

**MUNISIPALITEIT VAN DIE STAD  
KIMBERLEY**

**DORPSBEPLANNINGSVOORWAARDES  
VIR GALESHEWE INGEVOLGE  
REGULASIE PK 733 VAN 22 SEPTEMBER 1989**

**TOWN PLANNING CONDITIONS FOR  
GALESHEWE IN TERMS OF REGULATION  
PN 733 OF 22 SEPTEMBER 1989**

**MUNICIPALITY OF THE CITY  
OF KIMBERLEY**

ENGLISH

TOWN PLANNING SCHEME APPROVED IN TERMS OF  
REGULATIONS PROMULGATED UNDER PROVINCIAL  
NOTICE 733 DATED 22 SEPTEMBER 1989.

DATE APPROVED : 23 APR 1993

FILE REFERENCE: GD 2/19/2/083



CHIEF DIRECTOR: LAND DEVELOPMENT CO-ORDINATION

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1. DEFINITIONS

Unless the context otherwise indicates, the under-mentioned words shall have the following meanings:

- (i) "Advertise" means to publish a notice, or to serve a notice, specifying the place where and the hours during which particulars of the matter concerned will be available for inspection. and stating that comment may be submitted to a person specified in the notice before a date likewise specified, being not less than 21 days after the date on which the notice is so published or served.
- (ii) "Agriculture" means the cultivation of land for crops or the breeding of animals, or the operation of a game farm on an extensive basis on the natural veld; it includes only such activities and buildings which are reasonably connected with the main farming activity.
- (iii) "Basement" means that portion of a building the finished floor level of which is at least 2 m below, and the ceiling of which is at most 1 m above, a level halfway between the highest and lowest natural ground levels immediately contiguous to the building.
- (iv) "Building line" means the line delimiting the area measured from the boundary of a land unit, or from a setback where applicable, within which no building or

other structure, except a boundary fence, pergola, open stoep or roof overhang, may be erected.

- (v) "Business" means a site or building on or in which business is practised and includes offices, whether state, municipal, professional, or otherwise, a shop, a financial institution, a restaurant, a gym centre, a theatre or a cinema, as well as any ancillary use, whether residential, industrial or otherwise, on the same land unit.
- (vi) "Cemetery" means land or structures used for the burying or depositing of human remains.
- (vii) "Community facility" means premises used as an office of a public authority or as a place of assembly, crèche, clinic, hospital, or other social or welfare institution, and includes a hostel ancillary thereto, but does not include any premises used primarily for residential or instruction purposes.
- (viii) "Consent use" means a land use that may be permitted with the consent of the Council as contemplated in Clause 2.2.
- (ix) "Council" means the City Council of Kimberley, in the

area of jurisdiction of which these town planning conditions apply.

- (x) "Coverage" means the percentage area of a land unit that may be covered by buildings measured over the external walls as seen vertically from above.
- (xi) "Flat" means a unit of accommodation that is part of a building -
  - (a) containing two or more units of accommodation of which at least one does not have a ground floor; or
  - (b) intended for a use by the caretaker of a non-residential building; such flat shall however not be on the ground floor.
- (xii) "Floor factor" means the factor (expressed as a proportion of 1) which is prescribed for the calculation of the maximum floor space of a building or buildings permissible on a land unit; it is the maximum floor space as a proportion of the total area of the land unit excluding all land zoned for public purposes.
- (xiii) "Floor space" means the sum of the areas, included

within the exterior walls of a building, at the floor level of each storey of the building; provided that the following areas shall be excluded -

- (a) any area reserved for the parking of vehicles;
- (b) any area, reserved for pedestrian movement, which provides access through the building concerned from a parking space, street or other open space to another parking space, street or open space and which at all times is open to the public by means of a servitude; and
- (c) any area, reserved for pedestrian movement, which is covered by a roof allowing full penetration of sunlight.
- (xiv) "General residential building" means a block of flats, hostel, compound, boarding house or any other primarily residential building containing units of accommodation of which at least one is above ground floor, and includes any land use complying to Clause 4.9.
- (xv) "Ground floor" means the lowest storey of a building and does not mean a basement.

- (xvi) "Hotel" means a building designed for human habitation including or excluding liquor off-sales premises or licensed or unlicensed dining facilities and which complies with the requirements for a hotel as laid down in the Hotels Act, 1965 (Act 70 of 1965).
- (xvii) "Industry" means an enterprise for the manufacture, assembly, processing or storage of a product or the breaking up of a product or raw material, whether or not such enterprise is a factory as contemplated in the definition of "factory" in the General Administrative Regulations made in terms of Section 35 of the Machinery and Occupational Safety Act, 1983 (Act 6 of 1983), under Government Notice R2206 of 5 October 1984, and does not include a service trade or a noxious trade.
- (xviii) "Land Unit" means any erf, stand or other portion of land registered or capable of being registered in a deeds registry and may include a servitude right or lease.
- (xix) "Land use Restriction" means a restriction, in terms of zoning, on the extent of the improvement of land.
- (xx) "Land use Right" means the right to utilise or improve

land in accordance with the zoning thereof or any departure.

