



SUPPLEMENTARY AGENDA

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING

WEDNESDAY, 22 APRIL 2026

TABLE OF CONTENTS

ITEM NO	SUBJECT	PAGE
5.	MATTERS SUBMITTED BY THE ACTING MUNICIPAL MANAGER	
5.7	PROPOSED AMENDMENT OF THE KNYSNA MUNICIPALITY ZONING SCHEME BY-LAW (2020)	2
5.8	PROPOSED AMENDMENTS TO THE KNYSNA MUNICIPALITY: SPATIAL PLANNING & LAND USE MANAGEMENT LAW (2021)	98
6.	CLOSURE	154

5.7

P07/04/26 PROPOSED AMENDMENT OF THE KNYSNA MUNICIPALITY ZONING SCHEME BY-LAW (2020)

REPORT FROM THE DIRECTOR PLANNING, ECONOMIC DEVELOPMENT AND TOURISM

PURPOSE OF THE REPORT

To obtain support from Council to initiate the amendment process of the Knysna Zoning Scheme By-law (2020).

BACKGROUND

The Knysna Zoning Scheme By-law was promulgated on 20 June 2020 (***see attached copy of the By-law under Annexure A***). There is a need to review the Knysna Zoning Scheme By-law due to the following reasons:

1. Section 27(1) of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) (SPLUMA) requires the following:
“A municipality may review its land use scheme in order to achieve consistency with the municipal spatial development framework, and must do so at least every five years.”
2. Furthermore, Knysna Municipality is in the process of finalising amendments to its Municipal Spatial Development Framework and once adopted, the Knysna Zoning Scheme By-law needs to be amended to give effect to the spatial development framework.
3. The Section 154 Support Plan includes the review and amendment of the Knysna Zoning Scheme By-law as an intervention that needs to be implemented.

DISCUSSION

The proposed amendment process of the Zoning Scheme By-law is regulated by Sections 12 and 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and can be summarised by the following steps:

- Step 1: The draft amendment by-law is introduced by a Councillor or a Committee of the Council.
- Step 2: The draft amendment by-law is workshopped internally with Council and relevant municipal officials.
- Step 3: The council must consult with the community with regard to the draft by-law amendments. It must at least publish the by-law for comment by the public.
- Step 4: The draft amended by-law with public comments is presented and debated by the Council.
- Step 5: The Municipal Council votes on the by-law amendment.

Step 6: If passed by the Council, the amendment by-law is published in the Provincial Gazette and becomes law on that date or a later date set in the amendment by-law.

In addition to the requirements of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), Section 25 (Compilation or amendment of zoning schemes) of the Western Cape Land Use Planning Act (Act No. 3 of 2014) requires the following:

25. A municipality must compile or amend its zoning scheme by—

- a) establishing an **intergovernmental steering committee** to compile a draft zoning scheme or a draft amendment of a zoning scheme; or
- b) following the procedure set out in section 27.

Section 27 (Procedure without intergovernmental steering committee) of the Western Cape Land Use Planning Act (Act No. 3 of 2014) requires the following:

- 1) If an intergovernmental steering committee contemplated in section 26 is not established, the municipality-
 - a) must submit a draft zoning scheme or draft amendment of a zoning scheme, excluding the register and zoning map, to the Provincial Minister for written comment; and
 - b) may not adopt its zoning scheme or approve an amendment thereof until-
 - (i) the municipality has received and considered the comments referred to in subsection (2); or
 - (ii) the end of the period referred to in subsection (2) and if no comments were received from the Provincial Minister during that period.
- 2) The Provincial Minister must, within 60 days of receiving a draft zoning scheme or draft amendment of a zoning scheme in terms of subsection (1)(a), submit written comments thereon to the municipality.
- 3) The period referred to in subsection (2) may be extended with the concurrence of the municipality.

The Western Cape Land Use Planning Act (Act No. 3 of 2014) therefore provides the option of following an amendment process with an Intergovernmental Steering Committee or without an Intergovernmental Steering Committee.

On 4 December 2025, an Inception meeting was held between municipal planning staff the Planners from Western Cape Department of Environmental Affairs and Development Planning (DEA&DP). It was concluded that a Technical Steering Committee be established to conduct a minor review of the Knysna Zoning Scheme By-law and that the process without an Intergovernmental Steering Committee be followed. The following are reasons why this option of not having an Intergovernmental Steering Committee is supported:

- 1) The review and amendment is not comprehensive, therefore not requiring an Intergovernmental Steering Committee;
- 2) An Intergovernmental Steering Committee is a complex and time consuming process that may result in the review and amendment process not be completed by June 2026 as required by the SDBIP.
- 3) The compilation of the Knysna Zoning Scheme during 2020 followed a comprehensive process with public input as well as input from government departments.
- 4) A Technical Steering Committee comprising of Professional Planners and Legal Experts will be adequate to conduct a minor review and amendment of the Knysna Zoning Scheme By-law.

In line with the Section 154 Support Plan, it is recommended that the consist of the official from the Land Use Planning and Legal Services Department as well as Planners and Legal Experts

from Western Cape Department of Environmental Affairs and Development Planning (DEA&DP).

FINANCIAL IMPLICATIONS

It is anticipated that the publication of the amendment By-law in the Provincial Gazette will amount to approximately R 70,000.00. Provision has been made for the publication of the Knysna Zoning Scheme Amendment By-law, however no funding is available for the Planning By-law. Provision will have to be made during the Adjustment Budget for the anticipated additional R70,000.00 expenditure to make up a total budget of R140,000.00 for the two By-laws.

RELEVANT LEGISLATION

1. Constitution of South Africa.
2. Spatial Planning & Land Use Management Act, 2013 (Act No. 16 of 2013).
3. Western Cape Land Use Planning Act (Act No. 3 of 2014).
4. Knysna Zoning Scheme By-law (2020).
5. Local Government: Municipal Systems Act (Act No. 32 of 2000).

RECOMMENDATION OF THE ACTING MUNICIPAL MANAGER

- [a] That the Committee introduce proposed amendment process of the Knysna Zoning Scheme By-law (2020) to commence as required by Section 12 of the Local Government: Municipal Systems Act (Act No. 32 of 2000);
- [b] That the procedure be followed in terms of Section 27 (Procedure without intergovernmental steering committee) of the Western Cape Land Use Planning Act (Act No. 3 of 2014);
- [c] That it be noted that a Technical Steering Committee will be responsible for the review of the Knysna Zoning Scheme By-law (2020);
- [d] That it be noted that a Council workshop must be arranged to present the proposed draft Knysna Zoning Scheme Amendment By-law before;
- [c] That the draft Knysna Zoning Scheme Amendment By-law be presented to Council for consideration before commencement of the public participation process; and
- [d] That provision be made on the Adjustment Budget for R70,000.00 for the publication of the Amendment By-law in the Provincial Gazette in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

APPENDIX / ADDENDUM

Annexure A – Knysna Zoning Scheme By-law (2020)

File Number : 9/1/2/5

Execution : Director : Planning, Economic Development and Tourism
Manager : Land Use Management



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

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CONTENTS

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Page

LOCAL AUTHORITY

Knysna Municipality: Zoning Scheme By-law 2

**ZONING SCHEME BY-LAW
KNYSNA MUNICIPALITY**

To regulate and control municipal zoning.

Table of Content

**Chapter 1
Interpretation**

1. Definitions

**Chapter 2
Zoning Scheme, Use Zones And Uses**

2. Application of zoning scheme
3. Purpose of zoning scheme
4. Components of zoning scheme
5. Use zones
6. Zoning scheme map
7. Transition to new use zones
8. Rectification of errors on zoning scheme map
9. Zoning scheme register
10. Primary uses
11. Consent uses
12. Temporary departures for specific occasions
13. Non-conforming uses
14. Deemed zoning of closed public places

**Chapter 3
Overlay Zones**

15. Purpose of overlay zones
16. Procedures for establishing, reviewing or amending overlay zones

**Chapter 4
Distances, Levels And Boundaries**

17. Measuring distances and levels
18. Determining boundaries of use zones

**Chapter 5
Enforcement**

19. Offences, penalties and enforcement of By-law

**Chapter 6
Development Of Land**

20. Development parameters applicable to use rights

**Chapter 7
General Provisions**

21. Encroachment of building lines
22. Lagoon building lines
23. Site development plans
24. Hazardous substances

- 25. Screening
- 26. Earth banks and retaining structures
- 27. Boundary walls and fences
- 28. Maintenance of property
- 29. Parking of commercial vehicles in residential zones
- 30. Mobile homes and caravans
- 31. Rooftop base telecommunication stations and satellite dish antenna systems
- 32. Geysers and solar panels or similar infrastructure affixed to roofs of building
- 33. Equipment on top of buildings
- 34. Parapet walls
- 35. Chimneys
- 36. Linear infrastructure
- 37. Outdoor advertising and signage
- 38. Utilisation of outbuildings
- 39. Determination of natural ground level
- 40. Animals kept for commercial purposes
- 41. Hobbies in single and general residential zones

Chapter 8

Parking And Loading

- 42. On-site parking requirements
- 43. Alternative parking supply
- 44. Combined parking requirements
- 45. Site access and exits
- 46. Parking layout requirements
- 47. Parking for physically disabled
- 48. Motorcycle and bicycle parking spaces
- 49. Loading requirements

Chapter 9

Refuse Rooms And Service Yards

- 50. Refuse rooms
- 51. Service yards

Chapter 10

Revocation of Previous By-laws

- 52. Repeal of By-laws

Schedule 1

Use Zones Table

Schedule 2

Land Use Descriptions And Development Parameters

Schedule 3

Overlay Zones Approved In Terms Of Section 16

- 1. Subdivisional area overlay zone
- 2. Thesen Island overlay zone
- 3. Conservation area overlay zone
- 4. Noetzie overlay zone

Schedule 4

Zoning Transition Table

Chapter 1 Interpretation

Definitions

1. In this By-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) has the meaning assigned to it in that Act and:

“ancillary” means a land use, purpose, building, structure or activity which is directly related to, and subservient to, the lawful dominant use of the property;

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

“applicant” means a person who makes application in terms of the Planning By-law;

“atrium” means a covered courtyard that:
comprises a void within a building that extends for one or more floors in height that contains a floor and roof or ceiling; and
does not contain floors that penetrate the void.

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

“base zone” means the zone that determines the lawful land use and development parameters for a land unit in terms of this zoning scheme, before the application of any overlay zone;

“basement” means that portion of a building with a ceiling level which does not protrude more than one metre above natural ground level at any point, which may not be used as habitable space, and excludes excavations required for access purposes;

“boundary” in relation to a land unit means one or more of the cadastral lines separating the land unit from another land unit or from a road reserve;

“boundary wall” means any wall, fence or enclosing structure erected on or directly next to a cadastral property boundary, including entrance gates and doors;

“braai room” means a room that is part of the main dwelling or outbuildings and that is used primarily for entertainment purposes and where food and drinks may be prepared, but excludes a kitchen;

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

a roofed structure;
an external stair, step or landing of a building and a gallery, canopy, balcony, stoep, verandah, terrace, porch or similar feature of a building;
a wall or railing enclosing any feature referred to in paragraph (b);
any other portion of a building.

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

“cadastral line” means a line representing the official boundary of a land unit as recorded on a diagram or general plan approved by the Surveyor-General and registered in the Deeds Office;

“canopy” means a cantilevered or suspended roof, slab or covering projecting from the wall of a building, excluding the floor of a balcony;

“CapeNature” means the Western Cape Nature Conservation Board established in terms of the Western Cape Nature Conservation Board Act, 1998 (Act 15 of 1998);

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

“carport” means a structure for the storage of one or more vehicles that is covered by a roof, provided that not more than two sides may be permanently enclosed;

“carriageway crossing”, in relation to a motor vehicle carriageway crossing, means an entrance or exit way, or a combined entrance and exit way, from a land unit to a road;

“commercial”, in relation to a use right, means a use right for the express purpose of making a profit with no or limited social or charitable objectives;

“common boundary”, in relation to a property, means a boundary common with the adjoining property other than a street boundary;

“Council” means the municipal council of the Municipality;

“coverage” means the area of a land unit that is covered by structures, expressed as a percentage of the total erf area of the land unit, excluding eaves and overhangs extending up to 1 metre beyond an exterior wall of a building or structure;

“deemed zoning” means the zoning of a land unit which the Municipality deems it to have in circumstances where no formal zoning determination or rezoning was previously done;

“dominant use” means the predominant or major lawful use of a property, and may consist of primary uses, consent uses, or other lawful uses permitted on the property;

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

“eave” means a portion of a roof projecting beyond the face of a building, including any gutters;

“earth bank” means land that is shaped to hold back earth or loose rock;

“ecosystem” means a self-sustaining and self-regulating community of organisms and the interaction between the organisms with one another and with their environment;

“encroachment agreement” means an agreement between an owner and the Municipality relating to the projection of portions of a building or structure from the owner's property onto or over the Municipality's property;

“entrance steps and landings” means steps and landings to a building, including any low walls and railings, if the steps and landings are not within the main containing walls of the building;

“environmental management plan” means a plan that documents the management of site preparation, construction or operations affecting an environmental resource or an environmentally significant place, its environmental values or management requirements, or both;

“erection” in relation to a building or structure includes—

the construction of a new building or structure;

the alteration or conversion of, or addition to, a building or structure; and

the re-construction of a building or structure which has completely or partially been demolished.

“fence” means any fence, together with any gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area, and includes a fence which is not erected on a boundary, such as a garden fence or a freestanding wall on an erf, lot or stand;

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

“floor factor” means the factor, expressed as a proportion of 1, which is prescribed for the calculation of the maximum floor space of a building or buildings permissible on a land unit; being the maximum floor space as a proportion of the *“total erf area”*;

“floor space”, in relation to any building, means the area of a floor which is covered by a slab, roof or projection; provided that:

any area, including a basement, which is reserved solely for parking or loading of vehicles is excluded;

any covered balcony, verandah or terrace which, apart from protective railings, is permanently open to the elements on at least the front or long side, and which does not exceed 2,5 metres in width, is excluded;

subject to paragraph (d), any stairs, stairwells and atriums that are covered by a roof are included;

in the case of multi-level buildings, any stairwells, lift wells, light wells or other wells, and any atrium, are only counted once; and provided further that:

(i) floor space is measured from the outer face of the exterior walls or similar supports of the multi-level building; and

(ii) the total floor space is the sum of the floor space of all the levels of the multi-level building, including that of any basement.

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

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

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

“gross density” means a measure of the number of dwelling units in a specified area, and is calculated as follows:

$$\begin{array}{lcl} \text{Gross dwelling density} & = & \frac{\text{Total number of dwelling units in a specified area}}{\text{Extent of specified area in hectares;}} \\ \text{(units per hectare)} & & \end{array}$$

“group housing site” means one or more land units on which a group housing scheme or retirement resort may be erected;

“habitable room” means a room used or designed, erected, adapted or intended to be used by persons for sleeping in, living in, the preparation or consumption of food or drink, the transaction of business, the rendering of professional services, the manufacture, processing or sale of goods, the performance of work, the gathering together of persons or for recreational purposes;

“hazardous substance” has the same meaning as *“grouped hazardous substance”* as defined in section 1 of the Hazardous Substances Act, 1973 (Act 15 of 1973);

“height” means the vertical dimension of a structure from the natural ground level to the highest point of such structure, measured in metres, provided that:

the height of a structure does not include chimneys, flues, masts, satellite dishes or antennae; elevator motor rooms, ventilation shafts, water tanks, air conditioning plant and equipment on top of a structure are included when determining the height of a structure; and the general provisions regarding these aspects in this By-law also apply;

“kitchen” means a room or part of a room equipped for preparing and cooking meals and excludes a braai room, food and drink preparation area or bar facilities in an entertainment area;

“lagoon boundary” means the lagoon, river or sea boundary determined as a straight-line boundary by the Surveyor General for that boundary adjacent to the high-water mark as during normal spring tide;

“Land Use Planning Act” means the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014);

“landscaping” means the placement of plants, contoured features, water features, paving, street furniture and other soft and hard elements for the purposes of enhancing the aesthetic appeal, environmental management, amenity and value of a property;

“loading bay” means an area which is clearly demarcated for the loading and off-loading of goods from commercial vehicles, and which has vehicular access to a public street to the satisfaction of the Municipality;

“lodger” means a person who utilises lodging services;

“lodging” means the provision of bedroom accommodation or, in the case of a backpackers’ lodge, bed accommodation that is made available on payment of a charge or fee, and includes the services ordinarily related to such accommodation;

“maximum floor space” means the greatest total floor space that is allowed for a building or buildings on a land unit, and is calculated by multiplying the floor factor by the area of the land unit or that portion of the land unit that is situated within a particular zone; provided that, where the land unit is situated within two or more zones to which different floor factors apply, the maximum floor space for the whole land unit is the total of the maximum floor space for each zoned portion of the land unit;

“mineral” means a substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth or under water and which was formed by or subjected to a geological process, and includes sand, stone, rock, gravel, clay, soil and any material occurring in residue stockpiles or in residue deposits, but excludes:

water, other than water taken from land or sea for the extraction of any mineral from such water;
petroleum; and peat;

“motor vehicle” means a wheeled vehicle designed or used for propulsion by means of an internal combustion or electrical engine, and includes a motorcycle, trailer or caravan, but excludes a vehicle moving exclusively on rails;

“Municipality” means the municipality of Knysna (WC048) established by Establishment Notice in Provincial Gazette P.N. 204/2000 of 22 September 2000 issued in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and where the context so requires, includes:

- the Council; another political structure or a political office bearer of the Municipality, authorised or delegated to perform a function or exercise a power in terms of this By-law;
- the Municipal Planning Tribunal, authorised or delegated to perform a function or exercise a power in terms of this By-law;
- the Municipal Manager; and
- any employee of the Municipality acting in terms of delegated or sub-delegated authority of the Municipality;

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

“natural ground level” means:

- the level of the land in its unmodified state; or
- when altered with the municipality's approval for the purpose of development, the municipality may approve such altered ground level as the natural ground level, subject to Section 39;

“non-conforming use” means an existing land use that was lawful in terms of previous zoning regulations but that does not comply with this scheme;

“occupant” means any person who occupies a land unit;

“occupational health and safety law” means the Occupational Health and Safety Act, 1993 (Act 85 of 1993), or municipal by-laws governing occupational health and safety, whichever is applicable;

“outbuilding” means a structure, whether attached or separate from the main building that is normally ancillary and subservient to the main building on a land unit, and includes a building designed to be used for the garaging of motor vehicles, and any other normal activities in so far as these are usually and reasonably required in the connection with the main building, but does not include a second dwelling;

“outdoor advertising” means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner and that takes place out of doors;

“overlay zone” means a category of zoning that applies to land or land unit in addition to the base zoning and that:

stipulates development parameters or use rights that may be more or less restrictive; and may include provisions and development parameters relating to:

- primary or consent uses;
- subdivision and subdivisional areas;

- development incentives;
- density limitations;
- urban form or urban renewal;
- heritage and environmental protection;
- management of the urban edge;
- scenic drives;
- coastline setbacks;
- any other purpose as set out in this zoning scheme;

“package of plans” means the hierarchy of plans specified in terms of this By-law;

“parapet” means a low projection, wall or moulding that finishes the uppermost edge of a building with a flat or low-pitched roof;

“parking bay” means an area clearly outlined and demarcated for the parking of one motor and may be provided in the form of a garage or carport that is accessible for easy and safe vehicle movement;

“pergola” means any unroofed horizontal or approximately horizontal grille or framework and associated vertical support structure;

“Planning By-law” means the Knysna Municipality By-law on Municipal Land Use Planning, as adopted by the Municipality and revisions thereto;

“planning law” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), Land Use Planning Act (Act 3 of 2014), Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the Planning By-law or succeeding legislation governing land use planning in the Western Cape, whichever is applicable;

“plaza” means an urban open space or square, primarily designed for outdoor use by pedestrians;

“policy plan” means a policy adopted by the Municipality, structure plan, spatial development framework or other policy plan approved in terms of planning law;

“porch” means a roof (not being the floor of a balcony) projecting from the outside of a building above a doorway, and forming a covered entrance to the building, and includes any paved area underneath the roof, and any low walls or railings enclosing that paved area, and any pillars supporting the roof;

“porte cochères” means a covered entrance large enough for vehicles to pass through, typically opening into a courtyard or a porch where vehicles stop for passengers to get out of the vehicle;

“previous zoning scheme” means a zoning scheme or town planning scheme referred to in section 33(1) or (2) of the Land Use Planning Act (Act 3 of 2014);

“primary use” in relation to property means any land use specified in this By-law as a primary use, being a use that is permitted within a zoning without the need to obtain the Municipality's approval;

“property” means land together with any improvements or buildings on the land;

“provincial road” means a road that is under the jurisdiction of the provincial roads authority;

“pub” means an establishment for the sale of predominantly alcoholic beverages, and sometimes also food, to be consumed on the premises and is also known as a tavern or bar; but excludes a night club;

“public land” means land of which the ownership is vested in an organ of state;

“public nuisance” means any act, omission or condition that is offensive in the opinion of the Municipality, injurious or dangerous to health, materially interferes with the ordinary comfort, convenience, peace or quiet of the public, or that adversely affects the safety of the public, having regard to the reasonableness of the activities in question in the area concerned, and the impacts that result from these activities;

“refuse room” means a defined screened refuse receptacle from where refuse is collected, usually on a weekly basis;

“registered land surveyor” means a professional land surveyor, registered in terms of the Geomatics Profession Act, 2013 (Act 19 of 2013);

“retaining structure” means a wall or structure constructed to hold back earth or loose rock;

“road” includes a public street or a private road;

“road reserve” means the designated area of land that contains a public street or private road (including the road and associated verge) and that may be defined by cadastral boundaries;

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

“scenic drive” means a public street designated as a scenic drive by the Municipality in recognition of the high visual amenity alongside that public street, including background vistas of a mountain, open country, a coastline or a town;

“service yard” means a defined screened area providing utility services including washing line facilities for, amongst others, general residential developments;

“shipping or transport container” means a large, weatherproof container used for the transport of goods by sea, rail or road and that is usually stored in the open when not in use;

“sign” means any structure, object, or other device by means of which an advertisement or notice may be physically displayed;

“site development plan” means a dimensioned plan drawn to scale that indicates details of the proposed land development, including but not limited to the site layout, positioning of buildings and structures, property access, building designs and landscaping;

“spatial development framework” refers to a provincial spatial development framework, or a municipal spatial development framework or local spatial development framework;

“stoep” means an uncovered paved area or projecting floor outside and immediately adjoining a building, at or below the level of the ground floor of the building, and includes any low walls or railings enclosing the paved areas or floors;

“storey” means that portion of a building between the surface of any floor and the surface of the next floor above; or, if there is no floor above the ceiling, then up to the ceiling; provided that, unless the contrary appears clearly from the provisions of this By-law:

- a basement does not constitute a storey;
- a roof, or dome forming part of a roof, does not constitute a separate storey unless the space within the roof or dome is designed for, or used for, human occupation or other living or entertainment purposes, in which case it is deemed to be a storey;

- the utilisation of an open roof area does not constitute a separate storey; however, should any means of coverage or fixtures for outdoor living and entertainment purposes be added to the roof of a building, the area is regarded as an additional storey;
- any storey greater than 4 metres, measured from the finished floor level to the finished floor level of the storey above, or to the ceiling in the case of a top storey, but up to 6 metres in height is, for the purpose of the height measurement, regarded as two storeys, and every additional 4 metres in height or portion thereof, is regarded as an additional storey; and
- in counting the number of storeys of a building, the ground floor is the first storey and the next floor above is the second storey;

“storm water” means water resulting from natural processes, the precipitation or accumulation of the water, and includes groundwater and spring water ordinarily conveyed by the storm water system, as well as sea water within estuaries, but excludes water in a drinking-water or waste-water reticulation system;

“storm water system” means constructed and natural facilities, including pipes, culverts and water courses, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of storm water;

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

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

“terrace” means an area to which occupants of a building have access, created on a flat roof over a portion of the building, resulting from the setting back of part of the building above that portion;

“total floor space” of a building means the sum of the floor space of all the levels of a particular building, including basements;

“used” in addition to its ordinary meaning, includes *“designated or intended to be used”*;

“verandah” means a covered area (not being an area that is part of a yard or parking area) or projecting floor outside and immediately adjoining a building at or below the level of the ground floor of the building, and includes both the covered area or floor and the roof or other feature covering it, as well as any low walls or railings enclosing the covered area or floor;

“youth hostel” means a place providing affordable accommodation, aimed mainly at young tourists;

“zoning” includes base zoning and overlay zoning;

“zoning scheme” means a land use scheme as defined in section 1 of the Spatial Planning and Land Use Management Act (Act 16 of 2015) and includes the components referred to in section 4 of this By-Law;

Chapter 2

Zoning Scheme, Use Zones And Uses

Application Of Zoning Scheme

2. The zoning scheme applies to the entire municipal area.

Purpose Of Zoning Scheme

3. The purpose of the zoning scheme is to:
- (a) give effect to the municipal spatial development framework;
 - (b) make provision for orderly development and the welfare of the community; and
 - (c) determine use rights and development parameters, with due consideration of the principles referred to in the Land Use Planning Act (Act 3 of 2014).

Components Of Zoning Scheme

4. The zoning scheme consists of the following components:
- (a) this By-law;
 - (b) the zoning scheme map; and
 - (c) the register.

Use Zones

- 5.
- (1) The municipal area is divided into the use zones referred to in column 1 of the table set out in Schedule 1, and all properties within the area of jurisdiction of the Municipality shall be allocated a use zone on the approved zoning map.
 - (2) A land unit may be zoned:
 - (a) with a single base zone that applies to the entire land unit; or
 - (b) with a split-zoning, where one base zone applies to a portion of the land unit and one or more other base zones apply to other portions of the land unit; and
 - (c) with one or more overlay zones over and above the base zone(s).
 - (3) The objective statements set out in column 1 of the use zones table contained in Schedule 1 are explanatory guidelines only and are not part of the bylaw regulations.
 - (4) The description of the primary and consent uses applicable to each use zone is set out in Schedule 2.
 - (5) The location, boundaries and extent of each use zone is depicted on the zoning scheme map. In the event of a land unit having been allocated a split zoning, the approximate position of the zonings will be indicated on the zoning map;
 - (6) The primary and consent uses applicable to each use zone are subject to the development parameters specified for the land use applicable to each use zone as set out in Schedule 2.

Zoning Scheme Map

- 6.
- (1) The zoning scheme map depicts:
 - (a) the zoning of land in accordance with the use zone in which the land is located; and
 - (b) overlay zones, if applicable to the land.
 - (2) The official version of the zoning scheme map must be kept on file at the Municipality and is available for inspection during normal office hours.

- (3) Upon the commencement of this By-law, updates to the official version of the zoning scheme map as approved together with this By-law must be certified by the Municipal Manager periodically as determined by the Municipality.
- (4) The official version of the zoning scheme map depicts the status of the current zoning classification of land in the Municipality and may only be amended as provided for in this By-law and the Planning By-law.
- (5) The official version of the zoning scheme map is incorporated in and made part of this By-law and publication of this By-law in the Provincial Gazette constitutes notice of the approval of the zoning scheme map.
- (6) The Municipality must update the zoning scheme map within a reasonable time after use rights have been granted or have lapsed.
- (7) The Municipality may keep the zoning scheme map in an electronic format.
- (8) The Municipality may provide an extract of the zoning scheme map to members of the public on payment of a fee determined by the Municipality in terms of the Municipality's tariff policy.

Transition To New Use Zones

7.

- (1) Upon the date of commencement of this By-law, land that is zoned in terms of a previous zoning scheme is translated or reclassified to one of the use zones referred to in section 5.
- (2) The Transition Table in Schedule 4 summarises the translation or reclassification of the use zones used in the previous zoning scheme to the use zones used in this By-law.
- (3) Notwithstanding the translation or reclassification of the use zones used in the previous zoning schemes to the use zones used in this By-law:
 - (a) any condition of approval or validity period that is applicable to a land unit in terms of the previous zoning scheme applicable immediately before the coming into effect of this By-law, remains applicable and in so far as it determines development parameters that are different from the development parameters applicable in terms of this By-law, it is not to be considered an offence but a lawful non-conforming use;
 - (b) the Municipality must record any condition of approval referred to in paragraph (a) in the register together with any applicable validity period applicable to the zoning in terms of the previous zoning scheme;
 - (c) a zoning approved in terms of the previous zoning scheme that has been exercised within its validity period cannot lapse, and is translated or reclassified as determined in this By-law;
 - (d) a zoning approved in terms of the previous zoning scheme that has not been exercised, lapses after the expiry of the validity period applicable to that zoning in terms of the previous zoning schemes;
 - (e) in the event of the lapsing of a zoning as contemplated in paragraph (d), the land unit reverts back to the use zone applicable to it in terms of the previous zoning scheme, before it was rezoned and is translated or reclassified as determined in Schedule 4.
 - (f) A building plan application that was formally submitted and accepted:
 - (i) immediately before the coming into effect of this By-law and which is still being considered; or
 - (ii) on or after the date of coming into effect of this By-law with the purpose to act on an approval in terms of a previous planning law, must be assessed in accordance with that approval provided that such building plan application is submitted within 30 months after commencement of this zoning scheme, or within the validity period of said application, whichever is the later date.
 - (g) Any application which was submitted prior to the date of coming into effect of this By-law, must be finalised in terms of the previous zoning scheme, and thereafter is translated or reclassified as determined in Schedule 4 and subject to subsection (3), or as determined by the municipality.

Rectification Of Errors On Zoning Scheme Map

8.

- (1) If the zoning of a land unit is incorrectly indicated on the zoning scheme map, the owner of an affected land unit may apply to the Municipality to correct the error.
- (2) An owner contemplated in subsection (1) must apply to the Municipality in the form determined by the Municipality and must:
 - (a) submit written proof of the lawful land use rights; and
 - (b) indicate the correct zoning that should be allocated.
- (3) The onus of proving that the zoning is incorrectly indicated on the zoning scheme map is on the owner.
- (4) The owner is exempted from paying application fees.
- (5) In the event that the Municipality identifies an error on the zoning map; the Municipality must:
 - (a) inform the owner of the affected land unit of the error; and
 - (b) request the owner within 30 days from the date on which he or she received the notice, to notify the Municipality in writing if he or she disputes the intended rectification and to:
 - (i) submit written proof of the lawful land use rights; and
 - (ii) indicate the correct zoning that should be allocated.
- (6) In the event that any person other than the owner of the affected land unit identifies an error on the zoning map, the Municipality must:
 - (a) inform the owner of the affected land unit of the error;
 - (b) investigate the matter and follow a public participation process if required;
 - (c) amend the zoning register and map accordingly.
- (7) If the zoning of a land unit is incorrectly indicated on the zoning scheme map, the Municipality must amend the zoning scheme map to reflect the correct zoning.
- (8) If the correct zoning of a land unit cannot be ascertained from the information submitted to the Municipality or the records of the Municipality, the zoning must be determined in terms of the Planning By-law and the zoning as determined must be recorded on the zoning scheme map.

Zoning Scheme Register

9. The Municipality:

- (a) must record all departures, consent uses, or other permissions granted and non-conforming uses in the register;
- (b) may keep the register from the date of commencement of the zoning scheme in an electronic format; and
- (c) must make the register available to members of the public for viewing.

Primary Uses

- 10.** Primary uses of land permitted in each use zone, without the Municipality's consent, are listed in the corresponding part of column 2 of the table set out in Schedule 1.

Consent Uses

- 11.** Consent uses of land permitted in each use zone, with the Municipality's prior consent in terms of the Planning By-law, is listed in the corresponding part of column 3 of the table set out in Schedule 1.

Temporary Departures For Specific Occasions

12.

- (1) The Municipality must record the relevant information relating to a temporary departure for occasional uses applicable to a land unit in the register.
- (2) Approval of a use right as a temporary departure for an occasional use in terms of the Planning By-law must at least be subject to the development parameters applicable to the use right as stipulated in this By-law.

Non-Conforming Uses

13.

- (1) A non-conforming use does not constitute an offence in terms of this By-law;
- (2) A non-conforming use may continue as long as it remains otherwise lawful;
- (3) No additions or extensions to a non-conforming use is permitted, unless such additions or extensions are lawfully provided for in terms of an existing approval and conditions thereto.

Deemed Zoning Of Closed Public Places

14. The zoning of land that was previously a public street or public open space, vested in or owned by the Municipality and that is closed, is determined as follows:
 - (a) if the land is transferred to an abutting land owner, that portion of the land falls in the same zone as that of the abutting land belonging to the abutting owner; or
 - (b) the Municipality must determine which zoning applies to the land if:
 - (i) the land is transferred to an abutting land owner and that owner owns abutting properties falling into more than one zone; or
 - (ii) in any other case not provided for in this section.

Chapter 3

Overlay Zones

Purpose Of Overlay Zones

15.

- (1) The Municipality may adopt, review or amend overlay zones for specific areas in the Municipality in accordance with section 16 below to:
 - (a) give expression, in a planning context, to the local needs and values of the communities concerned; and
 - (b) promote particular types of development, urban form, landscape character, environmental features or heritage values.
 - (c) stipulate development parameters for special developments that was previously approved and that does not comply with the provisions of any land use category in this By-law.
- (2) The Municipality must determine development parameters for each area of an overlay zone.

Procedures For Establishing, Reviewing Or Amending Overlay Zones

16. An overlay zone is adopted, reviewed or amended by the Municipality as an amendment to this By-law in accordance with sections 12 and 13 of the Municipal Systems Act and section 25 of the Land Use Planning Act.

Chapter 4
Distances, Levels and Boundaries
Measuring Distances and Levels

17. The following provisions apply with regard to the method of measuring distances and levels:
- (a) when reference is made or implied to the distance between boundaries or between a building and a boundary, this distance must be measured in the following manner:
 - (i) the boundary or boundaries and all points of the building must be projected onto a horizontal plane, and all measurements must be made in the plane; and
 - (ii) the distance between a point on a building and a boundary must be measured at right angles to the erf boundary;
 - (b) when reference is made to a portion of a boundary opposite a building, that portion must be defined by drawing lines in a manner described in paragraph (a) from points on the building, at right angles to the boundary;
 - (c) when reference is made to natural ground level or of a roof, parapet or other things, the level must be calculated in accordance with recognised geometric principles; and
 - (d) when the levels involved are so irregular that calculation in accordance with the principles in paragraphs (a) to (c) is impractical or leads to a result that is not in accordance with the intent of the zoning scheme, a land surveyor's report determining an acceptable ground level must be confirmed by the Municipality.

