

POLOKWANE/PERSKEBULT TOWN PLANNING SCHEME, 2007



Polokwane Local Municipality

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Index

PART 1: GENERAL

Clause		Page.
1	RESPONSIBLE AUTHORITY	4
2	AREA OF SCHEME	4
3	TITLE	4
4	CONFLICT BETWEEN PROVISIONS OF SCHEME, CONDITIONS OF TITLE AND LEGISLATION	4
5	SUBSTITUTION	4

PART 2: DEFINITIONS AND TERMS IN THE TOWN PLANNING SCHEME

Clause		Page.
6	DEFINITIONS	5

PART 3: GENERAL CONDITIONS APPLICABLE TO ALL PROPERTIES

Clause		Page.
7	CONDITIONS APPLICABLE TO ALL PROPERTIES	19
7.1	DIRECTIVE PRINCIPLES	19
7.2	EXCAVATIONS, BOREHOLES AND EARTHMOVING	19
7.3	PROTECTION OF LAND	20
7.4	HANDLING AND DRAINAGE OF STORMWATER	20
7.5	PLACING AND DEVELOPMENT OF BUILDINGS	20
7.6	BUILDING LINES, SIDE SPACES, BUILDING RESTRICTION AREAS AND LINES OF NO ACCESS	20
7.7	SCREEN WALLS AND FENCES	21
7.8	MAINTENANCE OF BUILDINGS, GARDENS AND SITES	22
7.9	PROTECTION OF EXISTING BUILDINGS	22
7.10	BUILDINGS USE FOR MORE THAN ONE PURPOSE	22
7.11	TELECOMMUNICATION STRUCTURES	22

PART 4: DEFINITION AND INTERPRETATION OF ALL USE ZONES

Clause		Page.
8	STRUCTURES WHICH MAY BE ERECTED IN ANY USE ZONE	23
9	DEFINITION OF USE ZONES	23

PART 5: SPECIFIC CONDITIONS AND LIMITATIONS APPLICABLE TO UZE ZONES

Clause		Page.
10	CONDITIONS APPLICABLE TO ERVEN ZONED RESIDENTIAL 2, 3 AND 4	32
11	CONDITIONS APPLICABLE TO PUBLIC GARAGES AND FILLING STATIONS	32
12	CONDITIONS APPLICABLE TO ERVEN ZONED ACCESS CONTROL AND PRIVATE ROAD	32
13	DENSITIES AND OCCUPATION	34
14	HEIGHT OF BUILDINGS	35
15	COVERAGE OF BUILDINGS	35
16	FLOOR AREA RATIOS	35
17	SITE DEVELOPMENT PLANS	35
18	PARKING AND LOADING ZONES	36
19	APPLICATION OF ANNEXURES	37

PART 6: SPECIAL, WRITTEN AND TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY

Clause		Page.
20	CRITERIA FOR THE CONSIDERATION OF APPLICATIONS	38
21	SPECIAL CONSENT OF THE LOCAL MUNICIPALITY	38
22	WRITTEN CONSENT OF THE LOCAL MUNICIPALITY	40
23	CONSENT FOR THE PRACTICE OF A HOUSEHOLD ENTERPRISE	42
24	TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY	43
25	CONSENT FOR SPECIFIC PURPOSES	44
26	SIGNS FOR THE SALE OR RENTING OF PROPERTIES OR BUILDINGS	44

PART 7: APPLICATION OF THE SCHEME AND POWERS OF THE LOCAL MUNICIPALITY

Clause		Page.
27	BINDING FORCE OF CONDITIONS	45
28	ENTRY UPON INSPECTION OF PROPERTIES	45
29	SERVICE OF NOTICES	45
30	POWERS OF LOCAL MUNICIPALITY IN CASE OF CONTRAVENTION OF TOWN PLANNING SCHEME	46

SCHEDULES & TABLES

	Page.
SCHEDULE 1	47
SCHEDULE 2	49
SCHEDULE 3	50
SCHEDULE 4	51
TABLES	24

POLOKWANE/PERSKEBULT TOWN PLANNING SCHEME, 2007

PART 1: GENERAL

1. RESPONSIBLE AUTHORITY

The local municipality is the authority responsible for the enforcing and execution of the provisions of this Scheme.

2. AREA OF THE SCHEME

The area of application of this Scheme, is shown on the map by means of the following notation:



The area abutting the notation, indicating one or more of the use zones as described and portrayed by the notations provided in Part 4 of this Scheme, falls within the Scheme.

3. TITLE

This scheme shall be known as the Polokwane/Perskebult Town Planning Scheme, 2007.

4. CONFLICT BETWEEN PROVISIONS OF SCHEME, CONDITIONS OF TITLE AND LEGISLATION

4.1 A consent granted by the local municipality by virtue of provisions of this Scheme does not entitle any person the right to use any land, or to erect or use buildings thereon in any manner or for any purpose which is prohibited by the provisions of any condition registered against the title deed under which such land is held, or imposed by legislation in respect of such land.

4.2 If any land use is permitted in terms of this scheme but otherwise restricted in the Title Deed, the onus lies with the owner of such property to:

- (a) remove or waive the restriction by following the necessary procedure provided in legislation; and
- (b) to submit proof to the local municipality that such restrictive conditions has been removed.

5. SUBSTITUTION

This Scheme substitutes the Pietersburg/Seshego Town Planning Scheme, 1999 and Proclamation 293 of 1962 issued in terms of Section 25 of the Black Administration Act, 1927 as read in conjunction with Section 21 of the Native Trust and Land Act, 1936.

PART 2: DEFINITION OF TERMS IN THE TOWN PLANNING SCHEME

6. DEFINITIONS

In this Scheme, unless the context otherwise indicates, the following expressions shall bear the meanings assigned to them herein, as follows:

- 6.1 ACCESS CONTROL or ACCESS CONTROL FACILITY - means measures and/or property and/or a structure which is zoned and/or used specifically for the purposes of managing the movement of and access of motor vehicles and pedestrians to a specific area and/or gated community and which provides in mechanisms to ensure "passive access control" or "partially restricted access" subject to conditions as described in Clause 12 of this scheme as well as the municipality's policy as may be amended from time to time.
- 6.2 ADDITIONAL DWELLING UNIT - means a second dwelling unit on the same property provided that the total coverage does not exceed the prescribed coverage defined in Table "C".
- 6.3 AGRICULTURAL USE – means land used or a building designed or used for the purposes of ploughing, depasturing, horticulture, poultry farming, dairy farming, breeding and keeping of livestock, apiaries, forestry, mushroom and vegetable production, flower production, orchards and include the sale of own produced goods.
- 6.4 ANNEXURES TO THE SCHEME – means an annexure as contemplated in Clause 19 of the scheme.
- 6.5 AERODROME – means an area of land that is used for landing and departure of aircraft with the necessary runways, taxiways and sufficient clear areas around the runways, and includes office and terminal buildings for receiving and discharging passengers and cargo and which house administrative, traffic control, communication, and weather observation personnel as well as other facilities such as hangers (buildings for housing and maintenance of planes), and also includes a windstock. The following uses shall not be deemed incidental to an Aerodrome or terminal buildings, namely: "Shop", "Restaurant", "Warehouse", "Parking Garage", "Dwelling unit/s", "Hotel", "Residential Building",
- 6.6 ATTACHED DWELLING UNIT or ATTACHED BUILDING - means a dwelling unit or building that abuts or shares two side walls with other buildings on adjoining erven on two boundaries on the sides, other than the boundary with the street.
- 6.7 BAKERY – means land used or a building in which bread, rusks, biscuits, pies, pastries, confectionery and other baked products are produced in bulk for distribution to wholesalers and/or retailers, as well as retail of goods produced.
- 6.8 BASEMENT – means any portion of a building the floor of which is two metres or more below the mean natural ground level of the ground covered by the building and of which no part of the ceiling is more than one metre above such mean level: Provided that, except with the consent of the local municipality, no basement shall be permitted between the building line and the street boundary. No basement used exclusively for parking will be included with the calculation of the prescribed floor area ratio (F.A.R.).
- 6.9 BEAUTY PARLOUR or BEAUTY SALON – means a building designed and used for a place which provides in personal services that include hair treatment, manicures, pedicures, waxing, facial treatments and make-up treatment of the face in order to maintain and create an ideal personal style for people by creating beautiful hair, skin and body,

including the subordinate retail in products connected with the service, but it excludes any uses connected with medical consulting room, but excludes a slimming clinic.

- 6.10 BEDROOM or BEDROOM SUITE – means a room or space within a dwelling unit, residential building, hotel or any other building mainly used for sleeping purposes for not more than three (3) persons or such number of persons the municipality may deem desirable to fit the room and includes the necessary cupboards for storage of personal clothing, but excludes a living room, dining room/area or kitchen.
- 6.11 BOARD – means the Townships Board as constituted under the provisions of the Ordinance, or its successors in title from time to time in terms of subsequent legislation.
- 6.12 BUILDING – means a construction or structure of any nature as well as:
- (a) any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with –
 - (i) the accommodation or convenience of human beings or animals;
 - (ii) the manufacture, processing, storage, display or sale of any goods;
 - (iii) the rendering of any services;
 - (iv) the destruction or treatment of refuse or other waste materials;
 - (v) the cultivation or growing of any plant or crop.
 - (b) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
 - (c) any fuel pump or any tank used in connection therewith;
 - (d) any structure under the natural ground level of and any excavations for groundworks pertaining to such structure;
 - (e) any part of a building, including a building as defined in paragraph (a), (b), (c) or (d);
 - (f) any facilities or system, or part or portion thereof, within or outside incidental to a building, for the provision of water supply, drainage, sewerage, stormwater disposal, electricity supply or other similar service in respect of the building: Provided that for the purposes of calculating coverage and floor area ratio (F.A.R.) envisaged in terms of clauses 15 and 16, a building contemplated in clauses 6.9(b), (c) and (f) *supra*, shall not be deemed a building.
- 6.13 BUILDING LINE – means a line indicating the limits of a building restriction area as measured from the communal road reserve and erf boundary of an erf, which is at a fixed distance from such boundary, runs parallel to such boundary.
- 6.14 BUILDING RESTRICTION AREA – means an area within which no building may be erected save as set out in Clause 7.6 of this Scheme.
- 6.15 BUILDER'S YARD – means land and/or buildings used for the storage of: -
- 6.13.1 Materials which: -
- (a) are commonly used for building work; or
 - (b) resulted from demolition or excavation works; or
 - (c) are commonly used for other civil engineering works such as installation of services.
- 6.13.2 Vehicles and implements necessary or ancillary to the works and services referred to in subclause 1 above.
- 6.14 CARAVAN PARK – means an area laid out or lots which provides a stopping point, rest place or overnight place or for weekly stays for people travelling in a caravan, motor home, camper and/or tent, including the necessary ablution facilities on the property.

- 6.15 CLUB – means land used or a building designed or used for the gathering of a group of persons being members of a club, sport club or association with a common objective, and includes a “Tavern” as subservient use and subject thereto that it is exclusively used by the members of the club or association and their invited guests.
- 6.16 CONFERENCE FACILITY – means a building designed for use or used as a temporary lecture hall, training facility, conducting of workshops, meetings, conferences, symposiums and related uses and includes a “Tavern” as subservient use and subject thereto that it is exclusively used by the persons making use of the conference facility, but does not include “Institution” and “Place of Instruction”. The area used for a conference facility may be restricted by the local municipality, and is further subject to the policy of the local municipality as amended from time to time.
- 6.17 CONTROLLING AUTHORITY – means the controlling authority as defined in Section 1 of the Advertising on Roads and Ribbon Development Act, 1940 (Act 21 of 1940), or the Commission as defined in the South African National Roads Agency Limited and National Roads Act (act 70 of 1998), and other legislation applicable, as far as Town Planning is concerned, within the jurisdictional area of the local municipality as the case may be.
- 6.18 CORNER SHOP – means a building designed and used for retail trade in convenience goods and includes any other similar use such as a kiosk, spaza, or convenient store on a property which, in the opinion of the local municipality is reconcilable with the surrounding land uses. It is also the lowest order centre in the local municipality's hierarchy of business centres. The maximum floor area of all the buildings on the property and used for retail or similar uses shall be in accordance with the policy of the local municipality, as amended from time to time.
- 6.19 COVERAGE – means that part of the area of an erf covered by buildings as seen vertically from above, measured from the outer surface of external walls and expressed as a percentage of the area of the erf, but excludes the following:
- (a) structure without a roof or covered by a hail net;
 - (b) roof overhang.
- 6.20 CRÈCHE - means a building designed for use or used as a pre-school, day mother or day-care centre or play group for children/learners up to an age of 7 years and when conducted under provisions of Clause 22 it shall not exceed a maximum floor area of 65m² Gross Leasable Floor Area and a maximum of 10 learners, and 3 members as personnel or tutors.
- 6.21 CREMATORIUM – means a building designed and used for the cremation or disposing of a corpse through a burning process by using a furnace or gas oven or any similar process.
- 6.22 DETACHED DWELLING UNIT or BUILDING – means a freestanding dwelling unit or building on an erf or property which does not abut or shares any wall with other buildings on adjoining erven or property and where all sides of the dwelling unit or building are surrounded by open areas within the erf or street.
- 6.23 DETERMINED DATE – means the date of publication, in the Provincial Gazette, by the local municipality, of a notice of approval of the Scheme.
- 6.24 DIRECTIVE PRINCIPLES – means those principles and norms that must guide land development and decision making as set out in Clause 7.1.
- 6.25 DROP-OFF ZONE – means land where provision is made for one or two parking spaces for quick on and off-loading of passengers of a motor vehicle and for such manoeuvring and

movement space as may be required by the municipality to secure orderly traffic flow within such area as well as efficient connection with the flow of traffic in the adjoining street system. The drop-off zone may form integral part of a parking lot, or may also be provided separately.