- (xxi) "Local Authority" means the City Council of Kimberley.
- (xxii) "Nature area" means land which is utilised for the conservation and enjoyment of nature and where only ancillary improvements that do not detract from the open character of the land or from the conservation of the environment, may be erected.
- (xxiii) "Noxious trade" means a use which constitutes a health hazard as envisaged in terms of the Public Health Act, 1977, (Act 63 of 1977), the operation of a scheduled process as defined in Section 1 of the Air Pollution Prevention Act, 1965 (Act 45 of 1965) or the manufacture of explosives as defined in Section 1 of the Explosives Act, 1956 (Act 26 of 1956).
- (xxiv) "Nursery" means land used for the cultivation of plants, including trees, as a business enterprise, whether or not they are sold on the premises.
- (xxv) "Occupant" in relation to any building, structure or land, includes any person occupying such building, structure or land or legally entitled to occupy it, or

anybody having the charge or management thereof, and includes the agent of such a person who is absent from the area or whose whereabouts are unknown.

- (xxvi) "Occupational purpose" in relation to additional rights as contemplated under Clause 4.9.1, includes any means by which a person may legally make a living, and does not include a noxious trade.
- (xxvii) "Open space" means land which is utilised for informal recreation and where no improvements other than ancillary play apparatus may be implemented.
- (xxviii) "Owner" in relation to land or a building, includes -
- (a) any person in whose name the land concerned is registered in a deeds registry;
  - (b) the holder of a registered right or lease or any successor in title of such a person; or
  - (c) any registered tenant; or
  - (d) for the purpose of the processing of any application, the authorised representative of the owner as contemplated under paragraph (a), (b) or (c) above.

- (xxix) "Parking" means land intended to be used for the parking of motor vehicles.
- (xxx) "Parking bay" means an area of land, intended to be used for parking purposes, measuring not less than 5,5 m by 2,5 m plus that portion of the circulation and landscaping space required therefore.
- (xxxii) "Place of assembly" means a public hall, hall for social functions, music hall, concert hall or exhibition hall which is not directly related to a commercial undertaking, or a town hall or civic centre.
- (xxxiii) "Place of instruction" means a pre-primary school, primary school, high school, college, technikon, university, research institution, convent, public library, public art gallery, museum, or other premises utilised for educational purposes, and includes a hostel or place of assembly ancillary thereto.
- (xxxiiii) "Place of worship" means any building intended to be used for practicing religion and includes any place of assembly, or residential unit, ancillary thereto but does not include a funeral parlour.

- (xxxiv) "Primary use" means a land use that is permitted, as contemplated in Clause 2.2, without consent other than building plan approval.
- (xxxv) "Public service" means any external or internal engineering service which has surface land requirements, or any other infrastructural land use including a railway line, railway station or bus terminus, which is intended for use by the public and for which no provision is made as a primary or consent use under any other zone, irrespective of whether the service concerned is provided, maintained or operated by the public or private sector, and irrespective of whether and how the user public shall pay for the use of the service concerned.
- (xxxvi) "Recreation facility" means a land use which is aimed at providing recreation or entertainment to the public but which does not fall under the definition of "nature area", "open space", "resort" or "sports ground", and includes a squash court or other indoor sports centre, theatre, cinema, amusement park, skating rink or discotheque.
- (xxxvii) "Register" means a record of all -

- (a) departures from the town planning conditions;
  - (b) conditions of rezoning that affect the land use right of any land unit; and
  - (c) consent uses approved by the Council.
- (xxxviii) "Residential unit" means a unit of accommodation that is free-standing, and includes any land use complying to Clause 4.9 but does not include a shelter.
- (xxxix) "Resort" means a camping site, caravan park or number of units of accommodation, belonging to one owner, which is utilized only for short-term accommodation by holiday-makers, tourists, travellers or day-campers, and which comprises a single enterprise of which the individual sites or units, if any, are marketed only by means of short-term renting, time-sharing or block shares.
- (xl) "Scheme map" means a map indicating all zonings within the area of jurisdiction of the town planning scheme.
- (xli) "Service trade" means an enterprise which is primarily involved in the rendering of a service, which can reasonably be regarded as being out of character in

the residential area of the town, where at most 10 people are employed, but does not include a service station.

- (xlii) "Service station" means premises intended to be used for the fuelling, maintenance or repair of vehicles and for purposes ancillary thereto, and may include a café or restaurant.
- (xliii) "Serving a notice" means to serve such notice on any owner of land who in the opinion of chief executive officer has an interest in the matter and whose address he knows or can obtain.
- (xliv) "Setback" in relation to a land unit, means the line, measured from the centre line of any adjoining street reserve, delimiting the area within which no structure, including a boundary wall or fence, may be erected.
- (xlv) "Shebeen" means a building in which the on-site consumption of liquor has been legalised by means of a liquor licence issued in terms of Section 23 of the Liquor Act, 1977 (Act 87 of 1977) or by means of the Sorghum Beer Act, 1962 (Act 63 of 1962).

