

Means a person registered as an architect in terms of the Architect's Act No. 35 of 1970.

2.17 AREA OF SCHEME

Means the area which lies within the inner edge of the boundary line coloured blue or otherwise demarcated on the Resolution Maps or extensions thereto.

2.18 ATTACHED

Means any structure that has an interior wall or roof in common with another structure.

2.19 AUTHORITY

Means the written authority given by the Local Authority in terms of its statutory powers.

2.20 AWNING

Means a roof-like cover that is attached to and projects from the wall of a building used either for the purpose of shielding from the elements or as an architectural feature.

2.21 BALCONY

Means any internal or external portion of a building, of which portion at least one of its sides is not permanently closed and is open to the elements, and which portion shall have direct access to the building.

2.22 BASEMENT

Means the storey below the ground floor of any building and shall qualify as a basement where such storey of a building has more than 75% of its volume below the lesser of either the mean finished ground level or the natural ground level immediately surrounding the building, provided that where the erf on which the building is placed is steep or other special circumstances exist, the local authority may relax the said 75 % to 50 %.

2.23 BED AND BREAKFAST

Means a transient lodging establishment primarily engaged in providing overnight or otherwise temporary lodging for a maximum of 6 members of the general public and may provide meals to the extent otherwise permitted by law. The owner / agent shall reside on the property. Such development shall be in line with Council's Bed and Breakfast policy and application shall be made in the manner set out in the policy. See the operational guidelines for the processing of town planning applications within the municipality.

2.24 BETTING DEPOT

Means a building used for the purpose of a bookmaker's premises or a totalisator agency in terms of section 22(1) and 28(3) of the Horse Racing and Betting Control Consolidation Ordinance of 1957 (Ord. 28 of 1957) as amended.

2.25 BOARDING HOUSE

Means a structure where lodging and/or meals is/are provided for 7 or more lodgers who are accommodated for a period longer than those on a transient basis (i.e. longer than 2 weeks), provided that a student "digs" shall be included in this definition where more than six such persons share such accommodation. (See also Family).

2.26 BUILDING

Means any structure or erection of an immovable nature for whatever purpose used including any tank, swimming pool or radio-mast and any wall, retaining wall or close-boarded fence more than 1,8 metres in height at any point, but excluding any open fence, post, steps, pier, ramp, fountain, statue, fish-pond, pergola or other garden ornamentation. (See also Residential Density for definition of Building Density).

2.27 BUILDING LINE

Means a line parallel to any boundary of an erf which is conterminous with a street, public right of way, road reservation, conservation reservation or amenity reservation; or in the case of "hatchet shaped" erven, a line parallel to the boundary nearest to the street which is not a boundary of the access strip.

2.28 BUILDING SITE

Means the ground area of a building or buildings together with all open spaces or areas required by or in terms of this Scheme.

2.29 BUILDING HEIGHT

Means the vertical distance from the mean finished ground level to the highest point of structure, excluding the chimney (See also Height and Storey).

2.30 BYLAW

Means a bylaw, or regulation made to enable the Local Authority to give proper effect to the powers and duties conferred or imposed upon it in terms of the Local Authorities Ordinance 25 of 1974 or any other law.

2.31 CARAVAN

Means any vehicle permanently fitted out for use by persons for living and sleeping purposes whether or not such vehicle is a trailer or motor driven "Camper Van".

2.32 CARAVAN PARK

Means an area of land provided with adequate ablution and sanitary facilities with or without a communal kitchen, constructed with permanent materials arranged for the accommodation of caravans which are used primarily for temporary holiday dwelling units and provided also with permanent water points, approved refuse receptacles and containing within the curtilage a sufficient open space for recreational purposes, and may also include one dwelling unit for caretaker or manager's use.

2.33 CARPORT

Means a permanent roofed structure, not completely enclosed, to be used for vehicle parking. (See also Roof).

2.34 CHALET

Means a Single Family Dwelling which, together with any buildings or structures incidental thereto, including any building or carport used for the storage and/or parking of motor vehicle/s, shall not exceed a total floor area of 60 m², being the sum of all storeys and basements.

2.35 CLUSTERED SUBDIVISION OR DEVELOPMENT

Means a subdivisional or sectional title development in which building Erf's are of smaller size than normal conventional erf sizes within the zone in question, and the structures are therefore sited closer together than conventional development, usually in groups or clusters, provided that the total residential density in general, and building density in particular, does not exceed that permitted under the zoning. The additional land that remains undeveloped shall be preserved for a variety of uses including: private open space, conservation area and recreation land. Private open space areas around the structures are permitted for inclusion of private landscaping, pools, spas, yards etc. (Refer to Medium Density Housing).

2.36 COMMERCIAL WORKSHOP

Means a light industrial building wherein the primary purpose is the selling of goods or services by retail and where the processes are operated specifically in conjunction with a shop or office to which the public, as customers, has access and includes such uses as a watch repairer, shoe repairer, radio/television repairer, computer repair, electrician and may include a jobbing printer, but excludes a garage or service station, or a building related to the repair or fitment of motor vehicle parts.

2.37 COMMISSION

Means the KwaZulu-Natal Planning and Development Commission established in terms of the Ordinance.

2.38 COMMON LAND

Means that portion of a Medium Density Housing Site which is set aside for the use and enjoyment of all the occupants of the dwelling units on that site and from which the general public may be excluded. (See also Private Open Space Area).

2.39 CONSENT

Means the special consent of the Council where such special consent relates to any application made in terms of Section 67 bis of the Ordinance.

2.40 CORRIDOR

Means any internal or external access way providing common access in a building and, without limiting the generality hereof, shall include stairwell, lift shaft and access galleys.

2.41 COUNCIL

Means the Local Council of the Umdoni Local Council area or any subsequently elected body.

2.42 COURT

Means an open, unoccupied space, on the same Erf with a building and bounded on 2 or more sides by the walls of a building.

2.43 COVERAGE

Means the proportion of an Erf covered by buildings or structures of a permanent nature, and is expressed as a percentage of the Erf area as defined. Thus 25% coverage means that only one quarter of the Erf may be covered by buildings. Only roofed areas are included in the coverage. (See also clauses 10.12 and 11.4 (1) (i) and the definition of Roof).

2.44 CONSTRUCTION COMMENCEMENT

Means the start of construction of substantial site and / or structural improvements after the date when a building plan has been approved.

2.45 CRECHE

Means a building or portion of a building for the care of seven or more infants and/or young pre-school children during the daytime in the absence of their parents or guardians.

2.46 DATE OF ADOPTION

Means the date upon which this Scheme was first adopted by the Local Authority in terms of Section 47 *bis* (4) of the Ordinance; provided that where any provision of this scheme is subsequently varied by way of amendment or revision, the 'date of adoption' of any such varied provision shall be the date upon which it is adopted in terms of Section 47 *bis* (4) of the Ordinance.

2.47 DAY CARE CENTRE FOR CHILDREN

Means a facility which provides non-medical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24 hour basis. Day care centre includes child care facilities such as a creche, pre-schools, and extended pre-school or school day care facilities.

2.48 DAYS

Shall be consecutive calendar days unless otherwise stated.

2.49 DESIGN

Means the planning and engineering of the following: street alignments, grades and widths; drainage and sanitary facility and utilities, including alignment and grades thereof; location and size of all required servitudes and rights-of-ways; erf size and configuration; traffic access; land to be dedicated for open space, conservation or recreational purposes; building and other such specific physical requirements.

2.50 DETACHED

Means any building or structure that does not have a wall or roof in common with any other building or structure.

2.51 DEVELOP LAND or DEVELOPMENT

Means to lay out or adapt land for the purpose of development including the removal of indigenous vegetation from a vacant Erf, the disturbance or removal of indigenous vegetation on any Erf, erection of a building on any land or to alter or extend any building but shall exclude the clearing of listed weeds and invasive plants.

2.52 DORMITORY

Means a structure intended principally for sleeping accommodation, and where no individual kitchen facilities are provided, where such structure is related to an educational or public institution or is maintained and operated by a recognized non-profit welfare organization.

2.53 DRIVE-IN CINEMA

Means a site prepared and equipped for the viewing of cinema performances from parked motor vehicles and includes toilet buildings and may include a cafeteria, office, seating facilities, and one dwelling unit for a caretaker or manager's use.

2.54 DRIVEWAY

Means an unregistered private thoroughfare used by vehicles to gain access to or across a privately or commonly owned erf or portion, which is not a street.

2.55 DUPLEX FLAT

Means a dwelling unit in a Building each such unit consisting of a ground floor and one upper floor connected by an internal staircase and having direct access to a private open area.

2.56 DWELLING

Means a structure or portion thereof designed for residential occupancy, not including hotels or motels.

2.57 DWELLING UNIT

Means a set of interleading rooms including bathroom(s) and not more than one kitchen, designed as a self-contained unit for occupancy by 1 family for living and sleeping purposes.

2.58 DWELLING UNIT CURTILAGE

Means a single defined area of land forming part of a medium density housing site comprising the land upon which a dwelling is erected or is intended to be erected together with such private open areas and other areas as are reserved for the exclusive use of the occupants of the dwelling unit.

2.59 EDUCATIONAL BUILDING

Means a building used as a school, college, technical institute, academy, research laboratory, lecture hall, convent, monastery, gymnasium, public library, art gallery, museum or for other instruction together with any associated land or buildings and includes a dormitory, but does not include a reformatory.

2.60 ENGINEER

Means a person registered as a Professional Engineer in terms of the Engineering Professions Act No. 46 of 2000.

2.61 ENTERTAINMENT (LIVE)

Means any act, play, revue, pantomime, scene, dance act, or song and dance act, or any combination thereof, performed by 1 or more persons, whether or not they are compensated for the performance.

2.62 ENVIRONMENTAL MANAGEMENT

Plans, investigations, strategies and controls to prevent or mitigate the effect of environmental impacts resulting from development or to enhance or improve the quality of existing environment.

2.63 ENVIRONMENTAL MANAGEMENT PLAN (EMP)

A plan referred to in Section 11 (2) of the National Environmental Management Act (Act No. 107 of 1998).

2.64 ENVIRONMENTALLY SIGNIFICANT AREAS

Reference is to be made to the map entitled "Environmentally Significant Areas" reference UMD_ENV_SIGN_A3 UMD782B Feb 05 and the report entitled *Umdoni Municipality Coastal Area Vegetation Mapping and Environmental Prioritisation*. The map indicates areas of environmental significance. Erven falling within environmentally significant areas shall be subject to additional controls as laid down in the Scheme under Section 3.3.

2.65 ERECTION OF A BUILDING

Means the construction of a new building or a structural alteration or additions to any building.

2.66 ERF

Means a registered subdivision of land; provided that where, as a provision of the Scheme, a proposed road reservation or a change in zoning divides a registered subdivision into two or more portions, the term "Erf" shall for the purposes of this Scheme apply to each of such portions as if they had been separately registered. (See also Net Site or Erf Area).

2.67 ERF AREA

Means the Erf Area in any zone is exclusive of access ways in the "hatchet-shaped" erven.

2.68 ERF DEPTH

Means the average distance between the front and rear erf lines or between the front line and the intersection of the two side lines, if there is no rear line.

2.69 ERF FRONTAGE

Means the length of the boundary of an erf which is coincident with the boundary of an existing or proposed street.

2.70 EXISTING BUILDING

Means a building lawfully erected before the date of adoption or a building erected in accordance with plans which were approved by the Local Authority prior to that date.

2.71 EXISTING ERF

Means an erf existing at the effective date.

2.72 EXISTING ILLEGAL NONCONFORMING USE OR STRUCTURE

Means a structure, erf, or use which did not conform to applicable laws when constructed or initiated, and does not conform to the provisions of this Scheme.

2.73 EXISTING LEGAL NON-CONFORMING USE OR STRUCTURE

Means a use or a structure which conformed to applicable laws when developed or constructed but does not conform to the provisions of this Scheme. (See also Existing Use and Existing Illegal Non-Conforming Use or Structure).

2.74 EXISTING USE

Means a continuous use of a building or land after the date of adoption for the purpose for which it was designed and lawfully authorised by the Local Authority at that date. (See also Existing Legal Non-Conforming Use or Structure and Existing Illegal Non-Conforming Use or Structure).

2.75 EXTRACTIVE INDUSTRY

Means the process of extracting, mining, winning or quarrying of raw materials from the ground, including gravel, sand and stone (see also quarry) and includes buildings connected with such operations and crushing plant.

2.76 FAMILY

Means an individual, or 2 or more persons related by blood, marriage or legal adoption, or a group of not more than 6 persons who are not so related, living together as a single household. (See also Household).

2.77 FLOODLINE

A floodline is the line demarcating the highest level within a watercourse to which flood waters will rise during a design storm of specified duration, intensity and return period as calculated and certified by an Engineer which must be shown on site plans of erven affected by watercourses.

In respect of any watercourse with a catchment area exceeding one square kilometre but less than five square kilometres, the lines indicating the maximum level likely to be reached on an average of every twenty years by flood waters on the land in question; and in respect of any water course with a catchment area exceeding five square kilometres the lines indicating the maximum level likely to be reached on an average every one hundred years by water on the land in question.

2.78 FLOOR AREA

Subject to Clause 10.12 and 2.79 below, the floor area of a building shall be taken as the sum of the roofed areas of the building at each floor level, measured over and including wall thicknesses, lift shafts, staircases, balconies and access galleries.

2.79 FLOOR AREA RATIO

Means the ratio of the total floor area of the buildings on an erf to the erf area, and is expressed as a decimal, e.g. a Floor Area Ratio of 0,5 means that the floor area of the buildings on a particular erf is half the erf area, provided that the floor area of all Storeys and a Basement shall be included in the calculation of the Floor Area Ratio. In calculating the permissible floor area the following areas may be excluded:

- (i) Swimming pools and tennis courts where they are for private use only;
- (ii) Public arcades or covered malls in commercial zones which are not actually used for retail purposes, i.e. for the display, sale or storage of goods; and

- (iii) In the case of Garages and Service Stations, the unwallled access ways, forecourt area and driveways covered by canopies; and
- (iv) garages, carports, squash courts where they are for private use only;
- (v) areas covered by an awning erected for protection of windows or recreation areas;
- (vi) double volume of stairwells;
- (vii) a “Port Cochere” provided at an entrance way to a building used to allow passengers to alight from a vehicle under cover.