- 6.26 DWELLING UNIT – means an interconnected suite of rooms which may not include more than one kitchen, designed for occupation and use by a single household or single person or couple, including the usual ancillary outbuildings and which, when connected with another dwelling unit or dwelling units, constitute an apartment building (flats).
- 6.27 ERECTION OF A BUILDING – means and includes any structural change or addition to a building or ground works in connection therewith, excluding however minor structural changes.
- 6.28 ERF – means land or a property in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township, and includes any particular portion of land laid out as a township which is not intended for a public place, whether or not such township has been recognised, approved or established as such in terms of the Ordinance, any other law or any repealed law.
- 6.29 EXISTING BUILDING – means a building lawfully erected in accordance with a building plan approved by the local municipality, the construction of which:
- (a) was completed on or before the determined date;
 - (b) was commenced with before the determined date and completed within a reasonable time but not later than 12 months thereafter.
- 6.30 EXISTING ERF – means a portion of land defined as such in the Ordinance or similar legislation, registered in the Deeds Office, before the determined date.
- 6.31 EXISTING USE – means the use of land and/or buildings exercised on or before the determined date as contemplated in Section 43 of the Ordinance, and which use is, after the determined date contradictory to the provisions of this Scheme.
- 6.32 FILLING STATION – means land used or a building designed or used for fuelling, washing, polishing and lubricating of motor vehicles, as well as for emergency repairs to vehicles, but excluding a “Public Garage”, panel beating, spray painting or any major repair work. A Convenience Store not exceeding 200m² is permitted as a primary right.
- 6.33 FLOOR AREA – means the total of the gross area occupied by a building at the floor level of each storey: Provided that in the calculation of the floor area the following areas shall not be included:
- (a) unroofed buildings, open roofs and areas occupied by external fire-escapes;
 - (b) parking spaces for the occupants of the building;
 - (c) entrance passages and corridors (excluding entrance halls, porches and corridors in a dwelling unit or a residential building where such entrance halls, porches and corridors are not enclosed by outer walls or windows);
 - (d) accommodation for the lift motors and other mechanical or electrical equipment necessary for the proper utilisation of the building;
 - (e) a veranda or balcony in a building: Provided that such veranda or balcony shall not be enclosed except by means of a parapet at most one metre (1m) high or a wire gauze screen;
 - (f) areas reasonably used for the cleaning, maintenance and care of the building or buildings, except dwelling units for supervisors, caretakers and maintenance personnel;
 - (g) Passageways for pedestrians.

- 6.34 FLOOR AREA RATIO (F.A.R.) – means the ratio obtained by dividing the gross floor area of a building or buildings, by the total area of the property on which the building is erected, thus –

$$\text{F.A.R.} = \frac{\text{Gross floor area of building or buildings}}{\text{Total floor area of property on which building/s is/are erected.}}$$

- 6.35 FUNERAL PARLOUR – means a building used or designed for use as a mourning or funeral chapel and includes such other buildings designed for use in connection therewith and which is normally ancillary to or reasonably necessary for the business of a funeral undertaker but shall exclude a crematorium or place of public workshop or institution.
- 6.36 GAME RESERVE and/or PRIVATE GAME RESERVE – means land or an area of land reserved for wild life and their exclusive occupation, and include the subordinate use of the game as resource for tourism and sport, and with the written consent of the municipality, may also include the subordinate use of the property for a LODGE and/or any other uses associated with the enjoyment of nature and the resources.
- 6.37 GROSS LEASABLE FLOOR AREA – means the floor area of a building designed or suitable for occupation measured from the centre line of the common internal walls and, where applicable, the inner surface of the external walls, respectively.
- 6.38 GUEST HOUSE – means an enterprise which, with the special consent of the local municipality, can be conducted from rooms, or a dwelling unit without a kitchen of its own and which forms part of dwelling unit permanently occupied by a household, used for the accommodation of not more than six visitors on a temporary basis. Uses associated with the use of a Guest House may also be permitted by the municipality in accordance with the policy as amended from time to time.
- 6.39 HAIR SALON – means a building designed and used for a place which provides in personal services where people cut, style or colour their hair in order to maintain and create an ideal personal style by creating beautiful hair, including the subordinate retail in hair products connected with the service, but excluding a beauty parlour or beauty salon.
- 6.40 HEIGHT – means the height of the building expressed in the number of storeys, measured from the mean level of the natural ground covered by the building to the top of the parapet or balustrade onto a point halfway between the eaves and the apex of the roof, which ever is higher.
- 6.41 HOUSEHOLD – means a person or a group of persons regarded as a domestic unit in terms of legislation or common law.
- 6.42 HOUSEHOLD ENTERPRISE – means a small scale enterprise which is used by the occupant for the conduct of a practice or occupation subject to provisions of Clause 23, with the aim of deriving income there from and which is practiced by a maximum of three (3) persons, of which the principal of such enterprise is a full time resident of the property, from a dwelling unit in such a way that the residential character and primary use of the dwelling unit and environment shall not, in the opinion of the local municipality, be in any way harmed or changed, and the enterprise shall, in the opinion of the local municipality, be conducted from a core part of the dwelling unit and/or main building and may not without exceptional circumstances, be conducted from any outbuilding remotely removed from such main building. No retail trade, except retail trade that is subservient to the main enterprise and which will, in the opinion of the municipality, not prejudice the general character of the area, is permitted from the property. The activities not permitted in a dwelling unit are listed in **Schedule 4** to this Scheme. Schedule 4 may be amended by the local municipality from time to time.

- 6.43 HOTEL – means an accommodation enterprise containing bedrooms or bedroom suites for overnight accommodation purposes, which include places of entertainment and restaurants and are also licensed in terms of the Liquor Act, and may also include conference facilities.
- 6.44 INDUSTRY – means land used or buildings designed and used for the purpose of manufacturing, processing, alteration, reclamation, repair, storage, distribution and cartage services as well as offices and wholesale trade directly connected with on the same property, but subservient to the main use as well as the sale of goods wholly or partially manufactured, processed or packed on the property.
- 6.45 INSTITUTION – means a building designed and used as a public institution or charitable institution, hospital, step-down facility, nursing home, sanatorium, clinic whether public or private including ancillary but subservient medical consulting rooms and offices, place of public worship or place of instruction but does not include “Institutions” which are primarily used as offices or which primarily perform administrative work.
- 6.46 KENNELS – means land used for the purpose of keeping, breeding, accommodating and lodging of any domestic animal.
- 6.47 KIOSK – means a part of a building designed and used for the preparation or retail sale of meals and refreshments as well as the retail sale of cold drinks, tobacco, reading material and sweets and/or any other products which may be specified by the local municipality from time to time. The area used for a kiosk shall not exceed a total floor area of 12m², and is further subject to the policy of the local municipality as amended from time to time.
- 6.48 KITCHEN – means a room or an area within a dwelling unit or any other building or place designed or used and equipped for preparing and cooking food or meals.
- 6.49 LOADING SPACE – means a rectangular area of not less than 3 m by 16 m in size.
- 6.50 LOCAL MUNICIPALITY – means the *Polokwane Local Municipality*, or its successor in title.
- 6.51 LODGE – means an accommodation enterprise which is normally secondary to the use of property for a game reserve or nature reserve or wherever approved together with the necessary and subservient facilities such as places of entertainment, restaurants, conference facilities, tavern, and other secondary recreational facilities such as billiards rooms, swimming pools and tennis courts for the exclusive use of visitors to the lodge and reserve.
- 6.52 MAP – means the scheme map marked “Map 3” as defined in the Regulations and as amended from time to time by any approved amendment scheme.
- 6.53 MEDICAL CONSULTING ROOMS - means a building that is designed or arranged and is used as professional rooms for medical doctors and includes general practitioners, medical specialists, pathologists, radiologists, dentists, ophthalmologists and similar uses such as veterinarians, applicable laboratories amongst others, and may include a dispensing chemist which does not exceed 30m² but not the uses which are included under the definition of "Institution".
- 6.54 MINING and/or QUARRYING – means land and/or the use of such land for the extraction or mining of natural minerals, including solids such as coal, sand and ores, liquids such as crude petroleum and gasses. It includes underground and surface mines, quarries and oil and gas wells and all related and supplemental activities for dressing and beneficiating

ores, crude minerals such as crushing, screening, washing, cleaning, grading, milling, flotation, melting, pelleting, topping and other preparation needed to market or distribute the material.

- 6.55 MINOR STRUCTURAL ALTERATIONS - means small structural changes as defined in the National Building Regulations and Buildings Standards Act, 1977 (Act 103 of 1977) to an existing building for which a building plan is not a requirement.
- 6.56 MUNICIPAL PURPOSES – means uses which the local municipality is legally empowered to exercise in terms of empowering legislation.
- 6.57 NATURE CONSERVATION AREA and/or HISTORICAL CONSERVATION AREA – means land demarcated by means of other laws than provisions in this scheme used for purposes normally or otherwise reasonably associated with the use of land or a building for the preservation or protection of the natural or built environment, including the preservation or protection of the physical, ecological, cultural or historical characteristics of land against undesirable use, exploitation, neglect or human activity on such land. The use for purposes of temporary residential accommodation such as a LODGE is excluded.
- 6.58 NATURE RESERVE – means land or a demarcated area of land with outstanding ecosystems, geological, natural or physiological features and/or where species of wild life and plants is left undisturbed by man, and with the written consent of the municipality, may also include limited temporary residential accommodation such as a LODGE.
- 6.59 NOXIOUS INDUSTRY – means an industry which is listed in **Schedule 1** to the Scheme; Provided that upon production of a certificate issued by the Medical Officer of Health of a local municipality certifying that the process proposed to be used in connection with any of the aforementioned industries or factories, will effectively eliminate any nuisance or health hazard in the vicinity of the property due to:
- (a) vapours, smoke or odours;
 - (b) fluids or effluent originating on the property; and in the event of it being proposed to dispose of such materials by land treatment, the nature, slope and surface of the land concerned, as well as its location in relation to streams or water courses shall be disclosed;
 - (c) solid waste matter;

the local municipality may consent to such building in land zoned “Industrial 1”.

- 6.60 NURSERY – means land used or buildings designed or used for the purposes of growing plants or seed for horticulture, growing of vegetables, flowers or any other shrub or tree or the purchasing of plants and/or retail trading therein, including subservient retail trading in related gardening equipment, garden furniture or decorations as well as irrigation equipment, excluding however agricultural equipment.
- 6.61 OCCUPANT – means any person occupying a building, structure or land or who is legally entitled so to occupy and any person charged with the control and management thereof; or to whose care it was committed, in the absence of such person from the area or when his whereabouts is unknown, his agent.
- 6.62 OFFICE – means a building or part thereof, designed or used for administrative, professional and related purposes, including a bank, insurance company, building society, and related offices or rooms, excluding medical consulting rooms and hair or beauty salon.
- 6.63 ORDINANCE – means Town and Town Planning Ordinance, 1986 (Ordinance 15 of 1986) as amended.