- (xlvi) "Shelter" means a unit of accommodation which does not comply with the standards of durability intended by the National Building Regulations, as applicable to the area of jurisdiction of the Council, and includes any land use complying with Clause 4.9.
- (xlvii) "Side building line" in relation to a land unit, means any building line other than a street building line.
- (xlviii) "Special purpose" means a land use that justifies the inclusion thereof in a special zone as contemplated by Clause 2.3.
- (xlix) "Sportsgrounds" means land which is utilized for the practising of outdoor sport and includes only improvements ancillary to the practicing of outdoor sport.
- (l) "Storey" means a single level of a building, excluding a basement, which does not exceed a height of 4 m, measured from finished floor level to finished floor level, or to the ceiling in the case of the top storey or in the case of a single storey building.
- (li) "Street" means land which is primarily utilized for traffic movement and may include land set aside for

parking, pedestrian movement or landscaping purposes or, subject to Clause 4.9.1, for business purposes.

- (lii) "Street building line" in relation to a land unit, means a building line applicable in respect of a setback or in respect of a common boundary between the land unit concerned and any adjoining street.
- (liii) "Town house" means a unit of accommodation that is part of a row or group of linked or attached units of accommodation, which is planned, designed and built as a harmonious architectural entity and of which every unit has a ground floor; the dwelling units may either be cadastrally subdivided or not.
- (liv) "Town Planning Conditions" means this set of conditions which, together with the scheme map and register, comprise the town planning scheme.
- (lv) "Town Planning Scheme" means the scheme map, town planning conditions and register.
- (lvi) "Unit of accommodation" means a self-contained interleading group of rooms which is used only as the living accommodation of, and for the housing of people, and includes utilisation as contemplated in

Clause 4.9 as well as any outbuilding ancillary to the use of the land unit concerned.

- (lvii) "Utilization" in relation to land, means the use of land for a particular purpose and includes the extent of such use.
- (lviii) "Zone" when used as a noun, means land set aside on the scheme map for a particular zoning.
- (lvix) "Zone" when used as a verb in relation to land, means to set aside the land for a particular zoning.
- (lx) "Zoning" when used as a noun, means a category of directions setting out the purpose for which land may be utilized, and the land use restrictions applicable in respect of the said category of directions, as determined by the town planning conditions.

2.0 ZONING AND LAND USE TABLES

2.1 ZONING OF LAND IN SPECIFIED USE ZONES

The land shown on the zoning map as indicated in Column 2 or 3 of Table A, is zoned for the respective purposes listed in Column 1 of Table A.

TABLE A

1 ZONING	2 COLOUR NOTATION	3 MONOCHROME	
		NOTATION	LETRATONE
Residen- tial 1	Yellow		LT 145
Residen- tial 2	Orange		LT 916
Residen- tial 3	Yellow with light brown outline		LT 121
Business	Blue		LT 84
Industrial	Red-purple		S 52104
Institu- tional 1	Grey		LT 949
Institu- tional 2	Red-brown		LT 224
Institu- tional 3	Pink		LT 175
Services	Red		LT 158
Open Space 1	Dark Green		LT 98
Open Space 2	Yellow-green		LT 926
Street	Light Brown		Blank

Parking	Dark Brown	LT 166
Special	Blue-green	LT 164
Undeter- mined	Blue-purple border	LT 1
Town Plan- ning Scheme Boundary	Blue border	LT 59

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2.2 LAND USES PERMITTED IN SPECIFIED USE ZONES

2.2.1 The purposes, called primary uses, for which land or buildings may be used or erected in the various zones indicated in Column 1 of Table B, are shown in Column 2 of Table B. The purposes, called consent uses, for which land or buildings may be used or erected with the consent of the Council in the various zones indicated in Column 1 of Table B, are set out in Column 3 of Table B.

Any use not reflected in Column 2 or 3 shall not be permitted in the zone concerned.

2.2.2 All possible land uses that do not conflict with any other law, shall be deemed to be contained by Table B. Any land use not specifically mentioned, shall be interpreted by the Council, in accordance with the Definitions Clause, to fall under one of the land uses mentioned in Table B.

2.2.3 In the Undetermined Zone no land use shall be practised and no building shall be erected.

TABLE B

1	2	3
ZONING	PRIMARY USES	CONSENT USES
Residential 1	Residential units Town Houses	General residential buildings Hotels Places of instruction Places of worship Community facilities Shebeens Shelters

*Note of liquor  
on cons. of  
off sales*

1	2	3
ZONING	PRIMARY USES	CONSENT USES
Institutional 1	Places of instruction <i>school</i>	None
Institutional 2	Places of worship <i>chrch</i>	None
Institutional 3	Community facilities <i>creche</i>	None
Services	Public Services	None
Open Space 1	Open Spaces	Nature areas
Open Space 2	Sportsgrounds	Recreation facilities Cemeteries Resorts Nurseries Agriculture
Street	Streets	None
Parking	Parking	None
Special	Special purposes	None
Undetermined	None	None

2.3 SPECIAL ZONE

Where special factors justify the creation of a new zone on the zoning map for a land unit or part thereof or for more than one land unit, without justifying the creation of a new zoning in the town planning conditions, such land shall be zoned as a special zone. The property description of each special zone and the land use restrictions applicable thereto shall be listed in an annexure to these conditions.