2.80 **FRAIL CARE FACILITY**

Means a family home, group care facility, or similar facility for 24 hour non-medical care of persons in need of personal services, supervision or assistance, essential for sustaining the activities of daily living or for the protection of the individual. There shall be facilities for minor surgery and medical procedures, physical therapy and other similar activities, as may be required by Provincial planning policy, regulation or decree. (See also Rest Home and Retirement Home or Village).

2.81 **FRONTAGE**

Means the length of the boundary of an erf which is coincident with the boundary of an existing or proposed street.

2.82 **FUNERAL PARLOUR/UNDERTAKER**

Means a building or land used for the purpose of funeral management and includes a shop intended primarily for public reception and for the sale and display of those commodities required for cemetery purposes and services ordinarily ancillary to funeral management but does not include a monumental mason or crematorium.

2.83 **GARAGE**

Means a building used for the servicing, repair, storage, display, sale, spray painting, fuelling or washing and cleaning of vehicles, together with facilities connected with these activities, including the storage and sale of fuel, lubricants, new motor spares and accessories, tourist maps, brochures and including an office, storeroom, workshop, greasepit and machinery; provided that panel beating may be included by special consent. (See also Service Station).

2.84 **GENERAL INDUSTRIAL BUILDING**

Means an industrial building as defined in this Scheme and includes a building used for the general repair of motor vehicles, but does not include a garage, service station or Special Industrial Building.

2.85 GROSS LEASABLE FLOOR AREA

Means the floor area of a building taken as the sum of the roofed areas of the building at each floor level, measured over and including wall thicknesses, lift shafts, staircases, roofed motor vehicle parking, balconies and access galleries. (See also Basement, Roof and Storey).

2.86 GROSS SITE OR ERF AREA

Means the total area within the boundary lines of an erf or portion of land before public streets, registered servitudes or other areas to be dedicated or reserved for public use are deducted from such Erf or subdivision and which may include the area of any driveways located/positioned on the site.

2.87 GROUND FLOOR

Means the storey of a building or portion of a building on or nearest the mean finished ground level immediately surrounding the building, provided it is not a basement.

2.88 GUEST HOUSE

Means a transient accommodation establishment primarily engaged in providing 7 or more rooms and/or suites for temporary lodging by the general public and which provides meals on the premises. A lounge or bar where liquor is sold and consumed on the premises may only be permitted with Council's Special Consent and the necessary liquor licence (See also Transient).

2.89 HEIGHT

Means the height in storeys, and is expressed as a number, provided that where the ground floor of a building is on more than one level, such building shall be regarded as formed of portions in relation to each respective level and the height of such a building shall be calculated separately in respect of each portion as if such portion were a separate building. (See also Building Height and Storey).

2.90 HOLIDAY DWELLING OR CHALET

Means a Single Family Dwelling, which together with any buildings or structures incidental thereto, including any building or carport used for the storage and/or parking of motor vehicle/s, shall not exceed a total floor area of 60 m², being the sum of all storeys and basements.

2.91 HOME ACTIVITY

Means an activity or use established in, or in conjunction with a Dwelling Unit or a structure erected on the Site of an existing Dwelling Unit which -

- (1) shall be restricted to one person who shall reside on the property;
- (2) shall occupy a minor portion of the Dwelling Unit or its outbuildings;
- (3) shall not involve or require any alteration or additions to the Dwelling Unit;

- (4) shall not involve any industrial activity;
- (5) shall not generate traffic sufficient to warrant the provision of additional parking;
- (6) shall not include the storage or display of any goods or items associated with the activity, nor the direct sale of goods or items, from the Site;
- (7) shall not involve the exhibition on the property of any notice or sign, or the quoting of the residential address in any advertisement of the activity.

2.92 HOME BUSINESS

Means the conduct of an occupational activity in, or in conjunction with, a Dwelling Unit which -

- (1) shall be limited to the Owner of the property, who shall reside thereon, provided that the Council may in exceptional circumstances, and if it is satisfied that the prime use of the Dwelling Unit as a residence will in no way be prejudiced, permit the activity to be conducted by a person other than the Owner.
- (2) shall not involve work on motor vehicles other than that relating to vehicle servicing and minor related repairs;
- (3) shall not involve the regular parking of more than two motor vehicles on or adjacent to the Site at any one time, nor any vehicle with a tare mass exceeding 2000kg, being parked on or adjacent to the Site and such parking to be located to the rear of the Dwelling Unit, where possible;
- (4) shall not involve the regular congregation of more than five persons on the Site nor the employment of more than three persons on the Site;
- (5) shall not produce a noise level exceeding 7db above the ambient noise level, measured at any point on the property boundary, and should in any event in the opinion of Council not interfere with the amenity of the neighbourhood.
- (6) shall not utilise machinery other than electrically-driven or hand-driven machinery, provided that no single machine shall be rated at more than 1,5 kW;
- (7) shall not involve any activity or work between the hours of 9:00pm and 6:00am, except with the specific approval of Council;
- (8) shall not occupy a floor area greater than 10% of the total area of the Site subject to this not being in excess of 25% of the floor area of the Dwelling Unit but, shall not, in any event, exceed 50m²;
- (9) shall not involve the erection of sign larger than 600mm by 450mm, indicating the nature of the activity. Such sign shall be of a material and shall utilise a style and size of lettering which will complement the residential character of the Dwelling Unit, and which shall be placed on the main wall of the Building and shall be in compliance with the Signs Bylaws.

- (10) in the case of the establishment of a child-minder / playschool -
- (i) generally, shall be operated by one person only, although an assistant may be employed at the discretion of the Council;
 - (ii) shall not involve any additions or alterations to the Dwelling Unit and / or Outbuildings, other than those required by the State and Municipal Health Authorities;
 - (iii) shall be limited to the accommodation and care of not more than six children under the age of three years, or not more than twelve children over the age of three years, other than those of the applicant; and
 - (iv) shall be limited to operate between the hours of 07h00 and 17h30;
- (11) may include a Home Plant Nursery, Tea Garden and Tuck Shop.

2.93 HOME OWNERS ASSOCIATION

Means a company registered in terms of Section 21 of the Companies Act, No. 61 of 1973, as amended, membership of which shall be exclusive to and compulsory for the freehold or registered leasehold owners of dwelling unit curtilages in a Medium Density Housing development.

2.94 HOME PLANT NURSERY

Means any land or building for the propagation and rearing of plants for gain, provided:

- that the sale of plants from the property and the storage and sale of products associated with horticultural and garden decor shall require Council's Special Consent;
- that any structure/building developed and/or used in connection therewith shall not exceed 50m²coverage (which shall form part of the total allowable coverage on the property);
- the person operating the Home Plant Nursery shall reside on the property in question;
- not more than 3 persons shall be employed on the property.
- See Home Business.

2.95 HOSPITAL

Means an institution, designed for the diagnosis, care and treatment of human illness, including surgery and primary treatment.

2.96 HOTEL

Means a transient accommodation establishment primarily engaged in providing 7 or more rooms and/or suites for temporary lodging by the general public and which provides meals on the premises and which does have a liquor licence and which operates a lounge or bar where such liquor is sold and consumed on the premises.

2.97 HOUSEHOLD

Means a family which shares a common table.

2.98 INDUSTRIAL BUILDING

Means a Factory as defined in Annexure B.

2.99 INFILL DEVELOPMENT

Means development that occurs on up to 4 contiguous vacant erven scattered within areas that are already largely developed or urbanised. Generally, these sites are vacant because they were once considered of insufficient size for development, because an existing building located on the site was demolished or because there were other, more desirable sites for development.

2.100 INSTITUTION

Means a building or portion of a building used or designed for use as a charitable institute including the administration thereof, and a building designed for use as a hospital, home for the aged or for physically or mentally disabled children, nursing home, sanatorium, clinic, convalescent home, orphanage or other building used as a public or private institution, but does not include a Restricted Building. Such building or portion of a building shall be served exclusively by a communal kitchen.

2.101 KENNELS

Means any Erf where 4 or more dogs, cats, or other small animals are kept, whether such keeping is for pleasure, profit, breeding or exhibiting, including places where said animals are boarded, kept for sale, or hire.

2.102 KITCHEN

Means any room, all or part of which is designed and/or used for storage, refrigeration, cooking and the preparation of food.

2.103 LAUNDERETTE

Means a building used for the purpose of washing and drying clothing and household fabrics, where the machines used are electrically operated and quiet running, and of the type which process each customer's articles individually, and which may be operated by the customer. The washing media used shall be a type that shall not cause harmful effluent to be discharged.

2.104 LANDSCAPING

Means an area devoted to or developed and maintained predominantly with native or exotic plant materials including lawn, ground cover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

2.105 LIGHT INDUSTRIAL BUILDING

Means an industrial building as defined in the Scheme in which the processes carried on or the machinery installed are such as can be carried on or installed in a Light Industrial zone without causing nuisance to other properties within such zone or to the general public, or without detriment to the amenity of other use zones, by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, grit, traffic generation, size or other causes.

2.106 LOCAL AUTHORITY

Means Umdoni Local Council.

2.107 MAISONETTE

Means a two storey building consisting of 2 dwelling units placed one above the other with separate entrances.

2.108 MALL

Means an area of land open to the air and reserved exclusively for pedestrian traffic but may include fountains, benches and other similar features as well as kiosks for, inter alia, the sale of refreshments.

2.109 MANUFACTURED HOME

Means a factory built or manufactured home including mobile homes.

2.110 MEDIUM DENSITY HOUSING

Means a group of two or more attached and / or detached dwelling units, together with such outbuildings as are ordinarily ancillary thereto, with each dwelling unit having direct access to a private open area and access to common land, the whole development having been designed as a harmonious entity. Such development may include duplex flats, semi-detached houses, terrace houses, maisonettes or dwelling houses. Development shall be subject to controls as set out in Annexure G.

2.111 MEDIUM DENSITY HOUSING SITE

Means a defined area of land upon which medium density housing is established, or is proposed to be established, and which comprises dwelling unit curtilages and common property, but excludes any land required by the local authority for public purposes.

2.112 MEMBER OF THE EXECUTIVE COUNCIL (M.E.C.)

Means the Member of the Provincial Executive Council to whom responsibility for the Ordinance has been assigned by resolution.

2.113 MIXED USE DEVELOPMENT

Means the development of an erf(s) or a structure(s) with 2 or more different land uses such as, but not limited to, a combination of residential, office, shop, manufacturing, public, or entertainment in a single or physically integrated group of structures.

2.114 MOBILE HOME

Means a factory-assembled structure, 12,5 m or greater in length and 3,3 m or greater in width, with the necessary service connection, so made as to be movable on a site as a unit with or without wheels, and designed for use as a permanent dwelling unit and which complies with the S.A.B.S. specification 1122-1976. Provided that a motor driven "Camper Van" shall not be deemed to be a Mobile Home. (See also Static Caravan).

2.115 MOBILE HOME PARK SITE

Means a portion of land upon which mobile homes are accommodated or are intended to be accommodated, regardless of whether or not a charge is made for such accommodation.

2.116 MOBILE HOME STAND

Means a portion of a Mobile Home Park site that has been demarcated and set aside for the placement of a Mobile Home and for the exclusive use of the occupants of the Mobile Home.

2.117 MOTOR VEHICLE SHOW-ROOM (OR SALES AREA)

Means buildings, or an open area, used for the display, sale and/or rental of new or used motor vehicles.

2.118 MOTOR VEHICLE SCRAP-YARD

Means an area wherein the following is conducted: The wrecking or dismantling of motor vehicles or trailers, or the storage of, sale of or dumping of dismantled, partly dismantled, or wrecked motor vehicles or their parts.

2.119 NET DEVELOPABLE AREA

Means the surveyed area of an erf less that area which, by virtue of soil instability, liability to flooding, inaccessibility of topography or slopes steeper than 1:3, or the existence of an environmentally sensitive area, renders such area in the opinion of the Local Authority as being undevelopable.

2.120 NET LEASABLE FLOOR AREA

Means the floor area within a building or development, that may be rented to tenants i.e. the area upon which rental payments are based. This excludes common areas and space devoted to heating, cooling, stairways, walkways, passages, lift areas and the like.

2.121 NET SITE OR ERF AREA

Means the area of a site or erf, less the area of any public right of way, road servitude, new road reservation or road widening reservation to which the Erf may be subject, but shall include any registered servitude for overhead or underground services. In the determination of minimum erf areas in Table 1 the Net Erf Area is to be used. While in the case of "hatchet-shaped" or "panhandle" erfs, the Net Erf Areas shall also exclude the area of any access way. (See also Erf).

2.122 NON-CONFORMING ERF

Means an erf, the area, frontage or dimensions of which do not conform to the provisions of this Scheme.

2.123 OFFICE BUILDING

Means a building or part of a building used as an office and includes: a bank, building society, insurance office, estate agent and other professional offices, but does not include a public office.

2.124 ORDINANCE

Means the Town Planning Ordinance No. 27 of 1949, as amended.

2.125 OUTBUILDING: HUMAN HABITATION

Means an accessory building, or portion of a building, used in conjunction with a dwelling unit and used only as accommodation for an employee or employees of the resident household and which may include sleeping quarters and/or ablution facilities, but shall not include a Second Dwelling Unit. (See Clause 10.12 in terms of the limit on floor area of outbuildings).

2.126 OUTBUILDING: NON-HUMAN HABITATION

Means an accessory building, buildings or structures or a portion thereof ordinarily used in conjunction with a dwelling unit (s) and includes that used for the garaging of private motor vehicles, storeroom, workroom and other similar uses, but does not include any occupation or accommodation as may be provided for human habitation such as servants quarters or a Second Dwelling Unit. (See Clause 10.12 in terms of the limit on floor area of outbuildings).

2.127 PARKING GARAGE

Means a building, part of a building or land designed primarily for the purpose of parking, other than parking required in terms of this Scheme, and includes washing and servicing 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 or for the sale of petrol, oil and accessories.

2.128 PERMANENT

Means a Use, Building or Structure which is not a Temporary Use or Building or Structure.

2.129 PERMITTED USE

Means any building or land use allowed in a land use zone and subject to the provisions applicable to that zone as contemplated in this Scheme.