- 6.64 OUTBUILDING – means a building other than the main building, which, in the opinion of the local municipality, is usually functionally necessary in connection with the use of the main building, but ancillary and subordinate to such main building on the same property.
- 6.65 OVERNIGHT ACCOMMODATION – means a residential unit or rooms with or without a kitchen, used for provision of temporary accommodation to persons and includes a “Tavern” as subservient use and subject thereto that it is exclusively used by the residents making use of the overnight facility. General members of the public shall not be permitted to make use of the “Tavern” unless the latter use is permitted as a main use and in accordance with the municipality’s policy which may be amended from time to time.
- 6.66 OWNER – means in relation to a building or land:
- (a) a registered owner;
 - (b) a lessee in terms of a long term lease registered in the Deeds Office;
 - (c) a person charged with the administration of the estate of any person mentioned in (a) and (b) above, whether in the capacity of executor, administrator, trustee, guardian or any other capacity whatsoever;
 - (d) the duly authorized person of such owner as contemplated in (a) and (c) above: Provided that, for the purposes of any application envisaged in terms of Clauses 21, 22, 23 and 24, a lessee contemplated in Sub Clause (b) *supra*, shall not be deemed to be the owner of a building or land.
- 6.67 PANEL BEATING – means the replacement, reparation and/or panel beating of the body and spare parts of vehicles and the spray-painting thereof.
- 6.68 PANHANDLE – means the access portion of a panhandle erf, which is part of a property at least three (3) metres wide or as wide as the municipality may approve in accordance to their policy as may be amended from time to time and/or subject to conditions provided elsewhere in legislation.
- 6.69 PANHANDLE ERF OR PANHANDLE PORTION – means that part of a property to which access is gained by means of a panhandle.
- 6.70 PANHANDLE SUBDIVISION – means a subdivision, which results in one or more of the portions created by such subdivision, gaining access by means of a panhandle or panhandles, the thin end of which abuts on a public street and where the panhandle area of the property shall not form part of the area when the calculations in respect of the density of the number of dwelling units are made.
- 6.71 PARTIALLY RESTRICTED ACCESS or PARTIALLY RESTRICTED ACCESS CONTROL FACILITY – means the partial restriction of movement of pedestrians and vehicles of the general public through an access point, which is normally done by means of gates and/or booms, which is leading to private owned property, a private road or parking lot. Access is therefore limited to the residents/occupants in the gated area, their guests and emergency services, the local municipality and the post and telecommunication services. The means by which access restrictions are carried out shall at all times be:
- (a) Lawful,
 - (b) Not infringe on members of the public’s rights as reflected in the Bill of Rights in the Constitution of South Africa;
 - (c) Not cause any danger and/or interference with normal traffic and pedestrian movement;
 - (d) Not create any danger to human lives; and
 - (e) Be consistent with the policy and by-laws of the local municipality.

- 6.72 PARKING AREA – means parking space and including manoeuvring space necessary to provide traffic with access and parking space as well as efficient connection with the adjoining street.
- 6.73 PARKING GARAGE – means land used or a building designed or used exclusively for the parking of motor vehicles not destined for trade or sale, but does not include a building, any part of which is designed or used as a workshop for the repair of motor vehicles.
- 6.74 PARKING LOT – means land where provision is made for more than one parking space and for such manoeuvring and movement space as may be required to secure orderly traffic flow within such area as well as efficient connection with the flow of traffic in the adjoining street system.
- 6.75 PARKING SPACE – means a rectangular area with dimensions of not less than 2.5m by 5.5m, excluding excess or manoeuvring space, ramps and columns.
- 6.76 PASSIVE ACCESS CONTROL or PASSIVE ACCESS CONTROL FACILITY – means the passive monitoring of movement of pedestrians and vehicles through an access point(s) in such a way that which shall not cause restriction of free movement of pedestrians or vehicles to a public road or a street and/or across any other portion of land or erf leading to a public road or street that are normally used by members of the public to gain access to such an area. The means by which controlled access is carried out shall at all times be:
- (a) Lawful,
 - (b) Not infringe on members of the public's rights as reflected in the Bill of Rights in the Constitution of South Africa;
 - (c) Not cause any danger and/or interference with normal traffic and pedestrian movement;
 - (d) Not create any danger to human lives; and
 - (e) Be consistent with the policy and by-laws of the local municipality.
- 6.77 POST AND TELECOMMUNICATION SERVICES – means those postal services rendered by the South African Post Office contemplated in the Postal Services Act, 1998 (Act 24 of 1998) and those telecommunication services rendered by government institutions or other institutions i.t.o. the Telecommunications Act, 1996 (Act 103 of 1996).
- 6.78 PLACE OF AMUSEMENT – means land used or a building designed or used, with a view to profit, as a public hall, theatre, cinema, music hall, concert hall, billiards room, sports stadium, skating rink, dance hall, night club, strip club, sport bar, for trade or industrial exhibitions or for other recreational purposes.
- 6.79 PLACE OF INSTRUCTION – means a building designed for use or used as a school, college, technical college, lecture hall, institute, or other educational centre and includes a crèche, a convent or monastery, a public library, art school, museum or gymnasium, including a hostel for persons attending anyone of the afore-mentioned.
- 6.80 PLACE OF PUBLIC WORSHIP – means land used or building designed or used for religious purposes including a building designed for use or used for religious instruction on the same site as and connected with any one of the aforementioned buildings, but excluding a funeral chapel.
- 6.81 PREMIER – means the Administrator as defined in the Ordinance.
- 6.82 PRIVATE OPEN SPACE – means private land zoned for open space or for a sport field, play field or rest and recreation field or as an ornamental garden to which the general public does not have a right of access, except by consent.

- 6.83 PRIVATE STREET or PRIVATE ROAD – means an area or portion of land or property which is privately owned land occupied by a street, road, bridge, subway, avenue, lane, thoroughfare or right of way for exclusive use by the owners of such property or parties permitted to use the land by means of such servitude, other persons and institutions specifically mentioned in the relevant policy of the municipality, and where the general public doesn't have a right of access, except by consent. Such property or erf, street, road, bridge, subway, avenue, lane, thoroughfare or right of way may also be shown and indicated as such on the General Plan of a township or agricultural plot.
- 6.84 PROPERTY or LAND - means any portion of land, "erf", plot, holding or lot which is registered in a Deeds Registry.
- 6.85 PUBLIC GARAGE – means land used or a building designed or used for the carrying on of the business servicing, repairing or refuelling of motor vehicles, carwash, polishing and related purposes, excluding panel beating and spray painting but which may include one or more of the following: parking or storage of motor vehicles, sales of spare parts, accessories, fuel and lubricants for vehicles, as well as sales of new or used vehicles. A Convenience Store not exceeding 200m² is permitted as a primary right.
- 6.86 PUBLIC OPEN SPACE – means land intended for use by members of the public as undeveloped land, a park, garden, conservation area, a playground, a square or recreation ground or uses as permitted under provisions of the Local Government Ordinance, 1939 (Ordinance 17 of 1939).
- 6.87 RAILWAY PURPOSES – means the use of land or a building designed or used for railway purposes.
- 6.88 RECREATION – means any land earmarked or used for private or public sports fields, playgrounds and recreation site including any building, structure or facility appurtenant thereto.
- 6.89 REGULATIONS – means the Town Planning and Townships Regulations promulgated by the Premier in terms of the provisions of the Ordinance.
- 6.90 RESIDENTIAL BUILDING – means a building or part of a building containing dwelling units or bedrooms or bedroom suites, overnight accommodation, a boarding house, a residential club, hostel, apartment building or tenements, other than a "dwelling units designed for use of "Single Family Residences " or "Two Family Residences", but excluding any use mentioned, whether by way of inclusion or exclusion, in the definitions of "Place of Instruction" or "Institution".
- 6.91 RESTAURANT - means a building or part of a building used for the preparation and sale of meals and refreshments, confectionery for consumption on the property and includes the subservient serving and consumption of liquor on the property can also include a place of refreshment as well as a drive-through restaurant, but excludes a "Place of Amusement" as primary right.
- 6.92 RETAIL TRADE – means land or buildings used for the purpose of retail sale or rental of goods or any other commercial trading.
- 6.93 RETIREMENT VILLAGE – means and includes dwelling units and community facilities including a dining hall, sickbay, sport and recreational facilities or such other facilities as approved by the local municipality for occupation and use by elderly persons.
- 6.94 RIGHTS - means land use rights obtained in terms of this Scheme.

- 6.95 ROAD STALL or FARM STALL – means a building located on “Agricultural” zoned land not exceeding 80m² used for retailing of fresh farm produce produced on the same land it is connected with, and includes dairy products as well as home baked products and confectionary such as rusks, jam, sweets and dried fruit.
- 6.96 SCHEME – means the *Polokwane/Perskebult Town Planning Scheme, 2007*.
- 6.97 SCRAP YARD – means land or buildings used as a junk-yard or scrap yard for the dismantling, stacking, storing or preparation for resale of any used material, waste materials, scrap vehicles, scrap machinery or any other scrap material, regardless of whether or not such dismantling or storage takes place with a view to disposal or re-use of such scrap.
- 6.98 SEMI-DETACHED DWELLING UNIT or SEMI-DETACHED BUILDING – means a dwelling unit or building on an erf that abuts or shares one side wall with another building on an adjoining erf, where the remaining sides of the building are surrounded by open areas or a street/s.
- 6.99 SERVICES - means engineering services and includes water, sewerage, electricity, stormwater, roads and telecommunication services and infrastructure.
- 6.100 SERVICE INDUSTRY – means an industrial activity and related retail business, conducted on a small scale, incidental to the needs of the local community, which will not impair the amenities of surrounding properties or create a disturbance and which uses are listed in **Schedule 2** to the Scheme, or similar uses approved by the local municipality. Schedule 2 may be amended by the local municipality from time to time.
- 6.101 SERVICE ENTERPRISE – means a small scale enterprise regarded as Service Industry and permitted in Use Zones 1 and 2 as set out under column 2 of the table included in **Schedule 2**, and also includes a hair salon, a beauty parlour or beauty salon, which is used by the occupant for the conduct of a practice or occupation subject to provisions of Clause 23, with the aim of deriving income there from and which is practiced by a maximum of three (3) persons, of which the principal of such enterprise is a full time resident of the property, from a dwelling unit in such a way that the residential character and primary use of the dwelling unit and environment shall not, in the opinion of the local municipality, be in any way harmed or changed, and the enterprise shall, in the opinion of the local municipality, be conducted from a core part of the dwelling unit and/or main building and may not without exceptional circumstances, be conducted from any outbuilding remotely removed from such main building. No retail trade, except retail trade that is subservient to the main enterprise and which will, in the opinion of the municipality, not prejudice the general character of the area, is permitted from the property. The activities not permitted in a dwelling unit are listed in **Schedule 4** to this Scheme. Schedules 2 and 4 may be amended by the local municipality from time to time.
- 6.102 SHOP – means land used or a building designed or used for the purposes of carrying out retail trade, and the necessary accompanying storage and packaging and includes a bakery, butchery, dry cleaner, hair salon, beauty parlour or beauty salon as well as any accompanying use on the same site connected with and subservient to the retail trade being conducted; provided that such accompanying storage and packaging and ancillary uses shall not give rise to any disturbance or nuisance. The following uses shall not be deemed incidental to a “shop”: a “Place of Refreshment”, “Restaurant”, “Noxious Industry”, “Scrap yard”, “Whole sale”, “Public Garage”, “Filling Station”, “Warehouse”, “Parking Garage”, “Place of Amusement” and “Railway (Transnet) purposes”.
- 6.103 SINGLE FAMILY RESIDENCE – means a building containing one (1) dwelling unit occupied by a single family or household.