3.0 LAND USE RESTRICTIONS APPLICABLE TO THE LAND USES IN TABLE B

3.1 RESIDENTIAL UNITS

Floor factor: no restriction

Coverage: at most 80%

Height: at most 2 storeys

Street building line: at least 1 metre; provided that there shall be no restriction in respect of a garage with a roll-up door.

Side building line: at least 1 metre on one boundary; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metres; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: no restriction

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

### 3.2 SHELTERS

Floor factor: no restriction

Coverage: no restriction

Height: no restriction

Street building line: at least 1 metre; provided that there shall be no restriction in respect of a garage with a roll-up door.

Side building line: at least 1 metre on one boundary; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: no restriction

Parking: no restriction

### 3.3 TOWN HOUSES

Floor factor: no restriction

Coverage: at most 80%

Height: at most 2 storeys

Street building line: at least 1 metre; provided that there shall be no restriction in respect of a garage

with a roll-up door.

Side building line: nil; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: no restriction

Parking: at least 1 parking bay per land unit, on the land unit.

#### 3.4 GENERAL RESIDENTIAL BUILDINGS

Floor factor: at most 1,5 metre in the Residential Zone 1 and Residential Zone 2. 3,0 in the Business Zone.

Coverage: at most 50%

Height: at most 5 storeys in the Residential Zone 1 and the Residential Zone 2. No restriction in the Business Zone.

Street building line: at least 1 metre in the Residential Zone 1 and Residential Zone 2; provided that there shall be no restriction in respect of a garage with a roll-up door. Nil in the Business Zone.

Side building line: at least 1 metre on one boundary in

the Residential Zone 1 and Residential Zone 2; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Nil in the Business Zone; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre

Parking: at least 1 parking bay per 50 m<sup>2</sup> floor space.

### 3.5 HOTELS

Floor factor: at most 1,5 metre in the Residential Zone 1 and Residential Zone 2. At most 3,0 in the Business Zone.

Coverage: at most 50% in the Residential Zone 1 and Residential Zone 2. 100% in the Business Zone.

Height: at most 5 storeys in the Residential Zone 1 and Residential Zone 2. No restriction in the Business Zone.

Street building line: at least 1 metre in the Residential Zone 1 and Residential Zone 2; provided

that there shall be no restriction in respect of a garage with a roll-up door. Nil in the Business Zone.

Side building line: at least 1 metre on one boundary in the Residential Zone 1 and Residential Zone 2; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Nil in the Business Zone; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre

Parking: at least 1 parking bay per 50 m<sup>2</sup> floor space in the Residential Zone 1 and 2.

At least 1 parking bay per 30 m<sup>2</sup> floor space in the Business Zone; provided that in the Business Zone the Council may, with the consent of the owner concerned, require a cash payment from the said owner in lieu of the provision of parking. Such cash amount shall be equivalent to what the market value of the area of land required will be if such land is serviced, and shall be

used by the Council only for the provision of parking.

3.6 BUSINESSES

Floor factor: at most 3,0

Coverage: 100%

Height: no restriction

Street building line: Nil

Side building line: Nil; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre in the Business Zone.  
At least 8 metre in the Industrial Zone.

Parking: at least 1 parking bay per 30 m<sup>2</sup> floor space; provided that in the Business Zone the Council may, with the consent of the owner concerned, require a cash payment from the said owner in lieu of the provision of parking. Such cash amount shall be equivalent to what the market value of the area of land required will be if such land is serviced, and shall be used by the Council only for the provision of parking.

3.7 SHEBEENS

Floor factor: no restriction

Coverage: at most 80%

Height: at most 2 storeys

Street building line: at least 1 metre; provided that there shall be no restriction in respect of a garage with a roll-up door.

Side building line: at least 1 metre on one boundary; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre

Parking: at least 1 parking bay per stand on the land unit.

### 3.8 SERVICE STATIONS

Floor factor: at most 1,5 in the Business Zone. At most 2,0 in the Industrial Zone.

Coverage: at most 75%

Height: no restriction

Street building line: Nil; provided that a 3,5 metre building line shall apply in respect of fuel pumps.

Side building line: Nil; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1

metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre in the Business Zone.  
At least 8 metre in the Industrial Zone.

Parking: at least 1 parking bay per 50 m<sup>2</sup> floor space; provided that the parking bays shall be clearly demarcated for visitors.

Additional requirement in the Business Zone:

any storage, or repairs to vehicles, shall be undertaken in an area that is adequately screened to the satisfaction of the Council concerned.

### 3.9 SERVICE TRADES

Floor factor: at most 3,0

Coverage: 100%

Height: no restriction

Street building line: Nil

Side building line: Nil; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 8 metre

Parking: at least 1 parking bay per 30 m<sup>2</sup> floor space; provided that in the Business Zone the Council

may, with the consent of the owner concerned, require a cash payment from the said owner in lieu of the provision of parking. Such cash amount shall be equivalent to what the market value of the area of land required will be if such land is serviced and shall be used by the Council only for the provision of parking.

3.10 INDUSTRIES

Floor factor: at most 2,0

Coverage: at most 75%

Height: no restriction

Street building line: nil

Side building line: Nil; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 8 metre

Parking: at least 1 parking bay per 100 m<sup>2</sup> floor space.