2.130 PERSON

Means any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, institution and its political subdivisions or instrumentalities, syndicate or any group or combination thereof, acting as a unit, including any trustee or assignee.

2.131 PLACE OF PUBLIC AMUSEMENT

Means a building or land used for public entertainment and includes a theatre, cinema, music-hall, concert-hall, amusement-arcade, dance hall, skating-rink, race-track, sports-arena, exhibition-hall, billiards room and fun-fair or uses that need a licence issued by the licencing authority.

2.132 PLACE OF PUBLIC ASSEMBLY

Means a building or land, used for social meetings, gatherings, religious purposes or indoor recreation, but does not include a place of public amusement.

2.133 PRINCIPAL USE

Means the primary or predominant use of any land, erf, building or structure.

2.134 PRIVATE CONSERVATION AREA

Means an area of land and / or water which is in private ownership, and within which the conservation of the scenic beauty, indigenous flora and fauna and other naturally occurring material, water courses, topographical features and / or places of historic or scientific interest is of primary importance.

2.135 PRIVATE OPEN AREA

Means a usable area, exclusive of utility areas, driveways and parking areas, which is open to the sky and which is adjacent to and has direct access from a dwelling unit within a Medium Density Housing development, such private open space area being reserved for the exclusive use of the occupants of the associated dwelling but may include covered / open areas (patios) and verandahs. (See also Common Land).

2.136 PRIVATE RECREATION AREA

Means a sports ground, playing field or other Private Open Space or Recreational Buildings of a club, firm or other body, where the use thereof is restricted to the owners or members of the club, firm or other body.

2.137 PROFESSIONAL OFFICE

Means a room or suite of rooms used for transacting business other than that of a retail or wholesale nature, and shall include a consulting room or rooms for a professional or similar person or organisation and a room or rooms where administrative work is carried out. (See also office).

2.138 PUBLIC OFFICE

Means an office building used for any Central, Provincial or Local Government purpose, and includes an administrative office, Local Authority office and town hall, government office, court house, police station, public library, public art gallery, public museum, and buildings ordinarily ancillary thereto.

2.139 PUBLIC PARK

Means land and/or a building, structure or facility such as a park, playground, swimming pool, beach, pier, reservoir, golf course or athletic field within the Local Council area which is under the control, operation or management of the Local Council, the Province or the State.

2.140 PUBLIC OR PRIVATE RIGHT-OF-WAY

Means a strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, trail, water, power- line, sanitary sewer and/or other public or private uses. (See also Access Way).

2.141 QUARRY

Means a place where rock, ore, stone and similar materials are excavated, processed for sale or for off-site use. (See also Extractive Industry).

2.142 REAR BOUNDARY

Means that boundary of an erf which is furthest from any street boundary, and which does not meet any street boundary.

2.143 REAR SPACE

Means the space between the full height of a building facade and the rear boundary.

2.144 RECREATIONAL BUILDING

Means a clubhouse, gymnasium, squash court, pavilion, shelter, change room and any similar building used in conjunction with a sport. A clubhouse may include dining facilities and lounges.

2.145 RECREATIONAL VEHICLE

Means a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for recreational or sporting purposes. The term recreational vehicle includes, but is not limited to, caravans, camping trailers, camper vans (motor coach homes), converted trucks or buses, boats and boat trailers, and all terrain vehicles.

2.146 RELIGIOUS INSTITUTION

Means a structure which is used primarily for religious worship and related religious activities. (See also Place of Public Assembly).

2.147 RESERVATION

Means a portion other than any portion which is a Zone, shown as such on the Planning Scheme Map for the purposes of indicating the restrictions imposed by this scheme on the erection and use of buildings and on the use of land.

2.148 RESIDENTIAL BUILDING

Means a building or portion of a building other than a dwelling house, chalet, duplex flat, semi-detached house, terrace house or maisonette used for human habitation, together with such uses and outbuildings as are ordinarily used therewith, and includes a block of flats, residential club or hostel.

2.149 RESIDENTIAL DENSITY

Means a comprehensive measure of both the environmental and the human aspects of the residential milieu which includes Building and Occupancy density, where:

- a) Building density is the amount of floor area built on a site and most commonly measured as a ratio of floor area to site area and also referred to as the Building Density Area (BDA) of the site or erf; and
- b) Where Occupancy density is the relationship between floor area and the number of persons occupying that floor area, expressed as the amount of floor space per member of household.

2.150 RESTAURANT

Means a building or portion of a building used primarily for the preparation and sale of food, confectionery and beverages for consumption on the premises.

2.151 RESTAURANT DRIVE-THROUGH

Means a use providing preparation and retail sale of food and beverages, as defined under "Restaurant" with the added provision of 1 or more drive-through lanes for the ordering and dispensing of food and beverages to patrons remaining in their vehicles.

2.152 RESTRICTED BUILDING

Means a building used for such purposes as a clinic or hospital for infectious diseases, a jail, home for the mentally disabled or hospital, or reformatory.

2.153 REST HOME

Means premises used for the housing of and assisted caring for the aged and infirm. There shall be only incidental convalescent care not involving either a nurse or physician residing on the premises. There shall be no surgery, physical therapy or other similar activities. (See also Frail Care Facility and Retirement Home or Village).

2.154 RETIREMENT HOME OR VILLAGE

Means the premises used for the housing of and assisted caring for the aged, including the infirm. There shall be only incidental convalescent care either by a nurse or a non-resident physician. There shall be no surgery, physical therapy or other similar activities. (See also Rest Home and Frail Care Facility).

2.155 RIGHT-OF-WAY

Means a strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, trail, water, powerline, sanitary sewer and/or other public or private uses. (See also Access Way).

2.156 ROOF

Means a permanent upper, external manufactured structure or covering of a building.

2.157 ROUNDING OF QUANTITIES

Means the computation of distances, unit density, density bonus calculations, or other aspects of development or the physical environment expressed in numerical quantities which include decimals; the numbers are to be rounded to the nearest highest whole number when the decimal is .5 or more, and to the next lowest whole number when the decimal is less than .5, except as otherwise provided in the Scheme.

2.158 SATELLITE DISH ANTENNA

Means an apparatus capable of receiving or transmitting communications from a satellite.

2.159 SATISFACTORILY SEWERED

In relation to an erf means either:

- a) That the erf is capable of being connected to a municipal sewer and the sewerage system including the reticulation and the disposal works is capable of accepting and treating the sewage from the erf.
OR
- b) In the event that the conditions set out in (a) just above cannot be met, that the erf is capable of satisfactorily supporting a septic sewerage system for the treatment of the sewerage from the Erf in accordance with the report prepared by a Registered Professional Engineer and supported by percolation tests carried out on the erf in accordance with the requirement of the South African Bureau of Standards.
OR
- 3) The provision of an on-site sanitation disposal treatment system designed and certified by an engineer and approved by the Local Authority.

2.160 SCHEME

Means the Urban Planning Scheme in the course of preparation, as amended from time to time, and as defined in the Natal Town Planning Ordinance No. 27 of 1949, as amended.

2.161 SCHEME MAP

Is the Map forming part of the Scheme as adopted by the Local Authority in terms of Section 47 *bis* (4) of the Ordinance.

2.162 SCHOOL

Means an institution of learning for minors, whether public or private, which offers instruction in those courses of study which is maintained pursuant to standards set by the State or Provincial Department of Education. This definition includes a kindergarten, elementary school, junior school, senior school or any special institution of Education, but it does not include a vocational or professional institution of higher education, including a community or junior college, or university.

2.163 SCRAP-YARD

Means an area wherein the following is conducted: The wrecking or dismantling of motor vehicles or trailers, or the storage of, sale of or dumping of dismantled, partly dismantled, or wrecked motor vehicles or their parts, or electrical appliances, machinery and the like.

2.164 SECOND DWELLING UNIT

Means a second dwelling unit which, in the case of a proposed attached second dwelling unit shall not exceed 25 percent of the existing floor area of the principal use, i.e. a single family dwelling, or in the case of a proposed detached second dwelling unit, shall not exceed 60 m², on an erf designated for residential purposes/use, and which combined floor areas shall not exceed the permitted floor area ratio, and provided that such second dwelling unit shall not be used as a Bed and Breakfast without the Council's consent. Provided, further, that no Second Dwelling Unit shall be permitted on a Erf less than 700 m² in extent.

2.165 SECTIONAL TITLE

Means a development consisting of an undivided interest in a portion of land owned under common title coupled with a separate interest in a dwelling or building or structure used for business purposes, on an erf.

2.166 SEMI-DETACHED HOUSE

Means a building other than a single family dwelling comprising 2 or more dwelling units contained in one building, both on the ground floor and each provided with a separate entrance.

2.167 SERVICE INDUSTRIAL BUILDING

Means a light industrial building catering primarily for the local customer, and includes a builder's yard and allied trades, laundry, bakery, dairy depot, dry-cleaning and similar types of uses.

2.168 SERVICE STATION

Means a building

- (a) wherein is sold, by retail sale only:
 - (i) petrol or petroleum derivatives capable of use in internal combustion engines,
 - (ii) lubricating oils and greases,
 - (iii) spare parts, including electrical equipment,
 - (iv) tyres, tubes, valves and repair equipment, and/or
 - (v) tourist brochures and other such incidentals.

and

- (b) where the following operations are carried on:
 - (i) running repairs of a minor nature;
 - (ii) lubricating and greasing; and/or
 - (iii) washing and cleaning;

but shall not include panel-beating, spray painting or the carrying out of vehicle body repair work or repairs of a major nature to the engine or transmission system thereof, or a Motor Vehicle Show-Room or a Motor Vehicle Scrap-Yard. (See also Garage)

2.169 SHAREBLOCK

Means a development in which an undivided interest in the land is coupled with the right of exclusive occupancy of a dwelling or building located on the land.

2.170 SHELTER

Means a building consisting of any material approved by the Local Authority which does not necessarily comply with the standards of durability intended by the National Building Regulations and bylaws as applicable to the area of the Local Authority, used for human habitation.

2.171 SHOP

Means a building or land used for any retail trade or business wherein the primary purpose is the selling of goods and appliances by retail and includes a building used for the purpose of a hairdresser, ticket agency, video-hire, showroom, (including motor showroom restricted to the display and sale of vehicles only), auction mart or for the sale of food and drink for consumption off the premises or for the reception of goods to be washed, cleaned, altered, dry-cleaned or repaired and includes ancillary buildings ordinarily incidental to the conduct of the retail business, but does not include an industrial building, garage, service station, or hotel.

2.172 SIDE BOUNDARY

Means any boundary of an erf which meets a street boundary, and any other boundary and which is neither a street boundary nor a rear boundary.

2.173 SIDE SPACE

Means the space between a side boundary of an erf and the elevation for the full height of a building facing the side boundary.

2.174 SINGLE FAMILY DWELLING

Means a structure comprising a single free-standing dwelling unit.

2.175 SPECIAL CONSENT

Means a discretionary entitlement which may be granted by the Council under the provisions of this Scheme and which when granted, authorises specific use to be made of a specific property, subject to compliance with all terms and conditions imposed on the entitlement and where such consent relates to any application made in terms of Section 67 *bis* of the Ordinance. (See the operational guidelines for the processing of town planning applications within the municipality.)

2.176 SPECIAL INDUSTRIAL BUILDING

Means a building intended for use for any of the purposes set out in Schedule A of the Offensive Trade Regulations of Natal made under Section 138 of the Public Health Act of 1919 and published in Government Notice 1047 of 25th June, 1924. (Seen Annexure A)

2.177 STATIC CARAVAN

Means a factory-assembled structure without any accessories which is less than 12,5 m in length and 3,3 m in width but greater than 7 m in length and 2,3 m in width, with the necessary service connection, so made as to be movable on a site as a unit, and designed as a temporary holiday dwelling unit. (See also Mobile Home).

2.178 STORAGE WAREHOUSE

Means a building used primarily for the storage of goods except those of an offensive or dangerous nature and where no business is transacted other than incidentally to such storage, and where the sale of goods of a wholesale nature is specifically prohibited. (See also Wholesale Warehouse).

2.179 STOREY

Means a room or set of rooms at any level, including any room the floor of which is split into two or more levels, and shall have the following implications:

- (a) the storeys of a building not used for residential purposes but used solely for the purpose of parking vehicles, service installations, such as transformer and metre rooms, or storage shall not count as a storey provided such an area or areas constitutes a Basement in terms this Scheme;
- (b) if the ground floor of a building is elevated above the mean finished ground level immediately surrounding the building by a structure other than a basement such structure shall count as a storey(s);
- (c) a pitched roof containing a habitable room and any other type or style of roof which contains or supports any rooms, structures or features over and above those mentioned in paragraph (e) below and which the Local Authority considers to be habitable shall count as a storey;
- (d) a storey shall not be higher than 4,5 metres, measured from floor to wall plate. If a storey is higher than this, each 4,5 metres or part thereof shall count as a storey. Provided however that in a multi-storey residential building each storey shall not be higher than 3 metres and if a storey is higher than this each 3 metres or part thereof shall count as a storey; A storey of more than 4,5 m can be considered by Special Consent under circumstances where the design of the roof structure dictates provided that adjoining property owners whose views could be affected must be consulted. If their written consent is obtained, the Special Consent procedure may be waived,

- (e) with the exception of lift rooms, stairwells and pitched roofs, any structures or architectural features situated on the roof of a building and greater than 1,2 metres in height shall constitute a storey.

2.180 STREET LINE

Means a boundary of an erf which is coincident with the boundary of an existing or proposed street or road reserve.

2.181 STREET

Means any registered public or private road or thoroughfare used by vehicles, which affords a primary means of access to abutting property, but does not include a driveway.

2.182 STRUCTURE

Means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

2.183 SUBDIVISION

Means a portion of land under one ownership that has been legally subdivided or consolidated and is shown as a single erf on the latest valuation roll.

2.184 SUBDIVIDE

Means the subdivision or layout of land for any purpose, of land into two or more portions, including a remainder, wherever they may be situated, and including a lease of 10 years or more than 10 years duration.