- 6.104 SITE – means a property which includes the area of any building, yard, courtyard or garden on an erf and in relation to FAR, coverage and parking calculations, the whole of the area registered as an erf or other piece of land including the area of any servitude registered over such an erf or other piece of land, lot, plot or stand.
- 6.105 SITE DEVELOPMENT PLAN – means a plan as described in **Schedule 3** to the Scheme.
- 6.106 SOCIAL HALL - means a building designed for use, or used for cultural activities, social meetings, gatherings and recreational purposes, that is not profit seeking in its primary purpose and includes a “Tavern” as subservient use and subject thereto that it is exclusively used by the visitors attending the activities and gatherings intended for the social hall, but excludes a place of amusement.
- 6.107 SPATIAL DEVELOPMENT FRAMEWORK – means a plan and/or land use strategies as contemplated in Section 26(e) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) read together with Regulation 2(4) of the Local Government: Municipal Planning and Performance Regulations, 2001 (Regulation No. R792 of 24 August 2001).
- 6.108 SPAZA – means land or a building designed for or a portion of a building used for the purposes of selling and providing basic groceries (daily convenience goods) and fresh produce, excluding alcoholic refreshments, where the residential use of the property remains the primary use of the property. The area used for a spaza shall not exceed a total floor area of 30m², and is further subject to the policy of the local municipality as amended from time to time.
- 6.109 SPECIAL CONSENT – means the special consent of the local municipality contemplated in terms of the provisions of Clause 21 of the Scheme.
- 6.110 SPECIAL USE - means land used or a building designed or used for any purposes not defined in this Scheme, or contained in Table "A" hereof. A *SPECIAL USE* is a consent use/right provided under provisions of Clause 21 (Special consent) of this Scheme, for any purposes not defined in the definitions, or contained in Table “A” thereof.
- 6.111 SPECIAL ZONING or SPECIAL – means a “Use Zone” in its own right which does not contains standard purposes for which land may be used (uses) as well as conditions which the use is subject to. The purpose (use) for which the property may be used for is separately stipulated by means of an Annexure to this Scheme. A Special zoning must specify the specific purpose (uses permitted) for which the property can be used for, and if necessary provide a definition for such use, and the specific conditions under which it can be used for and buildings erected, such as parking ratio’s, Floor Area Ratio’s and coverage. A Special Zoning shall not be in conflict with the general purpose of a town planning scheme as provided in Section 19 of the Town Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986).
- 6.112 STOREY – means the space within a building between one floor level and the next, or ceiling or roof above, including the ground floor.
- 6.113 STREET OR ROAD – means the area or portion occupied by any street, road, bridge, subway, avenue, lane, thoroughfare or right of way shown on the General Plan of a township or agricultural plot or in respect whereof the public has acquired a right of way by prescription or otherwise [also refer Section 63 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939)].
- 6.114 SURROUNDING OWNERS – means the registered owners or occupants of the properties directly adjacent to the subject property as well as properties abutting any streets to

which the subject property has direct access within such a radius, with the subject property as centre point, as determined by the local municipality and also such other owners or interested parties as the local municipality may specify.

- 6.115 TAVERN – means land or a building designed for or a portion of a building used for the purposes of selling and serving liquor, other beverages and prepared food/snacks, to be consumed on the premises, subservient to the primary use of the property. The area used for a tavern shall not exceed a total floor area of 50m², and is further subject to the policy of the local municipality as amended from time to time.
- 6.116 TAXI HOLDING AREA – means an area, usually off-street, where mini buses (taxis) hold before proceeding to loading points and where generally there is no passenger activity. A holding area can either be included within or separate from a terminal facility.
- 6.117 TAXI PARKING AREA – means a demarcated part of a parking lot which may be used by minibuses (taxis) aiming to provide a public transport service; the provision of parking places for taxis shall form part of the parking spaces for the purposes of determining parking provision on any property.
- 6.118 TAXI RANK – means a place usually within the road reserve at which, mini buses (taxis), are allowed to wait and/or stop for passengers boarding or alighting.
- 6.119 TEA GARDEN – means land and a building designed and used for the preparation or retail sale of meals and light refreshments, and includes a café, tea room or coffee shop, but does not include a “Restaurant” and/or the subservient serving and consumption of liquor on the property. The area used for a tea garden may be restricted by the local municipality and is further subject to the policy of the local municipality as amended from time to time.
- 6.120 TELECOMMUNICATION STRUCTURE/S - means any tower, mast, pole, structure or building designed or constructed to accommodate telecommunication equipment and/or antennas. Telecommunications structures are regarded as secondary developments that are driven by demand created by primary developments and delivery of telecommunication services to the community. Telecommunication structures are therefore mainly seen as telecommunication service infrastructure rather than land uses, unless the telecommunication structure becomes the predominant land use.
- 6.121 TEMPORARY BUILDING – means a building designated as such by the owner after consultation with the local municipality and which is used, or will be used, for a specified limited period for a specified purpose, but does not include a building shed.
- 6.122 TEMPORARY CONSENT – means the temporary consent of the local municipality envisaged in accordance with the provisions of Clause 24 of the Scheme.
- 6.123 TOWNSHIP – means any land laid out or divided into or developed as sites for residential, business, or industrial purposes or similar purposes where such sites are arranged in such a manner as to be intersected or connected by or to abut on any street, and a site or street shall for purposes of this definition include a right of way or any site or street which has not been surveyed or which is only notional in character.
- 6.124 TWO FAMILY RESIDENCE – means a building containing two (2) dwelling units occupied by two families or two households.
- 6.125 VEHICLES SALES LOT – means land used or a building designed or used for the display and sale of motor vehicles, which are roadworthy and of good outward appearance.

- 6.126 WAREHOUSE - means land used or a building designed and used for purposes such as distribution centres, wholesale trade, storage, cartage and transport services and offices directly related and subservient to the main use conducted on the land.
- 6.127 WHOLESALE TRADE – means land used or a building designed and used for purposes means trade involving sales in bulk excluding retail trade and trading as a “shop”, except if the special consent of the local municipality is obtained in terms of Clause 21 of the Scheme.
- 6.128 WRITTEN CONSENT – means the written consent of the local municipality, envisaged in terms of the provisions of Clause 22 of the Scheme.
- 6.129 ZONE - means a part of this Scheme, as shown on the Map, by means of a distinctive notation or edging or other distinctive manner. It primarily includes use zone.

PART 3: GENERAL CONDITIONS APPLICABLE TO ALL PROPERTIES

7. CONDITIONS APPLICABLE TO ALL PROPERTIES

7.1 DIRECTIVE PRINCIPLES

7.1.1 Any competent authority taking decisions i.r.o. any matter and/or property related to the scheme, shall be guided by the following general principles and objectives for such land development or use, namely:

- (a) To discourage the illegal occupation of land;
- (b) To promote efficient and integrated land development in that such development would:-
 - (i) Promote integration of social, economic, institutional and physical aspects of land development;
 - (ii) Promote integrated land development in rural and urban areas in support of each other;
 - (iii) Promote the availability of residential and employment opportunity in close proximity of each other;
 - (iv) Optimise the use of existing resources, including resources such as land, bulk infrastructure, roads, transportation and social facilities;
 - (v) Promote a diverse combination of land uses, also at the level of individual erven or subdivision thereof;
 - (vi) Discourage the phenomenon of "urban sprawl" in urban areas and contribute to the development of compact towns and cities;
 - (vii) Contribute to the correction of historically distorted spatial patterns of settlements to the optimum use of existing infra structure;
 - (viii) Encourage environmentally sustainable land development practices.
- (c) To actively involve members of community affected by land development;
- (d) To promote sustainable land development at the required scale in that they should:-
 - (i) Promote land development within the fiscal, institutional and administrative means of the municipality;
 - (ii) Promote the establishment of viable communities;
 - (iii) Promote the sustained protection of the environment;
 - (iv) Meet the basic needs of all citizens in an affordable way;
 - (v) Ensure safe utilization of land by taking into consideration factors such as geological formations and hazardous undermined areas.
- (e) To promote speedy development;
- (f) To judge each new development on its own merits and no particular use should be regarded as less important or desirable than any other use;
- (g) To ensure that land development results in security in tenure;
- (h) To ensure the effective functioning of a land development marked based open competition between suppliers of goods and services.

7.2 EXCAVATIONS, BOREHOLES AND EARTH MOVING

7.2.1 Except with the written consent of the local municipality and subject to such conditions as it may impose, neither the owner nor occupant (excluding where the local municipality, government or wholly owned government companies is the owner) shall, or allow any other person to -

- (a) excavate any material from an erf or other land within the jurisdictional area of the local municipality save as may be necessary to prepare such erf or land for building purposes;

- (b) sink wells or boreholes on such erf or other land within the jurisdictional area of the local municipality or extract any underground water there from; and
- (c) manufacture or permit the manufacturing of tiles or earthenware, pipes or other articles of similar nature for any purpose whatsoever on the erf or other land within the jurisdictional area of the local municipality unless the erf or land falls within Use Zones 10 and 11.

7.3 PROTECTION OF LAND

7.3.1 No person may spoil or damage land in Use Zones 14, 15, 18, 19 and 20 so as to impair its use or the purpose for which it was zoned or otherwise earmarked.

7.3.2 Where a nature conservation or historical conservation area or nature reserve occurs in any of the use zones contemplated in Clause 7.3.1, it is indicated by the following notation:

- - - - -

7.3.3 Any change in land use, granting of a Special, Written or Temporary Consent, or the use of property within Use Zone 15, 19 and 20, considered by the municipality or any other competent authority dealing with change in land use, shall be considered with the appropriate observation of:

- (a) provisions in respect of environmental impact as contemplated in the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- (b) stipulations contemplated in Clause 7.5.2 in respect of flood lines; and
- (c) implications and/or the definition of a township as defined in Clause 6.124

7.4 HANDLING AND DRAINAGE OF STORMWATER

7.4.1 Where, in the opinion of the local municipality, it is impracticable for storm water to be drained from higher lying erven direct to a public street, the owner of the lower lying erf shall be obliged to accept and permit the passage of such storm water over the lower lying erf; Provided that the owners of the higher lying erven from where the storm water is discharged over a lower lying erf, shall be liable to contribute a proportionate share of the cost of any pipeline or drain which the owner of such lower lying erf may find reasonably necessary to lay or construct for the purpose of leading away the water so discharged over the erf, subject to the approval of the pipeline or drain by the local municipality.

7.5 PLACING AND DEVELOPMENT OF BUILDINGS

7.5.1 The position of buildings, including outbuildings on the erf as well as exits and entrances to a public street system shall be to the satisfaction of the local municipality.

7.5.2 No building of any nature shall be erected on that portion of the property which is likely to be inundated by the flood water of a public stream on an average of 50 years, as determined by the relevant legislation from time to time and the local municipality.

7.6 BUILDING LINES, SIDE SPACES, BUILDING RESTRICTION AREAS, LINES OF NO ACCESS AND ACCESS TO CERTAIN USE ZONES

7.6.1 No building or structure other than boundary walls, fences or temporary buildings or structures required in connection with building operations on the property, shall be erected within any building restriction area.

- 7.6.2 A building line of 3 metre shall apply along an existing road or street to all Use Zones, excluding Use Zone 5, 6 and 8 where a building line of 0 (zero) metre shall apply, except if specifically required for services by the local municipality.
- 7.6.3 Where an erf or other land borders on a national or provincial road, or if provided otherwise in the conditions of Title, the applicable building line shall be the building line prescribed by the Controlling Authority, or 3 metres whichever is the wider, and such building line shall not be relaxed, modified or amended without the written consent of the Controlling Authority.
- 7.6.4 A side space of 2 metre apply along any two (2) of the boundaries of a property (street boundary excluded) in favour of the local municipality for the installation of services, and the local municipality may relax it. The municipality may further relax the number of side spaces required in the case of an attached building or attached dwelling unit, where only one (1) boundary of the property (street boundary excluded) may be required in favour of the local municipality for installation of services, and subject thereto that such services has sufficient access from another property for maintenance purposes.
- 7.6.5 The local municipality may relax the building restriction area for all erven after receipt of a written request by the owner or during consideration of a Site Development Plan, where:
- (a) The municipality is of the opinion that such relaxation will result in the improvement of the development potential and the esthetical quality of the property;
 - (b) Where compliance with the building line requirements will hamper development of the property to an unreasonable extent due to the slope of the property or adjoining land, or the proximity of buildings already erected;
 - (c) The general character of the area permits such relaxation without prejudice to convenience of the area, privacy and traffic flow.
- 7.6.6 Access to and exit from a property to any public street or road, shall, where prohibited across a boundary line, be indicated by the following symbol:
- — — — —
- Provided that the local municipality may, upon receipt of a written application, permit its relaxation upon such conditions as it may deem fit, if, due to extraordinary circumstances, compliance with such restriction of access, will hamper development of the property to an unreasonable extent; Provided further that no relaxation of a restriction on access to or exit from a property, to a provincial or national road, shall be permitted without the consent of the Controlling Authority.
- 7.6.7 Where buildings and/or proposed buildings and/or extensions of buildings in Use Zones 5, 6, 7, 8, 9, 10 and 11 are located and/or proposed in proximity of any building or land in Use Zones 1, 2, 3, and 4, the municipality shall permit access to such former mentioned building or land with proper consideration of the character of the residential area as well as the impact such access may have on existing buildings.