Determining Boundaries of Use Zones

18. If uncertainty exists as to the boundaries of use zones, the following parameters apply in the order listed:
- (a) boundaries shown as following or approximately following any public street or road must be construed as following the street cadastral boundary;
 - (b) boundaries shown as following or approximately following any land unit boundary must be construed as following that boundary;
 - (c) boundaries shown as following or approximately following natural features must be construed as following those features; and
 - (d) in the event of further uncertainty as to the boundaries of a use zone, the Municipality must make a determination.

Chapter 5
Enforcement
Offences, Penalties & Enforcement of By-Law

19. (1) Subject to section 13, no person may erect any building or structure or any part thereof:
- (a) except for a purpose permitted by this By-law and only in accordance with the applicable development parameters; or
 - (b) without first obtaining approval from the Municipality in terms of the Knysna Municipality Bylaw on Municipal Land Use Planning.
- (2) A use not reflected as a primary or consent use for a particular use zone is not permitted in the use zone concerned, unless approved in terms of the Planning By-Law.
- (3) A person who contravenes this section and sections 21 to 51 is guilty of an offence and liable upon conviction to a fine or imprisonment not exceeding a period of 20 years or to both a fine and such imprisonment.
- (4) A Municipality must enforce the zoning scheme through the measures for enforcement provided for in the Planning By-law.

Chapter 6
Development of Land
Development Parameters Applicable To Use Rights

20.

- (1) The land use descriptions and development parameters applicable to each primary and consent use right depicted in the table in Schedule 1 are described in Schedule 2.
- (2) Development parameters are applicable to use rights only and, notwithstanding the zoning of an erf, a specific use right has the development parameters as listed in Schedule 2, provided that the Municipality may grant a departure from the development parameters in terms of the Planning By-law.
- (3) Consent uses listed in Column 3 of Schedule 1 are subject to the following conditions:
 - (a) when a consent use is granted by the Municipality in a particular zone, the applicable land use must be supplementary to the primary use right allowed under the particular zone; and
 - (b) when land is intended to be utilised exclusively for a consent use in a particular zone and the consent use is a primary right in another zone, application must be made for rezoning to the zone where the applicable land use is a primary right.
- (4) No departure from the land use descriptions or definitions may be granted by the Municipality.
- (5) Notwithstanding subsections (1) and (2), the Municipality may determine any additional condition of approval in respect of a use right for a specific property as may be required in terms of any other applicable legislation.

Chapter 7
General Provisions
Encroachment of Building Lines

21.

- (1) Notwithstanding the building line requirements set out in this By-law, the following structures or portions of structures may be erected within the prescribed building lines, provided they do not extend beyond the boundaries of a land unit and do not constitute an unreasonable nuisance to the neighbouring property owners:
 - (a) boundary walls, screen walls, fences and gates;
 - (b) open and uncovered stoeps and decks that are less than 500 millimetres in height above the natural level of the ground;
 - (c) entrance steps, landings and entrance porches, excluding porte cochères;
 - (d) a covered entrance or gatehouse that has a roofed area not exceeding 5 m² and a roof height not exceeding 3 metres from the floor to the highest point;
 - (e) eaves and awnings projecting no more than 1 metre from the wall of a building;
 - (f) cornices, chimney breasts, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 0,5 metres from the wall of a building;
 - (g) swimming pools not closer than 1 metre from any boundary or higher than 0,5 metres;
 - (h) a basement, provided that no part of such a basement projects above natural ground level;
 - (i) a refuse room required by the Municipality in terms of this By-law;
 - (j) water storage tanks not exceeding the height of the boundary wall.
- (2)
 - (a) Garages, carports and outbuildings are permitted within side and rear boundary building line provided that the structures do not:
 - (i) extend higher than 3,5 metres to the top of the roof;
 - (ii) contain more than a double garage façade;

- (iii) exceed a width of 6,5 metres; and
 - (iv) have doors or windows facing the side or rear boundary concerned.
 - (b) For land units of 650 m² and less, a garage or carport is permitted up to 1,5 metres from the street boundary provided the garage or carport:
 - (i) is not higher than 3,5 metres to the top of the roof;
 - (ii) does not contain more than a double garage façade; and
 - (iii) does not exceed a width of 6,5 metres.
 - (c) For land units exceeding 650 m², a garage or carport may not be closer than 4,5 metres from the street boundary, notwithstanding the street building line;
 - (d) Notwithstanding sub-items (b) and (c), a garage or carport may be erected within the street boundary building line if, in the opinion of the Municipality, compliance with the street boundary building line is not practical due to steep slopes of the ground between the road and the property concerned. The Municipality must determine the street boundary building line in such a case.
- (3) For the purposes of determining street boundaries and site access requirements, the boundary of a pedestrian way or service lane that cannot or will never be used by motor vehicles may be regarded as a common boundary.

Lagoon Boundary Building Lines

22. Building lines on land with a lagoon boundary will be 5 metres for all residential use zones and 10 metres for all other use zones.

Site Development Plans

23.

- (1) In addition to the use zones that specifically require a site development plan, the Municipality may require a site development plan in respect of the following development types:
 - (a) shopping centres or shopping complexes;
 - (b) business or office park developments;
 - (c) industrial park developments;
 - (d) developments in conservation areas;
 - (e) developments that will be sectionalised;
 - (f) incremental residential developments;
 - (g) major developments where there are concerns relating to urban form, heritage, traffic, the environment or planning.
- (2) The Municipality may require the following information to be depicted on a site development plan:
 - (a) existing bio-physical characteristics of the property;
 - (b) existing and proposed cadastral boundaries;
 - (c) the layout of the property, indicating the use of different portions of the property;
 - (d) the massing, position, use and extent of buildings;
 - (e) sketch plans and elevations of proposed structures, including information about their external appearance;
 - (f) cross-sections of the site and buildings on site;
 - (g) the alignment and general specification of vehicle access, roads, parking areas, loading areas, pedestrian flow and footpaths;
 - (h) measures of access control to parking areas and reservation of parking areas;
 - (i) the position and extent of private, public and communal space;
 - (j) typical details of fencing or walls around the perimeter of the land unit and within the property;
 - (k) electricity supply and external lighting proposals;

- (l) provisions for the supply of water, management of storm water, and disposal of sewage and refuse;
 - (m) external signage details;
 - (n) general landscaping proposals, including vegetation to be preserved, removed or to be planted, external paving, and measures for stabilising outdoor areas where applicable;
 - (o) the phasing of a development;
 - (p) the proposed development in relation to existing and finished ground levels, including excavation, cut and fill;
 - (q) statistical information about the extent of the proposed development, floor area allocations and parking supply;
 - (r) relationship of the proposed development to the quality, safety and amenity of the surrounding public environment;
 - (s) relationship of the proposed development to adjacent sites, especially with respect to access, overshadowing and scale;
 - (t) illustrations in a three-dimensional form depicting visual impacts of the proposed development on the site and in relation to surrounding buildings;
 - (u) any other details as may reasonably be required by the Municipality.
- (3) The Municipality may require that the area covered by a site development plan must extend beyond the site under consideration if, in its opinion, the proposed development will have a wider impact.
 - (4) The Municipality may determine the extent of the area covered by a site development plan.
 - (5) An applicant must submit a site development plan to the Municipality if it is required in terms of this zoning scheme before any development on the relevant land unit may commence.
 - (6) The Municipality may require amendments of detail to the site development plan to address reasonable concerns relating to access, parking, architectural form, urban form, landscaping, environmental management, engineering services or similar concerns.
 - (7) The following provisions apply with regard to site development plans:
 - (a) the property must be developed generally in accordance with an approved site development plan;
 - (b) if the Municipality considers it necessary, a transport or traffic impact statement or assessment may be required in conjunction with a site development plan, the extent of which must be determined by the Municipality, depending on the size of the development;
 - (c) if the Municipality considers it necessary, a storm water impact assessment or storm water management plan or both may be required in conjunction with a site development plan, the extent of which must be determined by the Municipality, depending on the size of the development;
 - (d) if the Municipality considers it necessary, a visual impact assessment, which may include a landscape character analysis, may be required in conjunction with a site development plan, the extent of which must be determined by the Municipality, depending on the size of the development; and
 - (e) an approved site development plan must be considered as setting additional development parameters applicable to the base zone, and any application for amendment must comply with the Municipality's requirements for the amendments.

Hazardous Substances

- 24. (1) Any use or ancillary activity that involves the storage or keeping of hazardous substances that may result in an installation being declared a major hazardous installation in terms of occupational health and safety law is not permitted, unless the owner has submitted a risk management and prevention plan and the Municipality has approved the plan.
- (2) The Municipality's approval in terms of subsection (1) above does not exempt the owner from applying for permission in terms of other applicable legislation.

Screening

25. The Municipality may require screening in accordance with the following provisions:

- (a) any part of a land unit that is used for the storage or loading of goods must be enclosed with a suitable wall or landscape screening or both; and
- (b) any external utility service or equipment that is required for a building must be appropriately screened from view from a public street, and the screening must be integrated with the building in respect of materials, colour, shape and size.

Earth Banks & Retaining Structures

26. Unless the prior approval of the Municipality has been obtained:

- (a) no earth bank or retaining structure used for holding back earth or loose rock, whether associated with a building or not, may be constructed to a height of more than 2 metres above natural ground level; and
- (b) no series of earth banks or retaining structures may be constructed to a cumulative height of more than 2,5 metres above natural ground level, unless an approximately level area of at least 2 metres wide is incorporated between successive embankments or retaining structures for every 2 metres of cumulative height.

Boundary Walls & Fences

27. Notwithstanding Council's By-Law on Fences and Fencing, the following development parameters on boundary walls and fences shall apply:

- (a) a fence or boundary wall on lateral or rear boundaries of premises may not exceed more than 2,1 metres in height from ground level;
- (b) a fence within 4,5 metres of a street boundary may not exceed more than 1,8 metres in height from ground level, provided that it will not interfere with sight lines of vehicles entering or leaving the property, or passing traffic;

Maintenance of Property

28. Property must be properly maintained by the owner or occupier and may not:

- (a) be left in a neglected or offensive state, as may be determined by the Municipality;
- (b) contain an unsightly accumulation of papers, cartons, garden refuse, rubble or other waste material, as may be determined by the Municipality;
- (c) contain an accumulation of motor wrecks or unroadworthy vehicles or used motor parts, unless these are permitted in terms of the primary or consent use applicable in terms of this zoning scheme; and
- (d) contain outdoor storage of building material, appliances or similar items unless these:
 - (i) are permitted in terms of the primary or consent use in terms of this zoning scheme;
 - (ii) are temporarily being stored for the purpose of construction in accordance with a valid building plan approval; or
 - (iii) are being stored in conjunction with the holding of a yard or garage sale with a duration of not more than two consecutive days.

Parking Of Commercial Vehicles In Residential Zones

29. A motor vehicle of an occupant of a dwelling unit and used for commercial activities conducted away from the dwelling unit may be parked on the property where the occupant resides, provided that:

- (a) there is adequate space on the property concerned;

- (b) no more than one commercial vehicle per dwelling unit may be parked on the property; and
- (c) the gross weight of any such commercial vehicle may not exceed 3 500 kg.

Mobile Homes & Caravans

30.

- (1) A recreation vehicle, including a mobile home, camp trailer or caravan, may not be used for permanent habitation without the approval of the Municipality, unless the zoning lawfully allows the permanent habitation.
- (2) The following additional development parameters apply with regard to mobile homes approved to be placed on a land unit zoned for residential purposes:
 - (a) the mobile home or caravan must be sited on a foundation slab and properly anchored;
 - (b) solid perimeter skirting, of material and colour complementary to the mobile home or caravan, must be provided from the bottom of the mobile home to the ground surface;
 - (c) the roof and exterior siding of the mobile home or caravan must be of a non-reflective material; and
 - (d) any structural additions must be of materials which, in the opinion of the Municipality, are compatible with the mobile home or caravan.

Rooftop Base Telecommunication Stations And Satellite Dish Antenna Systems

31.

- (1) A rooftop base telecommunication station may not extend more than 3 metres in height above the building that it is attached to without the prior approval of the Municipality.
- (2) No rooftop base telecommunication station or transmission tower granted consent use in terms of this By-law may be modified or have its radio-frequency emissions altered without prior written approval from the Municipality.
- (3) The following provisions apply with regard to decommissioned antennae or rooftop base telecommunication stations:
 - (a) the owner or operator must remove all decommissioned infrastructure;
 - (b) if the site has been disturbed, the owner or operator must rehabilitate the site to its original state or to a state acceptable to the Municipality; and
 - (c) if the owner or operator fails to comply with paragraphs (a) or (b), the Municipality may remove that infrastructure, and rehabilitate the site at the expense of the owner or operator.
- (4) Any satellite dish antenna with a diameter in excess of 1,5 metres must be placed in a position that minimises the visual impact on the surrounding area, to the satisfaction of the Municipality.
- (5) Satellite dish antennas of 1,5 metres in diameter and smaller, and used solely for the purposes of television reception or telecommunication, do not require the Municipality's approval provided that it does not exceed the maximum height restrictions of the use zone.

Geysers And Solar Panels Or Similar Infrastructure Affixed To Roofs Of Buildings

- 32.** Any external geysers and associated equipment or solar panels or similar infrastructure affixed to the roof of a building may not at any point be more than 1,5 metres above the roof surface, measured perpendicularly from that surface provided that the height restriction of that use zone is not exceeded by this addition.

Equipment On Top Of Buildings

33. No elevator motor rooms, satellite dishes, ventilation shafts, water tanks, air conditioning plants, or other equipment on top of a roof may exceed the maximum height of the use zone.

Parapet Walls

34. Parapet walls are restricted to 500 millimetres in height above the finished roof level immediately contiguous to the parapet.

CHIMNEYS

35. Chimneys may not extend higher than 1 metre above the highest point of the roof of a dwelling house or dwelling unit.

Linear Utility Services

36. Telecommunication, electrical transmission lines and pipelines or canals for the transportation of liquids and gasses may be permitted by the Municipality or an organ of state to traverse a land unit, as may be reasonably required by the Municipality or an organ of state in accordance with and subject to expropriation laws, other applicable laws and the registration of the necessary servitudes.

Outdoor Advertising And Signage

37. Outdoor signage and advertising may only be displayed in accordance with the Municipality's Outdoor Advertising and Signage By-Law.

Utilisation Of Outbuildings

38. No outbuilding may be utilised for any purpose other than the purpose submitted in the building plans and approved by the Municipality, and an outbuilding may not be utilised until the main buildings are completed or occupied, unless approved by the Municipality.

Determination Of Natural Ground Level

- 39.
- (1) The Municipality may request the submission of a registered land surveyor's certificate to determine the natural ground level before any construction activities may commence.
 - (2) Where the level of the land has been altered with the approval of the municipality:
 - (a) any grading for the purpose of development must connect evenly with the existing levels of abutting land units; and
 - (b) the municipality may approve the altered ground level to be the natural ground level.
 - (3) Where it is not possible to determine the natural ground level due to irregularities or disturbances of the land, the Municipality may:
 - (a) determine the natural ground level from measurements supplied on a building plan;
 - (b) deem a level to be the natural ground level based on measurements interpolated from a contour plan, local height benchmark or other information held by the Municipality; or
 - (c) require the owner or applicant to commission a registered surveyor at the cost of the owner or applicant to measure levels of the ground or interpolate levels, in order to provide the Municipality with sufficient information to determine the natural ground level for the purpose of administering this By-law.
 - (4) Where a building site is elevated, filled or extended with excavated or any other material, the natural ground level is not altered unless approved by the Municipality in which case the

Municipality must define a ground level for the purposes of administering the height restriction of the building.

Animals Kept For Commercial Purposes

40. Animals kept for commercial purposes may only be kept on a land unit zoned Agricultural Zone I and Agricultural Zone II.

Hobbies In Single And General Residential Zones

41. When exercising a hobby in all single and general residential zones, the dominant use of the dwelling house or dwelling unit must be for the living accommodation of a single family, provided that:
- (a) no portion of the dwelling, may be used for the purposes of a noxious trade, risk activity or sale of alcoholic beverages;
 - (b) in addition to paragraph (a), the following uses are not classified as hobbies:
 - (i) activities conforming to the definition of a shop;
 - (ii) animal care centres;
 - (iii) butcheries;
 - (iv) coal and wood merchants;
 - (v) escort agencies or adult entertainment;
 - (vi) fishmongers;
 - (vii) hospitals or clinics;
 - (viii) house shops;
 - (ix) house taverns;
 - (x) manufacturing of concrete products;
 - (xi) motor vehicle repairs for commercial purposes;
 - (xii) panel beating or spray painting;
 - (xiii) parcel delivery services;
 - (xiv) places of entertainment;
 - (xv) places of instruction;
 - (xvi) shooting ranges or shooting instructions;
 - (xvii) taxi businesses;
 - (xviii) tow-in services;
 - (xix) transport contractors;
 - (xx) undertakers;
 - (xxi) vehicle rental agencies; and
 - (xxii) any other industry that in the opinion of the Municipality does not fit in the particular environment or is of a nature that it must be located on a suitably zoned premises;
 - (c) no advertising may be displayed;
 - (d) any public exhibition of hobby items or activities on the residential property must:
 - (i) be preceded by a written consent from the Municipality; and
 - (ii) during the public exhibition, temporary parking must be provided on the land unit in accordance with the parking requirements of this By-law and appropriate traffic regulating measures must be put in place;
 - (e) an activity associated with a hobby may not occupy more than 25% of the total floor area of the dwelling on the property or 60m² whichever is more restrictive, including storage;
 - (f) the Municipality may restrict the operating hours relating to the hobby, if the activity proves to be a nuisance to residents in the area; and
 - (g) any new structure, or alteration to the existing dwelling or outbuilding, must conform to the residential character of the area concerned.

Chapter 8
Parking And Loading
On-Site Parking Requirements

42. (1) If parking requirements are not stipulated for a particular use, or in terms of a specific condition imposed by the Municipality, parking must be provided at a minimum ratio in accordance with the table entitled "*Minimum on-site parking requirements*".
- (2) The Municipality must determine on-site parking requirements for land uses not stipulated in the table "*Minimum parking requirements*".
- (3) Off-street On-site parking space must be provided:
- (a) on the property for which parking is required;
 - (b) subject to the Municipality's approval, in public parking facilities available in the vicinity; or
 - (c) in accordance with the table below;

MINIMUM ON-SITE PARKING REQUIREMENTS

Land Use		Minimum Requirements
Dwelling house		2 bays per dwelling Erven <350m ² : 1 bay per dwelling Erven < 100m ² : Nil per dwelling
Second dwelling unit		1 additional bay
Group housing/Town Housing		2 bays per dwelling unit plus 0.25 bays/unit for visitors
Retirement resort	Dwelling unit	2 bays per unit plus 0.25 bays/unit for visitors
	Home for the aged	0,5 bays per bedroom
	Frail Care	0,5 bays per bed
Flats		1.75 bays per unit plus 0.25 bays/unit for visitors
Boarding house/ Guest House/ Guest Lodge/ Bed and Breakfast Establishment		1 bay per bedroom plus 1 bay per owner's home / manager's flat
Backpackers Lodge		1 bay /3 beds plus 2 bays / owner's home or manager's flat
Business premises/ Shops / Offices / Restaurant		4 bays per 100 m ² GLA
Hotel (excluding other facilities, specific ratios apply to each use)		1.25 bays/bedroom
Service station/ Motor repair garage/ Motor vehicle sales or Vehicle hire premises		4 per repair bay with minimum of 8 bays plus 4 bays per 100 m ² GLA
Open air motor vehicle sales		4 bays per 100 m ² GLA
Home occupation		2 bays additional bays per 60 m ² GLA

Land Use	Minimum Requirements
House shop / tavern	1 additional bay per 25 m ² GLA
Funeral parlour	1 bay per 4 seats and 4 bays per 100 m ² office GLA
Gymnasium, health club (not part of a business premise)	10 bays per 100m ² GLA
Place of entertainment & gambling place	1 bay per 8 seats
Industry / Light industry / Warehouse / Scrap yard/ Builder's yard / Noxious trade / Risk activity	2 bays per 100 m ² GLA
Industrial hive / Service trade	4 bays per 100 m ² GLA
Hospital (general and private)	1 bay per bed and 4 bays per consulting room
Frail care facility	1 bay per bed
Clinic/Medical consulting rooms	4 bays per consulting room
Rehabilitation Centres	0,5 bays per bed
Orphanage	0,5 bays per bedroom
Home care facility	0,5 bays per bed
Schools	1.5 bay per classroom/office plus stop & drop facility
Crèche	1 bay per 10 children plus 1 stop & drop facility
Place of instruction (other than schools/day care centre/ crèche)	1.5 bay per classroom/office plus 1 per 6 students
Place of assembly/Place of worship/	1 bay per 8 seats
Sport stadium	1 bay per 4 seats or persons
Library, Museum	2 bays per 100m ² GLA
Conference facility	8 bays per 10 seats

Alternative Parking Supply

43. (1) As an alternative to compliance with the on-site parking requirements in terms of this By-law, an owner may, with the approval of the Municipality:
- (a) acquire an area of land sufficient for the permanent parking requirements elsewhere, in a location approved by the Municipality; or
 - (b) acquire permanent rights to a parking facility or portion of a parking facility elsewhere, in a location approved by the Municipality, and must register a notarial

tie or servitude against that land or parking facility to link the properties concerned for the purpose of parking, and the owner must cause the parking concerned to be constructed and maintained in accordance with the Municipality's requirements and approval.

- (2) The cost of registration of the notarial tie or servitude referred to in paragraph (1)(b) must be borne by the owner.

Combined Parking Requirements

44. If two or more uses combine to share a common parking area, the Municipality may approve parking requirements that provide less than the quantum of the parking required for individual uses provided that:

- (a) the Municipality is satisfied that the utilisation of the same parking area by the different use types or activities in the zones will not result in a concurrent use of the parking area; and
(b) bays intended for combined uses may not subsequently be reallocated to other uses without the approval of the Municipality.

Site Access And Exits

45. (1) The Municipality may require compliance with standard municipal or provincial access spacing guidelines.
(2) No access may be closer than 10 metres from an intersection as defined by the prolongation of street boundaries, except for industrial-zoned properties, where the distance must be 15 metres.
(3) The Municipality may restrict or prohibit access if a pedestrian or traffic hazard is created or is likely to be created.
(4) Vehicle entrances and exit ways to and from a property must conform to the following requirements:
(a) motor vehicle carriageway crossings must be limited to one per site per public street or road abutting the site;
(b) notwithstanding paragraph (a), where the total length of any street boundary of a site exceeds 30 metres in length, one additional carriageway crossing may be permitted, provided that no two carriageway crossings are closer than 12 metres to each other;
(c) the minimum and maximum widths of motor vehicle carriageway crossings must be in accordance with the table, titled "Width of motor vehicle carriageway crossings"; and
(d) the minimum width of a panhandle access may not be less than 4 metres wide and 3 metres wide in single residential zones.

WIDTH OF MOTOR VEHICLE CARRIAGEWAY CROSSINGS

Type of carriageway crossing	Minimum width	Maximum width
Single entrance or exit way	2,7 metres	4,0 metres
Combined entrance and exit way	5,0 metres	8,0 metres

Parking Layout Requirements

46. (1) The following parking layout requirements apply unless otherwise stated in this zoning scheme:
(a) parking layout configurations, minimum dimensions and ramps to a parking area must be in accordance with this zoning scheme or an approved site development plan;

- (b) the layout of any parking area, except for parking in Single Residential Zone I, Single Residential Zone II and General Residential Zone I, must ensure that vehicles can readily leave the site without reversing across the sidewalk, unless otherwise approved by the Municipality;
 - (c) a tandem bay accommodating two motor vehicles is regarded as one bay for the purposes of this zoning scheme, except for single residential zones, where a tandem bay is regarded as two bays;
 - (d) visitor parking bays must be clearly demarcated, readily visible and accessible to visitors, and preferably grouped together;
 - (e) parking areas must be used for the parking of vehicles which are lawfully allowed on them, and any activity which causes an obstruction for vehicular traffic or pedestrian use of the sidewalk is prohibited;
 - (f) parking areas must be constructed and maintained in a state suitable for the parking and movement of vehicles;
 - (g) control of access to and reservation of parking bays or areas is not permitted unless written approval has been obtained from the Municipality, either through an approved site development plan or other written approval; and
 - (h) notwithstanding paragraphs (a) to (g), the Municipality may lay down more restrictive requirements related to parking, site access or motor vehicle carriageway crossing, if it considers this to be necessary from a pedestrian or traffic safety point of view.
- (2) The Municipality may require an applicant to submit a parking layout plan indicating:
- (a) position of parking bays and manoeuvring space;
 - (b) the means of entrance and exit from parking areas;
 - (c) landscaping proposals; and
 - (d) construction details.

Parking For Physically Disabled

47. (1) The Municipality may require parking suitable for use by persons with physical disabilities to be provided on any land unit in order to ensure easy and convenient access for such persons to services and facilities generally open to the public and to residential uses.
- (2) In any parking facility serving the public, parking for persons with physical disabilities must be provided in accordance with the table entitled "*Physically disabled accessible parking*".

PHYSICALLY DISABLED ACCESSIBLE PARKING

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

- (3) Parking for the physically disabled must comply with the following requirements:
- (a) parking bays must be a minimum of 3,7 metres in width and 5 metres in length;
 - (b) parking and access aisles must be level;

- (c) parking bays must be located as near as possible to accessible building or site entrances, and must be located to provide convenient access to kerb ramps;
- (d) each parking bay reserved for physically disabled persons must be marked on the parking surface with the international symbol for disabled accessibility;
- (e) additional signage indicating the parking bay as reserved for exclusive use by persons with physical disabilities may be required by the Municipality; and
- (f) if five or fewer parking bays are provided, at least one bay must be 4 metres wide and marked to provide a parking bay of 2,5 metres with an access aisle of 1,5 metres, but the bay need not be reserved exclusively for persons with physical disabilities.

- (4) Parking for persons with physical disabilities must count towards fulfilling on-site parking requirements.

Motorcycle And Bicycle Parking Spaces

48. (1) The Municipality may require that parking be provided for motorcycles and bicycles.
- (2) For every 4 motorcycle and 6 bicycle parking spaces provided, a credit of 1 parking bay may be given towards applicable parking requirements, provided that:
- (a) the total credit may not exceed 2,5% of the parking bays required;
 - (b) the minimum dimension for a motorcycle space is 2,2 metres in length and 1 metre in width; and
 - (c) the minimum dimension for a bicycle space is 2 metres in length and 0,6 metres in width.
- (3) Signage, bollards and racks or other devices for storing bicycles and enabling motorcyclists to make use of the motorcycle and bicycle parking spaces must be installed.

Loading Requirements

49. (1) Unless the Municipality grants approval to waive this requirement, loading bays must be provided in accordance with the table entitled "*Minimum on-site loading bay requirements*".
- (2) The Municipality may determine on-site loading requirements for uses not stipulated in the table.
- (3) The following minimum requirements apply to loading bays:
- (a) a loading bay must measure not less than 4,5 metres x 10 metres for perpendicular loading, and 2,5 metres x 12 metres for parallel loading;
 - (b) no carriageway crossing to be accessed by loading vehicles may be less than 3 metres in width, and no combined entrance and exit way may be less than 6 metres in width; and
 - (c) covered loading areas must have a minimum headroom of 3,7 metres.

MINIMUM ON-SITE LOADING BAY REQUIREMENTS

Land use	Floor area (m ²)	Number of loading bays
Business premises, shops and industry	0–1 000	0
	1 001–2 500	1
	2 501–5 000	2
	5 001–10 000	3
	Every additional 10 000 or part thereof	1 additional bay

Chapter 9

Refuse Rooms And Service Yards

Refuse Rooms

50. The Municipality may, for the purposes of collecting refuse, require the owner to install a refuse receptacle on a property and require the refuse receptacle to:
- (a) be of sufficient size to accommodate the refuse generated from the property for one week;
 - (b) be located adjacent to a public street, or in a position which will provide acceptable access to a refuse collection vehicle;
 - (c) be designed in a manner that is architecturally compatible with the other structures on the property and will screen refuse bins from public view; and
 - (d) to comply with any other conditions or standard requirements that the Municipality may impose relating to access, health, pollution control, recycling, safety or aesthetics.

Service Yards

51. (1) The Municipality may require the owner to install a screened area providing utility services, including washing lines, for residential developments.
- (2) The utility services must:
- (a) be designed in a manner that is architecturally compatible with the other structures of the property and in the case of refuse bins must be screened from public view; and
 - (b) comply with any other conditions or standard requirements that the Municipality may impose relating to access, health, pollution control, safety or aesthetics.

Chapter 10

Revocation of Previous By-laws

52. Repeal of By-laws

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished Municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

**SCHEDULE 1
USE ZONES TABLE**

1	2	3
Zoning	Primary use	Consent use
AGRICULTURAL ZONES		
Agricultural Zone I (AI)		
<i>The objective of this zone is to promote and protect agriculture on farms as an important economic, environmental and cultural resource. Limited provision is made for non-agricultural uses to provide rural communities in more remote areas with the opportunity to increase the economic potential of their properties, provided these uses do not present a significant negative impact on the primary agricultural resource.</i>	Agriculture	Abattoir Additional dwelling units Agricultural industry (>2000m ² floor space) Airfield Animal care centre Aqua-culture Camping site Farm graveyard Farm shop Freestanding base telecommunication station Function venue Guest house Guest Lodge Helicopter landing pad Off road trail Plant nursery Quarry Renewable energy structure Service trades Shooting range Tourist facilities Utility service
Agricultural Zone II (AII)		
<i>The objective of this zone is to accommodate larger residential properties, which may be used for limited agriculture, but primarily serve as places of residence for people who seek a rural lifestyle. Such properties are often found close to towns and villages, and new smallholding areas should only be permitted within an acknowledged, demarcated urban area.</i>	Smallholding	Additional Dwellings Agriculture industry (excluding a sawmill) Animal care centre Aqua-culture Farmer's market Farm Shop Freestanding base telecommunication station Guest house Guest lodge Intensive animal farming Intensive horticulture Plant nursery Renewable energy structure Riding school Rooftop base telecommunication station Tourist facilities Utility service

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

29 June 2020

Province of the Western Cape: Provincial Gazette Extraordinary 8258

31

1	2	3
Zoning	Primary use	Consent use
Agricultural Zone III (AIII)		
<i>The purpose of this zone is to support the government's rural land development programme and provide for the establishment of worker accommodation outside conventional towns. This will help to address the accommodation needs of workers and their dependants in rural areas such as farms, forestry and conservation areas. Provision is made for complementary uses that will improve the amenity of the settlement or supplement the economic base for residents.</i>	Agri-village	Freestanding base telecommunication station Rooftop base telecommunication station
SINGLE RESIDENTIAL ZONES		
Single Residential Zone I (SRI)		
<i>The objective of this zone is to provide for residential development where the predominant type of accommodation is a dwelling house for a single family, where each dwelling has its own land unit, and adequate outdoor space. Limited employment and additional accommodation opportunities are possible as primary or consent uses, provided that the dominant use of the property remains residential, and impacts of employment and additional accommodation uses do not adversely affect the quality and character of the surrounding residential environment.</i>	Dwelling house	Crèche Guest house (>2 rooms) Home care facility House shop Second dwelling unit >60m ²
Single Residential Zone II (SRII)		
<i>The objective of this zone is to provide for upgrading and incremental housing from informal settlements to formal settlements and also to allow formal as well as informal housing types on a single erf. In recognition of the realities of poor and marginalised communities, development management provisions are not restrictive and local employment generation is encouraged within this zone.</i>	Dwelling house Shelters	Crèche Guest house (>2rooms) Home care facility House shop Second dwelling unit (>60m)

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

32

Province of the Western Cape: Provincial Gazette Extraordinary 8258

29 June 2020

1	2	3
Zoning	Primary use	Consent use
GENERAL RESIDENTIAL ZONES		
General Residential Zone I (GRI)		
<i>The objective of this zone is to encourage residential development of a medium density, with a coordinated design, and to accommodate group housing where special attention is given to aesthetics, architectural form and the inter-relationship between components of the group housing scheme. Group housing may be located in single residential areas in places where an increased density is desirable, including along main roads, near local shopping centres and other activity nodes, and also preferably near to public open spaces.</i>	Group housing	Flats Home occupation Retirement resort Sports and recreation centre Wellness centre
General Residential Zone II (GRII)		
<i>The objective of this zone is to encourage residential development of a greater density than for General Residential Zone I, while retaining the emphasis on design coordination and a modest scale in terms of height. This zone has preferred location requirements, including proximity to transport and amenities, and should not be randomly located without due consideration of the availability of open space and community facilities. Town housing may be located in and around central business areas, near high density nodes and along activity corridors.</i>	Town housing	Flats Home occupation Retirement resort
General Residential Zone III (GRIII)		
<i>The objective of this zone is to promote higher density residential development. The dominant use within this zone must be residential, but limited mixed-use development is possible with the Municipality's consent. This zone has preferred location requirements, including proximity to transport and amenities, and should not be randomly located without due consideration of the availability of open space and community facilities.</i>	Flats	Backpackers' lodge Boarding house Convenience shop Dwelling house Home occupation Office Renewable energy structure Retirement resort Rooftop base telecommunication station

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

29 June 2020

Province of the Western Cape: Provincial Gazette Extraordinary 8258

33

1	2	3
Zoning	Primary use	Consent use
General Residential Zone IV (GRIV)		
<i>The objective of this zone is to provide a temporary residence for transient guests in an appropriately scaled establishment that may include a small conference/ training facility that also caters for business meetings and where lodging and meals are provided.</i>	Guest lodge	Backpackers' lodge Restaurant
General Residential Zone V (GRV)		
<i>The objective of this zone is to provide a temporary residence for transient guests, where lodging and meals are provided, and may include a restaurant and conference facilities. Outside towns it should only be considered in identified tourism areas or within resorts.</i>	Hotel	Backpackers' lodge Gambling place Renewable energy structure Rooftop base telecommunication station Shop
BUSINESS ZONES		
Business Zone I (BI)		
<i>The objective of this zone is to provide for intensive business and mixed-use development with relatively few restrictions in order to promote urban vitality and economic growth. This zone refers mainly to business activity in the central business district.</i>	Business premises	Adult entertainment Adult services Adult shop Flats on ground floor Freestanding base telecommunication station Gambling place Helicopter landing pad Motor repair garage Open air motor vehicle display Place of entertainment Place of worship Renewable energy structure Transport use Warehouse