2.185 SUBSTANTIALLY COMMENCED OR SUBSTANTIAL IMPLEMENTATION OR SIMILAR PHASES

Shall unless otherwise provided, mean the preparation of plans and the submission of such plans for approval or the submission of an application for any other requisite statutory approval or the casting of concrete foundations or footings, or the demolition of existing buildings and the clearing of the erf or such other similar and substantial action as the Council may consider to be sufficient.

2.186 TAVERN

Means a building or portion of a building or a structure linked to a dwelling used or constructed or adapted to be used for the on-site consumption of liquor. It may include the consumption of non-alcoholic beverages and the preparation and consumption of food, but shall not include the sale of the aforesaid items for consumption off the premises. Such use must have been legalised by means of a liquor licence in terms of Section 19 and 20 of the Liquor Act, No 27 of 1989. Note: A shabeen is an illegal tavern.

2.187 TEA GARDEN

Means a building or portion of a building used primarily for the preparation and sale of light meals, confectionery, and non-alcoholic beverages, but shall preclude any use as defined under shop (See Home Business).

2.188 TEMPORARY USE, BUILDING OR STRUCTURE

Means a use, building or structure established for a specified period of time, with the intent to discontinue such use, building or structure at the end of the designated time period.

2.189 TERRACE HOUSE

Means a dwelling unit in a building comprising three or more dwelling units, each having a separate entrance on the ground floor with direct access to a private open space area or areas.

2.190 TOWN PLANNING SCHEME MAP

Means the map forming part of the Scheme as advertised by the Council in terms of the Ordinance.

2.191 TRANSIENT

Means a continuous period of 2 weeks or less.

2.192 TUCK SHOP

Means a building or portion of a building or an outbuilding or structure in which a range of low order goods such as fresh produce, confectionary products, beverages, limited quantities of staple foods, magazines, newspapers and similar goods are sold to its neighbourhood. It may also be known as a spaza shop. (See Home Business)

2.193 USABLE COMMON OPEN SPACE

Means that usable portion of the Common Land which is not occupied by vehicular road carriageway, parking areas and communal facilities of a non-recreational nature, but includes walkways, structures intended for recreational use and a children's playing area or areas.

2.194 USE

Means the purpose (type and extent) for which land or a building is arranged, designed, or intended, or for which either land or a structure is occupied or maintained.

2.195 UTILITY AREA

Means the outdoor private area adjacent to or associated with the kitchen side of a Sectional Title or Shareblock residential development Dwelling Units, the screening of which shall be to the satisfaction of the Local Authority and which includes patios, verandahs and drying areas.

2.196 VETERINARY CLINIC

Means a place where animals or pets are given medication or surgical treatment and are cared for during the time of such treatment; the ancillary use of the premises as a kennel, or a place where animals or pets are boarded for remuneration.

2.197 WHOLESALE WAREHOUSE

Means a building used for the storage and sale of goods on a wholesale basis to traders and specifically excludes a shop and any retail sales to the public. (See also Storage Warehouse)

2.198 ZERO BUILDING LINE

Means the location of a structure on an erf in such a manner that 1 or more of the structure's sides rest directly on an erf line, or boundary line of a subdivision.

2.199 ZONE

Means that portion of the area shown on the Scheme Map, by distinctive colouring or edging or in some other distinctive manner (other than any such portion which is reserved for the purposes included in Table 3 - Reservation of Land), for the purpose of indicating the rights applicable, and restrictions imposed by this Scheme on the erection and use of buildings or structures, or the use of land.

CHAPTER 3

RESERVATION AND ZONING OF LAND; ENVIRONMENTAL MANAGEMENT

3.1 CONTEXT

- 3.1.1 An important goal of this document is that it should state its purpose and procedures in a clear, readily comprehensible manner. To this end this Scheme sets out to explain the underlying purpose for and basis of the terminology used to describe land use zones.
- 3.1.2 A Land Use Zone is a portion of land located within the Local Authority area in terms of which certain uses of land, buildings and structures are imposed and regulations pertaining to their use and development are specified.
- 3.1.3 Non planners often confuse a land use zone with the land use, that may or may not be permitted therein. This confusion is compounded when either the same, or similar sounding names are used to describe both a zone and the land use permitted therein.
- 3.1.4 The nature, extent and location of Reservations of Land shall be as set out in the Town Planning Scheme Map and the purposes for which Reserved Land may be used shall be as set out in Table 3.
- 3.1.4.1 Except with the authority of the Council granted for temporary uses at the Council's pleasure and subject to no increased claims for compensation, Reserved Land shall not be used for any purpose which would conflict with the purpose for which it has been reserved. Provided that where pedestrian ways or pedestrian lanes are reserved on the Town Planning Scheme Map, the Council may consider a consent application for the re-positioning of such pedestrian ways or lanes on the erf.
- 3.1.4.2 Where any Reserved Land is in the Council's ownership or otherwise under the control of the Council, the Council may undertake thereon works, the erection of buildings or development necessary for or incidental to the purpose for which the land is reserved.
- 3.1.4.3 Reserved land may continue to be used for the purpose for which it was used on the effective date. Provided that where the use conflicts with the purpose for which the land is reserved, it shall not be extended or rebuilt, other than as provided for in Clause 3.1.4.1.
- 3.1.5 In respect of areas shown as Admiralty Reserve, Amenity Reserve, Conservation Reserve, River Reserve or Private Conservation zone on the Scheme Map, the prime consideration is the protection of flora and fauna in these indigenous botanical communities and the protection of water courses. No land use or development of any nature or extent may be undertaken, nor developed on any portion of these reservations or zones be permitted, until the proposed land use or development has been subject to proper assessment in terms of the Integrated

Environmental Management (IEM) process as contemplated in terms of the National Environmental Management Act (No. 107 of 1998) as amended, and secured the required approval therefore.

3.2 DECLARING OR CLOSING OF STREETS

All streets and roads shown in red on the Scheme Map, and the widening of existing streets and roads shown in red on the Scheme Map are to be new streets and roads, and shall become effective at dates to be determined. All streets and roads shown in red hatch on the Scheme Map are to be closed at dates to be determined.

3.3 ENVIRONMENTAL MANAGEMENT

3.3.1 GENERAL PURPOSE

The general purpose of this section is to achieve the following:

- (1) To integrate the management of areas of environmental significance as identified (See definition under Clause 2.64) into the development approval process.
- (2) the protection of landscapes of natural value and beauty.
- (3) to manage areas of conservation value in a sustainable manner.

3.3.2 PROCEDURES TO BE UNDERTAKEN FOR ENVIRONMENTALLY SIGNIFICANT AREAS

- (1) There are many acts governing the environmental aspects of development. The principle legislation includes the Environmental Conservation Act, No. 73 of 1989, the National Environmental Management Act No. 107 of 1998, and the National Forest Act No. 84 of 1999. In the addition the local authority has mapped and produced requirements for environmentally significant areas. These areas are mapped in UMD_ENV_SIGN_A3 UMD782B Feb 05 attached to the Vegetation Mapping and Environmental Prioritisation Report.
- (2) Any development within an area of environmental significance will require a vegetation map to be submitted to the local authority prior to any development (See definition under Clause 2.64). For guidelines on vegetation mapping requirements please refer to Annexure E.
- (3) Development as per the definition will not include the clearing of listed weeds and invasive plants as listed in the Vegetation Mapping and Environmental Prioritisation Report.
- (4) Should any portion of the Erf fall within an area of environmental significance then the entire property must be considered to be environmentally significant, and a vegetation map is required for the entire property.

- (5) For any development within 10 m of a river and 3 m of a stream a floodline assessment as defined in terms of the Town Planning Scheme must be provided prior to any development.
- (6) Attached in **Annexure E** is a copy of the Flow Chart that describes the procedures to address the environmental requirements for development, and a description of the requirements for a vegetation map.

PART 2: LAND USE ZONES

CHAPTER 4

RESIDENTIAL ZONES

4.1 GENERAL PURPOSE

The general purpose of this section is to achieve the following:

- 4.1.1 Reserve neighbourhood areas for residential living with a broad range of dwelling unit densities (i.e. low-density estate, single-family detached and attached, multi-family, and housing for special needs) consistent with Integrated Development Plan (IDP) and appropriate standards of public health, safety, welfare and aesthetics.
- 4.1.2 Ensure adequate light, air, privacy, and open space for each dwelling.
- 4.1.3 Minimize traffic congestion and avoid the overloading of public services and utilities.
- 4.1.4 Protect residential neighbourhoods from excessive noise, illumination, unsightliness, odour, smoke and other objectionable influences.
- 4.1.5 Facilitate the provision of public improvements and service requirements commensurate with the population densities of each zone.
- 4.1.6 Provide land to accommodate housing units which meet the diverse economic and social needs of the residents; locating development to achieve the following:
 - (i) Retain the scale and character of existing residential neighbourhoods;
 - (ii) facilitate the upgrade of declining and/or mixed-density residential neighbourhoods; and
 - (iii) Allow expansion into vacant and low-intensity use lands within infrastructure and environmental constraints and in terms of the goals, objectives and strategies of the IDP.
- 4.1.7 Protect the amenity and the integrity of the various residential neighbourhoods and zones from undesirable land uses and activities.
- 4.1.8 Promote the development of the various residential zones in terms of the specific purposes detailed in Section 4.2.

- 4.1.9 Single-family dwelling units which legally existed in the residential land use zones prior to the date of adoption of this Scheme revision may remain as a non-conforming existing use.

4.2 SPECIFIC PURPOSE

The specific purpose of the Residential land use zone is as follows;

- i) **Policy Principle:** To provide land for residential development comprising a range of housing types and appropriate ancillary land uses.
- ii) **Objective:** To provide adequate land for residential purposes where small scale low impact ancillary uses are permitted.
- iii) **Definition:** A residential zone that provides for a range of housing types together with a limited number of compatible land uses required to service everyday needs.

4.2.1 Residential Only

- i) **Policy Principle:** A zone where the primary use is residential and where a limited number of compatible ancillary uses which have a non-disruptive impact on neighbourhood amenity, may be allowed.
- ii) **Objective:** To protect the residential use of the zone by specifying compatible ancillary uses.
- iii) **Definition:** A residential only zone allocates land for a variety of housing types with a limited number of compatible ancillary land uses permissible so as to cater for every day needs.

4.2.1.1 Residential Only 1

This zone is intended to promote the development of detached dwelling units in a suburban setting, each unit being for occupation by a single family, and being individually located on erven or subdivisions with a minimum size of 200 m².

4.2.1.2 Residential Only 2

This zone is intended to promote the development of single family, detached units in a suburban setting individually located on erven or subdivisions each with a minimum size of 550m².

4.2.1.3 Residential Only 3

This zone is intended to promote the development of detached dwelling units in a suburban setting, each unit being for occupation by a single family, and being individually located on erven with a minimum erf size of 900 m². The minimum erf size may be reduced to 700m² where erven are connected to municipal sewerage. Medium Density Housing is permitted through Special Consent on erven of 1 800m² or more; dependent on adequate sewage disposal, up to 15 units per hectare are permitted, and in the Scottburgh and Freeland Park area a maximum of 18 units per hectare is permitted.

4.2.1.4 Residential Only 4 (& Residential Only 4a)

This zone is intended to promote the development of detached dwelling units in a suburban setting, each unit being for occupation by a single family, and being individually located on erven with a minimum erf size of 1 100m². Medium Density Housing is permitted through Special Consent on erven of 2200m² or more dependent on servicing, up to a maximum density of 10 units per hectare.

4.2.1.5 Residential Only 5

This zone is intended to promote the development of detached dwelling units in a suburban setting, each unit being for occupation by a single family, and being individually located on erven with a minimum erf size of 1 800m². Medium Density Housing is permitted through Special Consent on erven of 2700m² or more dependent on servicing, up to a maximum density of 8 units per hectare.

4.2.1.6 Residential Only 6

This zone is intended to promote the development of detached dwelling units in a suburban setting, each unit being for occupation by a single family, and being individually located on erven with a minimum erf size of 2 000m². Medium Density Housing is permitted through Special Consent on erven of 4 000m² or more dependent on servicing, up to a maximum density of 5 units per hectare.

4.2.2 Local Residential

- i) **Policy Principle:** A zone which provides for the full range of housing types with ancillary uses limited to non-disruptive services which are local and neighbourhood based.
- ii) **Objective:** To create the opportunity for buffers or interface areas around the core mixed use zones or along corridors as independent zones, where the intention is to widen the scope for the introduction of non-residential uses within a residential area where there is due protection of neighbourhood amenity, by limiting such uses to local non-disruptive intermediate scale activities.
- iii) **Definition:** A local residential zone that retains a high incidence of primary residential land uses with an increasing number of appropriate ancillary land uses to satisfy local demands and convenience and excludes industrial trade uses.

4.2.2.1 Local Residential 1

This zone is intended to promote the development of attached and detached dwelling units developed as part of a planned residential development each unit being for occupation by a single family. The minimum erf size per development is 1 800 m², with a maximum of 25 units per hectare for Medium Density Housing, Residential Buildings (Block of Flats) are permitted in this zone with no limit in terms of dwelling units per hectare. Existing erven below the minimum erf size may still be developed.

4.2.2.2 Local Residential 2

This zone is intended to promote the development of attached and detached dwelling units developed as part of a planned residential development, each unit being for occupation by a single family. The minimum erf size per development is 1 800m², with a maximum of 20 units per hectare. Existing erven below the minimum erf size may still be developed.

4.2.2.3 Local Residential 3

This zone is intended to promote the development of attached and detached dwelling units developed as part of a planned residential development. Each unit being for occupation by a single family. The minimum erf size is 2 000m², with a maximum of 15 units per hectare. Existing erven below the minimum erf size may still be developed.

4.2.3 Community Residential

- i) **Policy Principle:** A zone which provides for the full range of housing types while also encouraging ancillary uses for the broader community beyond the residential area concerned and permits larger developments.
- ii) **Objective:** To create the opportunity for:
- Buffers or interface areas around the core mixed use zones; or
 - along corridors as independent zones where the intention is to permit a wider range of ancillary uses, to facilitate larger scale activities.
- iii) **Definition:** A community residential zone contains all types of residential accommodation and provides for a wide range of services and activity mixes to cater for broader community needs, but excludes industrial and trade uses.