7.7 SCREEN WALLS AND FENCES

- 7.7.1 A screen wall or walls shall be erected and maintained to the satisfaction of the local municipality if and when required by it.
- 7.7.2 Where a property has been fenced, such fence shall be maintained to the satisfaction of the local municipality.

- 7.7.3 The municipality may during consideration of change in land use to Use Zones 2, 3 and 4 require the owner to erect a wall of 1,8 metre or any other height is deems fit in order to improve privacy of adjacent property and overall aesthetical quality of any development.

7.8 MAINTENANCE OF BUILDINGS, GARDENS AND SITES

- 7.8.1 The owner/s of property within all Uses Zones is responsible for the maintenance of the entire property to the satisfaction of the local municipality.

- 7.8.2 Where the amenity of any Use Zone is detrimentally affected by the condition of any garden, yard, building or any development on a property, the local municipality may, by notice served upon the owner or occupant of the premises on which such condition exists, require him to take, within a period of 28 days or such other period the local municipality in his discretion may deem reasonable from the date of service of the notice, such steps as may be necessary to abate such condition and the measures required to be taken at his expense to abate the condition complained of, shall be set out in such notice.

7.9 PROTECTION OF EXISTING BUILDINGS

- 7.9.1 Except that the rebuilding of, alterations or additions to existing buildings (with the exclusion of minor structural alterations) shall comply with the provisions of the Scheme. Existing buildings in terms of Section 43 of the Ordinance, shall not be affected by the provisions of the Scheme which would otherwise make such building illegal.

7.10 BUILDINGS USED FOR MORE THAN ONE PURPOSE

- 7.10.1 Where a building is used, or a proposed building is designed for more than one purpose, it shall, for the purposes of Clauses 13, 14, 15, 16, and 18, (density; height; coverage; floor area ratio; and parking), be deemed to be partially used or to have been partially designed, for each such purpose or use, provided that for the purposes of this clause if more than 75 % of a building is otherwise designed or used for a single use or a single use is predominant in such building, it shall be dealt with as if used or designed for such predominant use. The local municipality shall, in its discretion when considering a building plan, or upon application for this purpose being made by the person in charge of the erection of a building, or proposing to erect a building, decide which use is predominant.

- 7.10.2 The local municipality shall notify the applicant, within twenty-eight (28) days or such other period the local municipality in his discretion may deem reasonable, after official receipt of the building plan or application in terms of any decision in terms of clause 7.10.1 above.

7.11 TELECOMMUNICATION STRUCTURES

- 7.11.1 Telecommunications structures are regarded as secondary developments that are driven by demand created by primary developments and delivery of telecommunication services to the community.
- 7.11.2 Telecommunication structures are mainly regarded as telecommunication service infrastructure rather than land uses, unless the telecommunication structure becomes the predominant land use.
- 7.11.3 The erection of telecommunication structures and use of land for this purpose are subject to the local municipality's policy as may be amended from time to time.

- 7.11.4 The erection of telecommunication structures should be considered with due observation of provisions stipulated in the National Environmental Management Act, 1998 (Act 107 of 1998)

PART 4: DEFINITION AND INTERPRETATION OF ALL USE ZONES

8. STRUCTURES WHICH MAY BE ERECTED IN ANY USE ZONE

This scheme does not prohibit the erection of entrance structures (other than entrance halls and entrance passages), pergolas, garden ornaments, garden walls and fences.

9. DEFINITION OF USE ZONES

9.1 The purposes for which buildings and land in each of the Use Zones:

- (a) may be erected and used;
- (b) may be erected and used only with the special consent of the local municipality, permanently or for a specified period; or
- (c) may be erected and used only with the written consent of the local municipality;
- (d) may not be erected or used.

are shown in Table "A"

- 9.2 For the purposes of this clause, the expression "erection and use of a building" includes the use of land and a building as well as the conversion of a building for that use whether or not it entails the structural alteration thereof.
- 9.3 No person shall without consent being granted in terms of Clauses 21, 22 or 24 hereof use, or cause or permit to be used, any building or part thereof for a purpose other than the purpose for which it was zoned.
- 9.4 If the use of a building changes because of the rights that have been granted to a property or have already vested in the property, such building and the property shall comply with all the conditions laid down and which are applicable to the use.
- 9.5 If the use of an existing building changes, including changes due to rights or consent being granted by any other controlling authority or development tribunal, and it is not in accordance with the uses permitted on the property and/or conditions in terms of this scheme, it must still comply and adhere to all stipulations of this scheme of that specific use.

Insert 8 pages from separate file here - Pages 24 – 31 :

Land Use Tables – page 1

PART 5: SPECIFIC CONDITIONS AND LIMITATIONS APPLICABLE TO USE ZONES

10. CONDITIONS APPLICABLE TO ERVEN ZONED RESIDENTIAL 2, 3 AND 4.

- 10.1 The internal driveways or paths on the property shall be constructed and maintained by the owner as required by the local municipality.
- 10.2 The erf or any group of erven in Use Zones 2, 3 or 4 shall not be subdivided into plots with detached or semi-detached dwelling units thereon, before full implementation of the proposals embodied in the site development plan relating to the particular erf or group of erven have been fully implemented or the local municipality has granted written consent thereto. If it is not the intention to develop the whole of the erf or any group of erven simultaneously the grouping of the dwelling units and programming of the development must be shown clearly on the site development plan.
- 10.3 The municipality may during consideration of change in land use to Use Zones 2, 3 or 4 or during consideration of a Site Development Plan i.r.o. such erven, require the owner to erect a wall of 1,8 metre or any other height it deems fit in order to improve privacy of adjacent property and overall aesthetical quality of any development.

11. CONDITIONS APPLICABLE TO PUBLIC GARAGES AND FILLING STATIONS

- 11.1 No material or equipment of any nature whatsoever may be stored or stacked to a height greater than the height of the screen wall.
- 11.2 No repair work to motor vehicles or equipment of any nature, shall be performed outside the garage building, except in an area screened off for the purpose to the satisfaction of the local municipality.
- 11.3 No material or equipment of any nature whatsoever shall be stored or stacked outside the garage building, except in an area screened off for the purpose.
- 11.4 The local municipality may relax conditions in Clauses 11.1, 11.2 and 11.3 by written consent in terms of Clause 22.

12. CONDITIONS APPLICABLE TO ACCESS CONTROL FACILITY AND PRIVATE STREETS/ROAD

- 12.1 Property with access control facilities and/or used as private streets for purposes of Access Control referred to in Clause 6.1, shall be owned by a Section 21 Company and/or any similar legal entity of which all owners within the gated area are all members of such entity.
- 12.2 The Articles of Association of the Section 21 Company and/or any similar legal entity referred to in Clause 12.1 must be endorsed by the local municipality before any access control is applied, and must in the opinion of the municipality, be consistent with municipal by-laws, municipal policies and the Constitution of the Republic of South Africa.
- 12.3 The means by which access control is carried out and/or the property may be used, shall at all times, in the opinion of the municipality, be:
 - (a) Lawful,

- (b) Not infringe on members of the public's rights as reflected in the Bill of Rights in the Constitution of South Africa;
 - (c) Not cause any danger and/or interference with normal traffic and pedestrian movement on any adjacent existing public road;
 - (d) Not create any danger to human lives.
- 12.4 Access and free movement of emergency services, the local municipality, the post and telecommunication services and government services through any Access Control facility and/or across any private street shall at all times be permitted or allowed and/or not be hindered in any way.
- 12.5 The local municipality may maintain the private road at the cost of the owner/s, should the owner/s not maintain the said road to the satisfaction of the local municipality.
- 12.6 The application of access control by the owner/s or gated community shall be consistent with policy guidelines of the municipality at all times. Should the owner, lessee or gated community fail to comply with such conditions in the opinion of the local municipality, the local municipality may impose additional conditions stating the purpose and conditions for which the property may be used.
- 12.7 Buildings, screen walls, security gates and booms, shall be erected to the satisfaction of the municipality in accordance with an approved Site Development Plan.
- 12.8 Security gates and booms or access control facilities must be manned 24 hours a day, 7 days a week.
- 12.9 Vehicular gates or booms in operation during hours of darkness must be adequately illuminated to the satisfaction of the municipality.
- 12.10 Control point staff at any access control facility shall be registered with the Security Officer's Board, and produce registration cards on request to any person passing through the control point.
- 12.11 Standing or other orders for control point staff or security guards at the access control point must be in writing and on public display at such point;
- 12.12 During hours of darkness, all control point staff or security guards at the access control point must wear reflective/day-glo vests or jackets for visibility.
- 12.13 The contact detail of the company responsible for control point staff or security guards at the access control point as well as the contact details for the resident's association mentioned in Clause 12.1, must be posted and put on public display at such point.
- 12.14 No fee may be charged at any access control facility;
- 12.15 All signs erected in the gated area and access control facility must comply with the municipality's policies, municipal by-laws and road traffic signs contemplated South African Road Traffic Signs Manual.
- 12.16 In the case where existing road is temporary closed, signage must be provided and maintained by the applicant in the vicinity of the access control facility and any closed-off road, to warn traffic of the closure and direct it to an alternative route. All signage must be in accordance with the South African Road Traffic Signs Manual.

13. DENSITIES AND OCCUPATION

- 13.1 Table "C" Columns 8, 9 and 10 stipulates the maximum density of dwelling units per netto hectare or per erf or land portion, attached to the erf or land as a primary right, as well as the extent to which it may be relaxed by Special Consent in terms of Clause 21, or Written Consent in terms of Clause 22 by the local municipality, as the case may be.
- 13.2 The local municipality will not consent to the subdivision of land or an erf if such subdivision does not comply with the density stipulations as set out in Table "C" or any other reasonable conditions the local municipality may require.

Notwithstanding any conditions that are applicable regarding the subdivision of erven in terms of the Ordinance or this scheme, the following further conditions are applicable to panhandle subdivisions:-

- (a) the panhandle shall provide access from a street to the panhandle portion;
 - (b) the panhandle shall not be less than 3m wide along its whole length, unless the local municipality otherwise grants written consent;
 - (c) the area of the panhandle portion, excluding the panhandle, shall be in accordance with the density requirements of this scheme;
 - (d) except with the written consent of the local municipality the slope of the panhandle shall not exceed 1:8;
 - (e) a panhandle shall provide access only to the erf of which it forms a part as well as the property in favour of which a servitude of right of way has been registered over the panhandle, except where the local municipality otherwise determines;
 - (f) the registered owner of the panhandle portion shall, when required by the local municipality, at his own expense pave the panhandle to the satisfaction of the local municipality prior to or simultaneously with the erection of any building on the erf and such roadway shall thereafter be maintained dust free to the satisfaction of the local municipality;
 - (g) the registered owner of the panhandle portion shall, when required by the local municipality, erect screen walls or dense barriers along the boundaries of the panhandle to the satisfaction of the local municipality. The extent, material, design, height, position and maintenance of such screen walls or barriers shall be to the satisfaction of the local municipality.
 - (h) No buildings or structures except such walls and barriers envisaged in sub-clause 13.2(g) shall be erected in the panhandle.
- 13.3 Not more than one household, together with two other persons, or a maximum of eight (8) persons may live on a permanent basis in one dwelling unit. If the number of persons exceeds above-mentioned, Written Consent in terms of Clause 22 must be obtained.
- 13.4 The local municipality may, upon application being made for its Special Consent in terms of Clause 21, or its Written Consent in terms of Clause 22 as the case may be amend the density of dwelling units on an erf or land in Use Zones 1, 2, 3, 4, 5, 6, 7, 8 and 15 in accordance with the local municipality's prevailing policy on density as amended from time to time.
- 13.5 Notwithstanding any conditions provided in Clauses 13.1 above, the scheme shall not prohibit the erection or use of the outbuildings functionally necessary to accommodate employees on a bona fide productive farm on "Agricultural" zoned erf/land.

14. HEIGHT OF BUILDINGS AND BALCONIES

- 14.1 Table "C" Columns 11 and 12 stipulates the maximum height of buildings permitted on an erf/land and attached to the erf/land as a primary right, as well as the extent to which it may be relaxed by written consent by the local municipality in terms of Clause 22 prior to the erection of any new building.
- 14.2 The municipality shall consider the relaxation of the height of any building exceeding five (5) storeys with due consideration of any height restriction and/or restrictions laid down by the South African Civil Aviation Authority and/or any other competent authority and/or restrictions in the Title Deed.
- 14.3 If a proposed dwelling unit or residential building in "Residential 1, 2, 3 or 4" or "Agricultural" use zones exceeds 1 storey and contain any balcony within 5 metres from any boundary of the property or due to the topography of the area may impair on the privacy, aesthetics, or view of adjacent properties, an application for Written Consent in terms of Clause 22 shall be submitted to the local municipality for approval prior to the erection of any new building.
- 14.4 The municipality shall consider an application in terms of Clause 14.3 with due consideration of the impact on the privacy, aesthetics, and view on any adjacent property.