3.11 NOXIOUS TRADES

Floor factor: at most 2,0

Coverage: at most 75%

Height: no restriction

Street building line: nil

Side building line: Nil; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 8 metre

Parking: at least 1 parking bay per 100 m<sup>2</sup> floor space.

### 3.12 PLACES OF INSTRUCTION

Floor factor: at most 0,8 in the Residential Zone 1 and Residential Zone 2. At most 3,0 in the Business Zone. At most 1,2 in the Institution Zone 1.

Coverage: at most 50% in the Residential Zone 1 and Residential Zone 2. 100% in the Business Zone. At most 50% in the Institutional Zone 1.

Height: at most 2 storeys in the Residential Zone 1 and Residential Zone 2. No restriction in the Business Zone. At most 3 storeys in the Institutional Zone 1.

Street building line: at least 1 metre in the Residential Zone 1, Residential Zone 2 and Institutional Zone 1; provided that there shall be no restriction in respect of a garage with a roll-up door. Nil in the

Business Zone.

Side building line: at least 1 metre on one boundary in the Residential Zone 1, Residential Zone 2 and Institutional Zone 1; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Nil in the Business Zone; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre

Parking: at least 1 parking bay per class room in the case of schools, or 1 parking bay per 50 m<sup>2</sup> floor space in the case of other places of instruction.

### 3.13 PLACES OF WORSHIP

Floor factor: at most 0,8 in the Residential Zone 1 and Residential Zone 2. At most 3,0 in the Business Zone. At most 1,2 in the Institutional Zone 2.

Coverage: at most 50%

Height: no restriction

Street building line: at least 1 metre in the Residential Zone 1, Residential Zone 2 and Institutional Zone 2; provided that there shall be no restriction in respect of a garage with a roll-up door. Nil in the Business Zone.

Side building line: at least 1 metre on one boundary in the Residential Zone 1, Residential Zone 2 and Institutional Zone 2; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Nil in the Business Zone; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre

Parking: at least 1 parking bay per 20 seats.

### 3.14 COMMUNITY FACILITIES

Floor factor: no restriction in the Residential Zone 1 and Residential Zone 2. At most 3,0 in the Business Zone. At most 1,5 in the Institutional Zone 3.

Coverage: at most 60% in the Residential Zone 1, Residential Zone 2 and Institutional Zone 3. 100% in the Business Zone.

Height: at most 2 storeys in the Residential Zone 1 and Residential Zone 2. No restriction in the Business Zone. At most 3 storeys in the Institutional Zone 3.

Street building line: at least 1 metre in the Residential Zone 1, Residential Zone 2 and Institutional Zone 3; provided that there shall be no restriction in respect of a garage with a roll-up door. Nil in the Business Zone.

Side building line: at least 1 metre on one boundary in the Residential Zone 1, Residential Zone 2 and Institutional Zone 3; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Nil in the Business Zone; provided that on any boundary where service lines are installed, the side building line shall be at least 1,5 metre; provided further that where a building is erected less than 1 metre from a side boundary, no doors or windows shall be permitted in the wall concerned.

Setback: at least 6,5 metre

Parking: at least 1 parking bay per 20 seats in the case of places of assembly, or 1 parking bay per 50 m<sup>2</sup> floor space in the case of other community facilities.

### 3.15 PUBLIC SERVICES

The land use restrictions applicable shall be determined by agreement for every use or building between the Council and the provider of the service concerned or, failing such agreement, as resolved by the Administrator.

### 3.16 STREETS

The land use restrictions shall be as determined by the Council.

### 3.17 PARKING

The land use restrictions shall be as determined by the Council.

### 3.18 RECREATION FACILITIES

The land use restrictions shall be determined by the Council and shall be compatible with the definition of "recreation facility" in the Definitions, subject to the following specific restrictions:

Setback: at least 6,5 metre

Parking: at least one parking bay per 100 m<sup>2</sup> floor space.

3.19 SPORTSGROUNDS

The land use restrictions shall be determined by the Council and shall be compatible with the definition of "sportsgrounds" in the Definitions, subject to the following specific restrictions:

Setback: at least 6,5 metre

Parking: the number of parking bays that in the opinion of the Council is necessary in order to protect the quality of the urban environment.

3.20 OPEN SPACES

The land use restrictions applicable shall be determined by the Council and shall be compatible with the definition of "open space" in the Definitions.

3.21 NURSERIES

The land use restrictions shall be determined by the Council and shall be compatible with the definition of "nursery" in the Definitions, subject to the following specific restriction:

Setback: at least 6,5 metre

3.22 CEMETERIES

The land use restrictions shall be determined by the Council and shall be compatible with the definition of "cemetery" in the Definitions, subject to the following specific restriction:

Setback: at least 8 metre

3.23 AGRICULTURE

The land use restrictions shall be determined by the Council and shall be compatible with the definition of "agriculture" in the Definitions.

3.24 NATURE AREAS

The land use restrictions applicable shall be determined by the Council and shall be compatible with the definition of "nature area" in the Definitions.

3.25 RESORTS

The land use restrictions shall be determined by the Council subject to the approval of the Administrator and shall be compatible with the definition of "resort" in the Definitions.

3.26 SPECIAL PURPOSES

The land use restrictions applicable shall be determined for every use or building, by the Administrator or, if

authorised thereto by the Administrator, the Council.