4.2.3.1 Community Residential 1

This zone is intended to promote the development of multi-unit residential units, each dwelling unit being for occupation by a single family. Hotels and other uses are permitted. The minimum erf size for each erf is 1 800m².

4.2.3.2 Community Residential 2

This zone is intended to promote the development of multi-unit residential units, each dwelling unit being for occupation by a single family. Hotels and other uses are permitted. The minimum erf size for each erf is 1800m².

4.2.3.3 Community Residential 3

This zone is intended to promote the development of multi-unit residential units, each dwelling unit being for occupation by a single family. Hotels and other uses are permitted. The minimum erf size for each erf is 1800m².

4.2.3.4 Community Residential 4

This zone is intended to promote the development of multi-unit residential units, each dwelling unit being for occupation by a single family. Hotels and other uses are permitted. The minimum erf size for each erf is 1800m².

4.2.4 Tourist Residential

- i) **Policy Principle:** A zone which provides for the full range of housing and accommodation types associated with tourist accommodation, including chalets developments, and dwelling houses.
- ii) **Objective:** To create the opportunity for tourist accommodation.
- iii) **Definition:** A tourist residential zone contains all types of tourist residential accommodation and provides for a wide range of services and activity mixes to cater for tourist needs.

4.2.4.1 Tourist Residential 1

This zone is intended to promote the development of tourist associated residential units in conjunction with recreation and other resort facilities. The minimum erf size for each development is 1 ha.

4.2.4.2 Tourist Residential 2

This zone is intended to promote the development of tourist associated residential units in conjunction with recreation and other resort facilities. The minimum erf size for each development is 3600 m².

4.2.4.3 Tourist Residential 3

This zone is intended to promote the development of tourist associated residential units in conjunction with recreation and other resort facilities. The minimum erf size for each development is 1 ha.

4.2.4.4 Tourist Residential 4 (Caravan Park)

This zone is intended for the accommodation of caravans, however, up to 15 % of the stand may be developed for dwelling units through the Special Consent procedure. The minimum erf size is 1ha.

4.2.4.5 Tourist Residential 5 (Caravan Park)

An area of land provided with adequate ablution and sanitary facilities with or without a communal kitchen, arranged for the accommodation of caravans which are used primarily for temporary holiday dwellings in conjunction with recreation and other resort facilities. The minimum erf size for such a development is 1 hectare.

CHAPTER 5

GENERAL MIXED USE ZONE

5.1 GENERAL PURPOSE

The general purpose of this chapter is to achieve the following:

- 5.1.1 Provide appropriate areas for a mixture of compatible land uses required by residents, in a manner consistent with the Integrated Development Plan.
- 5.1.2 Provide adequate space to meet the needs of the mix of land uses and encompassing off-street parking and loading.
- 5.1.3 Minimize traffic congestion and avoid the overloading of utilities.
- 5.1.4 Promote high standards of site planning, and landscape design for developments within the Council's area.
- 5.1.5 Provide employment opportunities for existing and future residents of the Council's area and those of adjacent communities.
- 5.1.6 Provide for land uses which meet the needs of and which attracts sub-regional populations, in addition to local residents.
- 5.1.7 Ensure compatibility with adjacent land uses.

5.2 SPECIFIC PURPOSE

The specific purpose, objective and definition of the general mixed zone are as follows:

i) **Policy Principle**

The Zone is intended to provide for a number of land uses in a single zone including commercial, business, service station and garage, office, trade, residential, worship, administrative and social uses as well as light and service industry, warehousing and hawking.

ii) **Objective**

To provide land for the development of mixed use areas which would accommodate formal and informal industrial business opportunities and commercial activities.

iii) **Definition**

An area that allows the development of a range of complementary land uses for commercial, business, services, industrial, administrative and residential opportunities which includes informal trading.

5.2.1 Core Mixed Use

i) Policy Principle

The primary activity focus or foci urban areas in terms of commercial, trade, office, administration, cultural, residential and low impact industrial activities and developments.

ii) Objective

To encourage the development of typical central business district foci to accommodate a full range of compatible land uses including light industry.

iii) Definition

A zone which defines and sets aside land for the development of the major activity focus or foci of urban areas with the fullest possible range of development.

5.2.1.1 Core Mixed Use 1

This zone is intended to provide for the continued use, enhancement and new development of retail, personal service, entertainment, office and related commercial use reinforcing the existing commercial centre.

5.2.1.2 Core Mixed Use 2 (Service Station)

This zone permits activities including, amongst others, shops (that are restricted in terms of scale), a public garage, service station, restaurants, vending machines, automatic tellers, and electronic games machines. The minimum Erf size of such a development is 1 800 m².

5.2.2 Medium and Low Impact Mixed Use

i) Policy Principle

Intended to provide a mechanism to accommodate the development of mixed use areas and corridors.

ii) Objective

- (1) To create an extension to the core mixed use areas;
- (2) To provide an intermediate or buffer area between the core mixed use and adjacent residential areas; and
- (3) To create independent mixed use corridors along major spine roads.

iii) Definition

A zone which sets aside land along major transport and communications corridors for a range of retail, offices, residential and community facilities and excluding industry.

5.2.2.1 Medium Impact Mixed Use 1

This zone permits activities including, amongst others, commercial workshops, laundrettes, office and public office buildings, restaurants, shops and warehouses. Minimum erf sizes within this zone are 450m².

5.2.2.2 Low Impact Mixed Use 1

This zone permits Home Business and other retail uses. Minimum erf sizes within this zone are 200m².

5.2.3 Multi Use Retail

i) Policy Principle

To provide a mechanism to accommodate the single or multi Erf development in suburban and other locations.

ii) Objective

To provide for the development of the range of typical specialised activity and suburban shopping centres, as they occur within a suburban context or on the fringes of the mixed-use, industrial and residential zone.

iii) Definition

A zone which permits the development of a full hierarchy of shopping centre types and can comprise a mix of retail and entertainment uses.

5.2.3.1 Multi Use Retail 1

The zone permits the development of a variety of shopping centre types with a minimum erf size of 450m².

5.2.4 Suburban Office

i) Policy Principle

To create a mechanism for the accommodation of distinct office development in different forms in various locations throughout urban areas.

ii) Objective

To provide for the development of distinct office areas in any location in an independent form or associated with other foci and can occur as office parks or estates.

iii) Definition

A zone which provides for office development as the primary development focus in suburban and peripheral locations or adjacent to shopping centres or a mixed use core, or as independent zones.

5.2.4.1 **Mixed Use Office**

Buildings or part of buildings used as an office and includes, amongst others, banks, building societies, insurance offices, estate agents and other professional suites. Minimum Erf sizes within this zone are 900m².

CHAPTER 6

INDUSTRIAL ZONES

6.1 GENERAL PURPOSE

The general purpose of this chapter is to achieve the following:

- 6.1.1 Provide appropriate industrial areas to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment.
- 6.1.2 Provide adequate space to meet the needs of industrial development, including off-street parking and loading.
- 6.1.3 Minimize traffic congestion and avoid the overloading of engineering services and utilities.
- 6.1.4 Protect industrial areas from excessive noise, illumination, unsightliness, odour, smoke, toxic wastes, and other objectionable influences.
- 6.1.5 Promote high standards of site planning and landscape design for industrial developments.
- 6.1.6 Promote consolidation of industrial uses into comprehensively planned industrial parks.
- 6.1.7 Promote a mix of industrial uses so as to constitute a sound, diverse industrial base.
- 6.1.8 Ensure compatibility with adjacent land uses.
- 6.1.9 Single-family dwelling units which legally existed in the industrial land use zones prior to the adoption of this Scheme, may remain as an existing use.

6.2 SPECIFIC PURPOSE

The specific purpose of the individual industrial land use zones are as follows:

i) **Policy Principle**

This zone is intended to provide for land for medium impact industrial uses excluding extractive and noxious industries, which by their nature would require compliance with EIA principles and the introduction of a high impact industrial zone.

ii) **Objective**

To provide appropriate locations for a range of industrial and related activities in specific areas which mitigate their impacts and provide a proper balance for employment and sectoral growth.

iii) **Definition**

A general zone to accommodate different industrial uses but excluding noxious and high pollution industries.

6.2.1 **Medium Impact Industry**

i) **Policy Principle**

This zone provides a mix of industrial activities and services and can be an interface to high impact industrial areas or as independent entities.

ii) **Objective**

To provide appropriate locations for a range of industrial and related activities in specific areas which mitigate their impacts and provide a proper balance for employment and sectoral growth.

iii) **Definition**

A zone to contain a mix of industrial and related land uses and activities with lesser environmental impacts and excludes heavy and noxious industries.

6.2.1.1 **Medium Impact Industry 1**

This zone allows for light and service industrial buildings, warehousing and related land uses. The minimum Erf size within this zone is 900 m² and buildings are permitted to be up to 2 storeys in height. General Industrial Buildings are permitted by Special Consent.

6.2.1.2 **Medium Impact Industry 2**

This zone allows for light and service industrial buildings. The minimum Erf size within this zone is 900 m² and buildings are permitted to be up to 4 storeys in height.

6.2.1.3 **Medium Impact Industry 3**

This zone allows for light and service industrial buildings. The minimum Erf size within this zone is 900 m² and buildings are permitted to be up to 2 storeys in height.

6.2.2 Low Impact Industry

i) Policy Principle

This zone defines opportunities to interface low impact industries in relation to residential areas to facilitate local economic development and employment opportunities and can also be used as a buffer or interface with other industrial zones.

ii) Objective

To provide appropriate locations for service industries that have a limited impact and can be compatible with adjacent residential development and contribute to local economic development.

iii) Definition

A zone to accommodate a mix of service industry and warehousing.

6.2.2.1 Low Impact Industry 1

This zone allows for Service Industrial Buildings. Minimum Erf size within this zone is 1 800 m², and height is up to 4 storeys. Light Industrial Buildings are permitted by Special Consent.

6.2.2.2 Low Impact Industry 2

This zone allows for Service Industrial Buildings. Minimum Erf size within this zone is 1 800 m² and height is up to 2 storeys, light industrial buildings are permitted by Special Consent.

CHAPTER 7

ACTIVE OPEN SPACE ZONES

7.1 GENERAL PURPOSE

The general purpose of this chapter is to achieve the following:

- 7.1.1 Protection of areas designated for public outdoor recreation; and
- 7.1.2 Protection of land used for the purposes of sports grounds, playing fields or other open spaces of a school, club, firm, private person or Home Owners Association.

Please note, Public Open Space and other Reservations are to be retained as separate Tables.

7.2 SPECIFIC PURPOSE

The specific purpose, objective and definition of the Active Open Space zone are as follows:

i) **Policy Principle**

Intended to provide land for passive and active recreational activities associated with Private Open Space.

ii) **Objective**

To provide appropriately situated and adequate land for recreational purposes and activities.

iii) **Definition**

Private Open Space set aside for recreational activities.

7.2.1 Active Open Space

i) **Policy Principle**

This zone provides part of the sustainable open space system which includes independent or linked open space areas and green lung areas of the urban environment for sporting and recreational needs and associated activities of the local and visiting public and may include areas of passive open space where appropriate.

ii) **Objective**

To ensure that there is adequate land set aside and facilities provided to address the public and private sport and recreational needs.

iii) **Definition**

These comprise private areas that are developed and maintained for a range of active pursuits.

7.2.1.1 Active Open Space 1 (Private Open Space)

A sports ground, playing field or other open space of a school, club, firm, private person or Home Owners' Association.

CHAPTER 8

AGRICULTURAL ZONES

8.1 GENERAL PURPOSE

The purpose of these zones is to provide for agricultural land uses as well as low-density residential development in the Council's agriculturally zoned areas and to assure that this development occurs in a manner which protects the area's natural and topographic character and identity, environmental sensitivities, aesthetic qualities, and the public health, safety, and general welfare.

This protection is obtained by insuring that development does not create soil erosion, silting of lower slopes, land slide damage, flooding problems, and severe cutting or scarring, since any proposed non-agricultural use or development and certain agriculturally related activities shall be subject to prior assessment.

8.2 SPECIFIC PURPOSE

The regulations, development standards, and design guidelines set forth in this section are based on the following policies:

i) **Policy Principle**

In line with the national and provincial policy guidelines, to identify areas of valuable agricultural land which needs to be protected and optimally used.

ii) **Objective**

To utilise agricultural land on a sustainable basis.

iii) **Definition**

An agricultural zone is intended to provide land for buildings and uses associated with the cultivation of crops, and farming of livestock, poultry and bees, including horticultural and market gardening; and associated educational activities.

8.2.1 Low Impact Agriculture

i) **Policy Principle**

Areas of low-impact, generally smaller-scale agricultural activity in or adjacent to urban areas, invariably in a transitional form, towards residential estate and small holding zones or other appropriate urban based zoning.

ii) **Objective**

To permit the continued agricultural occupation of land in, or adjacent to, urban areas.

iii) **Definition**

A former agricultural area which is in transition towards urban settlement, or which is settled for low impact agricultural purposes within an urban context.

8.2.2 **Medium Impact Agriculture**

(i) **Policy Principle**

These are areas of valuable agricultural land which need to be optimally used.

(ii) **Objective**

To utilise agricultural land on a sustainable basis.

(iii) **Definition**

Agricultural area that is in close proximity to urban areas but which should in the short to medium term remain utilised for agricultural purposes.

CHAPTER 9

CIVIC AND SOCIAL ZONES

9.1 GENERAL PURPOSE

The purpose of this chapter is to achieve the following:

- 9.1.1 To provide appropriate areas for civic and social facilities including schools, health care and welfare facilities, and public offices;
- 9.1.2 To provide for uses and buildings associated with public and private service providers; and
- 9.1.3 To provide adequate social and civic facilities to meet the needs of the local communities.

9.2 SPECIFIC PURPOSE

The specific purpose, objective and definition of the Civic and Social Zone are as follows:

i) **Policy Principle**

The zone is intended to provide for uses and buildings associated with public and private service providers and administrative or government functions including education, health, pension offices, museums, libraries and community halls.

ii) **Objective**

To provide adequate social and civic facilities to meet the needs of the local communities in the fields of health, education, social and cultural services.

iii) **Definition**

Land utilized to provide for administrative or government buildings including education, health, pension offices, museums, libraries, community halls, prisons, juvenile facilities, cemeteries and crematoria.