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

34

Province of the Western Cape: Provincial Gazette Extraordinary 8258

29 June 2020

1	2	3
Zoning	Primary use	Consent use
Business Zone II (BII)		
<i>The objective of this zone is to provide for the retail sale of goods and services to the public. This zone mainly refers to business activities outside the central business node.</i>	Shop Office	Adult shop Conference facility Dwelling house Flats on ground floor Freestanding base telecommunication station Institution Liquor store Open air motor vehicle display Place of assembly Place of entertainment Place of instruction Place of worship Renewable energy structure Restaurant Rooftop base telecommunication station Service station
Business Zone III (BIII)		
<i>The objective of this zone is to provide opportunities in urban areas for service stations, motor repair garages and associated facilities that have specific vehicle access requirements and potential negative impacts on adjoining areas.</i>	Service station	Motor repair garage Open air vehicle display Shop Truck stop Truck stop accommodation
INDUSTRIAL ZONES		
Industrial Zone 1 (I1)		
<i>The objective of this zone is to accommodate industry uses and service trades that may be carried out without nuisance to other properties or the general public. These uses may be located next to business uses and in close proximity to residential areas, and do not present a potential negative impact on the character or amenity of such areas.</i>	Light industry	Adult Entertainment Adult services Adult shop Aqua-culture Caretaker's quarters Convenience shop Liquor store Place of entertainment Place of worship Renewable energy structure Rooftop base telecommunication station Truck stop

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

29 June 2020

Province of the Western Cape: Provincial Gazette Extraordinary 8258

35

1	2	3
Zoning	Primary use	Consent use
Industrial Zone II (II)		
<i>The objective of this zone is to accommodate all forms of industry, except noxious trade and risk activity, in order to promote the manufacturing sector of the economy. Some allowance is made for non-industrial activities, but these should not compromise the general use of the area zoned for industry. It is accepted that the intensive nature of the industrial activity or the scale of the operation could generate some negative impact on adjacent properties.</i>	Industry	Abattoir Adult entertainment Adult services Aqua-culture Container site Convenience shop Crematorium Helicopter landing pad Liquor store Place of entertainment Place of Worship Renewable energy structure Restaurant Scrap yard Truck stop
Industrial Zone III (III)		
<i>The objective of this zone is to provide for industries that are noxious in respect of smell, product, waste or other objectionable consequence of their operation, or carry a high risk in the event of fire or accident. While other uses are permitted with consent, the Municipality must ensure there is sufficient capacity for noxious trade in the limited areas suitable for this zone. A noxious trade should not be located close to residential areas.</i>	Noxious trade	Container site Convenience shop Helicopter landing pad Industry Liquor store Motor repair garage Renewable energy structure Scrap yard Service station Transport use
Industrial Zone IV (IV)		
<i>The objective of this zone is to provide for the use of land for the extraction of minerals and raw materials and, to a limited extent, associated business operations. This zone is intended for operations of a more permanent nature as opposed to temporary, short-term mining or prospecting activities.</i>	Mine	Industry
COMMUNITY ZONES		
Community Zone I (CI)		
<i>The objective of this zone is to provide for educational facilities of all kinds, but controlled provision is made for other compatible community uses.</i>	Place of instruction	Conference facility Freestanding base telecommunication station Institution Outdoor trading and dining Rooftop base telecommunication station

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

36

Province of the Western Cape: Provincial Gazette Extraordinary 8258

29 June 2020

1	2	3
Zoning	Primary use	Consent use
Community Zone II (CII)		
<i>The objective of this zone is to provide for places where communities can congregate and worship according to the custom of their specific faith or religion.</i>	Place of worship	Cemetery Institution Place of instruction Rooftop base telecommunication station
Community Zone III (CIII)		
<i>The objective of this zone is to provide for a wide range of institutional uses including facilities for health.</i>	Institution	Correctional facility Rooftop base telecommunication station
RESORT ZONES		
Resort Zone (R)		
<i>The objective of this zone is to promote tourist and holiday facilities in areas with special environmental or recreational attributes, and to encourage general public access to these facilities. At the same time, care should be exercised to minimise potential negative impacts of development on fragile environments. The guiding principle should be that a resort must not detract from the amenity that attracted the holiday facilities in the first place, nor should it cause a public nuisance for other people living and working in the vicinity. This zone should only be used in exceptional cases and is normally applicable to tourist developments outside established, built-up areas.</i>	Tourist accommodation	Freestanding base telecommunication station Function venue Guest Lodge Hotel Off-road trail Outdoor trading and dining Rooftop base telecommunication station Tourist facilities Wellness centre
OPEN SPACE ZONES		
Open Space Zone I (OSI)		
<i>The objective of this zone is to provide for active and passive recreational areas on public land, in order to promote recreation, and enhance the aesthetic appearance of an area.</i>	Public open space	Air and underground rights Cemetery Environmental facilities Informal trading Outdoor trading and dining Tourist facilities Urban agriculture Utility service

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

29 June 2020

Province of the Western Cape: Provincial Gazette Extraordinary 8258

37

1	2	3
Zoning	Primary use	Consent use
Open Space Zone II (OSII)		
<i>The objective of this zone is to provide for active and passive recreational areas on private land, in order to promote recreation and enhance the aesthetic appearance of an area.</i>	Private open space	Cemetery Environmental facilities Informal trading Outdoor trading and dining Plant nursery Restaurant Sports and recreation centre Tourist facilities Urban agriculture Utility service
Open Space Zone III (OSIII)		
<i>The objective of this zone is to provide for the conservation of natural resources in areas that have not been proclaimed as nature areas (non-statutory conservation), in order to sustain flora and fauna and protect areas of undeveloped landscape including woodlands, ridges, wetlands and the coastline. A range of consent uses is provided to supplement and support the main objective of this zone.</i>	Nature conservation area	Conference facilities Environmental facilities Freestanding base telecommunication station Function venue Harvesting of natural resources Rooftop base telecommunication station Tourist accommodation Tourist facilities Tuck shop Utility service Wellness centre
Open Space Zone IV (OSIV)		
<i>The objective of this zone is to provide for the conservation of natural resources in areas that have been proclaimed as nature areas (statutory conservation), in order to sustain flora and fauna and protect areas of undeveloped landscape including woodlands, ridges, wetlands and the coastline. A range of consent uses is provided to supplement and support the main objective of this zone.</i>	Nature reserve	Conference facility Freestanding base telecommunication station Function venue Rooftop base telecommunication station Tourist accommodation Tourist facilities Utility service

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

38

Province of the Western Cape: Provincial Gazette Extraordinary 8258

29 June 2020

1	2	3
Zoning	Primary use	Consent use
TRANSPORT AND UTILITY ZONES		
Transport Zone I (TUI)		
<i>The objective of this zone is to reserve land for transportation systems, excluding public streets, but including all other transport undertakings.</i>	Transport use	Air and underground rights Airfield Airport Business premises Conference facility Container site Helicopter landing pad Hotel Industry Informal trading Motor repair garage Outdoor trading and dining Service station Warehouse
Transport Zone II (TUII)		
<i>The objective of this zone is to provide for public streets, whether constructed or still to be constructed, as well as infrastructure associated with public streets. Provision is also made for the temporary use of the land unit for other purposes as may be approved by the Municipality.</i>	Public street	Air and underground rights Outdoor trading and dining Multiple parking garage
Transport Zone III (TUIII)		
<i>The objective of this zone is to provide private roads that is privately owned and does not vest in the Municipality or any other an organ of state, for the passage or parking of motor vehicles.</i>	Private road	Outdoor trading and dining
Utility Zone (TUIV)		
<i>The objective of this zone is to reserve land for uses that do not fall into another zoning category and that is normally undertaken by national, provincial and municipal government agencies including utility services and substations. Some flexibility for the use of land and development parameters is provided.</i>	Utility service	Renewable energy structures

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

29 June 2020

Province of the Western Cape: Provincial Gazette Extraordinary 8258

39

1	2	3
Zoning	Primary use	Consent use
Authority Zone (AZ)		
<i>The objective of this zone is to accommodate a use which is practised by or on behalf of an organ of state and that cannot be classified or defined under other uses in this zoning scheme</i>	Authority use	None
UNDETERMINED ZONE		
Undetermined Use Zone (USI)		
<i>The objective of this zone is to enable the Municipality to defer a decision regarding a specific land use and development management provisions until the circumstances affecting the land unit have been properly investigated; or until the owner of the land makes an application for rezoning; or a zoning determination is made by the Municipality. The objective of this zone is furthermore to create a zone to which land could revert back to when rights under current zonings, other than Single Residential Zone I, were not exercised, especially in cases where changes in the planning context occurred since the current zoning was granted</i>	Existing Buildings	None

Schedule 2 Land Use Descriptions And Development Parameters

"abattoir"

Land use description: "abattoir" is a place where animals are slaughtered and prepared for distribution to butchery shops and food markets.

Development parameters:

The development parameters applicable to "industry" apply, as well as those applicable to "agricultural industry" when an abattoir is located on a farm.

"additional dwelling unit"

Land use description: "additional dwelling unit" is a dwelling unit that may be erected on an agricultural land unit with the consent of the Municipality, in addition to a primary dwelling house or agricultural worker accommodation for bona fide agricultural workers, or both, provided that –

- (a) the number of additional dwellings can be permitted in the following ratio:

Area of land unit	Number of unit/s
Smaller than 10ha	1
Between 10ha and 20ha	2
Between 20ha and 30ha	3
Between 30ha and 40ha	4
More than 40ha	5

- (b) an additional dwelling unit may not be erected within 1 km of the high-water mark of the sea or a tidal river except where a proclaimed township is situated between the additional dwelling unit and the sea or tidal river;
- (c) one additional dwelling unit may be erected within the 1km high water mark of the sea or a tidal river, provided that the additional dwelling unit is attached to the main house and does not exceed a floor area of 60m²; and
- (d) no alienation of additional dwelling units will be permitted whether by cadastral subdivision or sectional title.

Development parameters:

The development parameters applicable to "agriculture" apply, together with the following additional development parameters for "additional dwelling units". Additional dwelling units may be erected with the consent of Municipality provided that:

- (a) a dwelling permanently occupied by a person engaged in bona fide agricultural activities on the land unit is not regarded as an additional dwelling unit;
- (b) the total floor space of an additional dwelling including the floor space in all ancillary buildings to the additional dwelling, may not exceed 175 m²;
- (c) an additional dwelling must be constructed in a style that is similar to the architecture of the main dwelling house, unless otherwise permitted by the Municipality;
- (d) an additional dwelling that is contained within the same building as a dwelling house must be designed so that the building appears to be a single dwelling house; provided that both units may have a ground floor, or one unit may be on the ground floor and the other unit above;
- (e) the existence of an additional dwelling may not in itself be sufficient reason for the Municipality to grant an application in terms of the Planning By-law to subdivide the land unit containing the dwelling units; and

- (f) the Municipality must certify that services are available for the construction of an additional dwelling.

“adult entertainment”

Land use description: “adult entertainment”—

- (a) means the use of property for adult film theatres or strip clubs where sexually explicit, live or recorded shows are displayed; and
- (b) does not include adult services or an adult shop.

Development parameters:

The development parameters applicable to “business premises” apply.

“adult services”

Land use description: “adult services”—

- (a) means the use of property for massage parlours or escort agencies where sexually orientated personal services are provided, unless the services form part of a medical or therapeutic service provided by a registered medical practitioner or similar registered professional person; and
- (b) does not include adult entertainment or an adult shop.

Development parameters:

The development parameters applicable to “business premises” apply.

“adult shop”

Land use description: “adult shop”—

- (a) means the use of property for the retail sale of pornographic, sexually explicit or erotic material, whether or not the material is displayed for sale, unless the material forms part of a medical or therapeutic service provided by a registered medical practitioner or similar registered professional person; and
- (b) does not include adult entertainment or adult services.

Development parameters:

The development parameters applicable to “business premises” apply.

“agricultural industry”

Land use description: “agricultural industry”—

- (a) means an enterprise for the processing of agricultural products of which the majority of the products is sourced from that land unit and if not produced on that land unit, then from the land units farmed by the owners of the enterprise with a minority of the products sourced from the surrounding or nearby farms;
- (b) includes a winery, dairy, distillery, brewery, the bottling of water, a sawmill; and
- (c) does not include an abattoir.

Development parameters:

Development parameters applicable to “agriculture” or “smallholding” apply.

“agricultural worker accommodation”

Land use description: “agricultural worker accommodation” means accommodation provided for bona fide agricultural workers, including accommodation for labourers and farm managers, as determined by the Municipality based on the extent of the bona fide agricultural activities on the land unit.

Development parameters:

The development parameters applicable to "*agriculture*" apply with the following additional development parameters:

- (a) the number of units must be reasonably connected to the bona fide agricultural activities on the land unit; and
- (b) no agricultural worker accommodation may be erected within 1 km of the high-water mark of the sea or a tidal river.

"agriculture"

Land use description: "*agriculture*" means the cultivation of land for raising crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, intensive horticulture; intensive animal farming; a riding school or natural veld, and:

- (a) includes:
 - (i) the harvesting, cooling, storing, sorting, packing and packaging of agricultural produce grown on that land unit and surrounding or nearby farms;
 - (ii) harvesting of natural resources limited to living organisms for delivery to the market;
 - (iii) agricultural buildings or infrastructure that are reasonably connected with the main farming activities, including a dwelling house, barns, agricultural worker accommodation;
 - (iv) rooftop base telecommunication stations;
 - (v) linear infrastructure;
 - (vi) agricultural industry;
- (b) and does not include aquaculture, an abattoir, a farm graveyard a farm shop, an animal care centre, any mining activity, utility services and renewable energy structures for commercial purposes.

Development parameters:

The following development parameters apply:

- (a) **Building lines**
The road or street and common boundary building lines are 30 metres.
- (b) **Height**
 - (i) Dwelling houses may not exceed 8.5 metres above natural ground level directly below a given point of the building with a maximum of 2 storeys; provided that a departure from the 2 storey limit may be considered due to the slope of the site; provided further that the 8.5 metres restriction is maintained and that the additional storey is added to the building on the lower side of the slope;
 - (ii) Agricultural buildings other than dwelling houses may not exceed a height of 15 metres from natural ground level.
 - (iii) Earth banks and retaining structures that are in the opinion of Municipality associated with bona fide agricultural activities are exempt from the general provisions in this regard in this By-law.
- (c) **Site development plan**
For any development in this zone, including any part of the land not zoned Agriculture, a site development plan must be submitted to the Municipality for its approval taking specific cognisance of visual impact given the size and scale of the agricultural buildings and facilities and their location in a rural landscape, and their proximity to tourist routes.
- (d) **Farm shop**

Where a farm shop and a resort shop are operated from the same property the combined floor area of the farm shop and resort shop may not exceed 100m².

(e) **Agricultural Industry**

In addition to the above parameters the following apply:

- (i) the agricultural industry does not exceed a total floor area of 2 000m²; and
- (ii) the parking requirements for “*Industry*” apply.

“agri-village”

Land use description: “*agri-village*” means a private settlement of restricted size, established and managed by a legal institution that is situated within an agricultural area and where residence is restricted to bona fide agricultural workers and their dependents of the farms involved in the development. Security of tenure does not include right of ownership but can include a Trust, Communal Property Association or Sectional Title. The development of agri-villages represents a partnership between farmer, agricultural worker and state.

Development parameters:

- (a) The Municipality must require a site development plan for an agri-village.
- (b) The site development plan as approved by the Municipality constitutes the development parameters.
- (c) The provisions for a site development plan in this By-law apply.

“air and underground rights”

Land use description: “*air and underground rights*” means any use right that may be approved by the Municipality for the development of a defined space above or below a public street, open space, railway line or any other land utilised for transport purposes.

Development parameters:

- (a) The Municipality must require a site development plan for air and underground rights;
- (b) The site development plan as approved by the Municipality constitutes the development parameters;
- (c) The provisions for a site development plan in this By-law apply.
- (d) The Municipality may approve a consent use for air or underground rights if:
 - (i) the consent use does not compromise the intended primary use of the land;
 - (ii) an agreement defining the extent of rights, time period, compensation, ownership and maintenance obligations relating to the property is concluded between the parties concerned and is approved by the Municipality;
 - (iii) a servitude in respect of the air or underground rights is registered over the land concerned; and
 - (iv) the Municipality is satisfied that structural components, clearance and operational characteristics are sufficient to ensure safe and efficient operation of the street, road or parking.

“airfield”

Land use description: “*airfield*” means runways and associated buildings for the take-off and landing of light aircraft.

Development parameters:

- (a) The Municipality must require a site development plan for an airfield.
- (b) The site development plan as approved by the Municipality constitutes the development parameters.
- (c) The provisions for a site development plan in this By-law apply.

“airport”

Land use description: “*airport*” means a complex comprising aircraft runways and associated buildings for the take-off, landing, loading, refuelling and parking of civilian aircraft and facilities for the handling and storage of air freight and includes land uses ancillary to airports, and includes:

- (a) a restaurant;
- (b) car rental facility;
- (c) shop; and
- (d) hotel.

Development parameters:

The development parameters applicable to “*business premises*” apply, provided that a site development plan must be submitted to the Municipality for its approval.

“animal care centre”

Land use description: “*animal care centre*” means a place for the care of pets and animals, operated on either a commercial or a welfare basis, and includes:

- (a) boarding kennels; and
- (b) pet training centres.

Development parameters:

The development parameters applicable to “*agriculture*” apply.

“aqua-culture”

Land use description: “*aqua-culture*” means the breeding, for commercial purposes, of water flora or fauna in artificially constructed dams or holding tanks or suspended from floating supports in natural water bodies.

Development parameters:

The development parameters applicable to “*agriculture*” apply.

“authority use”

Land use description: “*authority use*” means a use which is practised by or on behalf of an organ of state and that cannot be classified or defined under other uses in this zoning scheme, and includes a use practised by:

- (a) the national government, including a military centre or installation, police station or correctional facility;
- (b) the provincial government, including a road station or road camp;
- (c) the Municipality, including a fire service or a municipal depot with related uses, including limited accommodation for staff who are required to be on standby for emergencies; and
- (d) a foreign government including an embassy or consulate but does not include a dwelling house when the dominant use is for living accommodation of foreign diplomatic personnel.

Development parameters:

The development parameters and additional provisions as approved by the Municipality according to the site development plan apply to every site, use and type of building.

“backpackers’ lodge”

Land use description: “*backpackers’ lodge*” means a building where lodging for backpackers is provided per bed and not per bedroom and includes a youth hostel.

Development parameters:

The development parameters applicable to "*guest lodge*" apply.

"bed and breakfast establishment"

Land use description: "*bed and breakfast establishment*" means a dwelling house, or second dwelling or additional dwelling unit:

- (a) in which the owner or manager of the dwelling supplies lodging and meals for compensation to transient guests who have permanent residence elsewhere; and
- (b) provided that the dominant use, structure and design of the dwelling house concerned remains for the living accommodation of a single family.

Development parameters:

The development parameters applicable to "*dwelling house*", "*second dwelling*" and "*additional dwelling unit*" apply.

The following further parameters apply:

- (a) not more than two rooms per land unit may be used for bedroom accommodation for paying guest, and not more than four paying guest per land unit may be supplied with lodging or meals at any time;
- (b) the requirement in paragraph (a) is also applicable where a land unit contains both a bed and breakfast establishment and rooms that are available for letting to lodgers;
- (c) the owner or manager of a bed and breakfast establishment must live on the property and inform the Municipality in writing before the establishment opens for business;
- (d) a register of guests must be kept, and completed when rooms are let, and the register must be produced for inspection on request by an authorised municipal official;
- (e) any new structure or alteration to the property related to its use as a "*bed and breakfast establishment*" must be compatible with the residential character of the area, particularly with regard to the streetscape or rural character on a farm, and must be capable of reverting to use as part of the dwelling house, second dwelling, additional dwelling unit or outbuilding concerned;
- (f) no alcoholic beverages may be sold except to resident guests for consumption on the premises with meals;
- (g) guest rooms may not be converted to, or used as, separate self-catering dwelling units;
- (h) meals may only be supplied to guests who have lodging on the property, employees, and the family residing in the dwelling;
- (i) no weddings, receptions, conferences, training or similar activities are permitted in a bed and breakfast establishment;
- (j) no activities that constitute, or are likely to constitute, a source of public nuisance may be carried out; and
- (k) on-site parking must be provided in accordance with the provisions of this By-law; provided that the Municipality may at any stage require additional on-site parking if, in the opinion of the Municipality, the bed and breakfast establishment does not have enough parking.

"boarding hostel"

Land use description: "*boarding hostel*" means a place which provides accommodation in rooms or dormitories for students attending a place of instruction and is managed by or on behalf of the particular educational institution with which it is associated and includes communal facilities directly associated with the main use.

Development parameters:

Development parameters applicable to "*place of instruction*" apply.

"boarding house"

Land use description: "*boarding house*" means a building where lodging is provided, and includes ancillary communal cooking, dining and other communal facilities for the use of lodgers, together with outbuildings that are normally used in connection with a boarding house and:

- (a) includes a building in which rooms are rented for residential purposes, a guest house or guest lodge, a home for the aged, a residential facility for handicapped persons or orphans; and
- (b) does not include a hotel, dwelling house, second dwelling, backpackers' lodge or group house.

Development parameters:

- (a) **Coverage**
The maximum coverage is 60%.
- (b) **Floor factor**
The floor factor may not exceed 1.
- (c) **Height**
 - (i) The highest point of a building may not exceed 12 metres.
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.

Building lines

- (i) The street building line is at least 5 metres.
 - (ii) Side and rear building lines are at least 4,5 metres.
 - (iii) The general building line encroachments in this By-law apply.
- (d) **Parking and access**
Parking and access must be provided in accordance with this By-law.
- (e) **Screening**
The Municipality may require screening in accordance with this By-law.
- (f) **Site development plan**
The Municipality may require a site development plan to be submitted for its approval.
- (g) **Open space**
 - (i) Every boarding house must have access on the land unit to an outdoor living area that may include private or communal open space, but excludes roads, service yards and parking areas.
 - (ii) An outdoor living area of at least 10% of the net erf area must be provided.
 - (iii) The outdoor living area(s) must be of reasonable proportions and location, to the satisfaction of the Municipality, to allow for leisure or recreational use by residents, and may include open courtyards within the complex.
- (h) **Service yard**
A service yard must be provided on the land unit in accordance with this By-law.
- (i) **Refuse room**
A refuse room must be provided on the land unit in accordance with this By-law.

"builder's yard"

Land use description: "*builder's yard*" means a property used for the storage of material and equipment that:

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

Development parameters:

The development parameters applicable to “*industry*” apply.

“business premises”

Land use description: “*business premises*” means a property from which business is conducted and:

- (a) includes a shop, supermarket, restaurant, sale of alcoholic beverages, plant nursery, office, funeral parlour, financial institution and building for similar uses, place of assembly, institution, place of instruction, hotel, hospital, conference facility, indoor sport and recreation centre, and multiple parking garage;
- (b) includes also the following land uses above ground floor:
 - (i) flats;
 - (ii) caretaker’s quarters;
 - (iii) backpackers’ lodge;
 - (iv) youth hostel;
 - (v) boarding houses;
 - (vi) rooftop base telecommunication station and
- (c) does not include a gambling place, place of entertainment, motor repair garage, industry, noxious trade, risk activity, adult entertainment, adult services, or adult shop.

Development parameters:

The following development parameters apply:

- (a) **Coverage**
The maximum coverage for all buildings on a land unit is 100%.
- (b) **Floor factor**
The maximum floor factor on the land unit is 3.
- (c) **Height**
 - (i) The highest point of a building may not exceed 12 metres;
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (d) **Building line**
 - (i) The street building line is 0 metres.
 - (ii) Side and rear building lines are 0 metre, provided that the Municipality may lay down more restrictive building lines in the interest of public health and safety or in order to enforce any other law or right.
 - (iii) Minor architectural and sunscreen features may project beyond the street boundary building line, provided that such features do not project more than 250 millimetres beyond the street boundary.
- (e) **Hotel floor space concession**
Where it is proposed to erect a hotel of at least 30 bedrooms in terms of this use right, the development parameters applicable to “*hotel*” apply.
- (f) **Canopy or balcony projection**
The Municipality may require, and may approve, a canopy or balcony projection over the street boundary in accordance with the following conditions:
 - (i) the canopy or balcony may not project closer than 500 millimetres to a vertical plane through the kerb line or proposed kerb line;
 - (ii) no portion of a canopy or balcony projection may be less than 2,8 metres above the pavement;
 - (iii) the Municipality may lay down more restrictive requirements relating to the dimensions, design and materials of the canopy or balcony; and
 - (iv) the owner must enter into an encroachment agreement with the Municipality and register a servitude area in the case of a balcony projection.

- (g) **Street corners**
The Municipality may require the owner of a building situated at a public street corner, and where the Municipality considers the street corner to be significant, to add architectural features to create visual interest on the corner and emphasise the importance of pedestrian movement around the corner. The architectural features may include building cut-offs, walkthrough covered arcades, plazas or other elements.
- (h) **Parking and access**
Parking and access must be provided on a land unit in accordance with this By-law, except in a case where the Municipality has approved alternative parking supply under section 43(1).
- (i) **Loading**
Loading bays must be provided on the land unit in accordance with this By-law.
- (j) **Screening**
The Municipality may require screening in accordance with this By-law.
- (k) **Refuse room**
A refuse room must be provided on the land unit in accordance with this By-law.

“camping site”

Land use description: “*camping site*” means land set aside for camping where tents or caravans are used for short term accommodation of transient guests and may include facilities for use by guests including facilities for outdoor food preparation, resort shop, road access for vehicles, picnic facilities, raised platforms on which to set up tents or caravans, ablution facilities, communal scullery and laundry facilities and waste disposal facilities, but does not include permanent tents, such as tented camps, or caravans.

Development parameters:

The development parameters applicable to “*tourist accommodation*” apply, provided that a site development plan must be submitted to the Municipality for its approval.

“caretaker’s quarters”

Land use description: “*caretaker’s quarters*” means an outbuilding of not more than 60 m² in total floor area, including sanitary and cooking facilities used for the accommodation of a caretaker employed at an industrial site or business premises where the operation requires that somebody is on the land unit at all hours.

Development parameters:

Development parameters of the primary use apply.

“cemetery”

Land use description: “*cemetery*” means a place for the burial of human or domestic animal remains, and:

- (a) may include:
 - (i) facilities for ancillary administrative and religious rites;
 - (ii) a “*garden of remembrance*”; and
- (b) does not include a crematorium.

Development parameters:

The development parameters applicable to “*public open space*” apply in the case of publicly owned land, and the parameters applicable to “*private open space*” apply in the case of land in private ownership.

“clinic”

Land use description: “*clinic*” means a place that has limited facilities and an emphasis on outpatients for the diagnosis and treatment of human illness or the improvement of human health provided that:

- (a) a clinic may contain live-in facilities for no more than 20 persons, including patients and staff; and
- (b) a clinic may include medical consulting rooms, operating theatres, an outpatient's centre, and a wellness centre with ancillary uses.

Development parameters:

The development parameters applicable to “*place of instruction*” apply.

“conference facility”

Land use description: “*conference facility*” means a place where information is presented, and ideas or information exchanged among groups of people or delegates and includes the supply of meals to delegates only.

Development parameters:

The development parameters applicable to “*business premises*” apply.

“container site”

Land use description: “*container site*” means property used for the storage of shipping or transport containers.

Development parameters:

The development parameters applicable to “*industry*” apply.

“convenience shop”

Land use description: “*convenience shop*” means a small retail concern that is open long hours and that typically stocks a range of everyday items including groceries, snack foods, candy, toiletries, soft drinks, tobacco products, newspapers and magazines.

Development parameters:

- (a) The development parameters applicable to “*service station*” apply if approved as a consent use in the Business III zone;
- (b) When approved as a consent use in another zone, the development parameters applicable to “*shop*” apply.

“correctional facility”

Land use description: “*correctional facility*” means a place where persons are housed and trained on instruction of a court of law and includes a reformatory, place of detention; industrial school and prison.

Development parameters:

Development parameters applicable to “*authority use*” apply.

“crèche”

Land use description: “*crèche*” means the use of a portion of a dwelling house or outbuildings by the occupant to provide day care, pre-school, play group or after-school care services for children.

Development parameters:

- (a) The services provided must primarily be day care and educational, and not medical services.
- (b) The services may not operate outside the hours 6:00 to 18:00.
- (c) The dominant use of the dwelling house must remain for the living accommodation of a single family.

- (d) Not more than 20 children may be registered at a time, or on the property at any time.
- (e) Parking and access must be provided in accordance with this By-law.

“crematorium”

Land use description: “crematorium” means a place for incinerating corpses in a furnace, and includes:

- (a) facilities for ancillary administrative and religious functions; and
- (b) a “garden of remembrance”.

Development parameters:

Development parameters applicable to “industry” apply.

“dwelling house”

Land use description: “dwelling house” means a building containing only one dwelling unit, together with such outbuildings as are ordinarily used with a dwelling house, including:

- (a) a storeroom and garaging;
- (b) a second dwelling or additional dwelling, with a floor area which does not exceed 60 m²; provided that application for consent use must be submitted if the second dwelling or additional dwelling is larger than 60m²;
- (c) a braai room;
- (d) renewable energy structures for household purposes;
- (e) home occupation;
- (f) letting to lodgers;
- (g) a bed and breakfast establishment; and
- (h) home childcare.

Development parameters:

- (a) Height
 - (i) at most 8.5 metres above natural ground level directly below a given point of the building with a maximum of 2 storeys; provided that a departure from the 2 storey limit may be considered due to the slope of the site; provided further that the 8.5 metre restriction is maintained and that the additional storey is added to the building on the lower side of the slope.
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (b) Coverage and building lines
 - (i) Building lines and coverage are indicated in the table entitled “Coverage and building lines”:

COVERAGE AND BUILDING LINES

Erf size	Coverage	Building lines		
		Street	Side	Rear
Less than or equal to 250 m ²	80%	1 metre	1 metre	1,5 metres
Greater than 250 m ² , but not exceeding 500 m ²	65%	3 metres	1,5 metres	1,5 metres
Greater than 500 m ²	50%	4,5 metres	2 metres	2 metres

- (ii) The Municipality may permit a relaxation of the lateral and/or rear building lines in the case of a dwelling house in Single Residential Zone I, provided that an adequate means of access, at least 1 metre wide, is provided from a street to every un-built open portion of the property.

(c) **Built form**

Notwithstanding the provisions of Section 20(4), the municipality may consider a departure from the built form of a dwelling unit where environmental considerations justify the fragmentation of the dwelling, provided that the structure still functions as an entity that serves the accommodation requirements of a single dwelling unit.

(d) **Single Residential Zone II**

In the case of a "dwelling house" in Single Residential Zone II:

- (i) the development parameters pertaining to coverage, height and building lines of "shelter" apply, and
- (ii) notwithstanding paragraph (d)(i) above, and in the case of a government subsidized housing site, a 0,0 metre building line on the common boundary may apply, for the purposes of row housing, if required by the Municipality;
- (iii) where more than four dwelling units are attached to each other, the Municipality may require a common boundary building line of 1,0 metre between a row of four attached dwelling units and any adjacent dwelling unit.

(e) **Window and door placement**

Any portion of a building that contains an external window or door facing onto a common boundary must:

- (i) be set back at least 1,5 metres from the boundary; and
- (ii) the portion of building to be set back from the boundary must include the door or window, together with the additional length of wall that is required to make up a total minimum length of 3 metres.

(f) **Garages, carports and outbuildings**

- (i) Garaging for up to four vehicles is permitted.
- (ii) A garage, carport and outbuildings are permitted within the common boundary building lines, subject to the provisions of Section 21(2) of this By-law.

(g) **Parking and access**

Parking and access must be provided on the land unit in accordance with this By-law.

"environmental facilities"

Land use description: "environmental facilities" means facilities for the management, study, interpretation, education, and public appreciation of a predominantly natural area or heritage site and may include hiking trails, but does not include tourist facilities or tourist accommodation.

Development parameters:

The Municipality must determine the land use restrictions and the development parameters for the property based on the objectives of the base zoning and the specific circumstances including adherence with an approved environmental management plan, where applicable.

"factory"

Land use description: "factory" means property containing an industrial assembly plant used for the manufacture of goods.

Development parameters:

The development parameters applicable to "industry" apply.

"factory shop"

Land use description: "factory shop" means property used for the retail sale of goods that are completely or predominantly manufactured in a factory on the property concerned.

Development parameters:

The development parameters applicable to "industry" apply.

The occupant of an industry may operate a factory shop provided that:

- (a) the total floor space devoted to the sale of goods may not exceed 10% of the total floor space of all the buildings on the land unit; and
- (b) any goods that are offered for sale but have not been manufactured on the property, must be directly connected with the goods that are manufactured on the property.

"farm grave yard"

Land use description: "*farm grave yard*" means a place for the burial of human or domestic animal remains situated on a property zoned Agricultural Zone I, which is managed by the land owner where only the land owner's family members and farm workers formerly employed by the land owner may be buried, and includes:

- (a) a garden of remembrance; and
- (b) does not include a crematorium.

Development parameters:

A site development plan must be submitted to the Municipality for its approval. The site development plan as approved constitutes the development parameters.

"farm shop"

Land use description: "*farm shop*" means a building or structure not exceeding 100 m² in floor space located on a farm and from where the farmer sells produce grown on the farm and other goods to the general public, including storage facilities.

Development parameters:

The development parameters applicable to "*agriculture*" apply.

"farmers' market"

Land use description:

- (a) "*farmers' market*" means a predominantly fresh food market where farmers and food producers sell, directly to consumers, farm-origin and associated value-added speciality foods and plant products including:
 - (i) primary food products;
 - (ii) seafood, game and foraged foods;
 - (iii) value-added foods;
 - (iv) speciality food products;
 - (v) garden inputs; and
 - (vi) small livestock;
- (b) A farmers' market:
 - (a) operates regularly within a community;
 - (b) is located at a focal public location that provides a suitable environment for farmers to conduct trade;
 - (c) typically consists of booths, tables or stands, outdoors or indoors, where farmers sell farm produce, meats, and sometimes prepared foods and beverages; and
 - (d) may include:
 - (aa) a subservient component of stalls for the sale of locally produced handmade crafts and arts; and
 - (bb) live family entertainment, outdoor recreation activities and children's play area.