4.0 GENERAL

4.1 GENERAL PURPOSE OF TOWN PLANNING SCHEME

The general purpose of the town planning scheme shall be to provide for the layout and regulation of the town with a view to the co-ordinated and harmonious development thereof in such a way as will most effectively promote health, safety, order, amenity, convenience and general welfare, with due regard to efficiency and economy in the process of development.

4.2 AREA OF TOWN PLANNING SCHEME

The area of the town planning scheme to which these town planning conditions apply, shall be the area indicated on the scheme map approved as part of the town planning scheme.

4.3 COMPONENTS OF TOWN PLANNING SCHEME

These town planning conditions together with the scheme map and register comprise the town planning scheme.

4.4 AVAILABILITY OF TOWN PLANNING SCHEME TO THE PUBLIC

The Council shall institute and maintain a facility where these town planning conditions together with the scheme map and register shall be available to the public, and shall allow any person at any reasonable

time to examine the town planning conditions, scheme map or register; provided that any information relating to the town planning scheme which is given to any person shall only be valid if it is in writing and signed by the official duly authorised thereto by the Council.

4.5 ZONING ACCORDING TO USE

Notations on the scheme map shall indicate present or future landuse and shall not reflect land ownership.

4.6 UNUTILIZED RIGHTS

4.6.1

- (a) If land use rights prescribed in terms of zoning are not utilised within the period, as laid down in Clause 4.6.1. (b) below, of the approval of the zoning concerned, or if land use rights, prescribed in terms of zoning that had been utilized, cease to be utilized for a period, as defined in Clause 4.6.1 (b) below or more, such zoning, except in the case of Residential 1 zoning, shall revert to a zoning of undetermined after a period, as defined in Clause 4.6.1 (b) below, after the date on which the land use right concerned had come into existence, or, in the opinion of the Council, had ceased to be utilized, as the case may be. The land concerned shall thereafter be utilized in accordance

with Clause 2.2.3; provided that any building or any utilization of land that had existed lawfully under the zoning that had lapsed, may continue to exist.

(b) The periods contemplated in Clause 4.6.1 (a) above are as follows:

(i) in the case of a town planning scheme coming into operation or being enlarged: 10 years;

(ii) in the case of the rezoning of land: 2 years;

(iii) in the case of the establishment of a township: 10 years; and

(iv) in the case of the subdivision of land without township establishment: 2 years.

4.6.2 Within 3 months after it had become known to the Council that a zoning concerned had reverted to a zoning of undetermined in terms of Clause 4.6.1, the Council shall amend the map accordingly.

4.6.3 In the event of a dispute arising as to whether a land use right had been utilised or not, the decision of the Council shall be final; provided that such decision

shall be made on the grounds of the definition of "utilization" in Clause 1.

4.6.4 Where zoning has been approved in respect of land and the land concerned is utilized in accordance with its previous zoning, such utilization shall, until it is changed as contemplated in Clause 4.6.1, be deemed not to constitute an offence within the meaning of Clause 4.18.

#### 4.7 REGISTERED AND UNREGISTERED TOWNSHIPS

4.7.1 The provisions of the town planning scheme shall supersede any rights and obligations contained in any registered conditions of title or township conditions insofar as such rights and obligations are in conflict with the provisions of the town planning scheme.

4.7.2 An existing town or part thereof, in respect of which a general plan or general plans have been approved in the office of the Surveyor-General, shall be deemed to be an approved township as contemplated in Regulation 23 (1) of the Regulations Relating to Township Establishment and Land Use (R.1897 dated 12 September 1986). Such township shall be registerable in the office of the Registrar of Deeds subject to any requirements of the

said registrar in terms of other legislation. The ownership of all public streets and public places over or on land indicated as such on the general plan concerned shall, after the opening of a township register in the office of the said registrar, vest in the local authority in whose area of jurisdiction that land is situated, without compensation by the local authority concerned.

4.8 REGISTER

The record as contemplated in the definition of "register" in Clause 1 shall be kept either on the front or the back of the scheme map, or in a separate list which may be a computer printout. The record shall either be kept in numerical sequence of land unit numbers or, if the land units concerned are marked on the scheme map in a way cross-referencing them to the record, in any other way.

4.9 ADDITIONAL RIGHTS PERTAINING TO RESIDENTIAL USAGE

4.9.1 Notwithstanding any provisions to the contrary in the town planning scheme -

(a) any occupier of any unit of accommodation may utilise

such unit for any social, educational, religious, occupational or business purpose subject to the following conditions: *end note of fig. (Shaboon).*

- (i) the dominant use of the property shall remain residential;
  - (ii) the use concerned shall not be disturbing to neighbours; and
  - (iii) the use concerned shall not interfere with the amenity of the direct neighbourhood.
- (b) land zoned for street purposes may be utilised for business purposes without the erection of any permanent structures; provided that the Council may terminate such utilization if in its opinion interference with pedestrian or vehicular movement, or with the amenity of the neighbourhood, is caused.

4.9.2 If anybody with a direct interest is of the opinion that any condition referred to in Clause 4.9.1 is contravened, such person may lodge a written complaint with the Council requesting action in terms of Clause 4.14.1 of this town planning conditions.