9.2.1 Health and Social Services

i) **Policy Principle**

The provision and development of all facilities and services required for the administrative, social, health, and cultural well-being and benefit of residents and workers.

ii) **Objective**

To ensure that the health and social services requirements are located in core, suburban and residential locations which are convenient to all people.

iii) **Definition**

A zone which provides for the full range of hospital, clinic, community care, welfare and social requirements including cemeteries and crematoria.

9.2.1.1 Health and Welfare 2 (Worship 1)

This means a zone to accommodate a building including associated land and uses, used for social meetings, gatherings, religious purposes, or indoor recreation, but does not include a place of public amusement. Minimum erf sizes within this zone are limited to 3 600 m², with a coverage of up to 30% permitted.

9.2.1.2 Health and Welfare 3 (Worship 2)

This means a zone to accommodate a building including associated land and uses, used for social meetings, gatherings, religious purposes, or indoor recreation, but does not include a place of public amusement. Minimum erf sizes within this zone are limited to 900 m², and coverages of up to 30%.

9.2.1.3 Health and Welfare 1 (Institution)

This means a zone to accommodate buildings used as a hospital, nursing home, sanatorium, clinic, convalescent home, orphanage, old age home or other building used as a public or private institution except those associated with being "Restricted Buildings" (ie. buildings used as a clinic or hospital for infectious diseases, jail, mental home or hospital, or reformatory). There are no limitations placed on the minimum erf size for this zone.

9.2.2 Public Buildings and Services

i) **Policy Principle**

The provision of public administrative, institutional, and infrastructural developments and buildings for the convenience and proper operation and function of urban areas.

ii) **Objective**

To ensure that public institutional, administrative and service facilities are provided to permit the efficient and proper administration and functioning of the town.

iii) **Definition**

A zone which provides for municipal institutions and public facilities related to infrastructure and services, and includes prisons and juvenile facilities.

9.2.2.1 Public Buildings and Services

Buildings and works incidental to the use of the land for Central, Provincial or Municipal Government purposes permitted.

9.3 **Education**

(i) **Policy Principle**

The provision of a range of education uses to serve the community in which they are situated.

(ii) **Objective**

To ensure that adequate education facilities are provided to facilitate the upliftment of the community.

(iii) **Definition**

A zone which provides for primary and secondary schools, and where possible tertiary education centres. Includes pre-primary facilities. Creches are separately defined but permitted as are other ancillary uses.

PART 3 : DEVELOPMENT AND USE STANDARDS AND REGULATIONS

CHAPTER 10

LAND AND BUILDINGS

10.1 BUILDING LINES

- (i) The building lines of erven and subdivisions in the various zones are set out in Tables 1a, 1b and 1c.
- (ii) The local authority may, in addition to a building line referred to in sub clause (i), impose a building line if engineering services have been, or are intended to be installed, including drainage.
- (iii) Where a building line is laid down, no building other than boundary walls, fences, pergolas or architectural and garden features, shall be erected between the building line and the street line. Where a new road or road widening is required, the building line is to be set back so as to take into consideration any such new road or widening. Provided that the Local Authority may grant its authority for the reduction of the building line for a swimming pool to no less than 1 metre.
- (iv) The Local Authority, by Special Consent, may relax the building line if Council is satisfied that, on account of the levels of the erf or adjoining land or the propinquity of buildings already in front of the building line or any other special circumstances, compliance with the building line would seriously hamper the development of the erf.
- (v) The Local Authority may, by Special Consent, relax the building line if in Council's opinion the architectural effect will enhance the appearance of the street and contribute to public amenity.
- (vi) Notwithstanding the provisions of the above clauses, in the cases of swimming pools and tennis courts the building line may be relaxed by Special Consent of the Local Authority to no less than 1 metre; provided that where or tennis court is to be constructed so that any portion of it is within 4,5 metres of a road boundary such tennis court shall be screened to the satisfaction of the local authority.
- (vii) Cognisance shall be taken in all cases of the building restriction line imposed in terms of the Provincial Road Ordinance No. 10 of 1968 as amended, and in such circumstances the building line may not be relaxed by the Local Authority, without the consent of the Provincial Roads authority.

- (viii) Where within a Mixed Use Zone buildings are set back to conform to a building line, no goods, merchandise, wares, vehicles or other obstruction shall be placed, deposited, kept or displayed on the area between the Erf boundary and the building line. Provided that the Council may permit the parking of vehicles or an open-air café or restaurant in accordance with a plan approved by Council on the area between the Erf boundary and the building line where Mixed Use Zone buildings are set back to conform to a building line. Provided further that the aforesaid prohibition shall not apply to the placing or depositing of goods, merchandise or wares in the course of transporting the same into or out of such Mixed Use Zone buildings.
- (ix) Where Industrial Zone buildings are set back to conform to a building line, no goods, merchandise, wares, vehicles or other obstruction shall be placed, deposited, kept or displayed on the area between the Erf boundary and the building line.
- (x) Notwithstanding the foregoing provisions, the Local Authority may exempt an applicant from applying for Special Consent if it is satisfied that no interference with the amenity of the neighbourhood, existing, or as contemplated by this scheme, will result; provided that the prior written consent of the registered owner of each adjoining property, and those properties directly across the street and such other properties as the Local Authority may direct, has first been obtained. Where any such written consent is not forthcoming, the applicant shall, in seeking the relaxations, be required to apply for the Local Authority's Special Consent. Application shall be made in terms of Council's relaxation policy as contained in the Operational Guidelines.

10.2 SIDE AND REAR SPACE

- (i) The side and rear spaces of erven in the various reservations and zones are depicted in Tables 1a, 1b and 1c.
- (ii) The local authority may, in addition to a side and rear space line referred to in sub clause (i), impose a side and rear space if engineering services, have been, or are intended to be installed, including drainage.
- (iii) The Local Authority may, by Special Consent, permit in any zone any building to be erected closer to any boundary than the distances specified in this clause if on account of the siting of existing buildings or the shape, size or levels of the erf, the enforcement of this clause will, in the opinion of the Local Authority, render the development of the erf unreasonably difficult. In considering any application under this sub-clause the Local Authority shall have due regard to any possible detrimental effect on adjoining properties and the need for any sewer and drainage servitudes.
- (iv) Notwithstanding the foregoing provisions, the Local Authority may exempt an applicant from applying for Special Consent if it is satisfied that no interference with the amenities of the neighbourhood, existing, or as contemplated by this scheme, will result; provided that the prior written consent of the registered owner of each adjoining property, and those properties directly across the street and such other properties as the Local Authority may direct, has first been obtained. Where any such written consent is not forthcoming, the applicant shall, in seeking the relaxations, be required to apply for the Local Authority's Special Consent.

Application shall be made in terms of Council's relaxation policy as contained in the Operational Guidelines document.

10.3 FLOODLINES

- (i) No building shall be erected on any land which in the opinion of the Local Authority is below a floodline as defined in these Clauses.
- (ii) Where an Erf may be subject to a floodline, the Local Authority may require the owner to indicate the floodline as defined in Clause 1.2 on a site plan or building plan and to supply a supporting certificate signed by a professional engineer.
- (iii) Notwithstanding any other provisions contained in these Clauses the Local Authority may permit a building to be erected below the flood line as defined in Clause 1.2 provided that a certificate signed by a professional engineer is produced confirming that such proposed building will be raised clear of the appropriate flood level.
- (iv) No structure which may impede the flow of water may be constructed or erected below the floodline as defined in these clauses without the written authority of the Local Authority.

10.4 BUILDING RESTRICTIONS AND THE USE OF LAND

The Types of Building and Land Uses shall be as defined in Part 1 : General Provisions, Chapter 2: Definitions and Types of Building and Land Use. The extent and location of the various zones shall be as set out on the current adopted Scheme Maps.

10.5 ERECTION AND USE OF BUILDINGS AND USE OF LAND

Table 2 lists those uses in the various zones which are: Permitted (P), subject to the Special Consent of Council (C) or Prohibited (x), that is:

- P = Buildings may be erected and used or land may be used subject to the approval of building/development plans by the Local Authority, where appropriate.
- C = Buildings may be erected and used or land may be used only with the Special Consent of the Local Authority; and
- X = Buildings may not be erected and used and land may not be used.

The types of applications and the procedures for making such applications are described in Part 1 : Chapter 1, Basic Provisions, Section 1.7, 1.8 and 1.9 and in Part 4 : Chapter 12, Scheme Administration and Applications, Sections 12.3, 12.4 and 12.5.

10.6 SITING OF BUILDINGS AND ACCESS POINTS AND THE CONSERVATION OF INDIGENOUS FLORA AND WATER COURSES

- (i) No erf or subdivision shall be cleared of any vegetation without the authority of the Local Authority. No indigenous vegetation shall be disturbed or removed from any Erf without the authority of the Local Authority.
- (ii) In considering any application for the development in terms of Section 67 of the Ordinance, it shall be the duty of the Local Authority to ensure wherever it is considered appropriate, that adequate provision be made for the conservation of indigenous flora, the planting or replacement of trees and the protection of water-courses, by means of conditions qualifying the approval of such development. See also Chapter 3.
- (iii) The siting of any buildings intended to be erected or the development or use of any land, shall be subject to the approval of the Local Authority and persons intending to erect buildings or use land shall, before commencing, apply to the Local Authority for approval of the siting, use or development and submit a site development plan accurately depicting the physical characteristics of the site including the location of all natural features, for example, water courses, including all vegetation, and existing and proposed buildings, structures and services, including building lines, side and rear spaces, rights-of-way and servitudes.
- (iv) In respect of any application to develop an erf the Local Authority may determine the position and number of vehicular or pedestrian points of access and may, if it deems fit, prohibit pedestrian or vehicular access across any boundary or boundaries and require that a suitable fence or wall be erected to prevent such access.

10.7 NON-CONFORMING EXISTING USE

Any Existing Building or Existing Use which is not in conformity with the scheme, but for which authority was obtained from the Local Authority prior to the date of adoption, may be completed and continue to be used for the purpose for which it was designed, subject to compliance with any conditions which may have been imposed by the Local Authority, and provided that:

- (i) Any such non-conforming existing building or use of land may be increased on the erf by an amount not greater than 12,5% of its total floor area or area as the case may be, at the date of adoption, provided that the completed building or use is in conformity with the other provisions of the Scheme, relating to the zone in which such building or use is situated.
- (ii) Any alteration or addition or change of use which in the opinion of the Local Authority alters the character of an existing building or use of land, shall automatically remove such building or land from the category of "Existing Building" or "Existing Use".
- (iii) Where the non-conforming existing use of any building or land is discontinued for a continuous period of 18 months or longer, such existing use right shall be deemed to have lapsed and the use shall not be recommenced.

10.8 DESIGN AND LAYOUT OF CARAVAN PARKS

The written authority of the Local Authority for the establishment of a Caravan Park shall only be given if the design and lay-out is in accordance with the standards laid down in the Code of Practice for Caravan Parks published by the South African Bureau of Standards, (Publication S.A.B.S. 092/1971 as amended).

10.9 GARAGES AND SERVICE STATIONS

- (i) The layout of a Garage or Service Station including the siting of pumps, buildings and of vehicular access or egress, shall be to the satisfaction of the Local Authority.
- (ii) No Garage or Service Station shall have direct vehicular access to an existing or proposed major traffic arterial.
- (iii) The following prerequisites and conditions shall be observed whenever it is proposed to erect a new Garage or Service Station, or to extend an existing Garage or Service Station.
 - (a) No vehicular entrance to or exit from a Garage or Service Station shall be within 150 metres of a freeway interchange, 60 metres from an intersection with a road which in the opinion of the Local Authority is a major road or 20 metres from an intersection with any road.
 - (b) The frontage of a Garage or Service Station Erf shall not be less than 36 metres in length.
 - (c) Dwarf walls or other permanent structures satisfactory to the Local Authority shall be erected on the street frontage of the site so as to confine the movement of vehicles into or out of the Garage or Service Station to authorised access points.
 - (d) No Garage or Service Station shall be established upon any erf unless, in the opinion of the Local Authority, it has adequate depth so as to enable all activities to be carried on clear of the street. Filler points for underground tanks shall be so sited as to make it possible for tanker vehicles to stand wholly within the curtilage of the Erf when recharging the tanks and for such vehicles to enter and leave the Erf in a forward direction.
 - (e) Pump islands shall not be less than 5 metres from any boundary of the erf and all traffic routes within the forecourt shall have a minimum width of 5 metres.
 - (f) A Garage or Service Station shall be so sited and designed that traffic entering and leaving the Erf will not adversely affect movement of pedestrians or vehicles on any heavily trafficked public street or place.
 - (g) Parking accommodation for motor vehicles to be provided on the erf in accordance with Clause 11.4.

The Local Authority may relax any of the above conditions (a) - (g) in respect of any application for a garage which, in the opinion of the Local Authority, is not a traffic generator in terms of Annexure C.

- (iv) In granting its permission for the establishment of a Garage or Service Station, the Local Authority shall take cognizance of the standards set out in Annexure C. (Planning Standards for Control of Traffic at Traffic Generating Sites).

10.10 EXEMPTIONS

- (i) No part of any Single Family Dwelling nor any additional freestanding building which may be erected for use in conjunction with such dwelling may be used as a separate dwelling unit unless such building or part thereof complies with Clause 2.164.
- (ii) Nothing in this Scheme shall prohibit or restrict the use of a place of work, place of instruction, place of public assembly, or an institution as a place of public amusement, provided that such use is restricted to not more than twenty days in each calendar year;
- (iii) Nothing in this Scheme shall prohibit the owner of a Home Plant Nursery in a residential zone from selling his plants by retail provided the special consent of the Local Authority has been applied for and granted with or without conditions.

10.11 USE OF HOTELS FOR CERTAIN PURPOSES

- (i) The Local Authority may permit any one or more of the following shops or activities, viz:

- Hairdressing salons;
- Bookshops or newsagents;
- Florists;
- Curio shops;
- Theatre Booking agents;
- Bank agents;
- Travel agents;
- Vending machines;

to be established:-

- (a) in any hotel graded as a five-star, four-star or three-star hotel in terms of the Hotels Act, 1965, or which, according to the nature of the accommodation and service provided therein, and its situation, is in the opinion of the Local Authority, likely to be graded as such;
- (b) by Special Consent in any hotel other than those referred to in subparagraph (a) hereof;

provided that no external advertising of any shop or activity shall be permitted and access thereto shall be gained only from within the hotel.