15. COVERAGE OF BUILDINGS

- 15.1 Table "C", Columns 13 and 14 contains respectively, the coverage which may be implemented on a property and the extent to which the coverage may be relaxed.
- 15.2 Coverage of buildings shall not exceed the coverage stipulated in Table "C" except in cases where the Written Consent of the local municipality in terms of Clause 22 had been obtained, and then only on condition that the total number of parking spaces required in terms of Clause 18, read together with Table "B", Column 7 can be made available.

16. FLOOR AREA RATIOS

- 16.1 Table "C", Columns 15 and 16 contains the floor area as a ratio of the area of an erf and the extent to which the floor area ratio may be relaxed.
- 16.2 The floor area ratio shall apply to all new buildings and/or additions or alterations to existing buildings as set out in Table "C".
- 16.3 The floor area ratio may not be exceeded except with special consent of the local municipality obtained in terms of Clause 21 read together with Table "C", prior to the erection of new buildings or additions to existing buildings.

17. SITE DEVELOPMENT PLANS

- 17.1 A Site Development Plan shall be prepared for all erven on which buildings are erected or extended in Use Zones 2 to 13, 16, 18, 19, 20, 21 and 22.
- 17.2 A site development plan shall also be submitted in respect of Use Zone 1 under circumstances mentioned in Clauses 14.3.

- 17.3 A Site Development Plan shall be submitted to the local municipality prior to submission of any building plans. No building may be erected on the erf before approval of such site development plan by the local municipality and the entire development on the erf shall be in accordance with the approved site development plan; Provided that the plan may from time to time be amended with the written consent of the local municipality in terms of Clause 22; Provided further that alterations or additions to buildings, which in the opinion of the local municipality, will have no influence on the overall development of the erf, may be exempted from written consent procedures as referred to supra.
- 17.4 The local municipality shall consider a Site Development Plan, submitted in terms of Clause 17.3 hereof, within 60 (sixty) days after submission thereof, unless such Site Development Plan forms an integral part of an application for land use change.

18. PARKING ZONES LOADING ZONES AND DROP-OFF ZONES

- 18.1 The parking requirements are indicated in Column 7, Table "B":
- (a) Effective parking and manoeuvring space shall be provided, laid out, constructed and maintained on all properties in accordance with the requirements stipulated in Table "B".
 - (b) The number of parking spaces to be provided in all Use Zones shall be provided according to Table "B".
 - (c) The local municipality may consent to a maximum of thirty (30) percent of the required parking and manoeuvring space, as stipulated in Table "B", not being provided on the property, subject to the local municipality's policy as may be amended from time to time: Provided that the owner shall in this event be liable for payment of a cash contribution to the local municipality in lieu of the provision of parking spaces for all parking spaces required to be supplied on the property in terms of clause 18.1(a) above. Such contribution for parking shall be used solely for the provision of parking.
 - (d) The owner of a building in respect of which parking spaces are required in terms of clause 18.1(a) above, shall keep such parking spaces in a proper condition for such purposes to the satisfaction of the local municipality.
 - (e) The owner of a building may, if applicable, subject to the provisions of a site development plan, allocate parking spaces as he wishes. He may also, in his discretion, impose market related rentals for the parking spaces as well as an access control with the written consent of the local municipality in terms of Clause 22 subject thereto that such access control is not detrimental to the traffic flow of the adjoining road system, and subject to the municipality's policy as may be amended from time to time.
- 18.2 Loading areas shall be provided as follows:
- 18.2.1 The local municipality may, upon application being made for approval of building plans submitted in terms of the National Building Regulations and Building Standards Act (Act 103 of 1977) and any amendments thereof, require the owner to in terms of Clause 17 submit proposals for the provision, on the property, of appropriate and sufficient facilities for loading and off-loading of goods, which proposals shall, indicate positions for parking, stopping or fuelling of service vehicles.

- 18.2.2 If the local municipality requires a site development plan in terms of Clause 17 to be submitted, or the owner in terms of clause 18.2.1 submit proposals for consideration in conjunction with a building plan, the local municipality shall within 60 days approve or reject such plan or proposals and in the event of rejection, provide written reasons for its decision to the applicant.
- 18.2.3 No owner or occupant of a building in respect whereof proposals in terms of this clause are required, may undertake or permit the loading, off-loading, parking or fuelling of vehicles otherwise than in accordance with a written approval from the local municipality and in accordance with the conditions imposed in this regard.
- 18.3 In every Business or Industrial zoning there shall be provided, if required by the local municipality, over and above parking, one (1) loading area per erf, regardless of the size of the building erected thereon.
- 18.4 In addition to normal parking requirements, the local municipality may require a drop-off zone in respect of a "Place of Instruction" and "Creche" as provided under Use Zone 1, 2, 3 and 4.

19. APPLICATION OF ANNEXURES AND SPECIAL CONDITIONS

- 19.1 Special rights, conditions and limitations other than the standard conditions stipulated in this scheme, applicable to any property within any use zone must be stipulated in an Annexure to this Scheme.
- 19.2 The special conditions and limitations referred to in an Annexure shall:
- (a) apply in addition to the general conditions, limitations and other provisions of this Scheme; and
 - (b) prevail, in case of conflict between such special condition and any other condition, limitation or provision of this Scheme;
 - (c) always be included in Use Zone 9: Special.
- 19.3 An Annexure contemplated in Clause 19.1 consists of:
- (a) a sheet upon which is shown the number of such Annexure, a description of the property to which it applies, the special rights, conditions and limitations applicable to the property as well as the name and number of the Scheme in terms whereof the Annexure was prepared;
 - (b) a diagram of the property concerned which diagram shall correspond with the layout shown on the Map.
- 19.4 The number of the Annexure concerned shall be inscribed inside a double circle within or adjacent to the figure of the relevant property on Map 3 and, if adjacent to such figure, shall be joined thereto by means of a line.
- 19.5 The local municipality shall not, except as provided for in any of the conditions contained in an Annexure, grant any consent in terms of this scheme.

PART 6: SPECIAL, WRITTEN AND TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY

20. CRITERIA FOR THE CONSIDERATION OF APPLICATIONS

- 20.1 Subject to the provisions of Clauses 21, 22 and 24 hereof when application is made for its special, written or temporary consent in terms of this Scheme, the local municipality shall at least take the following criteria into consideration, but not limited hereto namely:
- (a) The Spatial Development Framework (SDF) and/or the Integrated Development Plan (IDP);
 - (b) Directive principles as contemplated in Clause 7.1 of this Scheme;
 - (c) Any relevant policy and/or land use strategy and/or development plan adopted by the municipality;
 - (d) the need of the use concerned, including but not limited to aspects such as
 - (i) market trends;
 - (ii) proximity of the proposed use to similar uses as well as the relationship between such uses;
 - (iii) the impact of the proposed uses on sustainability.
 - (e) the desirability of the use concerned, including but not limited to aspects such as:
 - (i) traffic flow;
 - (ii) privacy;
 - (iii) orientation and layout of buildings and uses on the site, including parking;
 - (iv) the amenities and character of the area;
 - (v) convenience and safety of the area.
- 20.2 The local municipality may upon the granting of any consent contemplated in clauses 21 and 22 of this Scheme, impose conditions regarding the payment of contributions for the provision of services, open spaces and parks, as envisaged in Section 20(2)(c) of the Ordinance, for which purposes the provisions of Section 63 of the Ordinance shall *mutatis mutandis* apply.

21. SPECIAL CONSENT OF THE LOCAL MUNICIPALITY

- 21.1 (a) Any owner (hereinafter referred to as "the applicant") intending to apply to the local municipality for special consent for:
- (i) the erection and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the Special Consent of the local municipality in terms of Column 4, Table "A";
 - (ii) an increase in the density of an erf (see Column 10, Table "C"); and
 - (iii) an increase of the floor area ratio (see Column 16, Table "C").
- shall submit such application to the local municipality in writing, in the prescribed form supplied by the local municipality.
- (b) The applicant shall:
- (i) publish a notice twice (for two consecutive weeks) in a local newspaper, circulating in the area of the application;
 - (ii) such notice shall be in the official language/s as prescribed by the local municipality;

- (iii) display a notice, referred to in sub-clauses 21.1(b)(i) and (ii) and maintain same, for a period of not less than 14 consecutive days, in a conspicuous position, visible from the street on each separate portion of the land to which such consent will apply.
 - (iv) obtain the comments from persons and/or institutions which may be identified by the municipality in the prescribed form.
- (c) The notice referred to:
- (i) in sub-clause 21.1(b)(i) and (iii) shall contain the name and address of the applicant; the description of the property as well as particulars of the purpose for which the land and buildings will be used and shall state that it lies for inspection at the local municipality offices and the applicant; and that any objection to or representation in connection with such application shall be lodged simultaneously with the local municipality and the applicant within a period of 28 days calculated from the day when the notice was first published and displayed on the site; and
 - (ii) the notice in sub-clause 21.1(b)(iii) shall not be less than 594mm by 420mm in size and no letter thereon shall be less than 6mm in height.
- (d) The applicant shall within twenty-eight (28) days from the date of lapse of the objection period mentioned in sub-clauses 21.1 (b)(i) and (iii) or within twenty-eight (28) days from receipt of any comments forwarded from the municipality or such further period that the municipality may allow, lodge any objection or comment received from interested and affected parties together with his/her reply on such commentary or objections, with the local municipality, failing which could be deemed as non-compliance with the application procedures and/or withdrawal thereof. If no comments and/or objections were received, the applicant shall inform the municipality accordingly in order for the municipality to proceed with provisions in Clause 21.2.
- (e) The applicant shall submit an affidavit confirming that the notice referred to in sub-clause 20.1(b)(iii), was properly displayed and maintained.
- (f) The applicant shall submit proof that the application referred to in sub-clause 20.1(b)(i), was published.

21.2 After the applicant has complied with stipulations set out in Clauses 21.1 above, the local municipality shall:

21.2.1 consider the application within a period of twenty eight (28) days in the case where no objection or any comments have been received from any interested or affected party;

21.2.1 subject to provisions of Clause 21.3, hear the application and any objection or representation within a period of fifty six (56) days in the case of an application where objections and or comments have been received from interested or affected parties.

21.3 Should any objection to, or representation against, the application be received by the local municipality, it shall set a time and place for the hearing of such objection or representation in a manner complying with the requirements of the administrative justice, and shall give written notice thereof, by registered post or by electronic communication or facsimile, at least 14 days prior to the hearing, to the applicant and/or his duly authorised agent and all objectors.

- 21.4 Where the objections or representations contemplated in Clause 21.3 of more than one person are contained in one document, it shall be deemed sufficient compliance with the provisions of Clause 21.3 if the person who has lodged the document or is a signatory thereto is notified as contemplated in the latter clause.
- 21.5 The local municipality shall after due consideration of any objections and the criteria stipulated in Clause 21 hereof, in writing notify the applicant and every person who has lodged an objection or had made representations, of such decision together with the reasons of such decision.
- 21.6 The decision of the local municipality shall (where any objection to an application was received) not come into operation before expiry of fifty-six (56) days calculated from the date of notification of the parties in writing envisaged in Clause 21.5 hereof.
- 21.7 Any aggrieved party, subject to provisions of Section 139 of the Ordinance, may lodge an appeal in terms of the provisions of the Ordinance against the decision of the municipality.
- 21.8 The applicant may, subject to provisions of Section 139 of the Ordinance, lodge an appeal in terms of the provisions of Ordinance 15 of 1986 if the municipality fail to comply with provisions of Clause 21.2

22. WRITTEN CONSENT OF THE LOCAL MUNICIPALITY

- 22.1 Any owner (hereinafter referred to as "the applicant") intending to apply to the local municipality for the consent to:
- 22.1.1 erect and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the Written Consent of the local municipality (see Column 5, Table "A"), namely:
- (i) the carrying on of a Household Enterprise or Service Enterprise from a dwelling unit in Use Zones 1, 2, 4 or 15, subject to provisions of Clause 23;
 - (ii) the use of a spaza or kiosk;
 - (iii) the use of a crèche;
- 22.1.2 erection of additional (second) dwelling unit or relaxation of density/number of dwelling units on erf (Clause 13.4 and Column 9 Table "C");
- 22.1.3 relaxation of height (see Clause 14 and Column 12 Table "C");
- 22.1.4 relaxation of coverage (see Clause 15 and Column 14 Table "C");
- 22.1.5 relaxation of building lines (see Clause 7.6.5);
- 22.1.6 amendment of a site development plan (see Clause 17);
- 22.1.7 relaxation of lines of no access (see Clause 7.6.6);
- 22.1.8 display of signs for the sale or lease of properties (see Clause 26.1); and
- 22.1.9 consents as envisaged in the following clauses and purposes, namely:
- (a) Clause 10.2 i.r.o. subdivision of "Residential 2, 3 and 4" zoned erven into single dwelling units thereon;
 - (b) Clause, 11.4 i.r.o. relaxation of conditions associated with Public Garages and Filling stations;
 - (c) Clause 13.2 i.r.o. conditions applicable to subdivisions and panhandle erven;
 - (d) Clause 13.3 i.r.o. number of persons permitted in one dwelling unit; and
 - (e) Clause 18.1(e) i.r.o. rentals of parking spaces and access control systems

shall do so in writing in the prescribed form supplied (where applicable) by the local municipality.