4.9.3 The Council must consider a complaint mentioned in Clause 4.9.2 and, if in the opinion of the Council a condition mentioned in Clause 4.9.1 is contravened, such Council must act in terms of Clause 4.14.1 of this town planning conditions, either by instructing that the activity be stopped or that the contravention be rectified with the continuation of the activity, but subject to any restrictive conditions that the Council may impose.

#### 4.10 COMBINATION OF ZONING OR LAND USES

4.10.1 No land unit shall have more than one zoning.

4.10.2 Where a combination of primary and/or consent uses that is permissible in terms of a zoning concerned, is permitted in respect of a particular land unit, the land use restrictions prescribed, under the zoning of the land unit concerned, for the use that in the opinion of the Council is dominant in terms of floor space, shall be applicable.

#### 4.11 NON-CONFORMING LAND USES

Where a land unit had, on the date of commencement of the town planning scheme, been lawfully utilized in contravention of the zoning approved for the land unit

concerned, the utilization concerned may be continued in contravention of the provisions prescribed in terms of the zoning concerned and shall not be deemed to constitute an offence for the purpose of Clause 4.18 and the zoning concerned shall not revert to a zoning of undetermined in terms of Clause 4.6.1; provided that the utilization concerned shall be brought in line with the zoning concerned prior to any building being erected or improved except where improvement concerned constitutes minor maintenance in the opinion of the Council; provided further that if the utilization concerned is in the opinion of the Council interrupted for a continuous period of at least 6 months, the land concerned shall thereafter be utilized in accordance with the zoning concerned.

#### 4.12 APPLICATION FOR CONSENT USE

4.12.1 An owner of land may apply in writing to the Chief Executive Officer for approval of a consent use in respect of the land concerned. The Council shall after advertising such application by serving a notice, consider such application and either approve or refuse it. If the application concerned is approved, such approval may be made subject to any conditions deemed necessary by the Council.

4.12.2 If an approved consent use is not exercised within a period of 3 years of the approval thereof, or if a consent use that had been exercised ceases to be exercised for a period of 3 years or more, such consent use shall lapse with effect from a date 3 years after the date on which the consent use had been approved or, in the opinion of the Council, had ceased to be exercised, as the case may be.

4.12.3 If at the approval of an application in terms of Section 16 of the Regulations Relating to Township Establishment and Land Use (No. R1897 dated 12 September 1986) or at the amendment of a layout plan, a land unit is allocated a land use that is not a primary use in terms of Table B of these conditions, the required consent use shall be deemed to have been approved, and in such case the provisions of subregulation 4.12.1 shall not be applicable.

4.12.4 When approving a town planning scheme, the Administrator may approve a consent use in respect of any land unit involved, and in such case the provisions of subregulation 4.12.1 shall not be applicable.

#### 4.13 STANDARD CONDITIONS

The person who at any time is the owner of a land unit

in a township shall be required -

- 4.13.1 to allow gas mains, electricity, telephone or television cables or wires, main or other waterpipes and the sewage and drainage, including stormwater, of any other land unit or land units, to be conveyed across the land unit concerned, and to allow surface installations such as mini-substations, meter kiosks, high mast lighting or service pillars to be installed thereon, if considered necessary by the Council and in such manner and position as may from time to time be reasonably required; provided that this shall include the right of access to the land unit at any reasonable time for the purposes of the construction, alteration, removal or inspection of any works connected with the above; provided further that the owner of any land unit that benefits as a result of the provisions of Clause 4.13.1 above shall be liable to pay a proportionate share of any costs incurred by another person as a result of the provisions concerned;
- 4.13.2 to receive such material or permit such excavation on the land unit as may be required to allow use of the full width of an abutting street or provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed

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

- 4.13.3 to permit access to the land unit concerned at all times to any owner of a land unit who had been entitled to use toilet facilities thereon prior to registration of the land unit concerned, until such time as separate toilet facilities are available;
- 4.13.4 to maintain such part of any retaining wall, roof, pipe, gutter, wiring or other structure as is common to such land unit and any other land unit;
- 4.13.5 to maintain every part of such wall, roof, pipe, gutter, wiring or other structure which is on, or transverses, such land unit;
- 4.13.6 permit access to such land unit for the purposes of maintaining, cleaning, renovating, repairing, renewing, altering or adding to any wall, roof, pipe, gutter, wiring or other structure, and shall not do anything which will prevent or hinder any such access or work from being done; and
- 4.13.7 in the case of attached residential units, not make any

alterations or additions to or demolish any part of any building erected on such land unit, including boundary walls and fences, without the written consent of the Council, or permit the exterior of the buildings to deteriorate or become untidy or dirty.

4.14 COMPLIANCE WITH TOWN PLANNING CONDITIONS AND RECTIFICATION OF CONTRAVENTIONS

4.14.1 Every local authority shall comply with and enforce compliance with the provisions of these conditions and shall not do or permit anything of which the effect will be in conflict with the intention of this clause.