- (ii) The Local Authority may, by Special Consent and when it is of the opinion that there will be no interference with the amenity of the neighbourhood, authorize, in terms of this scheme, the establishment of a bottle store in any licensed hotel premises.

10.12 FLOOR AREA RATIO, COVERAGE AND HEIGHT

- (1) In any density zone as set out in TABLE 1a, 1b and 1c, no building shall be erected which will exceed in floor area ratio, coverage and/or height the maximum figures permitted for that zone.
- (2) Notwithstanding Clause 2.79 in considering an application for the development or use of land or the erection of or addition to a building which is carried out upon a erf which is subject to a servitude or right of way in favour of the public which has been donated to the Local Authority, the coverage shall be calculated on the net area of the erf and the Local Authority shall permit the FAR to be calculated on the gross area of the erf.
- (3) In considering an application for the erection, extension or rebuilding of a Place of Public Assembly, which is a religious building, the Council may by Special Consent approve of a height in excess of any maximum specified.
- (4) Except as provided below all areas are included in coverage:
 - (a) Where by reason of the topography of the site the basement roof is level with the finished ground floor level of the building and the same basement roof is covered by unroofed, private or common recreational space designed, laid out, furnished and landscaped to the satisfaction of the Local Authority. Basement is hereby defined to exclude residential purposes or a shop or a factory.
 - (b) Coverage may, at the discretion of the Local Authority, **exclude any awning or external cover, supported by ground poles or otherwise**, that is erected for the purpose of screening or protecting an open **recreational** area from the elements of sun and rain provided the **said area** is not **fully** enclosed and does not, in the opinion of the Local Authority, interfere with the amenity of the area.
- (5) On land zoned for Community Residential purposes where recreational space, open to the sky, private or common, is provided above the ground floor level, coverage may be increased above the percentage stipulated by Table 1 but not exceeding 45 %, by an amount equal to the area of such recreational space provided that the same recreational space shall be designed, laid out, furnished and landscaped to the satisfaction of the local authority.
- (6)
 - (a) In the Core Mixed Use 1 Zone: Where residential use is included in a Mixed Use Development, the F.A.R. for such residential use shall not exceed 0,70 and the total Coverage for all buildings shall not exceed 50 %; provided that where the building is to comprise a Commercial use with one flat (not exceeding 84 m² in extent) for a manager or caretaker, the maximum coverage of 80 % shall continue to apply.
 - (b) Where a recreational space, conveniently accessible from all parts of the residential area of the Mixed Use Development and open to the sky is provided above the ground floor level, the coverage may be increased above 50 % but not exceeding 80 %, by an amount equal to the area of such recreational space, provided that such recreational space shall be designed, laid-out, furnished and landscaped to the satisfaction of the local authority.

- (7) (a) The floor area of the combined outbuildings (both human habitation and non human habitation) shall not exceed 30 % of the Dwelling Units to which they are ancillary, save with the Special Consent of the Local Authority.
- (b) If the owners of the properties adjoining the erf in question give their written consent to such outbuilding, the Special Consent procedure may be waived.

10.13 ERF CONTROL

- (1) (i) No erf may be used for a use unless the Council is satisfied that it can be satisfactorily sewered, accessed, and serviced with water.
- (ii) Nothing in the scheme shall prohibit the Council from refusing to grant its approval or special consent for the erection of any building or for the development or use of land where, in the opinion of the Council, the arrangements made or to be made for the supply of water or for the disposal of sewerage, effluent or waste, or for access, are or will be inadequate or detrimental to amenity or health. Provided that the Council may grant its approval or special consent subject to such conditions as it deems necessary or appropriate. Any person aggrieved by any decision of the Council under this clause may, within twenty-eight days from the date on which s/he received notice of the decision of Council, or such longer period as the Appeals Board may allow, appeal to the Appeals Board as provided by Section 67 *ter* of the Ordinance.
- (iii) The minimum sizes of erven and subdivisions shall be as set out in Tables 1a, 1b and 1c except as provided below, and where any such erf or subdivision was in existence prior to the date of adoption of this Scheme.
- (iv) Where a township is established for the erection of dwellings wholly or partly financed by the State, the Local Authority may authorise a reduction in the prescribed minimum for any erven so used provided that all such Erven are served by a waterborne sewage disposal system to the satisfaction of the Local Authority.
- (v) Where on the date of adoption, two Single Family Dwelling were existing lawfully on a single erf which is less in extent than the areas prescribed in these clauses, the Local Authority may, in its discretion, grant authority for the subdivision of the erf into two separate erven, provided also that the area of either of the subdivided erven is not less in extent than 80 % of the prescribed minimum, and each subdivision conforms to the other provisions of the Scheme. In giving any such authority the Local Authority shall take into account the amenity of the locality and of the adjoining properties.

- (vi) Where an existing erf in the Residential Only zones has been reduced in area by the expropriation or alienation of land for road widening or construction purposes or for open space purposes, the Local Authority may allow the erection of a Single Family Dwelling on the erf provided that the erf has not been reduced in area to less than 80 % of the minimum erf size and provided further that arrangements for the disposal of sewage have been made to the satisfaction of the Local Authority.
 - (vii) Where an existing erf in the Local Residential zones has been reduced in area by the expropriation or alienation of land for road widening or construction purposes or for open space purposes, the Local Authority may allow the erection of a Medium Density Housing on the Erf provided that the Erf has not been reduced in area to less than 80 % of the minimum Erf size and provided further that arrangements for the disposal of sewage have been made to the satisfaction of the Local Authority.
 - (viii) In cases of hardship or other special circumstances, the Local Authority may relax the minimum erf area, provided that such relaxation does not exceed 10% of the minimum prescribed area.
 - (ix) In the case of buildings intended to be used for religious purposes the Council could, based on the size of the congregation and the size of the building required, at its discretion, allow smaller erven to be used for religious purposes.
- (2) Not more than one Single Family Dwelling shall be erected on any erf, provided that where the Erf is at least double the Erf size specified in Table 1, additional Single Family Dwellings may be erected on the Erf provided the applicant has submitted to the Local Authority and received approval for a drawing showing that the land on which each additional Single Family Dwelling will stand is capable of being subdivided so that the subdivision will conform to the provisions of the Scheme; and provided that the applicant furnishes the Local Authority with an undertaking that any land required under the scheme for road construction or road widening purposes shall be transferred to the Local Authority at dates to be determined by the Local Authority; and provided further that sewage disposal arrangements have been made to the satisfaction of Council, which requirements may include the undertaking of evapotranspiration tests in accordance with the requirements of the Department of Water Affairs. Council can include requirements normally associated with township development.
- (3) Notwithstanding Clause 10.13 (2) above the Local Authority may permit the erection of a Second Dwelling Unit on a Residential erf in the manner specified in Table 2. Such Second Dwelling Unit shall be as defined in the Definitions of this Scheme.
- (4) Except in special circumstances the depth of an erf in relation to the frontage shall not exceed the ratio of 3 to 1 in proportion. An erf of irregular shape should be capable of containing within its boundaries a rectangle not exceeding the ratio 3 to 1 in proportion, having an area of 50 per cent of the minimum prescribed area.

10.14 MINIMUM FRONTAGE REQUIREMENTS

- (i) Except in special circumstances the minimum frontage for all erven shall be as depicted in Table 1 and the width of the access way for a "hatchet-shaped" Erf shall be a minimum of 4 metres throughout its length which length shall not exceed 60 metres. Where an erf is of an irregular shape or occurs in a *cul-de-sac* or change of road direction, the frontage on the street may, with the authority of the Local Authority, be less than 18 metres provided the proportion of the Erf is in conformity with the ratio provision set out in Clause 10.13 (4) and provided also that the frontage on the street is not less than 4m.
- (ii) Where a township is established for the erection of dwelling units wholly or partly financed by or through the State, the Local Authority may authorise a reduction in the minimum prescribed frontage to comply with the requirements of the relevant Department.

10.15 EXTERNAL APPEARANCE OF BUILDINGS

- (i) The character, design and external appearance of buildings, including the material used in their construction, alteration or extension, shall be subject to the approval of the Local Authority, and no building may be erected without the approval of the Local Authority.
- (ii) In considering any application, the Local Authority shall have regard to the character of the locality in which it is proposed to erect such building and shall take into account whether or not the building will be injurious to the amenity of the locality by reason of its external appearance or the materials it is proposed to use or the siting of the proposed building in relation to the buildings on the adjoining Erfs and where applicable to the Amenity Reserve.
- (iii) Any person intending to alter, extend, rebuild or erect a building shall submit drawings to the Local Authority as set out in Clause 12.5, with whatever other indications the Local Authority may require, showing the external appearance of the proposed building together with a description of the materials to be used.
- (iv) Within two months from the date of submission of the drawings and particulars, or within such further time period to which the applicant agrees, the Local Authority shall approve the application either unconditionally or subject to such conditions as it may consider fit, or it may refuse to grant the application on the grounds that the external appearance of such building is unacceptable.
- (v) Any applicant aggrieved by any decision in terms of sub-clause (iv) hereof shall have the right of appeal to the Appeals Board.

10.16 ADVERTISEMENTS

No advertisements shall be displayed or hoardings erected without the written authority of the Local Authority. Any person proposing to erect any sign, advertisement or hoarding shall submit drawings, of any such sign or advertisement or hoarding to the Local Authority for approval. No hoarding or advertisement shall be permitted which is likely to cause injury to the amenity of the neighbourhood. Name plates not exceeding 0,2 m² in extent are not considered to fall under this heading. This clause does not apply to casual advertisements for entertainments, property for sale, auctions to be held on the premises or meetings provided they are not, in the opinion of the Local Authority, unduly ostentatious.

CHAPTER 11

OFF-STREET PARKING AND LOADING STANDARDS

11.1 GENERAL PURPOSE

These regulations are intended to establish comprehensive standards to regulate the number, design and location of off-street parking and loading areas, so as to achieve the following:

- 11.1.1 To provide accessible, functional, attractive, secure, properly lit, and well-maintained and screened off-street parking and loading facilities.
- 11.1.2 To reduce traffic congestion and hazards.
- 11.1.3 To protect neighbourhoods from vehicular noise and traffic generated by adjacent land uses.
- 11.1.4 To assure the manoeuvrability of emergency vehicles.
- 11.1.5 To provide an adequate number of appropriately designed parking and loading facilities in proportion to the needs generated by varying types of land use and which parking and loading facilities are clearly compatible with adjacent properties and the neighbourhood.
- 11.1.6 In mixed use areas, client parking should be provided, be accessible and maintained, to the satisfaction of the local authority.

11.2 APPLICABILITY

Every use hereafter inaugurated, and every building hereafter erected or altered, shall have permanently maintained off-street parking areas pursuant to the following provisions. Moreover, every non-residential land use shall have permanently maintained off-street areas pursuant to the following provisions.

11.3 GENERAL REGULATIONS

- 11.3.1 No structure or use shall be permitted or constructed unless off-street parking spaces are provided in accordance with the provisions of this Scheme.
- 11.3.2 In mixed use areas, client parking should be provided, be accessible and maintained, to the satisfaction of the local authority. Any alterations to the provision of client parking may not be undertaken unless specific authority has been obtained from the Local Authority.
- 11.3.3 The word "use" shall mean both the type and intensity of the use, and that a change in use shall be subject to all of the requirements of this Scheme.

- 11.3.4 When a structure is enlarged or increased, or when a change in use creates an increase in the required amount of parking, additional parking spaces shall be provided in accordance with the provisions of this Scheme. A parking study may be required to be prepared, to examine the proposed use in light of available off-street parking facilities in the Scheme area.
- 11.3.5 Requirements for uses not specifically listed herein shall be determined by the Council based upon the requirements for comparable uses and upon the particular characteristics of the use.
- 11.3.6 Fractional vehicle parking space requirements shall be rounded up to the next whole space.
- 11.3.7 Required guest parking in residential land use zones shall be designated as such and restricted to the use of guests.
- 11.3.8 All parking, including recreational vehicle parking in residential land use zones shall occur on paved or hardened areas to the satisfaction of Council.
- 11.3.9 Retirement village/senior citizen apartments' parking requirements may be adjusted on an individual project basis, subject to a parking study based on project location and proximity to services for senior citizens including, but not limited to, medical offices, shopping areas, etc.
- 11.3.10 In the case of places of worship, parking requirements may be adjusted on an individual basis, subject to a parking study.
- 11.3.11 The Local Authority may in its discretion in respect of public or customer orientated land uses require the provision of specially demarcated bays for physically disabled persons.

11.4 **SPECIFIC LOADING AND PARKING PROVISIONS**

- (1) Any person intending to erect, alter or extend a building or develop or use any Erf, shall provide loading and parking accommodation within the boundaries of the Erf and shall submit proposals therefore in accordance with the following requirements and to the satisfaction of the Local Authority.
- (i) For every Residential Building or Medium Density Housing Development there shall be provided 1 covered parking space for each Dwelling Unit. In addition there shall be provided a suitable area for visitors' parking at the rate of 1 car space for every 2 dwelling units, and a loading and unloading area with suitable access to the satisfaction of the Local Authority. Provided that the additional car spaces are not placed on the Private Open Area. Where suitable motivation is provided, the covered parking requirement may be waived, at the discretion of the local authority, provided that the coverage of buildings be such that the covered parking could be provided in the future and that a suitably surfaced parking area(s), with demarcated parking spaces be provided in lieu of the covered parking.