Development parameters:

The development parameters applicable to "*agriculture*" apply, together with the following additional parameters:

- (a) the Municipality may stipulate conditions with regard to the layout, building design, open space, landscaping, parking, access and environmental management; and
- (b) the development must occur in accordance with an approved site development plan.

“flats”

Land use description: “flats” means a building containing three or more dwelling units of which at least one does not have a ground floor, together with such outbuildings, open space and private roads as are ordinarily associated with flats.

Development parameters:

- (a) **Coverage**
The maximum coverage is 60%.
- (b) **Floor factor**
The floor factor may not exceed 1.
- (c) **Height**
 - (i) The highest point of a building may not exceed 12 metres;
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (d) **Building lines**
 - (i) The street building line is at least 5 metres.
 - (ii) Side and rear building lines are at least 4,5 metres.
 - (iii) The general building line encroachments in this By-law apply.
- (e) **Parking and access**
Parking and access must be provided in accordance with this By-law.
- (f) **Screening**
The Municipality may require screening in accordance with this By-law.
- (g) **Site development plan**
The Municipality may require a site development plan to be submitted for its approval.
- (h) **Institution, place of instruction and place of assembly**

The development parameters that apply to “institution”, “place of instruction” and “place of assembly” apply to this use; provided that where the institution, place of instruction or place of assembly is situated within a building which is also used for flats or a boarding house, then the coverage, height and building line requirements for the flats or boarding house apply.

- (i) **Open space**
 - (i) Every block of flats must have access on the land unit to an outdoor living area, including private or communal open space, but excludes roads, service yards and parking areas.
 - (ii) An outdoor living area of at least 10% of the net erf area must be provided and the outdoor living area(s) must be of reasonable proportions and location to allow for leisure or recreational use by residents and may include open courtyards within the complex.
- (j) **Service yard**
A service yard must be provided on the land unit in accordance with this By-law.
- (k) **Refuse room**
A refuse room must be provided on the land unit in accordance with this By-law.
- (l) **Flats as a consent use in a group housing scheme**
The following conditions apply to flats as a consent use right in this zone:
 - (i) the flats must form an integrated part of a group housing site and must comply with the development parameters for “group housing”;
 - (ii) the total floor space of flats may not exceed 40% of the total floor space of all buildings on the group housing site; and
 - (iii) the open space requirement for dwelling units in a group housing site applies.

“Freestanding base telecommunication station”

Land use description: “*freestanding base telecommunication station*” means a freestanding support structure on land or anchored to land and used for telecommunication infrastructure to transmit or receive electronic communication signals and may include access roads to the structure.

Development parameters:

As determined by the Municipality.

“function venue”

Land use description: “*function venue*” means a building or structure used for functions, weddings and expositions on what is mainly a rural property.

Development parameters:

Development parameters applicable to “*agriculture*” apply on a rural property, together with the limitation that any function venue in a rural area, including all components of the venue, may not exceed a total floor space of 500 m².

“funeral parlour”

Land use description: “*funeral parlour*” means property where the dead are prepared for burial, viewing or cremation and:

- (a) includes facilities for ancillary administrative and religious rites; and
- (b) does not include a crematorium.

Development parameters:

The development parameters applicable to the primary use of the base zone apply.

“gambling place”

Land use description: “*gambling place*” means a place where betting and gambling may be undertaken in accordance with a license issued under the relevant Act and includes premises for totalisators.

Development parameters:

The following development parameters apply:

- (a) The development parameters applicable to “*business premises*” apply.
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“garden of remembrance”

Land use description: “*garden of remembrance*” is a section of a cemetery or crematorium set aside for the erection of memorial plaques or structures, placing or scattering of ashes.

Development parameters:

The development parameters applicable to “*cemetery*” or “*crematorium*” apply.

“group housing”

Land use description: “*group housing*” and “*group housing scheme*” means a group of separate or linked dwelling units where:

- (a) every dwelling unit has a ground floor;
- (b) the units may be cadastrally subdivided;
- (c) the units are planned, designed and built as a harmonious architectural entity in an ordered way; and
- (d) the units are integrated with communal private open spaces, private roads and parking.

Development parameters:

(a) Design principles

All buildings and structures must be planned, designed and built as a harmonious architectural entity and special attention must be given to aesthetics, architectural coordination, urban design and landscaping.

(b) Density

The maximum gross density on a group housing site is 35 dwelling units per hectare.

(c) Height

(i) The height of dwelling units may not exceed 8,5 metres.

(ii) The general provisions regarding earth banks and retaining structures in this By-law apply.

(d) Open space

Within a group housing site, outdoor space of at least 50 m² per dwelling unit must be provided and the outdoor space may include private or communal open space or any functional outdoor space that is inaccessible to motor vehicles, and excludes service yards.

(e) Building lines along the perimeter of a group housing site

The following building lines apply along the perimeter of a group housing site:

- (i) a street boundary building line of 5 metres applies where the group housing site abuts an external public street;
- (ii) side and rear boundary building lines are 3 metres along the perimeter of the group housing site; and
- (iii) the general building line encroachments in this By-law apply.

(f) Building lines within a group housing site

- (i) street boundary building lines on internal roads are 0 metres; provided that any garage door facing the road must be set back at least 5 metres from the kerb of such internal road; and
- (ii) side and rear boundary building lines within the group housing site are 0 metres, unless the Municipality requires a building line for fire-fighting purposes, in which case the common boundary building lines must be determined by the Municipality.

(g) Parking and access

- (i) Parking and access must be provided in accordance with the requirements of this By-law.
- (ii) Parking may be provided in the form of communal parking.

(h) Site development plan

A site development plan of the proposed group housing scheme must be submitted to the Municipality for its approval, and, if approved, the development of the group housing site must be in accordance with the approved site development plan.

(i) Service yard

Service yard(s) must be provided on the land unit in accordance with this By-law.

(j) Refuse room

A refuse room must be provided on the land unit in accordance with this By-law.

"guest house"

Land use description: "guest house" means a dwelling house, second dwelling, or additional dwelling unit that is used for the purpose of supplying lodging and meals to transient guests for compensation, in an establishment that exceeds the restrictions of a bed and breakfast establishment (more than 2 guest rooms or 4 guests), and:

- (a) includes business meetings or training sessions by and for guests on the property for up to 12 persons; and
- (b) does not include agricultural workers' accommodation.

Development parameters:

The development parameters applicable to "*dwelling house*", "*second dwelling*" and "*additional dwelling unit*" apply, together with the following additional parameters:

- (a) the Municipality may require a site development plan to be submitted for a proposed guest house and the guest house may not open for business until the plan is approved;
- (b) the owner/manager of a proposed guest house establishment must live on the property and must have consent use approval from the Municipality before the guest house establishment may open for business;
- (c) a register of guests and lodgers must be kept and completed when rooms are let, and the register must be produced for inspection on request by an authorised municipal official;
- (d) any new structure or alteration to the property related to its use as a guest house must be compatible with the residential character of the area, particularly with regard to the streetscape, and must be capable of reverting to use as part of the dwelling house, second dwelling, additional dwelling unit or outbuilding concerned;
- (e) no more than 6 rooms per land unit may be used for bedroom accommodation for paying guests or lodgers, and no more than 12 paying guests or lodgers may be supplied with lodging or meals at any time;
- (f) the requirement in paragraph (e) is also applicable where a land unit contains both a guest house and rooms which are available for letting to lodgers;
- (g) no alcoholic beverages may be sold except to resident guests for consumption on the premises with meals;
- (h) guest rooms may not be converted to, or used as, separate self-catering dwelling units;
- (i) meals may only be supplied to guests or lodgers who have lodging on the property, employees, and the family residing in the dwelling;
- (j) no weddings, receptions, conferences, training or any similar activities are permitted in a guest house;
- (k) no activities that constitute, or are likely to constitute, a source of public nuisance may be carried out; and
- (l) on-site parking must be provided in accordance with the provisions of this By-law, provided that the Municipality may at any stage require additional on-site parking if, in the opinion of the Municipality, the guest house does not have enough parking.

"guest lodge"

Land use description: "*guest lodge*" means an appropriately scaled establishment that provides temporary residence for transient guests lodging and meals are provided and:

- (a) includes a small conference or training facility and also caters for business meetings, and
- (b) does not include a restaurant or backpackers' lodge.

Development parameters:

- (a) **Coverage**
The maximum coverage is 60%.
- (b) **Floor factor**
The floor factor may not exceed 1.
- (c) **Height**
 - (i) The highest point of a building may not exceed 8,5 metres.
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (d) **Building lines**
 - (i) The street building line is at least 5 metres.
 - (ii) Side and rear building lines are at least 4,5 metres.
 - (iii) The general building line encroachments in this By-law apply.
- (e) **Parking and access**
Parking and access must be provided in accordance with this By-law.
- (f) **Screening**
The Municipality may require screening in accordance with this By-law.

(g) **Site development plan**

The Municipality may require a site development plan to be submitted for its approval.

(h) **Open space**

(i) Every guest lodge must have access to an outdoor living area on the land unit, and the outdoor living area may include private or communal open space, but excludes roads, service yards and parking areas.

(ii) An outdoor living area of at least 10% of the net erf area must be provided; the outdoor living area(s) must be of reasonable proportions and location to allow for leisure or recreational use by guests and lodgers, and may include open courtyards within the complex.

(i) **Service yard**

A service yard must be provided on the land unit in accordance with this By-law.

(j) **Refuse room**

A refuse room must be provided on the land unit in accordance with this By-law.

(k) Not more than 20 rooms per land unit may be used for bedroom accommodation for paying guests or lodgers, and no more than 40 paying guests or lodgers may be supplied with lodging or meals at any time.

(l) No alcoholic beverages may be sold except to resident guests for consumption on the premises with meals.

(m) Guest rooms may not be converted to, or used as, separate self-catering dwelling units.

(n) Meals may only be supplied to guests or lodgers who have lodging on the property, employees, and the family residing in the guest lodge.

"harvesting of natural resources"

Land use description: *"harvesting of natural resources"* means the gathering of flora or fauna (living organisms) within a conservation-worthy area, for sale or use by a person or agency other than a recognised environmental agency, provided that the harvesting:

- (a) is sustainable;
- (b) does not deplete the resources below acceptable levels;
- (c) is not detrimental to the ecosystem; and
- (d) is in accordance with any applicable law.

Development parameters:

The development parameters applicable to *"agriculture"* apply.

"helicopter landing pad"

Land use description: *"helicopter landing pad"* means any portion of land, building, structure or part thereof demarcated for the purposes of landing or take-off of helicopters or vertical lift-off aircraft.

Development parameters:

As determined by the Municipality.

"home care facility"

Land use description: *"home care facility"* means the use of a dwelling house or second dwelling, or a portion thereof to provide permanent or temporary accommodation and care for the retired, or elderly persons in need of frail care, or people in need of health care to recuperate from a medical condition or procedure, provided that:

- (a) the scale of the dwelling house or second dwelling shall not exceed that of a normal dwelling unit which would ordinarily accommodate one family;
- (b) the primary use of the property shall remain a residence for the operator;
- (c) no more than 6 persons and three bedrooms be used for such facility; and
- (d) the operator of the enterprise shall permanently reside on the property.

Development parameters:

- (a) The development parameters applicable to the primary use apply.
- (b) The Municipality must require a site development plan for a home care facility.

“home child care”

Land use description: *“home child care”* means the use of a portion of a dwelling house or its outbuildings by the occupant to provide day care, after school care or instruction for a limited number of infants or children.

Development parameters:

The following development parameters shall apply:

- (a) The dominant use of the property must be for accommodation of a single family.
- (b) The owner of the home child care activity must live on the property. Any new structure or alteration to the property to accommodate an additional use right must be compatible with the residential character of the area, particularly with regard to the streetscape, and must be capable of reverting to use as part of the dwelling house, second dwelling, outbuilding, or shelter concerned.
- (c) Not more than 3 employees may be engaged by the owner for the home child care activity.
- (d) Not more than 6 children may be enrolled at the home child care facility at a time. The home child care services must primarily be day care or educational, not medical.
- (e) The home child care services may not operate outside the hours 6:00 to 18:00 from Monday to Friday, and from 8:00 to 13:00 on Saturday. No home child care services are permitted on public holidays or Sundays.
- (f) Areas for indoor play space and outdoor play space must be provided in accordance with any health requirement or a policy plan as might be approved by the Municipality from time to time, and outdoor play space must be fenced off from any public street or neighbouring property. At least one on-site parking bay must be provided, plus one additional parking bay which is suitable for drop off and collection of children. The Municipality may at any stage require additional on-site parking where, in the opinion of the Municipality, the home child care service does not provide enough parking for its operations.

“home for the aged”

Land use description: *“home for the aged”* means a building where permanent lodging is provided, with or without meals, to the elderly and includes:

- (a) outbuildings as are normally used therewith;
- (b) a frail care facility; and
- (c) does not include:
 - (i) a dwelling house;
 - (ii) a hotel;
 - (iii) a bed and breakfast establishment; or
 - (iv) flats.

Development parameters:

The development parameters applicable to *“boarding house”*, apply.

“home occupation”

Land use description: *“home occupation”* means the practising of an occupation or the conducting of an enterprise by one or more occupants who reside on the property, provided that the dominant use of the property concerned must remain for the living accommodation of the occupants and home occupation does not include a house shop.

Development parameters:

The following development parameters apply:

- (a) The dominant use of the property must be for accommodation of a single family;
- (b) The proprietor of the home occupation concerned must live on the property;
- (c) Any new structure or alteration to the property to accommodate a home occupation must be compatible with the residential character of the area, particularly with regard to the

- streetscape, and must be capable of reverting to use as part of the dwelling house, second dwelling or outbuilding concerned;
- (d) Not more than three employees may be engaged by the occupant in the home occupation concerned;
 - (e) No home occupation may include a noxious trade, risk activity, adult entertainment, adult services, adult shop, sale of alcoholic beverages, motor repair garage, funeral parlour or activities that are likely to generate a public nuisance, including but not limited to panel beating and spray painting, auto electrician, builder's yard, welding works or joinery;
 - (f) No goods for sale may be publicly displayed and no external evidence of the home occupation may be visible from a public street, except for an advertising sign in accordance the Municipality's Outdoor advertising and Signage By-Law;
 - (g) No activities that constitute or are likely to constitute a source of public nuisance, or generate waste material that may be harmful to the area or requires special waste removal processes, may be carried out;
 - (h) On-site parking must be provided at a ratio of 1 parking bay per 25 m² area used for home occupation. The Municipality may at any stage require additional on-site parking where, in the opinion of the Municipality, there is not enough parking for the home occupation concerned;
 - (i) The total area used for all home occupation activity on a land unit, including storage, may not consist of more than 25% of the total floor area of the dwelling units on the land unit or 50 m², whichever is smaller;
 - (j) The storage of all goods and equipment connected with the home occupation concerned must be inside a building or screened from neighbours and the public street;
 - (k) Not more than two vehicles may be used in connection with a home occupation, and no one vehicle may exceed 3 500 kg in gross weight;
 - (l) The hours of operation of a home occupation may not extend beyond 8:00 to 17:30 from Monday to Friday, and 8:00 to 13:00 on Saturday. No home occupation operations are permitted on public holidays or Sundays;
 - (m) The Municipality may, at any stage, call for a cessation of the home occupation activity or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public;
 - (n) When "*home occupation*" is approved as a consent use right in any zone, the development parameters of "*home occupation*" apply over and above the development parameters of the relevant land use allowed as a primary right in the zone;
 - (o) In order to exercise the consent use right under paragraph (n), the owner must obtain the written consent, where applicable, of the relevant owners' association or Body Corporate, or all the owners within a housing scheme if the owners' association or Body Corporate is not functioning.

"hospital"

Land use description: "*hospital*" means a place for the diagnosis and treatment of human illness, with integrated facilities including operating theatres and live-in accommodation for patients and may include:

- (a) a clinic;
- (b) medical consulting rooms;
- (c) a pharmacy;
- (d) a subservient restaurant;
- (e) a shop; and
- (f) staff accommodation

Development parameters:

The development parameters applicable to "*place of instruction*" apply.

"hotel"

Land use description: "*hotel*" means a property used as a temporary residence for transient guests, where lodging and meals are provided, and

- (a) includes:

- (i) restaurants;
 - (ii) conference and entertainment facilities and a chapel that are subservient and ancillary to the dominant use of the property as a hotel;
 - (iii) premises that are licensed to sell alcoholic beverages for consumption on the property;
 - (iv) flats and self-catering units;
 - (v) a wellness centre; and
 - (vi) a boarding house; and
- (b) does not include:
- (i) a liquor store;
 - (ii) a backpackers' lodge;
 - (iii) a dwelling house, and
 - (iv) a dwelling unit.

Development parameters:

The development parameters applicable to "*business premises*" apply.

"house shop"

Land use description: "*house shop*" means the conducting of a retail trade from a dwelling house, second dwelling, shelter or outbuilding by one or more occupants who must reside on the property; provided that the dominant use of the property must remain for the living accommodation of the occupants.

Development parameters:

- (a) Development parameters applicable to "*dwelling house*", "*second dwelling*" and "*shelter*" apply.
- (b) Any new structure or alteration to the property to accommodate the "*house shop*" must be reconcilable with the residential character of the area, particularly with regard to the streetscape, and must be capable of reverting to use as part of the "*dwelling house*", "*second dwelling*" or "*shelter*".

"industrial hive"

Land use description: "*industrial hive*" means a complex of uniformly designed buildings, containing a mix of retail and manufacturing activities arranged in an orderly manner around common spaces including:

- (a) common parking and access;
- (b) light industry;
- (c) service trade;
- (d) storage facilities;
- (e) service station;
- (f) restaurant; and
- (g) open air motor vehicle display.

Development parameters

The development parameters applicable to "*light industry*" apply.

"industry"

Land use description: "*industry*" means a property used as a factory and in which an article or part of the article is made, manufactured, produced, built, assembled, compiled, printed, ornamented, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted (including spray painting), polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, chilled, frozen or stored in cold storage; including offices, caretaker's quarters, factory shop or other uses that are subservient and ancillary to the use of the property as a factory; and:

- (a) includes:

- (i) an industrial hive;
 - (ii) builder's yard
 - (iii) funeral parlour;
 - (iv) service station;
 - (v) transport usage;
 - (vi) rooftop base telecommunication station;
 - (vii) freestanding base telecommunication station; and
 - (viii) warehouse and agricultural industry; and
- (b) does not include a noxious trade, scrap yard or risk activity.

Development parameters:

- (a) Floor factor and coverage
 - (i) The floor factor may not exceed 1,5.
 - (ii) The maximum coverage is 75%.
- (b) Height
 - (i) The highest point of a building may not exceed 16 metres.
 - (ii) The highest point of a stack of shipping or transport containers stored outside a building may not exceed 15 metres above average ground level.
 - (iii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (c) Street boundary building line
The street boundary building line is 0 metres.
- (d) Side and rear boundary building lines
Side and rear boundary building lines are 0 metres, provided that the Municipality may impose side and rear building lines of up to 3 metres in the interest of public health and/or safety.
- (e) Boundary walls
Where a land unit zoned for Industrial purposes has a common boundary with another land unit that is not zoned for industrial purposes, the Municipality may require a 1,8 metre-high wall to be erected, to the satisfaction of the Municipality, along the common boundary, subject to Section 27 of this By-Law.
- (f) Parking and access
Parking and access must be provided on the land unit in accordance with this By-law.
- (g) Loading
Loading bays must be provided on the land unit in accordance with this By-law.
- (h) Screening
The Municipality may require screening in accordance with this By-law.
- (i) Hazardous substances
Notwithstanding the fact that an activity constitutes a primary use right in terms of this zone, no activity or use that includes the on-site storage of hazardous substances may be permitted unless a risk management and prevention plan has been submitted to the Municipality for its approval. The risk management and prevention plan must include guidelines approved by the Municipality to prevent or minimise danger to the environment or humans from a particular activity or series of activities, and to deal with the consequences of any dangerous event involving the hazardous substances.
- (j) Industrial hive
The same development management provisions that apply to an industrial hive under "*light industry*" apply to an industrial hive in this zone.
- (k) Site development plan
The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.
- (l) Refuse room
A refuse room must be provided on the land unit in accordance with this By-law.

"informal trading"

Land use description: "*informal trading*" means the legal selling of products in areas demarcated by the Municipality specifically for these purposes, including markets and other areas demarcated in accordance with the Municipality's informal trading By-law.

Development parameters:

As determined by the Municipality.

“institution”

Land use description: *“institution”*:

- (a) means a property used as a facility that renders services to the community including—
 - (i) hospital;
 - (ii) clinic;
 - (iii) home for the aged, retired, indigent or handicapped;
 - (iv) a social facility including a counselling centre, orphanage and rehabilitation centre; and
 - (v) ancillary accommodation, administrative, tuck shop, health care, training and support services and facilities; and
- (b) does not include a correctional facility.

Development parameters:

Development parameters applicable to *“place of instruction”* apply.

“intensive animal farming”

Land use description: *“intensive animal farming”*:

- (a) means the breeding, feeding and keeping, on an intensive basis, of animals or poultry confined to buildings, or structures; and
- (b) does not include the breeding, feeding and keeping of wildlife.

Development parameters:

Development parameters applicable to *“agriculture”* apply.

“intensive horticulture”

Land use description: *“intensive horticulture”* means the culture of plants on an intensive scale, including:

- (a) the culture of plants under a roof or in greenhouses; and
- (b) the sale of self-produced plants on a property.

Development parameters:

Development parameters applicable to *“agriculture”* apply.

“light industry”

Land use description: *“light industry”*:

- (a) means an industry that is not hazardous or offensive and does not involve the use or storage of hazardous or offensive materials or substances, and where the processes carried on, or the transportation involved, do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise;
- (b) involves manufacturing that is less capital-intensive and requires less machinery than other types of manufacturing; and
- (c) includes:
 - (i) the manufacturing of consumer products, including electronics and clothing;
 - (ii) warehousing;
 - (iii) industrial hive;
 - (iv) service trade;
 - (v) service station;
 - (vi) restaurant; and
 - (vii) open air motor vehicle display.

Development parameters

- (a) Floor factor
The maximum floor factor on the land unit is 1,5.
- (b) Coverage
The maximum coverage for all buildings on a land unit is 75%.
- (c) Height
 - (i) The highest point of a building may not exceed 8,5 metres.
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (d) Street building line
The street building line is at least 5 metres.
- (e) Side building line
The side building line is at least 3 metres.
- (f) Rear building line
The rear building line is at least 3 metres.
- (g) Boundary walls
Where a land unit has a common boundary with another land unit that is not zoned for industrial purposes, the Municipality may require a 1,8 metre-high wall to be erected to the satisfaction of the Municipality, along the common boundary.
- (h) Parking and access
Parking and access must be provided in accordance with this By-law.
- (i) Loading bays
Loading bays must be provided in accordance with this By-law.
- (j) Screening
The Municipality may require screening in accordance with this By-law.
- (k) Refuse room
A refuse room must be provided on the land unit in accordance with this By-law.
- (l) Hazardous substances
No activity which includes storage of on-site hazardous substances may be permitted unless a risk management and prevention plan has been submitted to the Municipality for its approval. The risk management and prevention plan must include guidelines approved by the Municipality to prevent or minimise danger to the environment or humans from a particular activity or series of activities, and to deal with the consequences of any dangerous event involving the hazardous substances.
- (m) Site development plan
A site development plan must be submitted to the Municipality for its approval.
- (n) Industrial hive
The following additional development parameters apply for an industrial hive, namely:
 - (i) the design principles which are reflected in the definition of "*industrial hive*" must be closely followed and implemented;
 - (ii) special attention must be given to aesthetics, architectural coordination, urban design and landscaping; and
 - (iii) the Municipality may impose conditions specifying limits on the mix of retail and manufacturing activities, and the industrial hive may not allocate more than 50% of the total floor space to retail activities, shops or associated uses.

"liquor store"

Land use description: "*liquor store*" means an establishment where the dominant use is the retail sale of alcoholic beverages, for consumption off the property.

Development parameters:

The development parameters applicable to the primary use of the zoning category apply.

"medical consulting rooms"

Land use description: "*medical consulting rooms*" means an office or offices and ancillary rooms used by a registered medical professional for human medical or medical-related consultation, where the office is not attached to a hospital or clinic.

Development parameters:

The development parameters applicable to “office” apply.

“mine”

Land use description: “mine” means mine as defined in the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) and includes extracting gas for market production purposes.

Development parameters:

The following development management provisions apply:

- (a) the owner must comply with national and provincial statutory requirements applicable to mining;
- (b) any application to rezone land to Industrial Zone IV must contain an explanation of the measures that will be implemented to address safety and environmental concerns that may be imposed as conditions of approval by the Municipality, including:
 - (i) control of drainage, sedimentation and erosion;
 - (ii) preservation of surface and substance water;
 - (iii) preservation of topsoil;
 - (iv) provision for restoration and the re-use of the site;
 - (v) provision for noise and visual buffering;
 - (vi) accommodation of heavy traffic and vehicles on roadways; and
 - (vii) a phased programme for rehabilitation; and
- (c) a site development plan must be submitted to the Municipality for its approval.

“mobile home”

Land use description: “mobile home” means a transportable structure that is designed so that it can be used as a permanent dwelling and that has the necessary service connections for a permanent dwelling.

Development parameters:

As determined by the Municipality.

“motor repair garage”

Land use description: “motor repair garage” means a commercial enterprise where motor vehicles are provided with fuel or major services including engine overhauling, spray-painting, panel beating, black-smithery, exhaust fitment, shock absorber fitment or body work, and includes a service station.

Development parameters:

The development parameters applicable to “service station” apply. The following additional development parameters apply:

- (a) a site development plan must be submitted to the Municipality for its approval;
- (b) any part of the property of a motor repair garage that is used for the repair of motor vehicles, the storage of inoperable motor vehicles or parts of motor vehicles, empty containers including oil drums and packing cases, or any other scrap, must be enclosed with a solid screen wall at least 2 metres high, or contained in a building; and
- (c) any motor repair garage that supplies fuel must comply with the following access requirements:
 - (i) the width of motor vehicle carriageway crossings over the street boundary, whether one-way or two-way, may not exceed 8 metres;
 - (ii) a wall, at least 100 millimetres thick and 350 millimetres high, must be erected on the street boundary between different motor vehicle carriageway crossings, and the wall must continue along the boundary unless the property is otherwise enclosed;

- (iii) the motor vehicle carriageway crossings must be limited to two per site unless the total length of a street boundary exceeds 30 metres, in which case one additional motor vehicle carriageway crossing may be permitted;
- (iv) at the point where it crosses the street boundary, a motor vehicle carriageway crossing may not be closer than:
 - (aa) 30 metres to the intersection of a provincial road and with any other road of a similar status;
 - (bb) 30 metres to the nearest point of an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island;
 - (cc) 10 metres from the corner of an intersection not described in items (aa) and (bb), if the intersection is not splayed, or 5 metres from the point where the splay meets the road boundary if the intersection is splayed; and
 - (dd) 1,5 metres from a side boundary; and
- (v) no fuel pump may be erected so that the base or island on which the pump stands is less than 3,5 metres from the nearest street boundary.

"multiple parking garage"

Land use description: "*multiple parking garage*" means a place, excluding a road, street and on-site parking associated with a primary or consent use that is used for parking of motor vehicles by the public, with or without a fee, and may include parking within a building.

Development parameters

Development parameters applicable to "*business premises*" apply.

"nature conservation area"

Land use description: "*nature conservation area*" means the use and management of land with the objective of preserving the natural biophysical characteristics of that land, including the fauna and flora, but does not include tourist facilities, tourist accommodation or agriculture.

Development parameters:

The following development parameters apply:

- (a) The Municipality may require an environmental management plan to be submitted for its approval;
- (b) The Municipality must determine the land use restrictions and the development parameters for the property based on the objectives of this zoning, the particular circumstances of the property and, where applicable, in accordance with an approved environmental management plan
- (c) One dwelling house is allowed if no dwelling house exists on another portion of the land unit zoned for agriculture purposes or if the full extent of the land unit is zoned Open Space III;
- (d) When a consent use to provide tourist facilities or tourist accommodation in a "*nature conservation area*" is approved, it is subject to conditions imposed by the Municipality with regard to layout, landscaping and building design.
- (e) A site development plan must be submitted to the Municipality for its approval, clearly indicating the position of all structures, services and internal roads.

"nature reserve"

Land use description: "*nature reserve*" means a national park or some other nature area that is owned by an organ of state or remains in private ownership and has been declared as a nature reserve or has a similar status in terms of legislation; it consists of an area that is utilised as a game park or reserve for fauna and flora in their natural habitat and:

- (a) includes environmental facilities and worker accommodation; and
- (b) does not include accommodation facilities for tourists or holiday makers.

Development parameters:

The following development parameters apply:

- (a) An environmental management plan must be submitted to the Municipality, SANParks or CapeNature for their approval or to all of them for approval;
- (b) SANParks or CapeNature or both must, in consultation with the Municipality, determine the land use restrictions and the development parameters for the property based on the objectives of this zoning, the particular circumstances of the property, and in accordance with an approved environmental management plan;
- (c) When consent uses to provide tourist facilities or tourist accommodation in a "nature reserve" are approved, conditions must be imposed with regard to density, layout, landscaping, and building design;
- (d) A site development plan must be submitted to the Municipality for its approval, clearly indicating the position of all structures, stands, services and internal roads.

"noxious trade"

Land use description: "noxious trade" means an industry that is offensive, poisonous or a potentially harmful use or activity that, because of the fumes, emissions, smell, vibration, noise, waste products, nature of material used, processes employed, or other cause, is considered by the Municipality to be a potential source of danger, nuisance or offence to the general public or persons in the surrounding area and includes:

- (a) an abattoir; and
- (b) a crematorium.
- (c) rooftop base telecommunication station; and
- (d) freestanding base telecommunication station.

Development parameters:

The following development parameters apply:

- (a) **Floor factor**
The maximum floor factor on the land unit is 2.
- (b) **Coverage**
The maximum coverage for all buildings on the land unit is 75%.
- (c) **Height**
 - (i) No height restriction applies to buildings used for a noxious trade, risk activity or manufacturing in this zone;
 - (ii) Buildings not used for noxious trade, risk activity or manufacturing purposes may not exceed a height of 16 metres;
 - (iii) The general provisions regarding earth banks and retaining structures in this By-law apply;
 - (iv) The highest point of shipping or transport containers, when stored or stacked outside a building connected with a noxious trade, may not exceed 15 metres above average ground level.
- (d) **Building lines**
 - (i) The street boundary building line is at least 5 metres.
 - (ii) The side and rear boundary building lines are at least 5 metres.
- (e) **Parking and access**
Parking and access must be provided on the land unit in accordance with this By-law.
- (f) **Loading**
Loading bays must be provided on the land unit in accordance with this By-law.
- (g) **Screening**
The Municipality may require screening on the land unit in accordance with this By-law.
- (h) **Boundary walls**
Where a land unit has a common boundary with another land unit that does not have an industrial zoning, the Municipality may require a 1,8 metre-high wall, of the quality and with finishing to the satisfaction of the Municipality, to be erected along the common boundary, subject to Section 27 of this By-law.

(f) Hazardous substances

Notwithstanding the fact that an activity constitutes a primary use right in terms of this zone, no activity or use that includes the on-site storage of hazardous substances is permitted unless a risk management and prevention plan has been submitted to the Municipality for its approval. The risk management and prevention plan must include guidelines approved by the Municipality to prevent or minimise danger to the environment or humans from a particular activity or series of activities, and to deal with the consequences of any dangerous event involving the hazardous substances.

(f) Refuse room

A refuse room must be provided on the land unit in accordance with this By-law.

(k) Site development plan

The Municipality may require a site development plan to be submitted for its approval.

“occasional use”

Land use description: “occasional use” means a temporary departure granted by the Municipality for a specific occasion or event including:

- (a) craft markets;
- (b) circuses;
- (c) religious gatherings;
- (d) film shoots;
- (e) builder's yards;
- (f) seasonal camping sites; and
- (g) other outdoor events.

Development parameters:

The following development parameters apply:

- (a) the applicant must provide parking and toilet facilities to the satisfaction of the Municipality.
- (b) the temporary activities may not extend for a continuous period of more than 30 days;
- (c) notwithstanding paragraph (b), the Municipality may determine a longer period for a builder's yard; and
- (d) the Municipality may withdraw the approval by written notice to the applicant if any condition of approval is not complied with or if, in the opinion of the Municipality, the occasional use concerned creates a public nuisance.

“office”

Land use description: “office” means property used for the conducting of an enterprise primarily concerned with administrative, clerical, financial or professional duties, and includes:

- (a) medical consulting rooms; and
- (b) a clinic

Development parameters:

The following development parameters apply:

- (a) Floor factor, coverage and building lines for offices are in terms of the table below:

Zoning Category	Floor Factor	Coverage	Height	Building Lines		
				Street	Side	Rear
Business Zone I	3	100%	12 m	0 m	0 m	0 m
Business Zone II	1	80%	8,5 m	4,5 m	0 m	0 m

- (b) The general building line encroachments in this By-law apply;
- (c) Where this zone is bordering a residential zone the building line required in the applicable residential zone shall apply on both sides of the common boundary between this zone and the residential zone.
- (d) **Parking and access**
Parking and access must be provided on the land unit in accordance with this By-law, except in a case where the Municipality has approved alternative parking supply under section 43(1).
- (e) **Screening**
The Municipality may require screening in accordance with this By-law.
- (f) **Refuse room**
The Municipality may require a refuse room to be provided on the land unit in accordance with this By-law.

“off-road trail”

Land use description: “*off-road trail*” means a series of roads, tracks and routes designed for recreational use and:

- (a) includes buildings and facilities normally required for the administration and maintenance of the trail; and
- (b) does not include tourist accommodation or tourist facilities.

Development parameters:

The development parameters applicable to “*agriculture*” apply.

“open air motor vehicle display”

Land use description: “*open air motor vehicle display*” means the display of motor vehicles for the purpose of trading under open air where the open air area does not form part of a covered showroom and where shade cloth may not be construed as a permanent method of covering.

Development parameters:

The development parameters of “*shop*”, apply.

“outdoor trading and dining”

Land use description: “*outdoor trading and dining*” means the regular use of land in an outdoor setting for the selling of goods and food, and includes outdoor dining and seating, and where such activities typically takes place in the open air, and/or from temporary structures such as stalls, tents or caravans, and may also take place in permanent open structures which provide protection from the elements whilst in an open-air setting.