- 22.2 The applicant shall:
- 22.2.1 display a notice in the official language/s as prescribed by the local municipality and maintain same, for a period of not less than 14 consecutive days, in a conspicuous position, visible from the street on each separate portion of the land to which such consent will apply;
 - 22.2.2 obtain the comments from persons and/or institutions which may be identified by the municipality in the prescribed form.
- 22.3 The notice referred to in Clause 22.2.1 shall:
- 22.3.1 contain the name and address of the applicant; the description of the property as well as particulars of the purpose for which the land and buildings will be used and shall state that it lies for inspection at the local municipality offices and the applicant; and that any objection to or representation in connection with such application shall be lodged simultaneously with the local municipality and the applicant within a period of 28 days calculated from the day when the notice was first published and displayed on the site; and
 - 22.3.2 not be less than 594mm by 420mm in size and no letter thereon shall be less than 6mm in height.
- 22.4 The applicant shall within twenty-eight (28) days from the date of lapse of the objection period mentioned in clauses 22.2 or within twenty-eight (28) days from receipt of any comments forwarded from the municipality, or such further period that the municipality may allow, lodge any the objection or comment received from interested and affected parties together with his/her reply on such commentary or objections, with the local municipality, failing which could be deemed as non-compliance with the application procedures. If no comments and/or objections were received, the applicant shall inform the municipality accordingly in order for the municipality to proceed with provisions in Clause 22.7.
- 22.5 The applicant shall submit an affidavit confirming that the notice referred to in sub-clause 22.2, was properly displayed and maintained.
- 22.6 After the applicant has complied with stipulations set out in Clauses 22.1 to 22.5 above, the local municipality shall:
- 22.6.1 consider the application within a period of twenty eight (28) days in the case where no objection or any comments have been received from any interested or affected party;
 - 22.6.2 subject to provisions of Clause 22.7, hear the application and any objection or representation within a period of fifty six (56) days in the case of an application where objections and or comments have been received from interested or affected parties.
- 22.7 Should any objection to, or representation against, the application be received by the local municipality, it shall set a time and place for the hearing of such objection or representation in a manner complying with the requirements of the administrative justice, and shall give written notice thereof, by registered post or by electronic communication or facsimile, at least 14 days prior to the hearing, to the applicant and/or his duly authorised agent and all objectors.
- 22.8 Where the objections or representations contemplated in Clause 22.7 of more than one person are contained in one document, it shall be deemed sufficient compliance with the provisions of Clause 22.7 if the person who has lodged the document or is a signatory thereto is notified as contemplated in the latter clause.

- 22.9 The local municipality shall after due consideration of any objections and the criteria stipulated in Clause 22 hereof, in writing notify the applicant and every person who has lodged an objection or had made representations, of such decision together with the reasons of such decision.
- 22.10 The decision of the local municipality shall (where any objection to an application was received) not come into operation before expiry of fifty-six (56) days calculated from the date of notification of the parties in writing envisaged in Clause 22.9 hereof.
- 22.11 Any aggrieved party, subject to provisions of Section 139 of the Ordinance, may lodge an appeal in terms of the provisions of the Ordinance against the decision of the municipality.
- 22.12 The applicant may, subject to provisions of Section 139 of the Ordinance, lodge an appeal in terms of the provisions of Ordinance 15 of 1986 if the municipality fail to comply with provisions of Clause 22.6.

23. CONSENT FOR THE PRACTICE OF A HOUSEHOLD ENTERPRISE OR SERVICE ENTERPRISE WITHIN USE ZONES 1, 2, 3, 4 and 15.

- 23.1 In addition to any conditions imposed by the local municipality in the granting of a special or Written Consent, the exercise of a household enterprise or service enterprise, from a dwelling unit, shall be subject to the following:
- 23.1.1 No title condition applicable to the property may be transgressed.
- 23.1.2 No activity and/or use and/or a number of persons listed in **Schedule 4** of this scheme shall be permitted;
- 23.1.3 The applicant may practice his/her occupation in any trade form subject thereto that he/she is:
- (a) personally on a day-to-day basis in charge of the enterprise;
 - (b) is a full time residents on the property; and
 - (c) holds the majority interest in the business.
- 23.1.4 A maximum of three (3) employees including the applicant, and further subject to provisions of Clause 23.1.2 above, may be accommodated on the property and/or may be employed. For the purposes of this clause the following will be regarded as an employee of such applicant notwithstanding the number of enterprises conducted from the property, namely:
- (a) an agent or representative;
 - (b) an apprentice or trainee;
 - (c) a partner, director or member of each partnership, company or close corporation under which the applicant is conducting the enterprise.
- 23.1.5 The residential character and function of the dwelling unit must be maintained, and not more than 20% of the floor area of the dwelling unit, outbuildings excluded, or a maximum floor area of 75m² may be used for such practice.
- 23.1.6 No goods may be displayed in public, in a window or in any other manner.
- 23.1.7 No notice or sign except such notice or sign as is normally displayed at the dwelling unit, to reflect the name of the applicant and the nature of the household enterprise, may be displayed provided that the size of such notice shall not exceed 600mm by 450mm.
- 23.1.8 The amenity or character of the area may, in the opinion of the municipality, not be prejudiced.
- 23.1.9 The primary use of the property shall remain the predominant use in the opinion of the municipality.

- 23.1.10 No retail trade, except retail trade that is subservient to the main enterprise and which will, in the opinion of the municipality, not prejudice the general character of the area, is permitted from the property.
 - 23.1.11 The Household or Service Enterprise should be conducted from the core of the dwelling unit, but if conducted from any outbuilding, it shall, in the opinion of the municipality, not reflect the appearance or character of an office building normally associated or recognisable under Use Zones 4, 5, 6 and 7, and shall also reflect the same architectural style which complement the existing buildings (dwelling unit) on the property and without prejudice to the residential character of the area/neighbourhood.
 - 23.1.12 The enterprise and associated activities shall, in the opinion of the local municipality, at all times be conducted from a core part of the dwelling unit as stipulated in clause 23.1.11 above, and may not without exceptional circumstances, be conducted from any outbuilding remotely removed from such main building.
- 23.2 The necessary Site Development Plan and building plans to indicate the change in use must be submitted to the local municipality within a period of 60 days after approval of the application or such further period the municipality may permit. Failure to submit the required plans and/or change the building in accordance with approved plans shall result in a withdrawal of the consent without any further notice.
 - 23.3 Parking is to be provided to the satisfaction of the local municipality in accordance with Table "B" and subject to any other conditions **and/or additional parking spaces** imposed by the municipality. In the case of a Household Enterprise or Service Enterprise on a "Residential 2, 3 or 4" zoned property and/or where dwelling units forms part of a Sectional Title complex, the applicant must satisfy the municipality that additional parking is provided and that none of the parking required in respect of the normal operation of the main use, is/will be utilised in any manner.
 - 23.4 The local municipality may require one (1) loading zone in respect of a Service Enterprise. to be provided.

24. TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY

Notwithstanding any other provision of this Scheme, the local municipality may, upon receipt of a written request, give its consent to the temporary use of any land or building within any use zone, for any of the following purposes:

- 24.1 The erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, workshops or such other uses as may be necessary during the erection of any permanent building or structure on the land; Provided that such consent shall ipso facto lapse upon completion of the permanent structure or on the expiry date thereof as determined by the local municipality.
- 24.2 The occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall for a period not exceeding 6 consecutive hours per day between the time of 08:00 and 22:00.
- 24.3 The use of land or buildings thereon for State or municipal purposes.
- 24.4 The occasional use of land or buildings for the purpose of informal retail trade or exhibitions purposes for a period not exceeding 6 consecutive hours per day between the time of 08:00 and 22:00.
- 24.5 Any temporary consent granted in terms of this clause shall not be granted for any period in excess of 12 months, which period may however be extended by the local municipality

for a maximum periods of 24 months in aggregate in cases falling within the ambit of Clauses 24.1, 24.2 and 24.4 and 36 months in aggregate in the case of Clause 24.3.

25. CONSENT FOR SPECIFIC PURPOSES & CONTINUED USE OF LAND

Without prejudice to any powers of the local municipality derived from any law, or the remainder of this Scheme, nothing in the foregoing provisions of this Scheme shall be construed as prohibiting or restricting the following:

- 25.1 the exploitation of minerals on any land not included in a proclaimed township;
- 25.2 the letting of a dwelling unit for occupancy of only one family;
- 25.3 the letting of not more than two rooms of a dwelling unit;
- 25.4 the continued use of land, or a building which use may be exercised with the consent of the local municipality and is as such contained in Table "A", but which use has been lawfully approved prior to the commencement of this scheme as:
 - (i) consent use in terms of any previous Scheme; and/or,
 - (ii) consent or permission from the Premier or any other controlling authority in terms of any other law dealing with the use of land, including restrictions in the Title Deed,

provided that:

- (a) the conditions, if any, imposed on the original application/approval, are still applicable and must be adhered to;
 - (b) on request of the municipality, the owner of such property is able to disclose proof of such approval or consent granted.
- 25.5 The continued use of land stipulated in Clause 25.4 shall comply with stipulations of Section 43 of the Ordinance.

26. SIGNS FOR THE SALE OR RENTING OF PROPERTIES OR BUILDINGS

- 26.1 No person may without the prior consent of the local municipality display or permit to be displayed, on a single property, more than four temporary signs for the sale or renting of properties or buildings simultaneously. For the purposes of this clause a "temporary sign" shall:
- (a) not exceed 600 mm by 450 mm in size, and may not extend beyond 2,5 m above ground level at its highest point;
 - (b) if larger than the size prescribed in sub-clause 25.1(a) hereof, shall be limited to one sign only on the property;
 - (c) be removed within seven (7) days from the date of sale or conclusion of the agreement of lease, failing which same shall be removed by the local municipality at the cost of the owner.
 - (d) Provided that the local municipality may, on merits, in its discretion, subject to such conditions the local municipality may deem expedient, relax certain limitations pertaining to such signs.

PART 7: APPLICATION OF THE SCHEME AND POWERS OF THE LOCAL MUNICIPALITY

27. BINDING FORCE OF CONDITIONS

Where consent to erect a building, or to execute any works, or to use any buildings or land for a particular purpose, in terms of this Scheme is granted, subject to conditions, such conditions shall have the same legal force as if incorporated herein and shall be deemed to be so incorporated.

28. ENTRY UPON AND INSPECTION OF PROPERTIES

28.1 The local municipality may, through its authorized officials, enter upon any property at all reasonable times to conduct any inspection which the local municipality or its representative may consider necessary for the application of this Scheme.

28.2 No person shall in any manner hinder, obstruct or interfere with the execution of any duties by any authorized officer of the local municipality, or in so far as it may fall within his power, permit such official to be hindered, obstructed or interfered with.

29. SERVICE OF NOTICES

29.1 Any directive, notice or other document, which in terms of this Scheme, requires or is authorized to be served, shall be signed by the Chief Executive or another official authorized thereto by the local municipality, and shall be served in one or other of the following ways:

- (a) On the person concerned, in person, or on his authorized representative.
- (b) If service cannot be effected in the manner contemplated in sub-clause 29.1(a), at his residence or place of business or place of employment, on a person apparently not less than 16 years of age and apparently residing or employed there.
- (c) If no such person can be found on the property mentioned in sub-clause 29.1(b), by affixing such directive, notice or other document at a conspicuous place on the premises and by dispatching a copy of such directive, notice or other document by pre-paid registered post to the last known place of residence, business, employment or post box of the person concerned.
- (d) If such person upon whom a notice is to be served has chosen a *domicilium citandi*, on such domicilium.