- (ii) For every building intended for shopping use within the Core Mixed Use zone 1, there shall be provided 1 car space off the street for each 50 m² or major portion thereof for the Net Leasable Floor Area. For every shop other than in the Core Mixed Use zone 1, one parking space is to be provided for every 25 m² or major portion thereof, of Net Leasable Floor Area.
- (iii) For every building intended for office use there shall be provided 1 car space for each 50m² or major portion thereof of gross floor area plus a loading and unloading area. Provided that for every Office Building or portion of Office Building used or intended to be used for accommodation of Medical Practitioners, there shall be provided one space for every 25 m² or major part thereof of gross floor area, plus loading and unloading area.
- (iv) For every Hotel, Guest House or Boarding House there shall be provided 1 car space for every bedroom together with a suitable and convenient area wherein may be parked a minimum of an additional 5 cars, with the addition, where the Hotel is licensed to sell alcoholic beverages, of a further convenient area provided for parking accommodation for an additional number of 15 cars, together with a loading and unloading area with suitable access to the satisfaction of the Local Authority.
- (v) For every Bed and Breakfast facility there shall be provided 1 car space for every bedroom.
- (vi) For every Public Office there shall be provided a convenient area for parking accommodation for 15 cars.
- (vii) For every building or portion of a building intended for use as a Warehouse there shall be provided one car space for each 150 m² or major portion thereof of floor area and a loading and unloading area with suitable access to the satisfaction of the Local Authority.
- (viii) For every building or portion of a building intended for use as a hall without fixed seats there shall be provided a car space off the street for every 25 m² or major portion thereof of floor area.
- (ix) For every building intended for use as a theatre, cinema, assembly hall or place of public worship, there shall be provided a car space for every 6 seats.
- (x) For every building or portion of a building intended for use as a garage or service station there shall be provided one suitably located car space for every 50 m² or major portion thereof of floor area plus a loading and unloading area for bulk tankers to the satisfaction of the Local Authority.
- (xi) For every industrial building there shall be provided on the Erf sufficient accommodation for parked cars, calculated on the number of persons engaged in the business, including management, office staff and factory employees, as follows:

- (a) Up to 25 persons employed:
1 car space for every 4 persons or part thereof.
- (b) thereafter, for the next 25 persons:
1 car space for every 5 persons or part thereof.
- (c) thereafter, for any further number of persons:
1 car space for every 10 persons or part thereof.

There shall be in all cases a minimum of 2 car spaces and, in addition to the foregoing, there shall be provided on the Erf to the satisfaction of the Local Authority a further parking and turning space for every commercial vehicle used for the benefit of the industry and a loading and unloading area with suitable access.

Provided that:

- (a) in respect of employees that utilise public transport the Local Authority may relax the above requirements;
- and
- (b) the Local Authority may at any time vary the foregoing requirements if the character or type of manufacturing or processing activity being conducted on the site is changed or altered to an extent which, in the opinion of the Local Authority materially alters the number and type of vehicles attached to the site; provided that in no case shall such variation result in the number of car spaces provided exceeding a ratio of one car space per 150 m² of total floor area of the industrial buildings on the site.
- (xii) (a) Car space or parking accommodation means a parking bay of dimensions not less than 5,5 x 2,5 metres and shall be surfaced and clearly marked to the satisfaction of the Local Authority.
 - (b) In addition to (a) above there shall be provided adequate space for vehicular access and manoeuvring to the satisfaction of the Local Authority.
- (xiii) Where in any building the area set aside for the parking or garaging of vehicles exceeds the minimum requirements by more than 50 percent, any such excess in area shall be taken into account when calculating the permitted floor area for that building.
- (2) For any use or development not specified in paragraph (1) above, loading and parking accommodation shall be provided to the satisfaction of the Local Authority.

- (3) Except with the prior approval of the Local Authority, no person shall bring onto any premises of a dwelling unit or cause or allow to be present thereon any public motor vehicle or trade vehicle, heavy or extra heavy vehicle for a period exceeding two hours, except for bona fide purposes of delivering or supplying goods or services to such premises. For the purposes of this clause, the expressions 'public motor vehicle', 'trade vehicle', 'heavy and extra heavy vehicle' shall have the meanings assigned thereto by the National Road Traffic Act (Act 93 of 1996) together with any schedule thereto, regulation made thereunder and amendment thereof.
- (4) The local authority may grant exemption from the provisions of Clause 11.4 (1) with or without conditions in the Mixed Use Zones:
- (a) provided that there are special circumstances relating to the proposal and the local authority considers that the proposal will not prejudice the general purpose of the Town Planning Scheme.
 - (b) If an application for exemption as described in paragraph (a) is made to the local authority for its authority, such application shall be deemed to be and be treated as an application for the Special Consent of the local authority.
 - (c) When considering an application, for the reduction of the parking requirement, the Local Authority shall have regard to a report submitted by a traffic consultant with regard to the following:
 - (i) accessibility of the site by private or public transport;
 - (ii) availability of off-street parking in the vicinity of the site;
 - (iii) the number of staff members and customers related to the use of the land or building on the site;
 - (iv) the socio-economic structure and density of the population which the development serves;
 - (v) the size and nature of the proposed development on the site and the size of vehicles to be used in connection with the activity conducted on the site;
 - (vi) the likelihood of reduction in parking provision causing injury to the amenity of the area in which it is or will be situated including, without prejudice to the generality of the foregoing, increased traffic and parking difficulties, and provided further that a payment, in lieu of the required parking, of a sum of money sufficient for the provision of such parking as a public parking facility shall be made. Where the Local Authority has agreed to a payment of money in lieu of parking, the amount payable shall be calculated as the market value of an area of the site in question adequate to provide for the parking accommodation which would otherwise be required on the site plus the estimated cost of constructing the paved parking area at ground level. Provided that for the purpose of determining

the area of land required, one car parking space shall be taken to be a gross area of 23 m². Such funds as are thus acquired shall be solely for the acquisition of land for public parking and the development of parking areas.

- (d) Any applicant or any objector who is aggrieved by the decision of the local authority in terms of these sub-clauses shall have the right of appeal to the Town Planning Appeals Board.

11.5 **LOADING AND SERVICE AREAS**

- (1) On any land or in any building used for any purpose, other than Residential Only purposes, there shall be provided, where applicable, on the site a loading and unloading area with suitable access, to the satisfaction of the Local Authority.
- (2) Where required by the Local Authority there shall be provided on any site, other than on a Residential Only zoned property, an area with suitable access, for service, emergency or other vehicles which in the opinion of the Local Authority may require access to the site or the building thereon.

PART 4 : SCHEME ADMINISTRATION AND APPLICATIONS

CHAPTER 12

SCHEME ADMINISTRATION AND APPLICATIONS FOR CONSENT AND APPROVAL

12.1 GENERAL PURPOSE

The purpose of this chapter is to outline Scheme administrative procedures together with various building and land use application options, including procedures for the amendment of this Scheme. (See also Part 1 : Sections 1.7, 1.8 and 1.9).

12.2 INSPECTION OF SCHEME

The Local Authority shall allow any person to inspect the Scheme at any reasonable time. A register of all applications and decisions on the Scheme shall be kept in accordance with the requirements of Section 67 *quin* of the Ordinance and shall be available for inspection by any person at any reasonable time.

12.3 AMENDMENT TO THE SCHEME

If the Local Authority desires to rescind, alter or amend any of the provisions of the Scheme in course of preparation it shall follow the procedure as set out in Section 47 *bis* of the Ordinance. (See the operational guidelines for the processing of town planning applications within the municipality.).

12.4 PROHIBITION ON DEVELOPMENT/USE OF LAND AND/OR BUILDINGS AND APPLICATION REQUIREMENTS

- (1) The requirements and procedures relating to both the prohibition of certain development/use of land and/or buildings and to the application for development/use of land are detailed hereunder. In the case of proposed amendments to the Urban Planning Scheme (Rezoning) and in the case of Special Consent applications. (See definition 2.173), reference should be made to the operational guidelines for the processing of town planning applications within the municipality.
- (2) At any time after the Effective Date no person shall:
 - (i) erect a new building, or alter or add to an existing building or carry out any other proposed work, or
 - (ii) develop or use any land, or use any building or structure for any purpose different from the purpose for which it was being developed or used on such date, or
 - (iii) use any building or structure erected after such date for a purpose or in a manner different from the purpose for which it was erected:

- until he or she has first applied in writing to the Local Authority for authority to do so and the Local Authority has granted its written authority thereto either with or without conditions;
- (a) provided that any authority granted by the Local Authority shall remain valid for 18 months from the date of granting of such authority; and
 - (b) where any building or work referred to in any such authority has not been substantially commenced within the said period of 18 months or where an appeal has been lodged, within a period of 18 months from the date of notification of the outcome of such Appeal, or where there has been an interruption in the development of the building or land for a continuous period of 18 months, the said authority shall automatically be considered to have lapsed and building operations shall not be commenced or recommenced unless fresh authority has first been applied for and obtained.
- (3) After the Date of Adoption no person shall erect or extend a building or institute work which is not in conformity with the provisions of the Scheme relating to the erection and use of buildings and use of land.
 - (4) No person shall use or cause to be used any building or portion thereof for any use other than that for which it has been lawfully erected unless such building has been altered for any proposed new use and any necessary special consent or authority of the Local Authority has first been applied for and obtained.
 - (5) No land in any use zone may be used for the purpose of the deposit or disposal of waste material or refuse, tipping, dumping, scrap yard, motor graveyard, used car lot, or any other similar purpose until the owner or his duly authorised representative has applied for and received the written approval of the Local Authority.
 - (6) Ordinary applications under the Bylaws/Regulations shall be sufficient notice for the purpose of administering the Scheme; provided that the Local Authority may call upon persons making such applications to provide any additional information or plans it considers necessary. The Local Authority may call upon any building owner who proposes to alter a building or to establish a new use, to provide a fresh building and contour survey of the property.
 - (7) Whenever the Local Authority considers it necessary, a report prepared by a registered Professional Engineer shall be provided, covering sewage and waste water disposal, drainage and/or flood line information. Furthermore the layout plan submitted for approval by the Local Authority shall be endorsed by the engineer to the effect that the plan is a satisfactory interpretation of the contents of the report.
 - (8) For uses as specifically identified in Table 2 the Local Authority may exempt an applicant from applying for Special Consent where it is satisfied that no interference with the amenity of the neighbourhood, existing, or as contemplated by this Scheme, will result; provided that the prior written consent of the registered owner of each adjoining property, and those properties directly across the street, and such other properties as the Local

Authority may direct, has first been obtained. Where any such written consent is not forthcoming, the applicant shall be required to apply for the Local Authority's Special Consent.

- (9) In consideration of a Home Activity or Home Business or Tavern the Local Authority shall assess the impact on the character of the surrounding residential area and impose whatever conditions it considers necessary to protect the amenity of the neighbourhood. If it is subsequently found that there is, in fact, an interference with the amenity of the neighbourhood the Local Authority may call upon the occupant to make a Special Consent application, impose further conditions or call upon the applicant to cease the practice.

12.5 BUILDING PLAN APPROVAL

- (1) For the purpose of securing the approval of the Local Authority in terms of Clauses 10.6, 10.15, 11.4 (2) and 12.4 (2) the following documents shall be lodged with the Local Authority;
- (i) Drawings in quadruplicate showing the elevations facing any National or Provincial Highway, railway line, street, or access way, together with side and rear elevations; the drawings shall be to a scale not less than 1 in 100 or in the case of projects too large to be shown conveniently to this scale, a scale of 1 in 200 will be acceptable; fences, gates and boundary walls being deemed to form part of the elevation for the purpose of this clause.
 - (ii) One set of drawings coloured or presented in such a manner as will clearly indicate the finished appearance of the proposed building or alterations or additions, and, if so required, supplemented by plans and sections to indicate the true intent and meaning of the elevations.
 - (iii) A Block Plan to a scale not less than 1 in 500 indicating the siting of the buildings on the Erf, the position of any existing buildings on the adjoining Erfs, and servitudes, building lines and rights-of-way to which the Erf is subject.
 - (iv) A brief schedule in quadruplicate, specifying the general construction and finishes of the proposed building, alterations or additions on the Erf.
 - (v) Drawings must also indicate plumbing, sewage drainage, stormwater drainage and fire fighting provision, if required.
 - (vi) Building plans are required to indicate elevation levels of boundary pegs.
 - (vii) At plan submission stage, the Applicant shall submit an original form of Appointment of Professional Engineer / Competent Person accepting responsibility for the design of engineering works as required in terms of the National Building Regulations. Also, prior to being allowed to commence construction, the applicant shall lodge a set of the Engineer's drawings and schedules indicating geotechnical, civil and structural design details and specifications.
- (2) Before occupancy is allowed requirements as set by the Building Inspectors shall be met including stability certificates, completion certificates.

12.6 CONFLICT OF LAWS

- (1)
 - (i) Nothing in this Scheme shall be construed as enabling any person to erect or use any building or to develop or use any land which is in conflict with any condition of title imposed in terms of the Ordinance or by the State under any other law.
 - (ii) The owner of any Erf which is subject to a condition of title, referred to in sub-clause (i) above which is in conflict with any provision of this Scheme, may make application for the alteration, suspension or removal of such condition.
 - (iii) The Scheme provisions shall apply over and above the Bylaws/Regulations where they are more onerous than the Bylaws/Regulations or where the Scheme makes no provision, the Bylaws/Regulations shall apply.
- (2) Any decision, order or authorization given by the Appeals Board in terms of Section 73 *quat* (5)(d) of the Ordinance, and as confirmed or altered on review by the MEC in terms of Section 73 *sex* of the Ordinance, shall be deemed to be a valid authority granted by the Local Authority, in terms of Clause 12.3 and, as such, shall be construed as being in accordance with the duly adopted provisions of the Scheme.

12.7 ENTRY AND INSPECTION

- 12.7.1 The Local Authority shall be entitled, through its duly authorised officers, to enter into and upon any premises within the area at any reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of the Scheme.
- 12.7.2 No person shall in any way hinder, obstruct or interfere with any duly authorised officer of the Local Authority in the execution of his duties and functions in terms of this Scheme, nor shall any person cause or allow any hindrance or obstruction to, or interference with, such officer.

12.8 SERVICE OF NOTICES

A notice required or authorised to be served to cover contravention or failure to comply with the Scheme, shall be served in terms of Section 77 of the Ordinance.

12.9 OFFENCES

Any person who:

- (a) contravenes or fails to comply with any provision of this Scheme, or
- (b) contravenes or fails to comply with any requirements set out in a notice issued and served in terms of this Scheme, or
- (c) contravenes or fails to comply with any condition set out in terms of any provision of this Scheme, or

- (d) knowingly makes a false statement in connection with any provision of this Scheme,

shall be guilty of an offence.