Development parameters:

- (a) The Municipality must require a site development plan for outdoor trading and dining;
- (b) The site development plan as approved by the Municipality constitutes the development parameters;
- (c) The provisions for a site development plan in this By-law apply.

“place of assembly”

Land use description: “*place of assembly*”:

- (a) means a place that has a civic function to serve the social and community needs of an area, may attract people in relatively large numbers and is not used predominantly for a commercial enterprise;
- (b) includes a civic hall, concert hall, gymnasium, sport stadium, and club house; and
- (c) does not include a place of entertainment, or a commercial conference facility.

Development parameters:

Development parameters applicable to “*place of instruction*” apply.

“place of entertainment”

Land use description: “*place of entertainment*” means:

- (a) a place used predominantly for commercial entertainment and may include a bar, stage for live music, one or more dance floor areas, a DJ booth, and which may attract relatively large numbers of people, operate outside normal business hours or generate noise from music or revelry on a regular basis, or;
- (b) a place used predominantly for commercial leisure activities that may attract relatively large numbers of people, operate outside normal business hours or generate noise from such activities on a regular basis, including:
 - (i) a cinema;
 - (ii) theatre; and
 - (iii) amusement park or centre;

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“place of instruction”:

Land use description: “*place of instruction*” means a place for education or training at pre-school, school or post-school levels, and:

- (a) includes a crèche, nursery school, primary school, secondary school, college, university or research institute;
- (b) includes ancillary uses including:
 - (i) a boarding hostel,
 - (ii) sports and recreation centre,
 - (iii) a civic facility for the promotion of knowledge to the community including:
 - (aa) a public library,
 - (bb) place of worship,
 - (cc) public art gallery,
 - (dd) museum;
 - (ee) place of instruction in sport where the main objective is instruction rather than participation of the public as competitors or spectators;
 - (ff) place of assembly, and
- (c) does not include a reformatory.

Development parameters:

- (a) **Floor factor**
The maximum floor factor is 1,2.
- (b) **Coverage**
The maximum coverage is 60%.
- (c) **Height**
 - (i) The highest point of a building may not exceed 8,5 metres from natural ground level, provided that there is no height limit for a bell tower, steeple, minaret or similar architectural feature designed to accentuate the significance of a building.
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (d) **Building lines**
 - (i) The street building line is at least 5 metres.
 - (ii) Side and rear building lines are at least 5 metres.
 - (iii) The general building line encroachments in this By-law apply.

- (e) **Parking and access**
Parking and access must be provided on the land unit in accordance with this By-law.
- (f) **Loading bays**
Loading bays must be provided on the land unit in accordance with this By-law.
- (g) **Screening**
The Municipality may require screening in accordance with this By-law.
- (h) **Noise mitigation**
The Municipality may require the owner to install noise mitigation measures if excessive noise is created or likely to be created.
- (i) **Refuse room**
A refuse room must be provided on the land unit in accordance with this By-law.

“place of worship”

Land use description: “*place of worship*” means a church, synagogue, mosque, temple, chapel or other place for practising a faith or religion, provided that a dwelling where the occupants engage in worship does not constitute a place of worship, and:

- (a) includes ancillary uses such as a religious leader’s dwelling, office, crèche, function hall, place of assembly or place for religious instruction; and
- (b) does not include a funeral parlour, cemetery or crematorium,

Development parameters:

Development parameters applicable to “*place of instruction*” apply.

“plant nursery”

Land use description: “*plant nursery*” means a property used for one or more of the following uses as a commercial enterprise:

- (a) cultivation of plants;
- (b) sale of plants; and
- (c) sale of gardening products and gardening equipment.

Development parameters:

Development parameters applicable to “*agriculture*” apply.

“private open space”

Land use description: “*private open space*” means land not designated as public open space and that is used primarily as a private site for sport, play, rest or recreation, or as a park or nature conservation area, and:

- (a) includes ancillary buildings, infrastructure, private roads, private parking and public land that is or will be leased on a long-term basis; and
- (b) does not include shops, restaurants and commercial or enclosed gymnasiums.

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality.
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“private parking”

Land use description: “*private parking*” means property reserved exclusively for parking purposes and that is not normally accessible to the general public.

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality;
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“private road/ street”

Land use description: “*private road/street*” means privately owned land designated as a private road that provides vehicle access to a separate cadastral property or properties, and:

- (a) includes utility services and ancillary access control infrastructure, including a gatehouse, guardhouse, refuse room and utility room; and
- (b) does not include a driveway on a property, or a servitude right of way over a property as these do not constitute private roads for the purpose of this zoning scheme.

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality;
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law .

“prospecting”

Land use description: “*prospecting*” means the first stage of physical search for minerals, fossils, precious metals or mineral specimens and may be granted as a temporary departure from this By-law by the Municipality since it does not constitute a primary, consent or occasional use right in terms of this By-law.

Development parameters:

As determined by the Municipality.

“public open space”

Land use description: “*public open space*”:

- (a) means land, with or without access control:
 - (i) owned by the Municipality or other an organ of state;
 - (ii) not leased out by the Municipality or that other authority on a long-term basis,
 - (iii) set aside for the public as an open space for recreation or outdoor sport and designated as public open space; and
- (b) includes a park, playground, public or urban square, picnic area, public garden, nature area and ancillary buildings and infrastructure.

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality;
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“public parking”

Land use description: “*public parking*” means property that is accessible to the general public for parking purposes with or without a fee and/or access control.

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality;
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“public road/street”

Land use description: “*public road/street*” means any land, owned by or vesting in the Municipality, indicated on an approved plan, diagram or map as having been set aside as a public thorough way for vehicles and pedestrians and includes:

- (a) open public parking areas;
- (b) sidewalks;
- (c) those parts of a public place that are travelled parts;
- (d) informal trading; and
- (e) appropriate and necessary street furniture and infrastructure, including reticulation networks that does not present any threat to the safety or obstruct or inhibit free movement of pedestrians.

Development parameters:

The following development parameters apply:

- (a) As determined by the Municipality
- (b) The Municipality may require a site development plan to be submitted for its approval in accordance with this By-law.

“quarry”

Land use description: “quarry” means a place from which dimension stone, rock, construction aggregate, riprap, sand, gravel or slate is excavated from the ground. A quarry is a type of open-pit mine that produces building materials and dimension stone.

Development parameters:

Development parameters applicable to “agriculture” together with additional parameters determined by the Municipality apply. The following additional parameters apply:

- (a) If a quarry is approved as a consent use in Agricultural Zone I, the consent may only be granted for the number of years equal to the expected lifetime of the quarry concerned.
- (b) The owner must comply with national and provincial statutory requirements applicable to mining.
- (c) Any application to rezone land to Industrial Zone IV must set out the measures that will be implemented to address safety and environmental concerns including:
 - (i) control of drainage, sedimentation and erosion;
 - (ii) preservation of surface and substance water;
 - (iii) preservation of topsoil;
 - (iv) provision for restoration and the re-use of the site;
 - (v) provision for noise and visual buffering;
 - (vi) accommodation of heavy traffic and vehicles on roadways; and
 - (vii) a phased programme for rehabilitation.
- (d) The Municipality may impose the measures to address safety and environmental concerns as conditions of approval;
- (e) A site development plan must be submitted to the Municipality for its approval.

“rehabilitation centre”

Land use description: “rehabilitation centre” means a facility providing treatment for substance abuse.

Development parameters:

Development parameters applicable to “place of instruction” apply.

“renewable energy structure”

Land use description: “renewable energy structure”:

- (a) means any wind turbine, solar energy generating apparatus, including solar photo-voltaic and concentrated solar thermal, hydro turbines or bio mass facility or any grouping thereof, that captures and converts wind, solar radiation or bio mass into energy for commercial gain; and
- (b) includes any appurtenant structure necessary for, or directly associated with, generation of renewable energy, or any test facility or structure that may lead to the generation of energy on a commercial basis, excluding electrical grid connections.

Development parameters:

The following development parameters apply:

- (a) The Municipality must require a detailed site development plan to address reasonable concerns relating to access, parking, architectural form, urban form, landscaping, environmental management, public health and safety, engineering services or similar concerns;
- (b) The site development plan as approved by the Municipality constitutes the development parameters;
- (c) The Municipality must require an Environmental Management Plan that documents the management of site preparation, operational phase and decommissioning.

“resort shop”

Land use description: “*resort shop*” means a shop that provides for the daily needs of transient guest of a holiday resort or camping site.

Development parameters:

The floor space of a resort shop may not exceed 100 m² and all other parameters of the primary use apply.

“restaurant”

Land use description: “*restaurant*” means a commercial establishment where meals and liquid refreshments are prepared and/or served to paying customers primarily for consumption on the property, and may include licensed provision of alcoholic beverages for consumption on the property, and the option for customers to purchase food for consumption off the property.

Development parameters:

Development parameters applicable to “*business premises*” apply, or where restaurant has been granted as a consent use, the development parameters of the primary use in the zone will apply.

“retirement resort”

Land use description: “*retirement resort*” means, flats, group housing or town housing that conforms to the following additional conditions:

- (a) each dwelling unit must be occupied by a retiree or pensioner or by a family of which at least one member is a retiree or pensioner; and
- (b) a full spectrum of frail care and other facilities reasonably associated with a retirement resort may be provided at the retirement resort.

Development parameters:

Development parameters applicable to the primary use apply.

“riding school”

Land use description: “*riding school*” means a place or undertaking for the leasing of horses and riding instructions against payment, and includes the care and stabling of the horses.

Development parameters:

Development parameters as applicable to “*agriculture*” apply.

“risk activity”

Land use description: “*risk activity*” means an undertaking where the material handled or the process carried out is liable to cause extremely rapid combustion, give rise to poisonous fumes, or cause explosion, and includes major hazardous installations and activities involving dangerous and hazardous substances that are controlled in terms of national legislation.

Development parameters:

Development parameters applicable to “*industry*” apply.

“rooftop base telecommunication station”

Land use description: “*rooftop base telecommunication station*” means a support structure attached to the roof, side or any part of a building and used to accommodate telecommunication infrastructure for the transmitting or receiving of electronic communication signals.

Development parameters:

The general provisions of section 31 of this By-law apply.

“scrap yard”

Land use description: “*scrap yard*” means a property that is utilised for one or more of the following purposes:

- (a) storing, depositing or collecting of junk, scrap material or articles that have value depending mainly or entirely on the material used during their manufacture;
- (b) the dismantling of second-hand vehicles or machines to recover components or material; and
- (c) the storage or sale of second-hand parts, poles, steel, wire, lumber yards, tyres, bricks, containers or other articles suited to being left in the open.

Development parameters:

Development parameters applicable to “*industry*” apply.

“second dwelling”

Land use description: “*second dwelling*” means another dwelling that may, in terms of this By-law, be erected on a land unit where a dwelling house is also permitted; and the second dwelling may be a separate structure or attached to an outbuilding or may be contained in the same structure as the dwelling house; provided that:

- (a) a second dwelling may only be erected in a use zone where provision has been made in column 2 of the table set out in Schedule 1 for a second dwelling unit as a consent use; and
- (b) the second dwelling must remain on the same land unit as the dwelling house and not be alienated separately.

Development parameters:

The development parameters applicable to “*dwelling house*” apply, together with the following additional parameters:

- (a) the total floor space of a second dwelling may not exceed 150 m² including the floor space of all ancillary buildings;
- (b) a second dwelling must be constructed in a style that is similar to the architecture of the main dwelling house;
- (c) a second dwelling that is a separate structure to a dwelling house may not exceed a height of 6,5 metres;
- (d) a second dwelling that is contained within the same building as a dwelling house must be designed so that the building appears to be a single dwelling house;
- (e) both units may have a ground floor, or one unit may be on the ground floor and the other unit above;
- (f) the existence of a second dwelling may not in itself be sufficient reason for the Municipality to grant an application in terms of planning law to subdivide the land unit containing the dwelling units; and
- (g) the construction of a second dwelling is subject to the Municipality’s municipal services department certifying that adequate services network capacity is available to serve the needs of the second dwelling.

“service station”

Land use description: “*service station*” means property for the retail supply of fuel, and:

- (a) may include uses including washing of vehicles, a convenience shop and a restaurant; and

- (b) does not include spray-painting, panel beating, motor repair garage, open air motor vehicle displays or truck stop.

Development parameters:

The following development parameters apply:

- (a) **Floor factor**
The maximum floor factor on the land unit is 1.
- (b) **Coverage**
The maximum coverage of all buildings on a land unit is 75%.
- (c) **Height**
 - (i) The maximum height of a building is 12 metres to the top of the roof.
 - (ii) The general provisions regarding earth banks and retaining structures in this By-law apply.
- (d) **Building lines**
 - (i) The street boundary building line is 5 metres, subject to the general building line encroachments in this By-law.
 - (ii) The side and rear boundary building lines are 2 metres.
 - (iii) No fuel pump may be erected so that the base or island on which the pump stands is less than 3,5 metres from the nearest street boundary.
- (e) **Parking and access**
 - (i) Parking and access must be provided on the land unit in accordance with this By-law, except in a case where the Municipality has approved alternative parking supply under subsection 43(1).
 - (ii) the width of motor vehicle carriageway crossings over the street boundary, whether one-way or two-way, may not exceed 8 metres;
 - (iii) a wall, at least 100 millimetres thick and 350 millimetres high, must be erected on the street boundary between different motor vehicle carriageway crossings, and the wall must continue along the boundary unless the property is otherwise enclosed;
 - (iv) the motor vehicle carriageway crossings must be limited to two per site unless the total length of a street boundary exceeds 30 metres, in which case one additional motor vehicle carriageway crossing may be permitted; and
 - (v) at the point where it crosses the street boundary, a motor vehicle carriageway crossing may not be closer than:
 - (aa) 30 metres to the intersection of a provincial road and with any other road of a similar status;
 - (bb) 30 metres to the nearest point of an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island;
 - (cc) 10 metres from the corner of an intersection not referred to in sub-items (aa) or (bb) if such intersection is not splayed, or 5 metres from the point where the splay meets the road boundary if such intersection is splayed; and
 - (dd) 1,5 metres from a side boundary.
- (f) **Loading**
Loading bays must be provided on the land unit in accordance with this By-law.
- (g) **Screening**
Any part of the property of a service station that is used for the repair of motor vehicles, the storage of inoperable motor vehicles or parts of motor vehicles, empty containers including oil drums and packing cases, or any other scrap, must be enclosed by a solid screen wall at least 2 metres high, or contained within a building.
- (h) **Refuse room**
The Municipality may require a refuse room to be provided on the land unit in accordance with this By-law.
- (i) **Site development**
 - (i) A site development plan must be submitted to the Municipality for its approval;
 - (ii) The site development plan must at least address matters pertaining to vehicle access, risk management of fuel pumps and fuel storage areas, screening and minimising any visual intrusion or operational disturbance with adjoining properties.

“service trade”

Land use description: “*service trade*” means an enterprise:

- (a) primarily involved in the rendering of a service for the local community including the repair of household appliances or the supply of household services;
- (b) not likely to be a source of disturbance to surrounding properties;
- (c) not likely, in the event of fire, to cause extremely rapid combustion, give rise to poisonous fumes or cause explosions;
- (d) that includes laundry, bakery, dairy depot, and similar types of uses; and
- (e) that does not include an abattoir, brick-making site, builder's yard, sewage works, service station, open air motor vehicle display or motor repair garage.

Development parameters

The development parameters applicable to “*shop*” apply.

“shelter”

Land use description: “*shelter*” means a unit of accommodation, intended for human occupation with outbuildings as are ordinarily used with a dwelling unit, constructed of any material whatsoever, even though the material may not comply with the standards of durability intended by the National Building Regulations, and includes:

- (a) renewable energy structures for household purposes;
- (b) home occupation;

Development parameters:

The following development parameters apply:

- (a) It is the sole responsibility of the occupant or owner of the shelter to ensure the structural, habitability, fire resistance or other standards of a shelter;
- (b) The Municipality may instruct any occupant or owner of a shelter to take action to remedy a public safety, health or fire risk;
- (c) The dominant use of the unit must remain residential;
- (d) No noxious trade, risk activity, adult entertainment, adult services or adult shop is permitted in a shelter;
- (e) No activities may be carried out in a shelter that constitute or are likely to constitute a source of nuisance, including the use of equipment that generates excessive noise, or any activity that results in the generation of dust, fumes, smoke, or waste material that could be detrimental to health, or requires special waste removal processes;
- (f) The Municipality may, at any stage, call for a cessation of the land use or activity, or impose conditions in order to minimise any potential nuisance to surrounding neighbours or the general public.
- (g) **Coverage**
There is no restriction on coverage.
- (h) **Height**
A shelter structure may not exceed two storeys and its height is restricted to 8,5 metres to the top of the shelter.
- (i) **Building lines**
 - (i) Side building lines are at least 1 metre on one side or 1,5 metres in the case where the shelter has windows or doors.
 - (ii) If a midblock sewage system is present, a rear building line of up to 2 metres may be required by the Municipality.
 - (iii) The street building line is 1 metre, if required by the Municipality.

“shooting range”

Land use description: “*shooting range*” means an enclosed indoor facility or demarcated outdoor area designed, built or constructed and utilised by a person as a firing range with targets for the usual, regular, and primary activity of controlled firearm practice, shooting competitions, or firearm training on a commercial basis, and:

- (a) may be restricted to certain types of arms, handguns or rifles, or can specialize in certain shooting sports;
- (b) must be constructed or designed in such a way, or where the improvements, size, geography, and vegetation of the area are such that any misdirected shot, that can reasonably be expected to be fired towards the targets, would not reasonably be expected to leave the range or otherwise pose a threat to life or property; and
- (c) may include ancillary activities, buildings and structures.

Development parameters:

The following development parameters apply:

- (a) The Municipality must require a site development plan for a shooting range;
- (b) The site development plan as approved by the Municipality constitutes the development parameters;
- (c) The provisions for a site development plan in this By-law apply.

“shop”

Land use description: “*shop*” means property used for the retail sale of goods and services to the public, and:

- (a) includes a retail concern where goods that are sold in the concern are manufactured or repaired, a funeral parlour, ancillary sale of alcoholic beverages, flats above ground floor, service trade, clinic and the sale of motor vehicles; and
- (b) does not include a hotel, industry, supermarket, motor repair garage, open air motor vehicle display, service station, restaurant, adult entertainment, adult services, adult shop or a liquor store.

Development parameters:

The following development parameters apply:

- (a) Floor factor, coverage, height and building lines are in terms of the table below:

Zoning Category	Floor Factor	Coverage	Height	Building Lines		
				Street	Side	Rear
Business Zone I	3	100%	12 m	0 m	0 m	0 m
Business Zone II	1	80%	8,5 m	4,5 m	0 m	0 m

- (b) Where this zone is bordering a residential zone the building line required in the applicable residential zone shall apply on both sides of the common boundary between this zone and the residential zone;
- (c) **Street corners**
The Municipality may require the owner of a building to be situated at a public street corner, and where the Municipality considers the street corner to be significant, to incorporate in the building, architectural features that focus visual interest on the corner and emphasise the importance of pedestrian movement around the corner. The architectural features may include building cut-offs, walk-through covered arcades, plazas or other elements.

- (d) **Parking and access**
Parking and access must be provided on the land unit in accordance with this By-law, except in a case where the Municipality has approved alternative parking supply under subsection 43(1).
- (e) **Loading**
Loading bays must be provided on the land unit in accordance with this By-law.
- (f) **Screening**
The Municipality may require screening in accordance with this By-law.
- (g) **Repair or manufacturing concern in a shop**
The floor space relating to any manufacturing or repair concern in a shop may not comprise more than 40% of the floor space of the shop.
- (h) **Refuse room**
The Municipality may require a refuse room to be provided on the land unit in accordance with this By-law.

"smallholding"

Land use description: "*smallholding*" means an extensive landholding, including a dwelling house that is primarily a place of residence on which small scale agricultural activities may take place.

Development parameters:

Development parameters applicable to "*agriculture*" apply, except that the following building lines apply:

- (a) 10 metres from any boundary in respect of properties smaller than 2 hectares;
- (b) 20 metres from any boundary in respect of properties smaller than 4 hectares; and
- (c) 30 metres from any boundary in respect of properties larger than 4 hectares.

"sports and recreation centre"

Land use description: "*sports and recreation centre*" means an outdoor or indoor sports and recreation facility which may be public or privately owned and which may include sports grounds and fields, golf courses, a sports stadium, as well as ancillary and subservient facilities and amenities like a clubhouse with a restaurant and shop, gymnasium, ablution facilities, stores, and related administrative buildings.

Development parameters:

The following development parameters apply:

- (a) The Municipality must require a site development plan for a sports and recreation centre;
- (b) The site development plan as approved by the Municipality constitutes the development parameters;
- (c) The provisions for a site development plan in this By-law apply.

"telecommunication infrastructure"

Land use description: "*telecommunication infrastructure*" means any part of the infrastructure of a telecommunication network for radio or wireless communication, and:

- (a) includes voice, data and video telecommunications, including antennae, any support structure, equipment room, radio equipment or optical communications equipment (laser or infra-red);
 - (b) includes ancillary structures needed for the operation of telecommunication infrastructure;
- and
- (c) does not include fibre optic installations and point-to-point copper (cable) installation and rooftop base telecommunication stations.

Development parameters:

As determined by the Municipality.

"tourist accommodation"

Land use description: “*tourist accommodation*” means a harmoniously designed and built holiday development, used for holiday or recreational purposes, whether in private or public ownership, that:

- (a) consists of a single enterprise that provides overnight accommodation by means of short-term rental or time sharing only;
- (b) may include the provision of a camping site, caravan park, chalets or mobile home park, resort shop, private or public roads; and
- (c) does not include a hotel, guest lodge or wellness centre.

Development parameters:

The following development parameters apply:

- (a) When land is rezoned to Resort Zone, the Municipality must impose conditions with regard to density, layout, landscaping, and building design;
- (b) A site development plan must be submitted to the Municipality for its approval, clearly indicating the position of all structures, stands, services and internal roads;
- (c) Provided that if a hotel, guest lodge or wellness centre is approved as a consent use within Resort Zone, the following additional conditions apply:
 - (i) rooms may not be alienated by means of sectional title;
 - (ii) the hotel or guest lodge may not accommodate more than 50% of the number of accommodation units;
 - (iii) the architectural design of the hotel or wellness centre must conform to that of the rest of the resort; and
 - (iv) the maximum height for the hotel or wellness centre is 8.5 metres from natural ground level.

“tourist facilities”

Land use description: “*tourist facilities*” means amenities for tourists or visitors and:

- (a) includes lecture rooms, restaurants, gift shops, restrooms, farmers’ market and recreational facilities; and
- (b) does not include an off-road trail, a hotel, wellness centre; or tourist accommodation.

Development parameters:

Development parameters applicable to “*agriculture*” apply.

“town housing”

Land use description: “*town housing*” means a row or group of linked or attached dwelling units, planned, designed and built as a harmonious architectural entity where every dwelling unit has a ground floor and dwelling units may be cadastrally subdivided.

Development parameters:

The development parameters of “*group housing*” apply, provided that:

- (a) **Density**
The maximum gross density on a town housing site is 60 dwelling units per hectare.
- (b) **Open space**
The open space requirements for group housing do not apply to town housing.
- (c) **Coverage**
The maximum coverage for all buildings on a land unit is 60%.

“transport use”

Land use description: “*transport use*” means the use of land, a building or structure for the operation of a service for the transportation of goods (including liquids and gases) or passengers by means of rail, road, sea or pipeline and:

- (a) includes the use of that land, building or structure for the purpose of a harbour, railway station, bus depot or taxi interchange, rooftop base telecommunication station and a transport undertaking;
- (b) includes a public-private undertaking including a railway station, bus depot, multiple parking garage, taxi rank, public transport interchange, harbour and ancillary purposes; and
- (c) does not include an airport, airfield; or helicopter landing pad.

Development parameters:

Development parameters applicable to "*business premises*" apply.

"truck stop"

Land use description: "*truck stop*" means a facility with direct access from a freeway, inner city road or major transport route that:

- (a) provides a range of rest, service and fuelling facilities for heavy duty, long haul vehicles and trucks; and
- (b) does not include accommodation.

Development parameters:

Development parameters are determined by the Municipality by means of conditions of approval for a truck stop as a consent use, provided that:

- (a) the Municipality must require a site development plan to be submitted for its approval; and
- (b) the site development plan must at least address matters pertaining to vehicle access, placement of overnight parking and ablution facilities or rest rooms, screening and minimising any visual intrusion or operational disturbance to adjoining properties.

"truck stop accommodation"

Land use description: "*truck stop accommodation*" means overnight accommodation by means of short term rental that specifically caters for the needs of truck drivers and may include rooms, ablution facilities, basic food preparation facilities and communal areas for relaxation and is ancillary to a truck stop.

Development parameters:

The following development parameters apply:

- (a) The Municipality must require a site development plan to be submitted for its approval; and
- (b) The height of the accommodation facility may not exceed 6,5 metres to the top of the roof.

"tuck shop"

Land use description: "*tuck shop*" means a small retail concern that stocks a range of snacks, food, candy, soft drinks, tobacco products, newspapers and magazines and serves the needs of the public who frequent the premises.

Development parameters:

The following development parameters apply:

- (a) A tuck shop may not exceed 25m²;
- (b) The Municipality may require a site development plan to be submitted for its approval.

"urban agriculture"

Land use description: "*urban agriculture*" means the cultivation of crops, on relatively small areas within the urban area or edge, for own consumption or sale in neighbouring markets; provided that cultivation of a garden by an occupant is not regarded as urban agriculture for the purpose of this By-law.

Development parameters:

As determined by the Municipality.

“utility service”

Land use description: “*utility service*” means a use or infrastructure that is required to provide engineering and associated services for the proper functioning of urban development and:

- (a) includes a water reservoir and purification works, electricity substation, storm water retention facilities, and a waste-water pump station and treatment works, rooftop base telecommunication station and freestanding base telecommunication station; and
- (b) does not include renewable energy structures or transport use; and
- (c) provided that a road is not regarded as a utility service.

Development parameters:

As determined by the Municipality.

“warehouse”

Land use description: “*warehouse*” means a building used primarily for the storage of goods, except for goods that are offensive or dangerous and:

- (a) includes property used for business of a predominantly wholesale nature; and
- (b) does not include property used for business of a predominantly retail nature.

Development parameters:

Development parameters applicable to “*industry*” apply.

“wellness centre”

Land use description: “*wellness centre*” means a business that provides a variety of services for the purpose of improving health, beauty and relaxation through personal care treatments including massages, rehabilitation, exercise programmes, diet, instruction on wellness, life coaching, and facials and includes:

- (a) facilities like saunas, pools, steam rooms, gymnasiums, treatment rooms, relaxation areas and whirlpools; and
- (b) the provision of meals to guests.

Development parameters:

Development parameters applicable to “*tourist accommodation*” apply.

“winery”

Land use description: “*winery*” means a place where wine is produced and may include a selling point to the general public and wine-tasting area.

Development parameters:

Development parameters applicable to “*agriculture*” apply.

SCHEDULE 3
Overlay Zones Approved In Terms Of Section 16

1. Subdivisional Area Overlay Zones

1.1. General purpose of Subdivisional Area Overlay Zones

The subdivisional area overlay (SAO) zoning designates land for future subdivision with development rights by providing development directives through specific conditions as approved in terms of this By-law. The subdivisional area overlay zoning confirms the principle of development and acceptance of future subdivision of land; but not the detailed layout that will be determined when an actual application for subdivision is approved.

1.2. Use of the property

Land zoned as a subdivisional area may be subdivided as contemplated in the Planning By-law.

1.3. Development parameters

When the municipality approves a subdivisional area overlay zone, it must impose conditions making provision for at least:

- (a) density requirements;
- (b) main land uses and the extent of the uses; and
- (c) a detailed phasing plan or a framework including—
 - (i) main transport routes;
 - (ii) main land uses;
 - (iii) bulk infrastructure;
 - (iv) requirements of organs of state;
 - (v) public open space requirements; and
 - (vi) physical development constraints.

2. Special Planning Area Overlay Zone: Thesen Island

2.1 Description of Thesen Island Overlay Zone

A special planning area overlay zone has been established in respect the Thesen Island development. This area involves a unique marina development that does not comply with the development parameters of the applicable land uses of this zoning scheme.

The Thesen Island development consists of two distinct areas. The residential component is situated on the eastern side of the Island behind the security gate and is a homogeneous private residential area with no access to the general public, whereas the commercial area is a mixed-use area situated on the western side of the island and is open to the public.

To create a specific character and sense of place, the development is subject to specific design criteria described in approved architectural manuals and urban regulation plans for each phase of the development. In addition, approved site plans for each erf, with specific parameters for each site, determines the development envelope of each property.

The extent of the Thesen Island Overlay zone is depicted on the zoning map.

2.2. Use of the property

2.2.1 Primary uses are as stipulated in the conditions of approval imposed in terms of the relevant planning legislation and are in line with the base zone for each respective property in the overlay zone.

- 2.2.2 Consent Uses and Departures are as stipulated in the conditions of approval imposed in terms of the relevant planning legislation.

2.3 Development Parameters

- 2.3.1 The development parameters as contained in the conditions of approval relating to the Thesen Islands development, as well as the applicable site- and or precinct regulation plans pertaining to the respective erven in the overlay zone shall apply instead of the development parameters of the base zone, and shall be regarded as the overlay development parameters in terms of this By-law.

3. Urban Conservation Area Overlay Zone

3.1 General purpose of the Urban Conservation Overlay Zone

The purpose of the conservation zone is to retain the unique character of the aesthetical sensitive areas of Knysna by the preservation of:

- (i) existing buildings, other structures or land of historical, aesthetic or architectural significance;
- (ii) existing building lines; and
- (iii) existing trees which are conservation worthy.

The objectives will be achieved through:

- (i) The establishment of an Aesthetic Committee dealing with applications and matters within the Conservation Area; and
- (ii) The control of building design and building lines in the case of new buildings on erven not built upon and also in the case of existing buildings to be replaced, altered or extended.

The extent of the overlay zone is depicted on the zoning map.

3.2 Development parameters in the conservation zone

No specific pre-determined development parameters shall apply in the conservation zone. The aesthetic committee shall consider the building plans of any building operation and as to the requirements needed for such building operation to comply with the objectives of the conservation area as stipulated in sub-section 3.1 above. The guidelines which the Aesthetic Committee shall apply do not form part of the scheme regulations and can be amended by the Municipality, if so required or if so recommended by the Aesthetic Committee.

4. Special Planning Area Overlay Zone: Noetzie

4.1 General Purpose of Noetzie Overlay Zone

A special planning area overlay zone has been created in respect of the former Noetzie Transitional Local Council area. The purpose of the Noetzie Overlay Zone is to give recognition to the uniqueness and importance of Noetzie's natural environment, the need for a precautionary approach in land use management, and restrictions on further development. The extent of the overlay zone is depicted on the zoning map.

4.2 Use Zones

The land use description, consent uses, and development parameters set out below will override the land use description, consent uses and development parameters of the base zone.

4.2.1 SINGLE RESIDENTIAL ZONE I

Primary Use:

Single Residential 1 properties may be used for the purpose of erecting one dwelling unit with associated out buildings. The individual development of each of the properties must contribute to the overall appearance as identified in the Design Parameters set out in par 4.3 below.

Consent Use:

Bed and Breakfast establishment with not have more than four bedrooms (eight beds) for the purpose of offering overnight accommodation.

Occupational Practice and Other Rights:

- (a) Without prejudice to any powers of the Council under any other law, nothing in a Zoning Scheme contained shall be construed as prohibiting or restricting, or enabling the Council to prohibit or restrict, the following:
 - (i) The letting, subject to the council's regulations relating to Bed & Breakfast establishments, boarding houses and hostels, by any occupant of a dwelling unit or any part of such dwelling house;
 - (ii) The occasional utilization of a place of public worship, place of instruction, or institution as a hall for social functions; or
 - (iii) The utilization of a portion of a dwelling unit for purposes of occupational practice
- (b) The following conditions shall apply where a portion of the dwelling unit is utilized for purposes of occupational practice:
 - (i) Such a dwelling house, flat or residential building or any part thereof shall not be used for purposes of a shop, business premises, an industry or a noxious trade;
 - (ii) No goods for sale shall be publicly displayed;
 - (iii) No advertising sign shall be displayed other than an un-illuminated sign or notice not projecting over a street and not exceeding 2 000cm² in area and indicating only the name and profession or occupation of the occupant; and
 - (iv) No activities shall be carried on which are or are likely to be a source of disturbance or nuisance to occupants of other dwelling units or portions thereof.

Development Parameters:

- (a) **Coverage**
Including garage and outbuildings, shall not exceed 35% of the area of the erf.
- (b) **Front building line**
At least 5 metres.
- (c) **Rear building line**
At least 1 metre.
- (d) **Side building line**
At least 1,5 metres.
- (e) **Parking**
 - (i) Parking shall be provided either on-site or off-site subject to agreement with surrounding land-owners according to Council's requirements as they may be laid down from time to time.
 - (ii) Parking shall be provided at the ratio of one bay for two beds in Bed & Breakfast establishments. These bays shall be provided either on or off site.

Additional Provisions:

- (a) The parameters of the existing lawful development shall apply as land use restrictions where departures from those land use restrictions occur on land deemed to be zoned as Single Residential I, with effect from date of commencement of the By-law.

- (b) A site development plan shall be approved by and filed with the local authority clearly indicating:
- (i) The location of buildings on the erf;
 - (ii) building design;
 - (iii) building materials;
 - (iv) services including design parameters and location of septic tank;
 - (v) roadways and parking where applicable;
 - (vi) boundary walls and fences;
 - (vii) landscaping;
 - (viii) for all new buildings and additions and alterations to existing buildings.
- (c) When new buildings are constructed only that land area required for the building footprint and plus a 3m clearance for construction should be cleared of indigenous vegetation.
- (d) All residential sites shall be cleared by hand according to the approved site development plan. No site works should be embarked upon prior to approval of site development plan and building plans.
- (e) The calculation of bedrooms for Bed & Breakfast establishments shall include all bedrooms on the property.
- (f) A Homeowners Association must be established to which membership by the owners of all the properties is compulsory.

4.2.2 Open Space Zone III

Primary use : Nature Conservation
Consent use : None

4.2.3 TRANSPORT ZONE II

Primary use : Public road
Consent use : None

Development Parameters:

- (a) No structure shall be erected or use practiced except such as is compatible with "public road" as defined.
- (b) Roads and landscaping to be governed by urban design guidelines for the Headland Precinct.