29.2 Where service is effected in accordance with the provision of sub-clause 29.1(c) above, such service shall be deemed to have been effected at the time when a letter containing such directive, notice or other document would have been delivered in the ordinary course of postal deliveries and proof that such directive, notice or other document was properly addressed and registered, shall be deemed sufficient proof of service thereof.

29.3 Any directive, notice or other document which in terms of the provisions of this Scheme is required to be given to the owner or occupant of any particular premises, may be addressed to the "owner" or "occupant" of such premises in respect whereof the directive, notice or other document is given, without any further name or description, and shall be deemed to be in compliance with the provisions of this clause.

30. POWERS OF LOCAL MUNICIPALITY IN CASE OF CONTRAVENTION OF TOWN PLANNING SCHEME

30.1 Where any person, in conflict with any provision of a Town Planning Scheme in operation –

- (a) Undertakes or proceeds with erection or alteration of or addition to a building or causes it to be undertaken or proceeded with;
- (b) Performs, undertakes or proceeds with any other work or causes it to be to performed, undertaken or proceeded with;
- (c) Uses any land or building or causes it to be used;

the local municipality shall direct such person in writing:

- (i) to discontinue such erection, alteration, addition or other work or to discontinue such use or cause it to be discontinued;
- (ii) at his own expense to:
 - (aa) remove such building or other work or cause it to be removed;
 - (bb) to cause such building or other work or such use to comply with the provision of the Scheme.

30.2 Any person who contravenes the provisions of this Scheme or fails to comply with an instruction issued in terms of clause 30.1 commits an offence.

30.3 If a person fails to comply with a directive issued in terms of Clause 30.1, the local municipality may irrespective of the fact that such a person has criminally been charged or prosecuted, remove the building or other works at the expense of such a person, obtain a court order to remove the building or other work or cause, the building or other work to comply with the provisions of its Town Planning Scheme and to recover all expenditure incurred in connection therewith, from such person.

SCHEDULE 1

NOXIOUS INDUSTRIES

The use of buildings or land for any of the following purposes:

- (1) Asbestos-processing
- (2) The burning of building bricks
- (3) Chromium-plating
- (4) Cement production
- (5) Carbonization of coal in coke ovens
- (6) Charcoal-burning
- (7) Converting, reheating, annealing, hardening or carburizing, forging or casting of iron or other metals
- (8) Crushing or screening of stone or slag or plants for the preparation of road-surfacing material
- (9) Distilling, refining or blending of oils
- (10) Galvanizing
- (11) Lime and dolomite-burning
- (12) Lead-smelting
- (13) Pickling and treatment of metal in acid
- (14) Recovery of metal from scrap
- (15) Smelting, calcining, sintering or other reduction of ores or minerals
- (16) Salt glazing
- (17) Sintering of sulphur-bearing materials and viscose works

The use of buildings or land for the production of or the employment in any process of:

- (1) Carbon bisulphide, cellulose lacquers, hot pitch bitumen, pyridine, or pulverised fuel (except when used for a spray-painting trade)
- (2) Cyanogen or its compounds
- (3) Liquid or gaseous sulphur dioxide
- (4) Sulphur chlorides or calcium carbide

The use of buildings or land for the production of:

- (1) Amyl acetate, aromatic esters, butyric acid, caramel, enamelled wire, hexamine, iodoform, B-naphthol, salicylic acid, lamp-black, sulphurated organic compounds, sulphur dyes, glass and resin products (except synthetic resins, plastic-moulding or extrusion compositions and plastic sheets, rods, tubes, filaments or optical components produced by casting, calendering, moulding, shaping or extrusion)
- (2) Paint or varnish manufacture (excluding mixing, milling and grinding)
- (3) Rubber from scrap
- (4) Ultra marine, zinc chloride and oxide

For the purpose of:

- (1) An abattoir, animal bristle sterilizing and storing, and animal charcoal manufacture
- (2) A bacon factory, a brewery or distillery, blood-albumen making, blood-boiling, bone-boiling, -steaming, -burning, -storing, or bone-grinding, breeding of maggots from putrescible matter
- (3) Candle-making, catgut manufacture, boiling of chitterlings of pigs or other animals which are not subsidiary to a retail business or trade
- (4) Dealing in rags or bones (including receiving, storing or manipulating of rags in, or likely to become in, an offensive condition, or any bones, rabbit skins, fat or putrescible animal products of a like nature)
- (5) Fellmongery, fat-smelting or -extracting, fish-curing (other than a subsidiary to the business or trade as a fishmonger), fish-skin dressing or scraping, fish-canning

- (6) Glue-making, gut-cleaning or -scraping
- (7) A knacker's yard
- (8) Leather-dressing
- (9) The making of meal for feeding poultry, dogs, cattle or other animals from any fish, blood, bone, fat or animal offal, either in an offensive condition or subjected to any process causing noxious or injurious effluvia, manufacturing or storing of manure from bones, fish, fish offal, blood, spent hops, beans or other putrescible animal or vegetable matter, manufacturing of malt
- (10) Parchment-making, a paper mill
- (11) Size-making, skin-drying, -storing and -curing, soap-boiling, a slaughter house, a sugar-mill or -refinery
- (12) Tallow-melting or -refining, tanning, tripe-boiling or -cleaning
- (13) Wool-scouring, wattle-bark grinding or extracting, or
- (14) Yeast-making.

SCHEDULE 2

SERVICE INDUSTRIES

Service industries means, *inter alia*, the following uses but does not include the wholesale selling of goods; and may be permitted or may not be permitted from the following Use Zones as follows:

Area:	Residential	Business		Industrial
Column 1	Column 1	Column 3	Column 4	Column 5
Uses	Use Zones 1 and 2 from a dwelling unit with consent i.t.o. clause 22 read together with clause 23.	Use zones 4 & 5.	Use Zone 6 with consent i.t.o. Clause 22	Use zones 9 & 10.
Catering	Permitted	Permitted	Permitted	Permitted
A confectionery	Permitted	Permitted	Permitted	Not permitted
Dressmaking and tailoring	Permitted	Permitted	Permitted	Permitted
Engraving	Permitted	Permitted	Permitted	Permitted
Instant printing and copying	Not permitted	Permitted	Permitted	Permitted
Jewellery manufacturing	Not permitted	Permitted	Permitted	Permitted
Picture framing and screen printing	Permitted	Permitted	Permitted	Permitted
The fitment and repair of motor vehicles exhaust systems, towbars, tyres and shock absorbers	Not permitted	Permitted	Permitted	Permitted
The servicing and repair of air conditioners	Not permitted	Permitted	Not permitted	Permitted
The servicing and repair of audio and electronic equipment, computers	Permitted	Permitted	Not permitted	Permitted
The manufacturing, servicing and/or repair of basketware and cane furniture	Not permitted	Permitted	Not permitted	Permitted
The manufacturing, servicing and/or repair of canvass goods and tents	Not permitted	Permitted	Not permitted	Permitted
The servicing and repair of bicycles	Not permitted	Permitted	Permitted	Permitted
The servicing and repair of household equipment	Not permitted	Permitted	Not permitted	Permitted
Leatherworks and the manufacturing, of shoes	Not permitted	Permitted	Not permitted	Permitted
The servicing and/or repair of shoes	Permitted	Permitted	Permitted	Permitted
the servicing and repair of office equipment or antique furniture	Permitted	Permitted	Permitted	Permitted
the servicing and repair of television and video equipment,	Permitted	Permitted	Permitted	Permitted
upholstery	Not permitted	Permitted	Not permitted	Permitted
the servicing and repair of watches	Permitted	Permitted	Permitted	Permitted
weighing machines	Not permitted	Permitted	Not permitted	Permitted
the manufacturing, servicing and/or repair of window blinds	Not permitted	Permitted	Not permitted	Permitted

SCHEDULE 3

SITE DEVELOPMENT PLAN

Site Development Plan means a plan on a scale of 1:200 or such other scale as the local municipality may approve, showing the proposed development and any salient features of a property. Such site development plan shall at least indicate the following where applicable:

- (a) entrances to the property and entrances for emergency vehicles (emergency exits shall be shown);
- (b) building lines, servitudes and other limitations (e.g. flood lines), side spaces, back spaces, road widenings and corner splays. Topographical features, outcrops of rock, trees, bushes and the like. Earthworks, berm walls and their proposed treatment;
- (c) internal roads (also for pedestrians with a maximum fall of 1 in 8) and kerb lines;
- (d) parking areas (visitors, open and covered), type of paving material (show slope gradient) and kerb lines shall be shown;
- (e) open areas (walking trails, recreation area, private gardens, children's playgrounds and the like);
- (f) positioning of all buildings (distinctively marked and recognizable respectively). Also existing buildings or buildings to be demolished. Distances between buildings and from property boundaries shall be shown;
- (g) municipal sewers, connections, internal layout, stormwater, catchment pits and stormwater layout or method of disposal. (For group housing the services shall be shown on separate drawings);
- (h) phasing of development (especially group housing);
- (i) the following town planning control factors shall be shown on the plan in tabular form (*for group housing the number of dwelling units and permitted number of dwelling per hectare shall also be shown, but it is not required that GLFA be shown):

ZONING		
CONTROL FACTOR	REQUIRED/ PERMISSIBLE	SUPPLIED
Coverage		
Floor area		
*Gross Leasible Floor Area (GLFA)		
Floor Area Ratio (FAR)		
Height		
Parking		
*Permitted no. dwelling units/ha		
*Number of dwelling units		

- (j) erf boundaries and other cadastral information (proposed subdivisional lines in case of group housing) and proposed road closures and/or park closures;
- (k) contours and ground level heights (1,0 metre contour intervals);
- (l) street names;
- (m) adjoining properties (buildings in outline) and true north position;
- (n) position, height, material and trim of fences, boundary walls, screen walls, retaining walls and gates.
- (o) loading and offloading areas;
- (p) surfaces (tar) of existing roads and new roads (show kerbstone lines accurately);
- (q) the positions of firehose valves and firehose reels; and
- (r) landscaping.

SCHEDULE 4

ACTIVITIES NOT PERMITTED IN A DWELLING-UNIT

The following activities are not permitted in any dwelling unit and/or restricted under provisions of a Household Enterprise or Service Enterprise, namely:

Column 1	Column 2	Column 3
	Activity/use/purpose not permitted at all	
1	A funeral undertaking and/or funeral parlour and/or crematorium and/or or any related activity;	
2	A visitors' information bureau;	
3	A building society agency;	
4	A bank agency;	
5	A kennels;	
6	An escort agency;	
7	A place of amusement;	
8	A tow-in service;	
9	A motor workshop	
10	A medical rescue (paramedic) service.	
11	A slimming clinic.	
12	A car wash;	
13	A cash loan business	
14	A panel-beater;	
15	A parcel delivery service;	
16	A gymnasium, except a gymnasium for private use by household occupying the dwelling unit.	
17	A shooting range;	
18	A blasting contractor;	
19	A butcher;	
20	A spray-painter;	
21	A taxi business;	
22	A pet salon;	
23	A fish-fryer;	
24	A vehicle sales lot for the hiring and selling of vehicles and/or trailers;	
25	Manufacturing and or storage of concrete products;	
26	A packaging contractor;	
27	A transport undertaking;	
28	A plumber business;	
29	A building contractor business	
30	A builder's yard and/or storage of building equipment;	
31	Fire fighting business;	
32	Security company and vehicle tracing agents;	

SCHEDULE 4 CONTINUES

Column 1	Column 2	Column 3
	Activity/use/purpose permitted, but subject to the restriction of the number of persons listed in Column 3	Notwithstanding provisions of Clause 23.1.3, the following number of persons are not permitted under mentioned activity/use:
33	An Estate agent business with:-	more than 3 personnel in total, including agents
34	A Broker's business with:-	more than 3 personnel in total, including agents;
35	Beauticians and/or beauty salon with:-	more than 2 persons consisting 1 beautician plus 1 assistant or apprentice
34	Hairdressers and/or hair salon with:-	more than 2 persons consisting of 1 hairdresser plus 1 assistant or apprentice
35	A place of instruction with:-	more than 10 learners
-	-	-