4.14.2 No person shall -

(a) contravene or fail to comply with the provisions of these conditions except in accordance with the intention of a plan for a building as approved and to the extent that such plan has been implemented; or

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

4.14.3 If a local authority in the opinion of the Administrator

fails to perform or to exercise satisfactorily its duties or powers in terms of Clause 4.14.1, the Administrator may, after notice to such local authority, withdraw any approval or authorisation granted by the local authority, perform the said duties, exercise the said powers and recover from such local authority any amount spend by him in this connection or instruct the local authority as to the steps to be taken by it in order to ensure compliance with Clause 4.14.1, and such instruction shall in law override any decision of the Council of the said local authority.

4.14.4

- (a) If a building or any part thereof was erected in contravention of Clause 4.14.2, the local authority shall serve an instruction (hereinafter referred to as the instruction) on the owner concerned -
  - (i) to rectify such contravention before a date specified in the instruction, being not more than six months after the date of the instruction or, at the option of the Council concerned;
  - (ii) to apply for the determination of a contravention levy

before a date specified in the instruction, being not more than thirty days after the date of the instruction.

(b) If the said owner fails to comply with the instruction, the local authority shall, subject to the provisions of Clause 4.14.4 (c), take all such steps as may be necessary to rectify such contravention or, at the option of the Council, to determine a contravention levy.

(c) If the owner disputes the existence or the nature and extent of the contravention to which the instruction relates or the Council's option under Clause 4.14.4 (a) or applies for a contravention levy, he shall on or before the date referred to in Clause 4.14.4 (a) (i) submit a written statement regarding the matter to the Administrator and the Council.

(d) The Administrator shall thereupon, having regard to all the facts and after consultation with the Council concerned, consider the state of affairs and make a final decision -

(i) in relation to the existence or the nature and extent of the contravention; and

(ii) whether the contravention shall be rectified or a contravention levy paid.

(e) If the Administrator decides in terms of Clause 4.14.4 (d) (ii) that a contravention shall be rectified, he shall fix the period within which the contravention shall be rectified.

4.14.5 Any amount spent by a local authority in terms of Clause 4.14.4 shall be recoverable by that local authority from the owner.

4.14.6

(a) If a contravention levy is to be paid in terms of Clause 4.14.4 (d) (ii), the Administrator shall after consultation with the local authority concerned fix such levy and notify the owner and local authority concerned thereanent.

(b) Such a contravention levy shall become due and payable -

(i) in one capitalised sum on or before such date; or

(ii) periodically at such intervals

as the Administrator may determine, and may be

calculated with retrospective effect from the date on which the erection of the building or part thereof concerned had commenced.

- (c) The Administrator may, when he deems it necessary and after consultation with the local authority concerned, cancel the payment of a contravention levy as contemplated by Clause 4.14.4 (b) (ii) or amend such a contravention levy.

#### 4.14.7

- (a) The owner on the date when the instruction is served shall be liable for the payment of the contravention levy.
- (b) Prior to the transfer of the land concerned the contravention levy shall be capitalised.
- (c) When a contravention levy is capitalised, the land concerned shall be deemed to be utilised in accordance with the provisions of these town planning conditions.

#### 4.15 SERVICE OF DOCUMENTS AND RIGHTS OF ENTRY

- 4.15.1 Any notice required or authorised to be served in terms of these conditions may be served -

- (a) by delivery of the notice to any person or to his duly authorised agent personally; or
- (b) by registered mail.

4.15.2 Any person authorised thereto in writing by the Administrator or a Council may at any reasonable time, after reasonable notice and causing as little inconvenience as possible, enter upon any land in order to -

- (a) do anything which the Administrator or such a Council, as the case may be, is permitted or required to do in terms of these conditions; or
- (b) make an inquiry, an investigation or a survey in connection with the exercise or performance of his or its powers or duties granted by the Administrator or such a Council, as the case may be, in terms of these conditions.

#### 4.16 COMPLIANCE AND CONFLICT WITH OTHER LAWS

- 4.16.1 The provisions of the town planning scheme do not grant exemption from the requirements of any act or ordinance.

4.16.2 When any provision of the town planning scheme differs from a provision of a layout plan approved prior to the date of commencement of the town planning scheme, the said provision of the town planning scheme shall prevail.

#### 4.17 CONTINUATION OF TOWN PLANNING SCHEME

Where land situated in the area of jurisdiction of another local authority is incorporated in the area of jurisdiction of the Council, any town planning scheme applicable to that land, shall remain in force until such time as it may be replaced.

#### 4.18 OFFENCES AND PENALTIES

4.18.1 A person who -

(a) contravenes or fails to comply with a provision of Clause 4.14.2; or

(b) threatens, resists, hinders or obstructs, or uses foul, insulting or abusive language towards, a person in the exercise of a power under Clause 4.15.2 or refuses or fails to answer to the best of his ability a question put to him in terms of the said clause;

shall be guilty of an offence and on conviction liable

to a fine not exceeding R1 000,00 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

4.18.2 A person convicted of an offence under these town planning conditions who after such conviction continues with the conduct in respect of which he was so convicted, shall be guilty of continuation of the offence and on conviction liable to a fine not exceeding R100,00 in respect of each day on which he so continues or had continued therewith.

4.19 DATE OF COMMENCEMENT

These town planning conditions shall come into operation on the date of the letter of notification to the local authority that the town planning scheme has been approved.