4.2.4 AUTHORITY ZONE

Primary use : Authority usage including staff accommodation, information centre, public toilets.
Consent : None

4.2.5 UNDETERMINED ZONE

Primary use : Existing buildings, existing infrastructure, and access roads only.
Consent use : None

Additional Provisions:

- (a) Undetermined Zone shall only be considered for rezoning to the following use zone:
- (i) Open Space Zone III (only primary use and no consent uses)
 - (ii) Resort Zone (only primary use and no consent uses)

- (b) With the rezoning of land to Resort Zone, the local authority shall lay down conditions with regard to density, layout, landscaping, building design, etcetera, at such time as application for the development is made.
- (c) A site development plan shall be approved by and filed with the local authority, clearly indicating the following:
 - (i) The location of buildings on the property
 - (ii) Density;
 - (iii) Building design;
 - (iv) Building materials;
 - (v) Services including design parameters and location and method of sewage disposal;
 - (vi) Roadways and parking where applicable;
 - (vii) Boundary walls and fences;
 - (viii) Landscaping;
 - (ix) For all new buildings and additions and alterations to existing buildings.
- (d) Any development proposals in this area must be preceded by an environmental impact study by a competent professional who must be independent from the developer although such developer may fund all or part of the work.

4.3 DESIGN PARAMETERS

The overlay zone area shall be divided into three precincts for the purpose of Urban Design Guidelines, namely the Headland, the Beach and the River, as shown on the Urban Design Precinct Map.

- (i) Headland – unobtrusive, single storey, contemporary Cape;
- (ii) Beach – stone castellated buildings/Millwood corrugated iron houses;
- (iii) River – rustic; hidden away, unobtrusive buildings.

Retaining walls, rainwater tanks, carports, and other infrastructure are also governed by these guidelines.

NO	ELEMENT	HEADLAND	BEACH	RIVER
1.	Appearance			
1.1	Style and character	Contemporary Cape, drawing from elements of existing building	(i) "castle", castellated parapets, etc. (ii) "Millwood" house	Rustic lodge/hide very unobtrusive
1.2	Heights	One storey	One-two storey(s)	One-two storey(s) (stilt foundations as appropriate)
2.	Colours/Materials			
2.1	Walls	Dark greens and browns-drawing from existing building and picking up indigenous vegetation colours.	Terrace walls on Millwood houses-stone otherwise corrugated iron, <i>profiled sheet metal and/or shiplap boarding</i> - light coloured walls-other styles-stone and brick.	Dark colours-greens and browns, varnished wood. Sands, greens that tie in with the natural colours.

2.2	Openings and trims(barge boards, door and window mullions and architraves, columns, balustrades, other decorative elements)	Contrasting colours but which are still sensitive to the local natural colours.	Contrasting colours but which are still sensitive to the local natural colours.	Contrasting colours but which are still sensitive to the local natural colours.
2.3	Roofs	Dark greens, browns or black	Dark greens, browns or black	Dark greens, browns or black
3.	Roofs			
3.1	Shape	Double pitched	Double (Millwood) or single pitched (flat)	Double pitched
4.	Landscaping	Indigenous	Indigenous	Indigenous
5.	Roads	Shall have a rural quality with no precast concrete kerbs or channels, etc.	Shall have a rural quality with no precast kerbs or channels, etc.	Shall have a rural quality with no precast concrete kerbs or channels, etc.

4.4 Carports

Subject to the council's approval, a carport which will exceed a street or side building line may be erected subject to the following conditions except where due to local constraints adhering to such conditions is not possible:

- The width of the carport, measured parallel to the street boundary, shall not be more than 6 metres.
- The carport shall be supported by metal, wooden, brick or cement poles or pillars. These poles or pillars may have a maximum measurement of 350 mm horizontal gauge (or 350mm diameter in the case of piping), and at most four poles or pillars may be provided on one side of the carport
- No walls, except boundary walls, shall be constructed to enclose the carport.
- The height of the carport, measured from the floor to the top of the roof, shall not exceed 3 metres.
- The sides of the roof shall be neatly finished with fascia not exceeding a depth of 250mm.
- The façade of the carport shall not be closer than 300mm to the street boundary.
- No gates which open onto the roadway shall be permitted.
- Standard provision shall be made for the collection and run-off of rainwater from the carport.
- Written confirmation from adjoining owner(s), if a side building line will be exceeded, and the owner(s) of both adjoining land units if a street building line will be exceeded, to the effect that they have no objection against the proposed carport shall be obtained.

4.5 COMMERCIAL ACTIVITY

No commercial activity other than that pertaining to the operation of Bed and Breakfast establishments, holiday business concessions and holiday accommodation shall be permitted.

SCHEDULE 4 TRANSITION TABLES

TRANSITION TABLE KNYSNA MUNICIPALITY						
AGRICULTURAL ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYSNA INTEGRATED SCHEME	COMMENTS
	Agricultural zone	Agricultural zone	Agriculture Zone 1		Agricultural Zone I	All existing Agricultural Zones to be converted to Agriculture 1. The new definition of "Agriculture" includes "Agricultural Industries".
Primary Right	Agriculture	Agriculture and Agricultural buildings	Agriculture		Agriculture	
			Agriculture Zone 2			
Primary Right			Agricultural Industry			
					Agricultural Zone II	This is a new zoning category. All farm portions previously situated in areas demarcated for small holding purposes in the old KWP Guide Plan, will be converted to this zone as well as properties that have been rezoned to Special Zone: Rural Residential.
Primary Use					Smallholdings	
					Agricultural Zone III	This is a new zoning category. None of the old Agricultural categories can translate to this zone.
					Agri-Village	

SINGLE RESIDENTIAL ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYSNA INTEGRATED SCHEME	COMMENTS
	Single Residential Zone	Single Residential Zone	Residential 1		Single Residential I	
Primary right	Dwelling houses Home industries	One Dwelling House, Place of Instruction	Dwelling House		Dwelling House	All Single Residential Erven in Knysna and Sedgfield and Residential I erven in Section 8 Scheme will be converted to the Single Residential I zone.
	Informal Residential Zone	Informal Residential Zone	Informal Residential Zone		Single Residential II	
Primary Right	Shelters Dwelling houses	Shelters Dwelling houses	Shelters Dwelling houses		Dwelling house, Shelter	All Informal Residential Erven to be converted to Single Residential II
GENERAL RESIDENTIAL ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYSNA INTEGRATED SCHEME	COMMENTS
	Group Housing Zone	Group Housing Zone	Residential 2		General Residential I	
Primary Right	Group housing	Group housing	Group Housing		Group housing	All Group Housing and Residential 2 zonings to be converted to this zone. Where communal open spaces and private roads are on separate erven, these will be converted to a suitable Open Space II or Transport Zone III.

88

Province of the Western Cape: Provincial Gazette: Extraordinary 8258

29 June 2020

29 June 2020

Province of the Western Cape: Provincial Gazette: Extraordinary 8258

89

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

			Residential 3		General Residential II	
Primary Right			Town Houses		Town Houses	Town Houses in Residential III will be converted to this zone.
		Special Residential				
Primary Right		Special Dwellings Public Housing				No zone in new scheme for these categories, and will be converted to Single Residential I or II with consent if needed, provided that the parameters of existing lawful development shall apply.
	General Residential	General Residential	Residential 4		General Residential III	
Primary Right	Blocks of flats, Licensed hotels, Residential buildings	Block of Flats, Licensed Hotel, Dwelling houses other residential buildings.	Flats		Flats	General Residential properties approved for flats or residential buildings will be converted to General Residential IV.
	General Residential	General Residential	Residential 5		General Residential IV	
Primary Right	Hotel and Guest Houses under General Residential	Hotel and Guest Houses under General Residential	Residential Buildings (Guest Houses, Lodges and Hotels, Boarding Houses)		Guest Lodge	All tourist relates accommodation establishments that were previously approved under General Residential Zone or Residential V in Section 6 will be converted to General Residential V.

58
Province of the Western Cape Provincial Gazette Extraordinary 8258
29 June 2020

		General Residential			General Residential V	
					Hotel	Hotels with more than 30 rooms could be converted to this zone, if they are not already zone for Business purposes.
BUSINESS ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
	Business Zone	Business Zone	Business 1		Business 1	
Primary Right	Business premises Licensed hotels Flats above ground floor Residential buildings Warehouses	Business Buildings General residential buildings Hotels Flats above ground floor	Business Premises		Business premises	All Business and Business I zoning to be converted to this zone
	Local Business Zone	Local Business Zone	Business 2		Business Zone II	
Primary Right	Shops Flats (above the ground floor only)	Shops and flats above ground floor	Shop		Shops and Office	All Local Business and Business II zones to be converted to this zone, with consent where necessary.
			Business 3			
Primary Right			Offices			This zone will be combined with Business II

59
Province of the Western Cape Provincial Gazette Extraordinary 8258
29 June 2020

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

	Commercial Zone	Commercial Zone	Business 4			
Primary Right	Service Trades	Warehouses and Business Buildings	Warehouse			To be included in Light Industrial Zone
	Service Station	Public Garage	Business 5		Business III	
Primary Right	Service station	Service station	Service Station		Service station	Existing Service Station zones will be converted to this zone
INDUSTRIAL ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
		Light Industrial Zone			Industrial Zone I	
Primary Right		Light Industrial buildings Warehouses			Light industry	
	Industrial Zone	Industrial Zone	Industrial Zone 1		Industrial Zone II	
Primary Use	Industries, Warehouses Transport Undertakings	Industrial buildings Light industrial buildings Warehouses Transportation firms	Industry		Industry	Industrial properties will be converted to either Light industrial or Industrial depending on their current use.

52
Province of the Western Cape: Provincial Gazette Extraordinary 8258
29 June 2020

	Noxious Trade Zone	Offensive Trade Zone	Industrial Zone 2		Industrial Zone III	
Primary Right	Offensive Trade Building	Offensive Trade Building	Noxious Trade		Noxious Trade	
			Industrial Zone 3		Industrial Zone VI	
Primary Right			Mining		Mine Quarry	
COMMUNITY ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
	Educational Zone	LAND RESERVATION FOR SPECIAL PURPOSE: Educational Zone	Institutional 1		Community Zone I	
Primary Right			Place of Instruction		Place of Instruction	
	Institutional Zone	Worship Zone	Institutional 2		Community Zone II	
Primary Right	Place of worship Institutional Buildings	Places of worship	House of Worship		Place of worship	

53
Province of the Western Cape: Provincial Gazette Extraordinary 8258
29 June 2020

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

			Institutional 3		Community Zone III	
Primary Right			Institution		Institution	Institutional buildings previously approved as Consent Uses or Special Zones will be converted to Community Zone III.
RESORT ZONE						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYSNA INTEGRATED SCHEME	COMMENTS
			Resort zone 1	Resort zone 1	Resort Zone	
Primary Right			Holiday Accommodation	Holiday Accommodation	Tourist accommodation	
	Resort Zone		Resort zone 2	Resort zone 2	No zone for this category	
Primary Right	Holiday Housing		Holiday Housing	Holiday Housing		Resort Zone II developments that are residential in nature and within the Urban Edge will be converted to Residential I or II, depending on the scale and nature of the development. Resort II developments that are situated in Nature Areas will be converted to Resort Zone as non-conforming uses or to Nature Conservation areas, with consent for dwelling units, provided that the parameters of existing lawful development shall apply, including the right to alienate units.

54
Province of the Western Cape Provincial Gazette Extraordinary 8258
29 June 2020

OPEN SPACE ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYSNA INTEGRATED SCHEME	COMMENTS
	Public Open Space	LAND RESERVATION FOR SPECIAL PURPOSE: Public Open Space	Open Space 1		Open Space Zone I	
Primary Right			Public Open Space		Public open space	
	Private Open Space	LAND RESERVATION FOR SPECIAL PURPOSE: Private Open Space	Open Space 2		Open Space Zone II	
Primary Right	Private Open Space		Private Open Space		Private open space	
			Open Space 3	Open Space I	Open Space Zone III	
Primary Right			Nature Reserve	Nature Reserve	Nature conservation area	
					Open Space Zone IV	
					Nature reserve	This is a new zone and all state- and privately owned promulgated Nature Reserves will be converted to this zone.

55
Province of the Western Cape Provincial Gazette Extraordinary 8258
29 June 2020

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

TRANSPORT ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
	Transport Zone		Transport zone 1		Transport Zone I	
Primary right	Transport Undertakings		Transport Usage		Transport use	
	Street Zone	LAND RESERVATION FOR SPECIAL PURPOSE: Street Zone	Transport zone 2	Transport I	Transport Zone II	
Primary right	Streets	Public Street	Public Road	Public Road	Public Road	Public Parking is included in the definition of public streets. All existing SANRAL proclaimed Road Reserves will be zoned for Transport II, the future alignment of the N2 will be retained a zoning from before proclamation.
	Parking Zone	LAND RESERVATION FOR SPECIAL PURPOSE: Parking Zone	Transport zone 3			
Primary Right	Public or Private Parking	Parking	Public Parking			
					Transport Zone III	
Primary Right					Private road	Private streets in road reserves to be converted to this zone.
AUTHORITY AND UTILITY ZONES						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
	Public Authority Zone	LAND RESERVATION FOR SPECIAL PURPOSE: Local Authority Zone and Government	Authority Zone	Authority Zone	Authority Zone	
Primary Right	Authority Usage		Authority Usage	Authority Usage		The Authority Zone is not included in Knynsa DRAFT but has been included in the latest provincial model scheme. It was agreed that this zone should be included in the revised scheme for local authority and government services not infrastructure related.

	CEMETERY ZONE	LAND RESERVATION FOR SPECIAL PURPOSE: CEMETERY				
	Cemetery	Cemetery				To be Converted to Private or Public open Space with Consent for Cemetery.
					Utility Zone	
Primary Right					Utility service	Land previously zoned for Local Authority or Government purposes and used for utility services such as substations or reservoirs will be converted to this zone.
SPECIAL ZONE						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
	Special Zone	Special Purpose	Special Usage		No category for this zone	
Primary Right	Various specific uses where every use has its own set of development parameters.	Special Purpose	Special Usage			Special Zoned properties to be converted to the closest matching use zone, with consents if required.
UNDETERMINED ZONE						
	KNYSNA	SEDFIELD	SECTION 8	NOETZIE	PROPOSED KNYNSA INTEGRATED SCHEME	COMMENTS
	Undetermined Zone	Undetermined Zone	Undetermined Zone	Undetermined Zone	UNDETERMINED ZONE	
Primary Right	Existing uses and buildings only	Existing uses and buildings only	None	Existing Buildings Only	Existing Buildings	

56
Province of the Western Cape Provincial Gazette Extraordinary 8258
29 June 2020

57
Province of the Western Cape Provincial Gazette Extraordinary 8258
29 June 2020

PLANNING, ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE MEETING
SUPPLEMENTARY AGENDA
22 APRIL 2026

29 June 2020

SUBDIVISIONAL AREA					
	Subdivisional Area	Subdivisional Area			
Primary Right					Land that has been rezoned to Sub divisional area will retain the original base zone, with an additional subdivisional area overlay zone, until such time as the subdivision has been implemented.

- Consent uses previously granted will be converted to a nearest match;
- Temporary use Departures that has been granted for Guest Houses will be converted to a consent use under Agriculture and Single Residential Zones.

20/258

58

Division of the Western Cape Provincial Executive Remuneration 2025

29 June 2020

5.8

P08/04/26 PROPOSED AMENDMENTS TO THE KNYSNA MUNICIPALITY: SPATIAL PLANNING & LAND USE MANAGEMENT LAW (2021)

REPORT FROM THE DIRECTOR PLANNING, ECONOMIC DEVELOPMENT AND TOURISM

PURPOSE OF THE REPORT

To obtain support from Council to initiate the amendment process of the Knysna Municipality Spatial Planning & Land Use Management By-law (2021).

PREVIOUS RESOLUTIONS

At a meeting of the Planning, Economic Development & Tourism Portfolio Committee meeting that was held on 14 August 2025, it was resolved in accordance with resolution P07/08/25:

“That the item on the Proposed Amendments of the Knysna Municipality: Spatial Planning & Land Use Management By-Law (2021), be withdrawn and that the amended By-law indicating assessments concluded, inclusive of relevant track changes and appropriate legislative prescripts and case law, be submitted to a Workshop arranged by the Speaker.”

BACKGROUND

Following the amendment process for by-laws as required by the Municipal Structures Act, the Knysna Municipality Spatial Planning & Land Use Management By-law (2021) was gazetted in the provincial gazette on 17 September 2021 (**see attached copy of the By-law under Annexure A**).

DISCUSSION

The reasons for the proposed amendments of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021) are as follows:

1. The legislative framework / context has changed since 2021 until present day.
2. Case law may require that certain amendments are required to the By-law.
3. Errors and omissions of the By-law requires amendments to correct it.

The proposed amendment process of the By-law is regulated by Sections 12 and 13 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and can be summarised by the following steps:

Step 1	A draft by-law is prepared by a Councillor or a Committee of the Council
Step 2	The Council must consult with the community with regard to the draft by-law. It must at least publish the by-law for comment by the public.
Step 3	The by-law is introduced in and debated by the Council.

Step 4	The municipal council votes on the by-law.
Step 5	If passed by the council, the by-law is published and becomes law on that date or a later date set in the by-law

It must be noted that the Western Cape Department of Environmental Affairs & Development Planning has made a standard draft Municipal Planning By-law available for municipalities to use. Municipalities may change the standard draft by-law to fit in with local conditions or circumstances. Furthermore, it must also be noted that the proposed amendment of the By-law is listed as a project in the S154 Support Plan as the Diagnostic Assessment identified it as a need.

FINANCIAL IMPLICATIONS

It is anticipated that the publication of the amended By-law in the Provincial Gazette will amount to approximately R70,000.00. Provision has been made for the publication of the amended Knysna Zoning Scheme By-law, however no funding is available for the Planning By-law. Provision will have to be made during the Adjustment Budget for the anticipated additional R70,000.00 expenditure to make up a total budget of R140,000.00 for the two By-laws.

RELEVANT LEGISLATION

Constitution of South Africa.

Knysna Municipality Spatial Planning & Land Use Management By-law (2021).

Local Government: Municipal Systems Act (Act No. 32 of 2000).

RECOMMENDATION OF THE ACTING MUNICIPAL MANAGER

- [a] That the Committee introduce the proposed amendment process of the Knysna Municipality Spatial Planning & Land Use Management By-law (2021) to commence as required by Section 12 of the Local Government: Municipal Systems Act (Act No. 32 of 2000);
- [b] That a Council workshop be arranged to present the proposed amendments to the Knysna Municipality Spatial Planning & Land Use Management By-law (2021);
- [c] That the draft Amended Knysna Municipality Spatial Planning & Land Use Management By-law (2021) be presented to Council for approval before commencement of the public participation process; and
- [d] That provision be made on the Adjustment Budget for R70,000.00 for the publication of the amended By-law in the Provincial Gazette in terms of Section 13 of the Local Government: Municipal Systems Act (Act No. 32 of 2000).

APPENDIX / ADDENDUM

Annexure A – Knysna Municipality Spatial Planning & Land Use Management By-law (2021)

File Number : 9/1/2/5

Execution : Director : Planning & Economic Development
Manager : Land Use Management



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

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CONTENTS

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Page

LOCAL AUTHORITY

Krystna Municipality: Regulation of Building Aesthetics and Heritage By-law	2
Krystna Municipality: Regulation of Outdoor Advertising By-law.....	17
Krystna Municipality: Spatial Planning and Land Use Management By-law	48

KNYSNA MUNICIPALITY
Spatial Planning & Land Use Management By-law
To regulate and control municipal land use planning

Chapter I: Interpretation & Application

- 1 Definitions
- 2 Application

Chapter II: Spatial Planning

- 3 Compilation or amendment of municipal spatial development framework
- 4 Establishment of project committee
- 5 Establishment of intergovernmental steering committee
- 6 Procedure with intergovernmental steering committee
- 7 Procedure without intergovernmental steering committee
- 8 Functions and duties
- 9 Local spatial development frameworks
- 10 Compilation, adoption, amendment or review of local spatial development frameworks
- 11 Status of local spatial development frameworks
- 12 Structure plans
- 13 Determination of zoning
- 14 Non-conforming uses

Chapter III: Development Management

- 15 Land development requiring approval and other approvals
- 16 Continuation of application after change of ownership
- 17 Rezoning of land
- 18 Departures
- 19 Consent uses
- 20 Subdivision
- 21 Confirmation of subdivision
- 22 Lapsing of subdivision
- 23 Amendment or cancellation of subdivision plan
- 24 Exemption of certain subdivisions and consolidations
- 25 Ownership of public places and land for municipal service infrastructure and amenities
- 26 Closure of public places
- 27 Services arising from subdivision
- 28 Certification by Municipality
- 29 **Owners' associations**
- 30 **Owners' associations that cease to function**
- 31 Consolidation of land units
- 32 Lapsing of consolidation
- 33 Removal, suspension or amendment of restrictive conditions
- 34 Endorsements in connection with removal, suspension or amendment of restrictive conditions
- 35 Manner and date of notification
- 36 Procedures for applications
- 37 Pre-application consultation
- 38 Information required
- 39 Application fees

Chapter IV: Application Procedures

- 40 Grounds for refusing to accept application
- 41 Receipt of application and commencement of application process
- 42 Provision of additional information or documents
- 43 Withdrawal of application or power of attorney
- 44 Public notice in accordance with other laws and integrated procedures
- 45 Publication of notices
- 46 Serving of notices
- 47 Contents of notice
- 48 Other methods of public notice
- 49 Requirements for petitions
- 50 Requirements for submission of comments
- 51 Intergovernmental participation process
- 52 Amendments before approval
- 53 Further public notice
- 54 Liability for cost of notice
- 55 Right of applicant to reply
- 56 Written assessment of application
- 57 Decision-making period
- 58 Failure to act within period
- 59 Powers to conduct routine inspections
- 60 Decisions on application
- 61 Notification and coming into operation of decision
- 62 Duties of agent
- 63 Errors and omissions
- 64 Exemptions to facilitate expedited procedures

Chapter V: Criteria for Decision-Making

- 65 General criteria for consideration of applications
- 66 Conditions of approval

Chapter VI: Extension of Validity Period of Approvals

- 67 Applications for extension of validity period

Chapter VII: Municipal Planning Decision-Making Structures

- 68 Municipal planning decision-making structures in respect of applications and appeals
- 69 Consideration of applications
- 70 Establishment of Tribunal
- 71 Composition of Tribunal for municipal area
- 72 Process for appointment of members for Tribunal for municipal area
- 73 Term of office and conditions of service of members of Tribunal for municipal area
- 74 Disqualification from membership of Tribunal
- 75 Meetings of Tribunal for municipal area
- 76 Code of conduct for members of Tribunal for municipal area
- 77 Administrator for Tribunal for municipal area
- 78 Functioning of Tribunal for municipal area
- 79 Appeals
- 80 Procedure for appeal
- 81 Consideration by Appeal Authority

Chapter VIII: Provision of Engineering Services

- 82 Responsibility for provision of engineering services
- 83 Development charges and other contributions
- 84 Land for parks, open spaces and other uses

Chapter IX: Enforcement

- 85 Enforcement
- 86 Offences and penalties
- 87 Serving of compliance notices
- 88 Contents of compliance notice
- 89 Objections to compliance notice
- 90 Failure to comply with compliance notice
- 91 Compliance certificates
- 92 Urgent matters
- 93 Contravention penalties
- 94 General powers and functions of authorized employees
- 95 Powers of entry, search and seizure
- 96 Warrant of entry for enforcement purposes
- 97 Regard to decency and order
- 98 Enforcement litigation

Chapter X: Intervener Status

- 99 Intervener Status

Chapter XI: Miscellaneous

- 100 Naming and numbering of streets
- 101 Repeal
- 102 Short title and commencement

Schedule 1

Code of Conduct for Members of Tribunal

Chapter I: Interpretation & Application

1 Definitions

In this by-law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), has the meaning assigned to it in that Act and:

“Act” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“adopt”, in relation to a spatial development framework, zoning scheme, policy or strategy, means the approval thereof by a competent authority;

“adjoining owner(s)” means the owner of any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or open space, or similar properties;

“agent” means a person authorized in terms of a power of attorney to make an application on behalf of an owner;

“Appeal Authority” means the Appeal Authority contemplated in section 79(1);

“applicable period”, referred to in sections 17(5) and (6), 18(2), 19(5), 22(1) and 32(1), means the period that may be determined by the municipality in the approval;

“applicant” means a person referred to in section 15(2) who makes an application to the municipality as contemplated in that section;

“application” means an application to the municipality referred to in section 15(2);

“authorized employee” means a municipal employee who is authorized in terms of delegated or sub-delegated authority by the municipality to exercise a power or perform a duty in terms of this by-law or to inspect land and buildings in order to enforce compliance with this by-law or the zoning scheme;

“base zoning” means the zoning before the application of any overlay zone;

“certificate of title” means a certificate of consolidated title or a certificate of registered title as envisaged in terms of section 40 and 43 of the Deeds Registry Act 47 of 1937, respectively;

“commencement”, in relation to construction, means to have begun continuous physical, on-site construction in accordance with building plans approved in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), and that has gone beyond site clearing, excavation or digging trenches in preparation for foundations;

“comments”, in relation to comments submitted by the public, municipal departments and other organs of state and service providers on an application or appeal, includes objections, representations and petitions;

“consolidation” in relation to land, means the merging of two or more adjacent land units into a single land unit, and includes the physical preparation of land for consolidation;

“Council” means the municipal council of the municipality;

“date of notification” means the date on which a notice is served as contemplated in section 35 or published in the media or *Provincial Gazette*;

“development charge” means a development charge contemplated in section 83 as levied by the municipality;

“emergency” includes a situation that arises from a flood, strong wind, severe rainstorm, fire, earthquake or industrial accident and that requires the relocation of human settlements or people;

“engineering services agreement” means a written agreement which is concluded between an owner of property on which a land development application has been approved in terms of this by-law and the municipality and includes:

- a) detailed and specific respective rights and obligations regarding the provision and installation of the external, internal and link engineering services required for an approved land development, further including the design, provision, installation, financing and maintenance of engineering services;
- b) the associated development charges;
- c) the standard of such engineering services as determined by the municipality;
- d) the classification of engineering services as internal, external or link services; and
- e) any matter related to the provision of engineering services in terms of this by-law;

“external engineering service” means an engineering service outside the boundaries of a land area referred to in an application and that is necessary for the utilization and development of the land;

“Land Use Planning Act” means the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014);

“link service” means the municipal infrastructure service associated with that portion of an external engineering service which links an internal engineering service to the applicable bulk service;

“local spatial development framework” means a local spatial development framework contemplated in section 9;

“Municipal Manager” means the Municipal Manager of the municipality;

“municipal spatial development framework” means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act;

“Municipality” means the municipality of Knysna (WC048) established by Establishment Notice in *Provincial Gazette* P.N. 204/2000 of 22 September 2000 issued in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and where the context so requires, includes:

- a) the Council;
- b) another political structure or a political office bearer of the municipality, authorized or delegated to perform a function or exercise a power in terms of this by-law;
- c) the Tribunal authorized or delegated to perform a function or exercise a power in terms of this by-law;
- d) the Municipal Manager; and
- e) an authorized employee.

“non-conforming use” means an existing land use that was lawful in terms of a previous zoning scheme but that does not comply with the zoning scheme in force;

“overlay zone” means a category of zoning that applies to land or a land unit in addition to the base zoning and that:

- a) stipulates additional development parameters or use rights that may be more or less restrictive than the base zoning; and
- b) may include provisions and/or development parameters relating to:
 - i) primary or consent uses;
 - ii) subdivision or subdivisional areas;
 - iii) development incentives;

- iv) density limitations;
- v) urban form or urban renewal;
- vi) heritage or environmental protection;
- vii) management of the urban edge;
- viii) scenic spaces;
- ix) coastal setbacks; or
- x) any other purpose as set out in the zoning scheme;

“owner” means anybody or person registered in a deeds registry as contemplated in section 1, 2 and 102 of the Deeds Registries Act, 1937 (Act 47 of 1937), as the owner of land or beneficial owner in law and includes a Municipality or any other organ of state as an owner or where properties have been vested and is under the control and management of the municipality;

“owners’ association” means an owners’ association contemplated in section 29;

“pre-application consultation” means a consultation contemplated in section 37;

“public place” means any open or enclosed place, park, street, road or throughfare or other similar area of land shown on a general plan or diagram which is for use by the general public and is owned by or vests in the ownership of a Municipal Council, and includes public open space and a servitude for any similar purpose in favour for the general public;

“restrictive condition” means any condition registered against the title deed of land restricting the use, development or subdivision of the land concerned;

“service” means a service provided by the municipality, any other organ of state or a service provider, including services for the provision of water, sewerage, electricity, refuse removal, roads, storm-water drainage, and includes infrastructure, systems and processes related to the service;

“site development plan” means a dimensioned plan drawn to scale that indicates details of the proposed land development, including the site layout, positioning of buildings and structures, property access, building designs and landscaping;

“social infrastructure” means community facilities, services and networks that meet social needs and enhance community well-being;

“subdivisional area” means an overlay zone that permits subdivision for the purposes of a subdivision application involving a change of zoning;

“Tribunal” means the Municipal Planning Tribunal established in terms of section 70.

“Zoning Scheme” means a land use scheme as envisaged in terms of Chapter V of the Act.

2 Application of By-law

This by-law applies to all land situated within the municipal area, including land owned by organs of state.

CHAPTER II: SPATIAL PLANNING

3 Compilation or amendment of municipal spatial development framework

- 1) When the Council compiles or amends its municipal spatial development framework in accordance with the Municipal Systems Act, the Council must, as contemplated in section 11 of the Land Use Planning Act:
 - a) establish an intergovernmental steering committee to compile a draft municipal spatial development framework or draft amendment of its municipal spatial development framework; or

- b) refer its draft municipal spatial development framework or draft amendment of its municipal spatial development framework to the Provincial Minister for comment.
- 2) The municipality must:
 - a) publish a notice in two of the official languages of the Province most spoken in the area in two newspapers circulating in the area concerned of:
 - i) the intention to compile or amend the municipal spatial development framework and
 - ii) the process to be followed, in accordance with section 28(3) and 29 of the Municipal Systems Act;
 - b) inform the Provincial Minister in writing of:
 - i) the intention to compile or amend the municipal spatial development framework;
 - ii) its decision in terms of sub-section (1)(a) or (b); and
 - iii) the process contemplated in sub-section (2)(a)(ii).

4 Establishment of project committee

- 1) The municipality may establish a project committee to assist to compile or amend its municipal spatial development framework and to perform the duties of the municipality referred to in sections 6 and 8.
- 2) A project committee must consist of:
 - a) the Municipal Manager or a municipal employee designated by the municipal manager; and
 - b) municipal employees appointed by the Municipal Manager from, inter alia, the following municipal departments where relevant:
 - i) Integrated Development Planning;
 - ii) Town Planning & Building Control;
 - iii) Technical Services;
 - iv) Environmental Management
 - v) Local Economic Development; and
 - vi) Integrated Human Settlements.

5 Establishment of intergovernmental steering committee

- 1) If the Council establishes an intergovernmental steering committee, it must consist of:
 - a) the Municipal Manager, or a designated municipal employee to represent the Municipal Manager; and
 - b) representatives of:
 - i) the municipality, nominated by the Municipal Manager;
 - ii) the provincial department responsible for land use planning, nominated by the Head of Department;
 - iii) the provincial department responsible for environmental affairs, nominated by the head of that department; and
 - iv) other relevant organs of state, if any, who may have an interest in the compilation or amendment of the spatial development framework of the municipality.
- 2) When the Council establishes an intergovernmental steering committee the Municipal Manager must:
 - a) designate a municipal employee to represent the Municipal Manager;
 - b) nominate other representatives of the municipality; and
 - c) in writing, invite written nominations for representatives from the person or organs of state contemplated in sub-section (1)(b)(ii), (iii) and (iv).

6 Procedure with intergovernmental steering committee

- 1) If the Council establishes an intergovernmental steering committee, the municipality must compile a draft *status quo* report setting out an assessment of the existing levels of development and development challenges in the municipal area or relevant area in the municipal area and must submit it to the intergovernmental steering committee for comment.
- 2) After consideration of the comments of the intergovernmental steering committee, the municipality must finalise the *status quo* report and submit it to the Council for adoption.
- 3) After finalising the *status quo* report the municipality must compile a first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework and submit it to the intergovernmental steering committee for comment.
- 4) After consideration of the comments of the intergovernmental steering committee, the municipality must finalise the first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment in accordance with the process adopted in terms of sections 28(3) and 29 of the Municipal Systems Act.
- 5) After consideration of the comments received by virtue of the publication contemplated in sub-section (4), the municipality must compile a final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework and submit it to the intergovernmental steering committee for comment.
- 6) After consideration of the comments of the intergovernmental steering committee contemplated in sub-section (5), the municipality must finalise the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework and submit it to the Council for adoption.
- 7) If the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework contemplated in sub-section (6) is materially different to what was published in terms of sub-section (4), the municipality must in accordance with sub-sections (4), (5) and (6) read with the necessary changes, follow a further consultation and public participation process before the municipal spatial development framework or amendment of the municipal spatial development framework is adopted by the Council.
- 8) The Council or the municipality may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the spatial development framework request comments from the intergovernmental steering committee.
- 9) The Council must adopt the final draft municipal spatial development framework or final draft amendment of the municipal spatial development framework, with or without amendments and must within 14 days of its decision give notice of its decision in the media and the *Provincial Gazette*.

7 Procedure without intergovernmental steering committee

- 1) If the Council does not establish an intergovernmental steering committee to compile or amend its municipal spatial development framework, the municipality must:
 - a) compile a draft *status quo* report setting out an assessment of the existing levels of development and development challenges in the municipal area or relevant area in the municipal area and submit it to the Council for adoption;
 - b) after adoption of the *status quo* report, compile a first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework and submit it to the Council to approve the publication thereof for public comment;
 - c) after approval of the first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework for publication contemplated in paragraph (b), submit the first draft of the municipal spatial development framework or first draft of the amendment of the municipal spatial development framework to the Provincial Minister for comment in terms of section 13 of the Land Use Planning Act; and
 - d) after consideration of the comments received from the public and the Provincial Minister, submit the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework, with any further amendments, to the Council for adoption.

- 2) If the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework contemplated in sub-section (1)(d) is materially different to what was published in terms of sub-section (1)(b), the municipality must follow a further consultation and public participation process before the municipal spatial development framework or amendment of the municipal spatial development framework is adopted by the Council.
- 3) The Council must adopt the final draft of the municipal spatial development framework or final draft of the amendment of the municipal spatial development framework, with or without amendments, and must within 14 days of its decision give notice of its decision in the media and the *Provincial Gazette*.

8 Functions and duties

- 1) The municipality must, in accordance with the directions of the Executive Mayor:
 - a) ensure the compilation of the municipal spatial development framework or drafting of an amendment of the municipal spatial development framework for adoption by the Council;
 - b) provide technical knowledge and expertise to the Council;
 - c) ensure that the compilation of the municipal spatial development framework or drafting of the amendment of the municipal spatial development framework is progressing according to the process contemplated in section 3(2)(a)(ii);
 - d) guide the public participation process and ensure that the registered stakeholders remain informed;
 - e) ensure the incorporation of amendments to the draft municipal spatial development framework or draft amendment of the municipal spatial development framework based on the consideration of the comments received during the process of drafting thereof;
 - f) ensure the drafting of:
 - i) a report in terms of section 14(c) of the Land Use Planning Act setting out the response of the municipality to the provincial comments issued in terms of section 12(4) or 13(2) of that Act; and
 - ii) a statement setting out:
 - (aa) whether the municipality has implemented the policies and objectives issued by the national minister responsible for spatial planning and land use management and if so, how and to what extent the municipality has implemented it; or
 - (bb) if the municipality has not implemented the policies and objectives, the reasons for not implementing it.
 - g) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and other organs of state as contemplated in section 24(1) of the Municipal Systems Act;
 - h) facilitate the integration of other sector plans into the municipal spatial development framework; and
 - i) if the Council establishes an intergovernmental steering committee:
 - i) assist the Council in establishing the intergovernmental steering committee and adhering to time frames; and
 - ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- 2) The members of the intergovernmental steering committee must:
 - a) provide the municipality with the following:
 - i) technical knowledge and expertise;
 - ii) input on outstanding information that is required to compile the municipal spatial development framework or draft an amendment thereof;
 - iii) information on budgetary allocations;

- iv) information on and the locality of any current or planned projects that have an impact on the municipal area; and
- b) provide the project committee, if established or the municipality with written comments in terms of section 6.

9 Local spatial development frameworks

- 1) The municipality may adopt a local spatial development framework for a specific geographical area in a part of the municipal area.
- 2) The purpose of a local spatial development framework is to, for a specific geographical area:
 - a) provide detailed spatial planning guidelines;
 - b) provide more detail in respect of a proposal provided for in the municipal spatial development framework;
 - c) meet specific land use planning needs;
 - d) provide detailed policy and recommended development parameters for land use planning;
 - e) provide detailed priorities in relation to land use planning and, insofar as they are linked to land use planning, biodiversity and environmental issues; and
 - f) guide decision-making on land use applications.

10 Compilation, adoption, amendment or review of local spatial development frameworks

- 1) If the municipality compiles, amends or reviews a local spatial development framework, it must adopt a process plan, including the public participation processes to be followed for the compilation, amendment, review or adoption of a local spatial development framework.
- 2) The municipality must, within 21 days of adopting a local spatial development framework or an amendment of a local spatial development framework, publish a notice of the decision in the media and the *Provincial Gazette*.

11 Status of local spatial development frameworks

- 1) A local spatial development framework or an amendment thereof comes into operation on the date of publication of the notice contemplated in section 10(2).
- 2) A local spatial development framework guides and informs decisions made by the municipality relating to land development, but it does not confer or take away rights.

12 Structure plans

- 1) If the municipality intends to convert a structure plan to a local spatial development framework, the municipality must comply with sections 9 to 11 and must:
 - a) review that structure plan and make it consistent with the purpose of a local spatial development framework contemplated in section 9(2); and
 - b) incorporate the provisions of the structure plan that are consistent with that purpose in the local spatial development framework.
- 2) The municipality must, in terms of section 16(4) of the Land Use Planning Act, withdraw the relevant structure plan by notice in the *Provincial Gazette* when it adopts a local spatial development framework contemplated in sub-section (1).

CHAPTER III: DEVELOPMENT MANAGEMENT

13 Determination of zoning

- 1) The owner or his/her agent may apply in terms of section 15(2) to the municipality for the determination of a zoning for land referred to in section 34(1), (2) or (3) of the Land Use Planning Act.

- 2) When the municipality considers an application in terms of sub-section (1), it must have regard to the following:
 - a) the lawful utilization of the land, or the purpose for which it could be lawfully utilized immediately before the commencement of the Land Use Planning Act if it can be determined;
 - b) the zoning, if any, that is most compatible with that utilization or purpose and any applicable title deed condition;
 - c) any departure or consent use that may be required in conjunction with that zoning;
 - d) in the case of land that was vacant immediately before the commencement of the Land Use Planning Act, the utilization that is permitted in terms of the title deed conditions or, where more than one land use is so permitted, one of such land uses determined by the municipality; and
 - e) where the lawful utilization of the land and the purpose for which it could be lawfully utilized immediately before the commencement of the Land Use Planning Act cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- 3) If sub-section (2)(e) is applicable, the municipality must rezone the land concerned in terms of section 15(2)(a).
- 4) A land use that commenced unlawfully, whether before or after the commencement of this by-law, may not be considered to be lawful.

14 Non-conforming uses

- 1) A non-conforming use does not constitute an offence in terms of this by-law.
- 2) A non-conforming use may continue as long as it remains otherwise lawful, subject to the following:
 - a) if the non-conforming use is ceased for any reason for a period of more than twenty-four consecutive months, any subsequent utilization of the property must comply with this by-law and the zoning scheme, with or without departures;
 - b) an appropriate application contemplated in section 15(2) must be made for the alteration or extension of buildings or structures in respect of the non-conforming use;
 - c) the owner bears the onus of proving that the non-conforming use right exists; and
 - d) the use right is limited to the area of the building or land in respect of which the proven use right exists.
- 3) Subject to sub-section (2)(a) and (b), if an existing building that constitutes a non-conforming use is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the municipality may grant permission for the reconstruction of such building subject to conditions.

15 Land development requiring approval and other approvals

- 1) No person may commence, continue, or cause the commencement or continuation of, land development, other than the subdivision or consolidation of land referred to in section 24, without the approval of the municipality in terms of sub-section (2).
- 2) The owner or his or her agent may apply to the municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:
 - a) a rezoning of land;
 - b) a permanent departure from the development parameters of the zoning scheme;
 - c) a departure granted on a temporary basis to utilize land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;
 - d) a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;
 - e) a consolidation of land that is not exempted in terms of section 24;
 - f) a removal, suspension or amendment of restrictive conditions in respect of a land unit;
 - g) a permission required in terms of the zoning scheme;

- h) an amendment, deletion or imposition of conditions in respect of an existing approval;
 - i) an extension of the validity period of an approval;
 - j) an approval of an overlay zone as contemplated in the zoning scheme;
 - k) an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;
 - l) a permission required in terms of a condition of approval;
 - m) a determination of a zoning;
 - n) a closure of a public place or part thereof;
 - o) a consent use contemplated in the zoning scheme;
 - p) **to disestablish an owner's association;**
 - q) **to rectify a failure by an owner's association to meet its obligations in respect of the control over or maintenance of services;**
 - r) to determine an administrative penalty as contemplated in section 93;
 - s) a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.
- 3) When an applicant or owner exercises a use right granted in terms of an approval, he or she must comply with the conditions of the approval and the applicable provisions of the zoning scheme.
- 4) The municipality may, subject to sub-section (6), on its own initiative rezone land of which it is not the owner for a purpose contemplated in sections 13(3) and 17(1).
- 5) The municipality may, subject to sub-section (6), on its own initiative conduct land development or an activity contemplated in sub-sections (2)(b), (c), (f) to (j) and (l) to (r) in respect of land which is not owned by the municipality.
- 6) When the municipality on its own initiative acts in terms of sub-section (2), (4) or (5):
- a) the municipality is regarded for purposes of this Chapter and Chapter IV as an applicant and must comply with this Chapter and Chapter IV, including the publication and notice requirements; and
 - b) the decision must be made by the Tribunal.

16 Continuation of application after change of ownership

If land that is the subject of an application is transferred to a new owner, the new owner may continue with the application as the successor in title to the previous owner and the new owner is regarded as the applicant for the purposes of this by-law.

17 Rezoning of land

- 1) The municipality may, on its own initiative, rezone land of which it is not the owner to:
- a) provide a public service or to provide a public recreational space; or
 - b) substitute a zoning scheme or part thereof for a zoning scheme in terms of which the land is not zoned in accordance with the utilization thereof or existing use rights.
- 2) An applicant, including the municipality, who wishes land to be rezoned, must submit an application to the municipality in terms of section 15(2).
- 3) When the municipality creates an overlay zone for land it must comply with sections 12 and 13 of the Municipal Systems Act.
- 4) Zoning may be made applicable to a land unit or part thereof and zoning need not follow cadastral boundaries.
- 5) Subject to sub-section (6), a rezoning approval contemplated in sub-section (2) lapses after 10 years if no period for compliance is specified in such approval; or the period for compliance specified in such approval which, together with any extension that may be granted, may not exceed 10 years, reckoned from the date that the approval comes into operation if, within that period:
- a) the zoning is not utilized in accordance with the approval; or
 - b) the following requirements have not been met:

- i) the approval by the municipality of a building plan envisaged for the utilization of the approved use right; and
 - ii) commencement of the construction of the building contemplated in subparagraph (i).
- 6) An approval of a rezoning to subdivisional area contemplated in section 20(2) lapses after 10 years if no period for compliance is specified in such approval; or the period for compliance specified in such approval which, together with any extension that may be granted, may not exceed 10 years from the date that the approval comes into operation if, within that period:
 - a) a subdivision application is not submitted; or
 - b) any suspensive conditions of approval are not complied with.
- 7) If a subdivision application is submitted in respect of land that is zoned as subdivisional area, the zoning of subdivisional area lapses on the later date of the following dates:
 - a) the date on which the subdivision is approved; or
 - b) the date after the applicable period contemplated in sub-section (6) including any extended period approved in terms of section 67.
- 8) The approval of a rezoning to subdivisional area must include conditions that make provision for at least:
 - a) density requirements;
 - b) main land uses and the extent thereof; and
 - c) a detailed phasing plan or a framework including:
 - i) main transport routes;
 - ii) main land uses;
 - iii) bulk infrastructure;
 - iv) requirements of organs of state;
 - v) public open space requirements; and
 - vi) physical development constraints.
- 9) If a rezoning approval lapses, the zoning applicable to the land before the approval of the rezoning applies or, where no zoning existed before the approval of the rezoning, the municipality must determine a zoning in terms of section 13.

18 Departures

- 1) An applicant may apply to the municipality in terms of section 15(2):
 - a) for a departure from the development parameters of a zoning or an overlay zone; or
 - b) to utilize land on a temporary basis for a purpose not permitted in terms of the primary rights of the zoning applicable to the land for a period not exceeding five years.
- 2) A departure contemplated in sub-section (1)(a) lapses after 10 years if no period for compliance is specified in such approval; or the period for specified in such approval which, together with any extension that may be granted, may not exceed 10 years from the date that the approval comes into operation if, within that period:
 - a) the departure is not utilized in accordance with the approval; or
 - b) the following requirements have not been met:
 - i) the approval by the municipality of a building plan envisaged for the utilization of the approved departure; and
 - ii) commencement of the construction of the building contemplated in subparagraph (i).
- 3) The municipality may approve a departure contemplated in sub-section (1)(b) for a period shorter than five years but, if a shorter period is approved, the period together with any extension approved in accordance with section 67 may not exceed five years;

- 4) A temporary departure contemplated in sub-section (1)(b), except for a right to utilize land for a purpose granted on a temporary basis for a specific occasion or event, as, may not be approved more than once in respect of a particular use on a specific land unit.
- 5) A temporary departure contemplated in sub-section (1)(b) may include an improvement of land only if:
 - a) the improvement is temporary in nature; and
 - b) the land can, without further construction or demolition, revert to its previous lawful use upon the expiry of the use right.

19 Consent uses

- 1) An applicant may apply to the municipality in terms of section 15(2) for a consent use contemplated in the zoning scheme.
- 2) If the development parameters for the consent use that is being applied for are not defined in the zoning scheme, the municipality must determine the development parameters that apply to the consent use in terms of conditions of approval imposed in terms of section 66.
- 3) A consent use may be approved permanently or for a period specified in the conditions of approval imposed in terms of section 66.
- 4) A consent use approved for a specified period must not have the effect of preventing the property from being utilized in the future for the primary uses permitted in terms of the zoning of the land.
- 5) A consent use contemplated in sub-section (1) lapses after the applicable period from the date that the approval comes into operation if, within that period:
 - a) the consent use is not utilized in accordance with the approval; or
 - b) the following requirements have not been met:
 - i) the approval by the municipality of a building plan envisaged for the utilization of the approved consent use; and
 - ii) commencement of the construction of the building contemplated in subparagraph (i).

20 Subdivision

- 1) No person may subdivide land without the approval of the municipality in terms of section 15(2) unless the subdivision is exempted in terms of section 24.
- 2) No application for subdivision involving a change of zoning may be considered by the municipality unless the land concerned is zoned as a subdivisional area.
- 3) An applicant may submit a subdivision application simultaneously with an application for rezoning.
- 4) The municipality must impose appropriate conditions in terms of section 6 relating to engineering services for an approval of a subdivision.
- 5) If the municipality approves a subdivision, the applicant must submit a general plan or diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of:
 - a) the municipality's decision to approve the subdivision;
 - b) the conditions of approval imposed in terms of section 66; and
 - c) the approved subdivision plan.
- 6) The municipality must issue a certificate to the applicant or any other person on his or her written request to confirm that all the conditions of approval contemplated in sub-section 21(1)(c) have been met, if the applicant has submitted the proof contemplated in that section.
- 7) If the municipality issues a certificate referred to in sub-section (6) in error, the owner is not absolved from complying with the obligations imposed in terms of the conditions.

21 Confirmation of subdivision

- 1) A subdivision or part thereof is confirmed and cannot lapse when the following requirements are met within the period contemplated in section 22(1):

- a) approval by the Surveyor-General of the general plan or diagram contemplated in section 20(5);
 - b) completion of the installation of engineering services in accordance with the conditions contemplated in section 20(4) and other applicable legislation;
 - c) proof to the satisfaction of the municipality that all the conditions of the approved subdivision that must be complied with before compliance with paragraph (d) have been met in respect of the area shown on the general plan or diagram; and
 - d) registration of the transfer of ownership, or a certificate of title in terms of the Deeds Registries Act of the land unit shown on the diagram or of at least one new land unit shown on the general plan.
- 2) Upon confirmation of a subdivision or part thereof in terms of sub-section (1), zonings indicated on an approved subdivision plan are confirmed and cannot lapse.
 - 3) The municipality must in writing confirm to the applicant or any other person on his or her written request that a subdivision or part of a subdivision is confirmed if the applicant has to the satisfaction of the municipality submitted proof of compliance with the requirements referred to in sub-section (1)(a) to (d) for the subdivision or part thereof.
 - 4) No building or structure may be constructed on a land unit forming part of an approved subdivision unless the subdivision is confirmed as contemplated in sub-section (1) or the municipality approved the construction of certain buildings or structures, to comply with conditions of approval, before the confirmation of the subdivision.

22 Lapsing of subdivision

- 1) An approved subdivision lapses after 10 years if no period for compliance is specified in such approval; or the period specified in such approval which, together with any extension that may be granted, may not exceed 10 years from the date that the approval comes into operation if the requirements contemplated in section 21(1)(a) to (d) have not been met within that period.
- 2) If an applicant complies with section 21(1)(b) and (c) only in respect of a part of the land reflected on the general plan contemplated in section 21(1)(a), the applicant must withdraw the general plan and submit a new general plan to the Surveyor-General for that part of the land.
- 3) If an approval of a subdivision or part thereof lapses in terms of sub-section (1):
 - a) the municipality must:
 - i) amend the zoning map and, where applicable, the register accordingly; and
 - ii) notify the Surveyor-General accordingly; and
 - b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

23 Amendment or cancellation of subdivision plan

- 1) The municipality may in terms of section 15(2) approve the amendment or cancellation of a subdivision plan, including conditions of approval, the general plan or diagram, in relation to land units shown on the general plan or diagram that have not been registered yet in terms of the Deeds Registries Act.
- 2) When the municipality approves an application in terms of sub-section (1), any public place that is no longer required by virtue of the approval must be closed in terms of section 26.
- 3) The municipality must notify the Surveyor-General of an approval in terms of sub-section (1) and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment or cancellation of the subdivision.
- 4) An amended subdivision approval contemplated in sub-section (1) does not extend the validity period of the initial approval of the subdivision as contemplated in section 22(1).

24 Exemption of certain subdivisions and consolidations

- 1) The subdivision or consolidation of land does not require the approval of the municipality in the following cases:

- a) a subdivision or consolidation that arises from the implementation of a court ruling;
 - b) a subdivision or consolidation that arises from an expropriation;
 - c) a minor amendment to the common boundary between two or more land units if the resulting change in area of any of the land units does not exceed 10 per cent;
 - d) the consolidation of a closed public place with an abutting erf;
 - e) the construction or alteration of a public or proclaimed street;
 - f) the registration of a servitude or lease agreement for:
 - i) the provision or installation of water pipelines, electricity transmission lines, sewer pipelines, storm water pipes and canals, gas pipelines or oil and petroleum product pipelines by or on behalf of an organ of state or service provider;
 - ii) the provision or installation of telecommunication lines by or on behalf of a licensed telecommunications operator;
 - iii) the imposition of height restrictions; or
 - iv) the granting of a right of habitation, private right of way or usufruct;
 - g) the exclusive utilization of land for agricultural purposes if the utilization, in the case of a subdivision, requires approval in terms of legislation regulating the subdivision of agricultural land; and does not lead to urban expansion; or
 - h) the establishment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986).
- 2) An owner or his or her agent must obtain a certificate from the municipality that certifies in writing that the subdivision or consolidation is exempted from the application of section 15, and sections 20 to 23 in the case of a subdivision, or sections 15, 31 and 32 in the case of a consolidation.
- 3) The municipality must indicate on the subdivision plan, or on the diagram in respect of the consolidation, that the subdivision or consolidation is exempted from the application of the sections referred to in sub-section (2).
- 4) Sub-sections (2) and (3) do not apply in respect of a subdivision or consolidation contemplated in sub-section (1)(a), (b) or (h).

25 Ownership of public places and land for municipal service infrastructure and amenities

- 1) The ownership of land that is earmarked for a public place as shown on an approved subdivision plan vests in the municipality upon confirmation of the subdivision or a part thereof.
- 2) The municipality may in terms of conditions imposed in terms of section 66 determine that land designated for the provision of municipal service infrastructure and amenities on an approved subdivision plan be transferred to the municipality upon confirmation of the subdivision or a part thereof.

26 Closure of public places

- 1) The municipality may, on its own initiative, apply to permanently close a public place or any part thereof in accordance with Chapter IV.
- 2) An applicant who requires the closure of a public place, whether permanently or temporarily, must apply in terms of section 15(2) to the municipality.
- 3) The ownership of the land comprising any public place, or a part thereof, that is permanently closed in terms of this section continues to vest in the municipality unless the municipality determines otherwise.
- 4) The Municipal Manager may, without complying with Chapter IV, temporarily close a public place:
 - a) for the purpose of, or pending, the construction, reconstruction or maintenance of the public place;
 - b) for the purpose of, or pending, the construction, extension, maintenance or demolition of any building, structure, works or service alongside, on, across, through, over or under the public place;
 - c) if the public place is in a state that is dangerous to the public;
 - d) by reason of an emergency or public event that requires special measures for the control of

- traffic or crowds; or
 - e) for any other reason that renders the temporary closing of the public place necessary or desirable.
- 5) The municipality must notify the Surveyor-General of an approval in terms of sub-section (1) and the Surveyor-General must endorse the records of the **Surveyor-General's office to reflect the closure of the public place.**

27 Services arising from subdivision

- 1) Subsequent to the approval of an application for subdivision in terms of this by-law, the owner of any land unit originating from the subdivision must:
- a) allow with or without compensation that the following be conveyed across his or her land unit as may be reasonably required in respect of other land units originating from the subdivision:
 - i) gas mains;
 - ii) electricity cables;
 - iii) telephone cables;
 - iv) television cables;
 - v) other electronic infrastructure;
 - vi) main and other water pipes;
 - vii) foul sewers;
 - viii) storm-water pipes; and
 - ix) ditches and channels;
 - b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the municipality:
 - i) surface installations such as mini-substations;
 - ii) meter kiosks; and
 - iii) service pillars;
 - c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraph (a) or (b); and
 - d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and to provide a safe and proper slope to its bank where necessitated by differences between the level of the street as finally constructed and the level of the land unit unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the municipality.

28 Certification by municipality

- 1) A person may apply to the Registrar of Deeds to register the transfer of a land unit or a certificate of title, as the case may be, in any of the instances referred to in sub-section (3)(a) to (d), only if the municipality has issued a certificate in terms of this section.
- 2) The Registrar of Deeds may register the transfer of a land unit or a certificate of title, as the case may be, in any of the instances referred to in sub-section (3)(a) to (d) only if the municipality has issued a certificate in terms of this section.
- 3) The municipality must issue a certificate to transfer a land unit contemplated in sub-sections (1) and (2) if the owner provides the municipality with the following:
- a) **where an owners' association has been established in respect of that land unit, a conveyancer's certificate confirming that money due by the transfer of the land unit to that owners' association has been paid, or that provision has been made to the satisfaction of the owners' association for the payment thereof;**
 - b) in the case of any existing contravention penalty due by the transferor of the land unit, proof of payment thereof and/or proof of compliance with an instruction in a compliance notice issued to the transferor in terms of Chapter IX;

- c) in the case of the first registration of the transfer of ownership of a land unit arising from a subdivision to any person other than the developer and where an owner's association is constituted, proof that:
 - i) **all common property arising from the subdivision has been transferred to the owners' association by virtue of section 29(3)(e); or**
 - ii) **all common property arising from the subdivision will be transferred to the owners' association simultaneously with the registration of the transfer of that land unit;**
- d) in the case of the first registration of the transfer of ownership or a certificate of title of a land unit arising from a subdivision and that leads to the confirmation of the subdivision, proof that:
 - i) land needed for public purposes or other municipal infrastructure as contemplated in terms of a condition imposed under section 66 has been transferred to the municipality or will be transferred to the municipality simultaneously with the registration of the transfer of that land unit or certificate of title;
 - ii) the engineering services and amenities that must be provided in connection with the subdivision are available; and
 - iii) a certificate contemplated in section 20(6) has been issued by the municipality.

29 Owners' associations

- 1) The municipality may, when approving an application for a subdivision of land, impose conditions relating to the compulsory establishment of an owners' association by the applicant for an area determined in the conditions.
- 2) An owners' association that comes into being by virtue of sub-section (1) is a juristic person and must have a constitution.
- 3) The constitution of an owners' association must be approved by the municipality before registration of the transfer of the first land unit and must make provision for:
 - a) **the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;**
 - b) control over and maintenance of buildings, services or amenities arising from the subdivision;
 - c) **the regulation of at least one annual meeting with its members;**
 - d) control over the design guidelines of the buildings and erven arising from the subdivision;
 - e) **the ownership by the owners' association of all common property arising from the subdivision, including:**
 - i) private open spaces;
 - ii) private roads; and
 - iii) **land required for services provided by the owners' association;**
 - f) enforcement of conditions of approval or management plans;
 - g) **procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function; and**
 - h) **the implementation and enforcement by the owners' association of the provisions of the constitution.**
- 4) The constitution of an owners' association may have other objectives as set by the association but may not contain provisions that are in conflict with any law.
- 5) The constitution of the owners' association takes effect upon the registration of the transfer of ownership of the first land unit to a person other than the developer.
- 6) An owners' association may amend its constitution when necessary, but if an amendment affects the municipality or a provision referred to in sub-section (3), the amendment must also be approved by the municipality.
- 7) An owners' association that comes into being by virtue of sub-section (1):
 - a) has as its members all the owners of the land units arising from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and

- b) is upon registration of the transfer of ownership of the first land unit to a person other than the developer automatically established.
- 8) The design guidelines contemplated in sub-section (3)(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.

30 Owners' associations that cease to function

- 1) If an owners' association ceases to function or carry out its obligations, the municipality or any affected person, including a member of the association, may apply:
 - a) in terms of section 15(2)(p) to disestablish the owners' association subject to:
 - i) the amendment of the conditions of approval to remove the obligation to establish an owners' association; and
 - ii) the amendment of title conditions pertaining to the owners' association, to remove any obligation in respect of an owners' association;
 - b) in terms of section 15(2)(q) for appropriate action by the municipality to rectify a failure of the owners' association to meet any of its obligations in respect of the control over or maintenance of services contemplated in sub-section 29(3)(b); or
 - c) to the High Court to appoint an administrator who must exercise the powers of the owners' association to the exclusion of the owners' association.
- 2) In considering an application contemplated in sub-section (1)(a), the municipality must have regard to:
 - a) the purpose of the owners' association;
 - b) who will take over the control over and maintenance of services for which the owners' association is responsible; and
 - c) the impact of the disestablishment of the owners' association on the members of the owners' association and the community concerned.
- 3) The municipality or the affected person may recover from the members of the owners' association the amount of any expenditure incurred by the municipality or that affected person, as the case may be, in respect of any action taken in terms of sub-section (1).
- 4) The amount of any expenditure so recovered is, for the purposes of section 29(7)(a), considered to be expenditure incurred in connection with the owners' association.

31 Consolidation of land units

- 1) No person may consolidate land without the approval of the municipality in terms of section 15(2) unless the consolidation is exempted in terms of section 24.
- 2) If the municipality approves a consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of:
 - a) the municipality's decision to approve the consolidation;
 - b) the conditions of approval imposed in terms of section 66; and
 - c) the approved consolidation plan.
- 3) If the municipality approves a consolidation, the municipality must amend the zoning map and where applicable the register, accordingly.

32 Lapsing of consolidation

- 1) An approved consolidation of land units lapses if the consolidation is not registered in terms of the Deeds Registries Act within five years from the date that the approval comes into operation.

- 2) If an approval of a consolidation lapses in terms of sub-section (1):
 - a) the municipality must:
 - i) amend the zoning map, and where applicable the register, accordingly; and
 - ii) notify the Surveyor-General accordingly; and
 - b) the Surveyor-General must endorse the records of **the Surveyor-General's office to reflect the notification that the consolidation has lapsed.**

33 Removal, suspension or amendment of restrictive conditions

- 1) The municipality may:
 - a) remove or amend a restrictive condition permanently;
 - b) suspend or amend a restrictive condition for a period specified in the approval; or
 - c) remove, suspend or amend a restrictive condition as contemplated in paragraph (a) or (b) subject to conditions of approval.
- 2) When an owner applies for a removal, suspension or amendment of restrictive conditions, the owner must in addition to the procedures set out in Chapter IV:
 - a) submit a certified copy of the relevant title deed to the municipality; and
 - b) **if there is a mortgage bond registered in respect of the land concerned, submit the bondholder's consent to the application.**
- 3) The municipality must cause a notice of an application in terms of section 15(2)(f) to be served on:
 - a) all organs of state that may have an interest in the restrictive condition;
 - b) a person whose rights or legitimate expectations may reasonably be affected by the approval of the application; and
 - c) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- 4) When the municipality considers the removal, suspension or amendment of a restrictive condition, the municipality must have regard to the following:
 - a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
 - b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 - c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is amended, suspended or removed;
 - d) the social benefit of the restrictive condition remaining in place in its existing form;
 - e) the social benefit of the removal, suspension or amendment of the restrictive condition; and
 - f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights;
 - g) whether the removal would be in the public interest.
- 5) An approval to remove, suspend or amend a restrictive condition comes into operation:
 - a) if no appeal has been lodged, after the expiry of the period contemplated in section 79(2) within which an appeal must be lodged; or
 - b) if an appeal has been lodged, when the Appeal Authority has decided on the appeal; and
 - c) the applicant has applied to the Registrar of Deeds for the removal, suspension or amendment to be recorded in the relevant register or title deed and that the notice referred to in sub-section (6) has been published.
- 6) The municipality must cause a notice of the decision to amend, suspend or remove a restrictive condition to be published in the *Provincial Gazette* after the decision comes into operation as contemplated in sub-section (5) and notify the Registrar of Deeds of the decision.

- 7) If an owner intends to apply in terms of section 15(2) for land development that is contrary to a restrictive condition applicable to the land concerned, the owner must when the application for land development is submitted simultaneously apply for the removal, suspension or amendment of the restrictive condition.
- 8) The municipality must consider the land development application and the application for the removal, suspension or amendment of the restrictive condition, contemplated in sub-section (7), together and make an integrated decision, provided that application for the removal, suspension or amendment of the restrictive condition is decided upon first.

34 Endorsements in connection with removal, suspension or amendment of restrictive conditions

- 1) An applicant at whose instance a restrictive condition is removed, suspended or amended must, after the publication of a notice contemplated in section 33(6) in the *Provincial Gazette*, apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal suspension or amendment of the restrictive condition.
- 2) The Registrar of Deeds may require proof of the removal, suspension or amendment of a restrictive condition from the applicant including the submission of the following to the Registrar of Deeds:
 - a) a copy of the approval;
 - b) the original title deed; and
 - c) a copy of the notice contemplated in section 33(6) as published in the *Provincial Gazette*.

CHAPTER IV: APPLICATION PROCEDURES

35 Manner and date of notification

- 1) Any serving of a notice or notification or acknowledgement given in terms of this by-law must be in writing and may be issued to a person:
 - a) by delivering it by hand to the person;
 - b) by sending it by registered mail and/or email:
 - i) to that person's business or residential address or municipal billing address, or
 - ii) in the case of a juristic person, to its registered address or principal place of business or municipal billing address;
 - c) by means of data messages contemplated in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), by sending a copy of the notice to the person, if the person has an email address or other electronic address; or
 - d) where an address is unknown despite reasonable enquiry, by posting it in a conspicuous place on the property or premises, to which it relates and publishing it in a local newspaper circulating in the area where the property is situated.
- 2) The date of notification in respect of a notice served or given to a person in terms of this by-law:
 - a) if it was served by certified or registered post, is the date of registration of the notice; and
 - b) if it was delivered to that person personally, is the date of delivery to that person;
 - c) if it was left at that person's place of residence, work or business in the Republic with a person apparently over the age of sixteen years, is the date on which it was left with that person;
 - d) if it was displayed in a conspicuous place on the property or premises to which it pertains, is the date that it is posted on that place; or
 - e) if it was e-mailed or sent to an electronic address, is the date that it was received by that person as contemplated in the Electronic Communications and Transactions Act, 2002.
- 3) The municipality may determine specific methods of service and notification in respect of applications and appeals including:
 - a) information specifications relating to matters such as size, scale, colour, hard copy, number of copies, electronic format and file format;
 - b) the manner of submission to and communication with the municipality;

- c) the method by which a person may be notified;
- d) other information requirements; and
- e) other procedural requirements.

36 Procedures for applications

- 1) An applicant must comply with the procedures in this Chapter and, where applicable, the specific procedures provided for in Chapter III of this by-law.
- 2) An applicant may apply simultaneously for different types of applications for land development in terms of section 15(2).

37 Pre-application consultation

- 1) The municipality may require an owner who intends to submit an application or his or her agent to meet with the authorized employee and, where applicable, with employees of other relevant organs of state for a pre-application consultation before he or she submits an application to the municipality in order to determine the information and documents that must be submitted with the application.
- 2) The municipality may issue guidelines regarding:
 - a) applications that require a pre-application consultation;
 - b) the nature of the information and documents that must be submitted with an application;
 - c) the attendance of employees from the municipality or other organs of state at a pre-application consultation;
 - d) the procedures at a pre-application consultation.
- 3) The municipality must keep minutes of the proceedings of a pre-application consultation.

38 Information required

- 1) Subject to sub-section (2), an application must be accompanied by the following information and documents:
 - a) an application form provided by the municipality, completed and signed by the applicant;
 - b) if the applicant is an agent, a power of attorney authorizing the applicant to make the application on behalf of the owner;
 - c) **if the owner of the land is a company, closed corporation, trust, body corporate or owners' association**, proof that the person is authorized to make the application on behalf of the **company, closed corporation, trust, body corporate or owners' association** and a resolution authorizing the development of the property;
 - d) proof of registered ownership or any other relevant right held in the land concerned;
 - e) if a mortgage bond is registered in respect of **the land concerned, the bondholder's consent**;
 - f) a written motivation for the application based on the applicable criteria referred to in section 65;
 - g) **a copy of the Surveyor-General's diagram of the property concerned** or, if it does not exist, an extract from the relevant general plan;
 - h) a locality plan and site development plan, if required, or a plan showing the proposed land development in its cadastral context;
 - i) in the case of an application for the subdivision of land, copies of the subdivision plan showing the following:
 - i) the location of the proposed land units;
 - ii) the proposed zonings in respect of the proposed land units;
 - iii) all existing structures on the property and abutting properties;
 - iv) the proposed public places and the land needed for public purposes;
 - v) the existing access points;
 - vi) all servitudes;
 - vii) contours with at least a one-meter interval or such other interval as may be approved by the municipality;

- viii) the street furniture;
 - ix) the lamp, electricity and telephone posts;
 - x) the electricity transformers and mini-substations;
 - xi) the storm-water channels and catch pits;
 - xii) the sewerage lines and connection points;
 - xiii) any significant natural features; and;
 - xiv) all distances and areas to scale;
 - j) proof of an agreement or permission if the proposed land development requires a servitude over land or access to a provincial or national road;
 - k) any other documents or information that the municipality may require;
 - l) proof of payment of application fees;
 - m) a copy of the title deed of the land concerned;
 - n) **a conveyancer's certificate indicating that the** application is not restricted by any condition contained in the title deed pertaining to the land concerned or a copy of all historical title deeds; and
 - o) where applicable, the minutes of a pre-application consultation in respect of the application.
- 2) The municipality may at a pre-application consultation add any information or documents contemplated in sub-section (1) for a particular application.
- 3) The municipality may issue guidelines regarding the submission of information, documents or procedural requirements.

39 Application fees

- 1) An applicant must pay the application fees determined by the municipality before submitting an application in terms of this by-law.
- 2) Application fees paid to the municipality are non-refundable and proof of payment of the application fees must accompany an application.

40 Grounds for refusing to accept application

- 1) The municipality may refuse to accept an application if:
 - a) there is no proof of payment of the applicable fees; or
 - b) the application is not in the form or does not contain the information or documents referred to in section 38;
 - c) A pre-application consultation is required in terms of section 37(1) but has not taken place
 - d) There are any unlawful structures on the property and in terms of which a determined contravention penalty has not been paid.

41 Receipt of application and commencement of application process

- 1) The municipality must:
 - a) record receipt of an application, in writing or by affixing a stamp on the application, on the day of receipt;
 - b) verify whether the application complies with section 38; and
 - c) notify the applicant in writing within fourteen days of receipt of the application:
 - i) that the application is complete and complies with section 38 and that the application process commences; or
 - ii) of any information, documents or fees referred to in section 38 that are outstanding and that the applicant must provide to the municipality within 14 days of the date of notification.
- 2) The municipality must within fourteen days of receipt of the outstanding information, documents or fees referred to in sub-section (1)(c)(ii) notify the applicant in writing that the application is complete and that the application process commences.

- 3) The municipality may refuse to consider the application if the applicant fails to provide the information or documents or pay the fees within the period contemplated in sub-section (1)(c)(ii).
- 4) The municipality must notify the applicant in writing of a refusal to consider an application under sub-section (3) and must close the application.
- 5) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in sub-section (3) to refuse to consider an application.
- 6) If an applicant wishes to continue with an application that the municipality refused to consider under sub-section (3), the applicant must apply again and pay the applicable application fees.
- 7) The municipality must cause notice of the application to be given within 21 days from the date on which the application process commences as contemplated in sub-section (1)(c)(i) or (2), or within a reasonable longer period where justified.

42 Provision of additional information or documents

- 1) The municipality must, within 21 days of receipt of an application that complies with section 38, notify the applicant in writing of any information or documents it requires in addition to the requirements contemplated in section 38.
- 2) The applicant must provide the municipality with the additional information or documents contemplated in sub-section (1) within 30 days of the date of notification or within the further period agreed to between the applicant and the municipality.
- 3) If the applicant fails to provide the additional information or documents within the period contemplated in sub-section (2), the municipality must consider the application without the information or documents and notify the applicant accordingly.
- 4) The municipality must, within 21 days of receipt of the additional information or documents, if the applicant provided all the required information or documents, acknowledge receipt thereof and notify the applicant in writing that the application process proceeds or that further information, documents or fees are required as a result of the information or documents received.
- 5) If the municipality notified the applicant that further information or documents are required as contemplated in sub-section (4), sub-sections (2) and (3) apply to the further submission of information or documents.

43 Withdrawal of application or power of attorney

- 1) An applicant may, at any time before the municipality makes a decision on an application submitted by the applicant, withdraw the application by giving written notice of the withdrawal to the municipality.
- 2) The owner must in writing inform the municipality if he or she has withdrawn the power of attorney given to his or her former agent and confirm whether he or she will personally proceed with the application.

44 Public notice in accordance with other laws and integrated procedures

- 1) The municipality may, on written request and motivation by an applicant, before notice is given of an application in terms of section 45 or 46, determine that:
 - a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this by-law; or
 - b) public notice of the application given in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of another law.
- 2) If the municipality determines that an application may be published as contemplated in sub-section (1)(b), an agreement must be entered into between the municipality and the relevant organs of state to facilitate the simultaneous publication of notices;
- 3) The agreement should stipulate that the requirements of sections 45, 46 and 47 of this by-law must be complied with.

45 Publication of notices

- 1) Subject to section 44, the municipality must, in accordance with sub-section (2), cause public notice to be given of the following applications:
 - a) an application for a rezoning;
 - b) the subdivision of land larger than five hectares inside the outer limit of urban expansion as reflected in the municipal spatial development framework;
 - c) the subdivision of land larger than one hectare outside the outer limit of urban expansion as reflected in the municipal spatial development framework;
 - d) if the municipality has no approved municipal spatial development framework, the subdivision of land larger than five hectares inside the physical edge, including existing urban land use approvals, of the existing urban area;
 - e) if the municipality has no approved municipal spatial development framework, the subdivision of land larger than one hectare outside the physical edge, including existing urban land use approvals, of the existing urban area;
 - f) the closure of a public place or part thereof including on the initiative of the municipality;
 - g) an application in respect of a restrictive condition including an application on the initiative of the municipality;
 - h) other applications that will materially affect the public interest or the interests of the community if approved including an application on the initiative of the municipality.
- 2) Public notice of an application referred to in sub-section (1) must be given by:
 - a) publishing a notice with the contents contemplated in section 47 on the municipality's website; and
 - b) publishing a notice with the contents contemplated in section 47 in newspapers or other local publications with a general circulation in the area concerned in at least two of the official languages of the Province most spoken in the area concerned; or
 - c) posting a notice with the contents contemplated in section 47, for at least the duration of the notice period, on the land concerned and on any other notice board, as may be determined by the municipality.
- 3) The municipality may require the applicant to attend to the publication as contemplated in sub-section (2) of the public notice of an application.
- 4) An applicant who publishes a notice in terms of this section must within the period determined by the municipality of publication of the notice provide the municipality with proof, as determined by the municipality that the notice was published in accordance with this section.

46 Serving of notices

- 1) The municipality must cause a notice with the contents contemplated in section 47 to be served of at least the following applications:
 - a) an application referred to in section 45(1);
 - b) a determination of a zoning contemplated in section 13;
 - c) an application for subdivision, amendment or cancellation of a subdivision plan contemplated in section 15(2)(d) and (k) respectively;
 - d) an application for consolidation contemplated in section 15(2)(e);
 - e) the amendment, deletion or imposition of a condition contemplated in section 15(2)(h).
- 2) A notice contemplated in sub-section (1) must be served:
 - a) in accordance with section 35;
 - b) in at least two of the official languages of the Province most spoken in the area concerned;
 - c) on persons whose rights or legitimate expectations may reasonably be affected by the approval of the application;
 - d) on every owner of land adjoining the land concerned; and

- e) on the ward councilor for the ward within which the erf that is the subject of the application falls.
- 3) The municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this by-law and that is not listed in sub-section (1).
- 4) The municipality may require the applicant to attend to the serving of a notice as contemplated in sub-section (2).
- 5) An applicant who serves a notice in terms of this section must within the period determined by the municipality from the service of that notice provide the municipality with proof, as determined by the municipality, of the service of the notice in accordance with sub-section (2).
- 6) The municipality may require the applicant to make the application available for inspection by members of the public at a public place determined by the municipality.

47 Contents of notice

- 1) When notice of an application must be published or served in terms of this by-law, the notice must:
 - a) provide the name and contact details of the applicant;
 - b) identify the land or land unit to which the application relates by giving the property description and the physical address;
 - c) state the intent and purpose of the application;
 - d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
 - e) state the name and contact details of the person to whom comments must be addressed;
 - f) invite members of the public to submit written comments, together with the reasons therefore, in respect of the application;
 - g) state in which format comments may be submitted;
 - h) state the date by which the comments must be submitted, which date may not be less than 30 days from the date on which the notice was given; and
 - i) state that any person who cannot write may during office hours come to an address stated in the notice where a named staff member of the municipality will assist those persons by transcribing their comments.

48 Other methods of public notice

- 1) The municipality may cause public notice to be given by one or more of the methods referred to in sub-section (2):
 - a) to ensure additional public notice of applications listed in sections 45(1) if the municipality considers notice in accordance with sections 45 or 46 to be ineffective or expects that the notice would be ineffective; or
 - b) to give public notice of any other application in terms of this by-law.
- 2) Public notice contemplated in sub-section (1) may be given by:
 - a) displaying a notice contemplated in section 47 of a size of at least 60 centimetres by 42 centimetres on the frontage of the erf concerned or at any other conspicuous and easily accessible place on the erf, provided that:
 - i) the notice is displayed for a minimum of 30 days during any period that the public may comment on the application; and
 - ii) the applicant, within 30 days from the last day of display of the notice, submits to the municipality:
 - (aa) a sworn affidavit confirming the maintenance of the notice for the prescribed period; and
 - (bb) at least two photos of the notice, one from close up and one from across the street;
 - b) convening a meeting for the purpose of informing affected members of the public of the application;

- c) broadcasting information regarding the application on a local radio station in a specified language;
 - d) holding an open day or public meeting to notify and inform affected members of the public of the application;
 - e) **publishing the application on the municipality's website for the duration of the period within which the public may comment on the application;**
 - f) obtaining letters of consent or objection to the application, provided that the letters are accompanied by acceptable evidence that the person signing the letter has been provided with correct and adequate information about the application.
- 3) Additional public notice can be given simultaneously with notice given in accordance with sections 45 or 46 or thereafter.
 - 4) The municipality may require the applicant to attend to the publication of a notice as contemplated in sub-section (2).
 - 5) An applicant who gives notice in terms of this section must within the period determined by the municipality of giving notice provide the municipality with proof, as determined by the municipality that notice has been given in accordance with sub-section (2).

49 Requirements for petitions

- 1) Comments in respect of an application submitted by the public in the form of a petition must clearly state:
 - a) the contact details of the authorized representative of the signatories of the petition;
 - b) the full name and physical address of each signatory; and
 - c) the comments and reasons therefore.
- 2) Notice to the person contemplated in sub-section (1)(a) constitutes notice to all the signatories to the petition.

50 Requirements for submission of comments

- 1) A person may respond to a notice contemplated in sections 44, 45, 46 or 48 by commenting in writing in accordance with this section.
- 2) Any comment made as a result of a notice process must be in writing and addressed to the person mentioned in the notice and must be submitted within the period stated in the notice and in the manner set out in this section.
- 3) The comments must state the following:
 - a) the name of the person concerned;
 - b) the address or contact details at which the person or body concerned will receive notice or service of documents;
 - c) the interest of the person in the application; and
 - d) the reason for the comments.
- 4) The reasons for any comment must be set out in sufficient detail in order to:
 - a) indicate the facts and circumstances that explain the comments;
 - b) where relevant demonstrate the undesirable effect the application will have if approved;
 - c) where relevant demonstrate any aspect of the application that is not considered consistent with applicable policy; and
 - d) enable the applicant to respond to the comments.
- 5) The municipality may only accept comments submitted after the closing date where:
 - a) the applicant agrees to the acceptance; or
 - b) the person submitting the comment shows good reason why the comment was submitted late; and
 - c) the comment is different from, or materially adds to the comments already received within the time limit; and

- d) in the opinion of the authorized official, recorded in writing with reasons, failure to consider the comment might have significant negative impacts on the environment or on the welfare or rights of affected parties.

51 Intergovernmental participation process

- 1) Subject to section 45 of the Land Use Planning Act and section 44 of this by-law, the municipality must, simultaneously with the notification to the applicant that an application is complete as contemplated in section 41(1)(c)(i) or (2) cause notice of the application together with a copy of the application to be given to every municipal department and organ of state that has an interest in the application and request their comment on the application.
- 2) An organ of state must comment on a land use application to the Municipal Manager within 60 days:
 - a) of the date of notification of a request for comment on the application; or
 - b) receiving all the information necessary to comment if the application is not complete and a request for additional information is made within 14 days of the date of notification of the request for comment.
- 3) If an organ of state fails to comment within the period referred to in sub-section (2), the municipality **must notify the organ of state's accounting officer or accounting authority contemplated in the Public Finance Management Act, 1999 (Act 1 of 1999), of the failure.**

52 Amendments before approval

- 1) An applicant may amend his or her application at any time before the approval of the application:
 - a) **at the applicant's own initiative;**
 - b) as a result of an objection, comment or representation submitted during the notice process; or
 - c) at the request of the municipality.
- 2) If an amendment to an application is material, the municipality:
 - a) must give notice of the amendment of an application to all municipal departments and other organs of state and service providers who commented on the application and request them to submit comments on the amended application within 21 days of the date of notification.
 - b) may require that further notice of the application be published or served in terms of section 44, 45, 46 or 48.

53 Further public notice

- 1) The municipality must require that notice of an application be given again if more than 18 months have elapsed since any other public notice of the application, including any notice published in terms of any other legislation but containing full details of the application and the comments in response to which are available to the municipality, and if the municipality has not considered the application.
- 2) The municipality may, at any stage during the processing of the application if new information comes to its attention that is material to the consideration of the application, require:
 - a) notice of an application to be given or served again in terms of section 44, 45, 46 or 48;
 - b) an application to be re-sent to municipal departments, other organs of state or service providers for comment.

54 Liability for cost of notice

The applicant is liable for the costs of publishing and serving of all notices of an application in terms of this by-law.

55 Right of applicant to reply

- 1) Copies of all comments submitted to the municipality, and any other information not previously seen by the applicant that will be used in the assessment required in terms of section 56, or will be submitted to the decision maker, must be given to the applicant within 14 days after the closing date for public comment together with a notice informing the applicant of his or her rights in terms of this section.
- 2) The applicant may, within 30 days from the date on which he or she received the comments, submit a written reply thereto to the municipality.
- 3) The applicant may, before the expiry of the period of 30 days referred to in sub-section (2), apply to the municipality for an extension of the period to submit a written reply, to an additional period not exceeding 14 days.
- 4) If the applicant does not submit a reply within the period of 30 days or within an additional period contemplated in sub-section (3), if granted, the applicant is considered to have no comment.
- 5) The municipality may in writing request additional information or documents from the applicant as a result of the comments received, and the applicant must supply the information or documents within 30 days of notification of the written request or the further period as may be agreed upon between the applicant and the municipality.
- 6) If the applicant fails to provide the additional information or documents within the period contemplated in sub-section (5), the municipality must consider the application without the information or documents and notify the applicant accordingly.

56 Written assessment of application

- 1) An authorized employee must in writing assess an application in accordance with section 65 and make a recommendation to the decision-maker regarding the approval or refusal of the application.
- 2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

57 Decision-making period

- 1) When an authorized employee makes a decision in respect of an application as contemplated in section 69(1) and no integrated process in terms of another law is being followed, the authorized employee must decide on the application within 60 days, reckoned from:
 - a) the last day for the submission of comments as contemplated in section 50(2) if no comments were submitted; or
 - b) **the last day for the submission of the applicant's reply to comments submitted as contemplated in section 55(2) or (3); or**
 - c) the last day for the submission of additional information as contemplated in section 55(5).
- 2) If no integrated process in terms of another law is being followed and the Tribunal must decide on an application as contemplated in section 69(2), the Tribunal must decide on the application within 120 days, reckoned from the applicable date contemplated in sub-section (1)(a), (b) or (c).
- 3) The authorized employee or Tribunal, as the case may be, may extend the period contemplated in sub-section (1) or (2) in exceptional circumstances including the following:
 - a) If an interested person has submitted a petition for intervener status;
 - b) In the case of the Tribunal, if an oral hearing is to be held.

58 Failure to act within period

Subject to section 41(5), an applicant may lodge an appeal with the Appeal Authority if the authorized employee or the Tribunal fails to decide on an application within the period referred to in section 57(1) or (2) or (3).

59 Powers to conduct routine inspections

- 1) An authorized employee or members of the Tribunal may, in accordance with the requirements of this section, enter land or a building to conduct an inspection for the purpose of obtaining information to assess an application in terms of this by-law and to prepare a written assessment contemplated in section 56, or to assist in making a decision on an application.
- 2) When conducting an inspection, the authorized employee or members of the Tribunal may:
 - a) request that any record, document or item that is relevant to the purpose of the investigation be produced to assist in the inspection;
 - b) make copies of or take extracts from any document produced by virtue of paragraph (a) that is related to the inspection;
 - c) on providing a receipt, remove a record, document or other item that is related to the inspection;
 - d) inspect any building or structure and make enquiries regarding that building or structure.
- 3) No person may interfere with a person referred to in sub-section (1) who is conducting an inspection as contemplated in sub-section (1).
- 4) The authorized employee or member of the Tribunal must, on request, produce identification.
- 5) An inspection under sub-section (1) must take place at a reasonable time and after reasonable notice has been given to the owner, occupier or person in lawful control of the land or building and with the written consent of the owner, occupier or person in lawful control of the land or building.

60 Decisions on applications

- 1) An employee authorized by virtue of section 69(1), or the Tribunal by virtue of section 69(2), as the case may be, may in respect of an application contemplated in section 15(2):
 - a) approve, in whole or in part, or refuse that application;
 - b) upon the approval of that application, impose conditions in terms of section 66;
 - c) conduct any necessary inspection to assess an application in terms of section 59;
 - d) in the case of the Tribunal, appoint a technical adviser to advise or assist in the performance of the Tribunal's functions in terms of this by-law.

61 Notification and coming into operation of decision

- 1) The municipality must, within 31 days of its decision, in writing notify the owner, the applicant if different to the owner and any person who has submitted a comment on, objection to or has intervened in an application, and anyone in respect of whom an enforcement action is taken in terms of this by-law of the decision, the reasons for the decision and their right to appeal, if applicable.
- 2) A notice contemplated in sub-section (1) must indicate when an approval comes into operation.
- 3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him or her of the decision of the municipality.
- 4) An approval comes into operation only after the expiry of the period contemplated in section 79(5) within which an appeal must be lodged if no appeal has been lodged.
- 5) Subject to sub-section (6), the operation of the approval of an application that is the subject of an appeal is suspended pending the decision of the Appeal Authority on the appeal.
- 6) If an appeal is lodged only against conditions imposed in terms of section 66, the Tribunal or the authorized employee who imposed the conditions may determine that the approval of the application is not suspended.

62 Duties of agent

- 1) An agent must ensure that he or she has the contact details of the owner on whose behalf he or she is authorized to act.
- 2) An agent may not provide information or make a statement in support of an application which information or statement he or she knows or should reasonably have known to be misleading, false or inaccurate.

63 Errors and omissions

- 1) The municipality may at any time correct an error in the wording of its decision if the correction does not change the decision or result in an alteration, insertion, suspension or deletion of a condition of approval.
- 2) The municipality may, on its own initiative or on application by the applicant or interested party, upon good cause shown, condone an error in a procedure, if the condonation does not have a material adverse effect on, or unreasonably prejudice, any party.

64 Exemptions to facilitate expedited procedures

- 1) The municipality may in writing and subject to section 55 of the Spatial Planning of the Land Use Planning Management Act and section 60 of the Land Use Planning Act:
 - a) exempt a development from compliance with a provision of this By-law to reduce the financial or administrative burden of:
 - i) integrated application processes contemplated in section 44;
 - ii) the provision of housing with the assistance of a state subsidy; or
 - iii) incremental upgrading of existing settlements;
 - b) in an emergency situation authorize that a development may depart from any of the provisions of this by-law.
- 2) If the National or Provincial Minister grants an exemption or authorization to deviate from a provision of the Act in terms of Section 55 or of the Land Use Planning Act in terms of section 60, the municipality is exempted from or authorized to deviate from any provision in this by-law that corresponds to the provision of the Act or the Land Use Planning Act in respect of which an exemption was granted or deviation was authorized.

CHAPTER V: CRITERIA FOR DECISION-MAKING

65 General criteria for consideration of applications

- 1) When the municipality considers an application, it must have regard to the following:
 - a) the application submitted in terms of this by-law;
 - b) the procedure followed in processing the application;
 - c) the desirability of the proposed utilization of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;
 - d) the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;
 - e) the response by the applicant, if any, to the comments referred to in paragraph (d);
 - f) investigations carried out in terms of other laws that are relevant to the consideration of the application;
 - g) a written assessment from a registered planner appointed by the Municipality in respect of an application for:
 - i) a rezoning;
 - ii) a subdivision of more than 20 cadastral units;
 - iii) a removal, suspension or amendment of a restrictive condition if it relates to a change of land use;
 - iv) an amendment, deletion or imposition of additional conditions in respect of an existing use right
 - v) an approval of an overlay zone contemplated in the zoning scheme;
 - vi) a phasing, amendment or cancellation of a subdivision plan or part thereof;
 - vii) a closure of a public place or part thereof;

- viii) the adoption or amendment of a Municipal Spatial Development Framework;
- ix) the adoption or amendment of a Zoning Scheme
- h) the impact of the proposed land development on municipal engineering services;
- i) the integrated development plan, including the municipal spatial development framework;
- j) the integrated development plan of the district municipality, including its spatial development framework, where applicable;
- k) the applicable local spatial development frameworks adopted by the municipality;
- l) the applicable structure plans;
- m) the applicable policies of the municipality that guide decision-making;
- n) the provincial spatial development framework;
- o) where applicable, a regional spatial development framework contemplated in section 18 of the Act and provincial regional spatial development framework;
- p) the policies, principles and the planning and development norms and criteria set by the national and provincial government;
- q) the matters referred to in section 42 of the Act;
- r) the principles referred to in Chapter VI of the Land Use Planning Act;
- s) the applicable provisions of the zoning scheme; and
- t) any restrictive condition applicable to the land concerned.

66 Conditions of approval

- 1) The municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed utilization of land.
- 2) Conditions imposed in accordance with sub-section (1) may include conditions relating to:
 - a) the provision of engineering services and infrastructure;
 - b) requirements relating to engineering services as contemplated in sections 82 and 83;
 - c) the cession of land or the payment of money;
 - d) settlement restructuring;
 - e) agricultural or heritage resource conservation;
 - f) biodiversity conservation and management;
 - g) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
 - h) energy efficiency;
 - i) requirements aimed at addressing climate change;
 - j) **the establishment of an owners' association in respect of the approval of a subdivision;**
 - k) the provision of land needed by other organs of state;
 - l) the endorsement in terms of the Deeds Registries Act in respect of public places where the ownership thereof vests in the municipality;
 - m) the provision of land needed for public places or the payment of money in lieu of the provision of land for that purpose;
 - n) the extent of land to be ceded to the municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the municipality;
 - o) the registration of public places in the name of the municipality;
 - p) the transfer of ownership to the municipality of land needed for other public purposes;
 - q) the implementation of a subdivision in phases;
 - r) requirements of other organs of state;
 - s) the submission of a construction management plan to manage the impact of the construction of a new building on the surrounding properties or on the environment;
 - t) agreements to be entered into in respect of certain conditions;
 - u) the phasing of a development, including lapsing clauses relating to such phasing;
 - v) the delimitation of development parameters or land uses that are set for a particular zoning;
 - w) the setting of a validity period and any extensions thereto;
 - x) the setting of a period within which a particular condition must be met;
 - y) requirements for a temporary departure for a specific occasion or event, which must include:

- i) parking and the number of ablution facilities required;
 - ii) the maximum duration or occurrence of the temporary departure for the occasion or event; and
 - iii) any other development parameters that the municipality may determine;
- z) the payment of a contravention penalty in respect of the unlawful utilization of land;
- aa) the imposition of architectural or visual guidelines;
- bb) requirements for the location of the development on a site.
- 3) If the municipality imposes a condition contemplated in sub-section (2)(a) or (b), an engineering services agreement must be concluded between the municipality and the owner of the land concerned before the construction of engineering services and infrastructure commences on the land.
- 4) A condition contemplated in sub-section (2)(c) may require only a proportional contribution to municipal public expenditure according to the normal need therefor arising from the approval, as determined by the municipality in accordance with section 83(7) and any other applicable provincial norms and standards.
- 5) Municipal public expenditure contemplated in sub-section (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to:
 - a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
 - b) nature conservation;
 - c) energy conservation;
 - d) climate change; or
 - e) engineering services.
- 6) Except for land needed for public places or internal engineering services, any additional land required by the municipality or other organs of state arising from an approved subdivision must be acquired subject to the applicable laws that provide for the acquisition or expropriation of land.
- 7) **An owners' association or home owners' association that came into being by virtue of a condition imposed under the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) and that exists immediately before the commencement of this by-law is regarded as an owners' association that came into being by virtue of a condition imposed by the municipality in accordance with this by-law.**
- 8) The municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required, however, any planning approval granted in terms of this by-law, must bring to the attention of the applicant that such an approval does not obviate the need for the applicant to observe the requirements of any other applicable legislation to obtain permission for the use to which the applicant intends to put the land in question.
- 9) Conditions requiring a standard to be met must specifically refer to an approved or published standard.
- 10) No conditions may be imposed that rely on a third party for fulfilment.
- 11) Notwithstanding the provisions of any other section in this by-law, a conditional approval of an application lapses if the conditions therein are not complied with within:
 - a) a period of ten years from the date of such conditional approval, if no period for compliance is specified in such approval; or
 - b) the period for compliance specified in such conditional approval, which, together with any extension which may be granted, may not exceed ten years.

CHAPTER VI: EXTENSION OF VALIDITY PERIOD OF APPROVALS

67 Applications for extension of validity period

- 1) The municipality may approve an application for the extension of a validity period imposed in terms of a condition of approval, if the application for the extension of the period was submitted at least 150 days before the expiry of the validity period.

- 2) When the municipality considers an application in terms of sub-section (1), it must have regard to the following:
 - a) whether the circumstances prevailing at the time of the original approval have materially changed;
 - b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval have materially changed; and
 - c) whether there is a pending review application in court which may have an effect on the date of implementation of the approval.
- 3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 15(2)(h) must be submitted for consideration before or simultaneously with the application for the extension of a validity period.
- 4) The extended validity period takes effect on and is reckoned from the expiry date of the validity period applicable to the original approval or from the expiry date of the previously extended validity period approved in terms of this by-law.

CHAPTER VII: MUNICIPAL PLANNING DECISION-MAKING STRUCTURES

68 Municipal planning decision-making structures in respect of applications and appeals

Applications or appeals are decided:

- 1) in the case of an application referred to in section 15(2)(a) to (f), (h) to (k), (n), (o) or (r), by an authorized employee who has been delegated by the municipality to consider and determine the applications as contemplated in section 69(1);
- 2) in the case of an application referred to in section 15(2)(a) to (f), (h) to (k), (n), (o) or (r) where an authorized employee has not been delegated by the municipality to consider and determine the applications, by the Tribunal as contemplated in section 69(2);
- 3) in the case of an application referred to in section 15(2)(g), (l), (m), (p) or (q), by the Council or an employee to whom the decision has been delegated;
- 4) by the Appeal Authority where an appeal has been lodged against a decision of an authorized employee or the Tribunal in respect of applications referred to in paragraph (1) or (2) respectively; or
- 5) by the appeal authority referred to in section 62(3) of the Municipal Systems Act where an appeal has been lodged against a decision of an employee to whom the decision has been delegated, in respect of applications referred to in section 15(2)(g), (l), (m), (p) or (q).

69 Consideration of applications

- 1) The municipality may categorize applications referred to in section 15(2)(a) to (f), (h) to (k), (n), (o) or (r) for consideration and determination by an authorized employee and must delegate the powers and duties to decide on those applications.
- 2) The Tribunal considers and determines all applications referred to in section 15(2)(a) to (f), (h) to (k), (n), (o) or (r) that have not been categorized for consideration and determination by an authorized employee;
- 3) Notwithstanding (2) above, an authorized employee may refer an application to the Tribunal should the employee consider such a referral appropriate;
- 4) A decision in terms of this by-law is valid only if it is in writing.

70 Establishment of Tribunal

- 1) The municipality must:
 - a) establish a Municipal Planning Tribunal for its municipal area; or
 - b) by agreement with one or more municipalities establish a joint Municipal Planning Tribunal; or
 - c) agree to the establishment of a district Municipal Planning Tribunal by the district municipality.

- 2) An agreement referred to in sub-section (1)(b) or (c) must be approved by Council and must provide for:
- a) the composition of the Tribunal;
 - b) the terms and conditions of appointment of members of the Tribunal;
 - c) the determination of rules and procedures at meetings of the Tribunal;
 - d) An agreement between two or more municipalities to establish a joint Municipal Planning Tribunal as contemplated in section 34(1) of the Act must describe the rights, obligations and responsibilities of the participating municipalities and must provide for at least:
 - i) the name and demarcation code of each participating municipality;
 - ii) the budgetary, funding and administrative arrangements for the joint Municipal Planning Tribunal and the legal obligations of each participating municipality;
 - iii) the number and manner of designation of officials representing each of the participating municipalities to the joint Municipal Planning Tribunal, the filling of vacancies and the replacement and recall of the officials;
 - iv) the number and manner of appointment of members contemplated in section 36(1)(b) of the Act and the filling of vacancies;
 - v) subject to regulation 3(1)(c), the terms and conditions applicable to the members of the joint Municipal Planning Tribunal;
 - vi) the appointment of a chairperson and deputy chairperson;
 - vii) the institutional requirements referred to in Section 72;
 - viii) the categories of applications it will consider and decide;
 - ix) the administrative support arrangements and the manner in which the municipality must give effect to a decision of the joint Municipal Planning Tribunal;
 - x) the designation of an official in the employ of each participating municipality to inspect, at any time during normal business hours, the records and operations of the joint Municipal Planning Tribunal on behalf of the participating municipalities;
 - xi) determine the conditions for, and consequences of the withdrawal from the agreement of a participating municipality;
 - xii) determine the conditions for, and consequences of, the termination of the agreement, including the method and schedule for winding-up the operations of the joint Municipal Planning Tribunal; and
 - xiii) any other matter relating to the proper functioning of the joint Municipal Planning Tribunal.
 - e) other matters as may be prescribed in terms of the Act.

71 Composition of Tribunal for municipal area

- 1) A Tribunal established in terms of section 70(1)(a) must be appointed by Council and must consist of at least 8 members who have knowledge and experience in any of the disciplines relating to spatial planning, land use management, land development or the law related thereto, be representative of a broad range of experience and expertise and as far as possible of the demographics of the Western Cape comprising of not less than:
- a) three employees in the fulltime service of the municipality; and
 - b) three persons who are not municipal councillors or employees of the municipality, at least of whom must be a registered town planner.
- 2) A member of the Tribunal appointed in terms of sub-section (1)(b) may be:
- a) an official or employee of:
 - i) any department of state or administration in the national or provincial sphere of government;
 - ii) a government business enterprise;
 - iii) a public entity;

- iv) organised local government as envisaged in the Constitution;
- v) an organisation created by government to provide municipal support;
- vi) a non-governmental organisation; or
- vii) any other organ of state not provided for in subparagraphs (i) to (iv); or
- b) an individual in his or her own capacity.

72 Process for appointment of members for Tribunal for municipal area

- 1) The members of the Tribunal referred to in sub-section 71(1)(b) may be appointed by the Council only after the municipality has:
 - a) in the case of an official or employee contemplated in section 71(2)(a), extended a written invitation to nominate an official or employee to serve on the Tribunal to the departments in the national and provincial sphere of government, other organs of state and organisations referred to in section 71(2)(a); and
 - b) in the case of member contemplated in section 71(2)(b), by notice on the municipality's website and in a newspaper in circulation in the municipal area, invited interested parties to submit, within the period stated in the notice, names of persons who meet the requirements to be so appointed.
- 2) An invitation for nominations must:
 - a) request sufficient information to enable the municipality to evaluate the knowledge and experience of the nominee;
 - b) request a written nomination in the form that the municipality determines that complies with sub-section (3);
 - c) permit self-nomination; and
 - d) provide for a closing date for nominations, which date may not be less than 14 days from the date of publication of the invitation in terms of sub-section (1)(b) or the written invitation in terms of sub-section (1)(a), and no nominations submitted after that date may be considered by the municipality.
- 3) A nomination in response to an invitation must:
 - a) provide for acceptance of the nomination by the nominee, if it is not a self-nomination;
 - b) include confirmation by the nominee that he or she is not disqualified from serving as a member in terms of section 74;
 - c) include agreement by the nominee that the municipality may verify all the information provided by the nominee; and
 - d) include a statement that the nominee will be obliged to commit to and uphold a code of conduct if he or she is appointed.
- 4) If no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and experience or comply with any additional criteria which may have been determined by the municipality, the municipality must invite nominations for a second time and follow the process required for the invitation for nominations referred to in this section.
- 5) If after the second invitation for nominations, no or insufficient nominations are received or if the nominees do not possess the requisite knowledge and experience or comply with any additional criteria which may have been determined by the municipality, the Executive Mayor of the municipality must designate persons who possess the requisite knowledge and experience and comply with any additional criteria which may have been determined by the municipality, and must inform council thereof and appoint the person.
- 6) Nominations submitted to the municipality by virtue of sub-section (1) must be submitted in writing in the form determined by the municipality and must contain the contents referred to in sub-section (3).
- 7) The Municipal Manager must convene an evaluation panel consisting of officials in the employ of the municipality to evaluate nominations that comply with this section as received by the municipality and determine the terms of reference of that evaluation panel.

- 8) The Council must appoint the members of the Tribunal after having regard to:
 - a) the recommendations of the evaluation panel;
 - b) the knowledge and experience of candidates in respect of land use planning or the law related thereto;
 - c) the requirement that the members of the Tribunal must be representative of a broad range of appropriate experience and expertise;
 - d) the powers and duties of the Tribunal; and
 - e) the policy of the municipality in respect of the promotion of persons previously disadvantaged by unfair discrimination.
- 9) The Council may not appoint any person to the Tribunal if that person:
 - a) was not nominated in accordance with the provisions of this section;
 - b) is disqualified from appointment as contemplated in section 74; or
 - c) does not possess the knowledge or experience required in terms of section 71(2).
- 10) The Council must designate from among the members of the Tribunal:
 - a) the chairperson of the Tribunal; and
 - b) another member as deputy chairperson, to act as chairperson of the Tribunal when the chairperson is absent or unable to perform his or her duties.
- 11) The Municipal Manager must:
 - a) inform the members in writing of their appointment;
 - b) obtain written confirmation from the Council that the Council is satisfied that the Tribunal is in a position to commence its operations; and
 - c) after receipt of the confirmation referred to in paragraph (b), upon first appointment of members of the tribunal, publish a notice as envisaged in terms of Section 37(4) of the Act, in the *Provincial Gazette* to the effect that the Tribunal is in a position to commence its operations and stating:
 - i) the date that the Tribunal will commence its operation.
- 12) The Tribunal may commence its operations only after publication of the notice contemplated in sub-section (11) (c).

73 Term of office and conditions of service of members of Tribunal for municipal area

- 1) A member of a Tribunal:
 - a) is appointed for five years or a shorter period as the municipality may determine; and
 - b) may be appointed for further terms, subject to section 37(1) of the Act.
- 2) The office of a member becomes vacant if:
 - a) the member is absent from two consecutive meetings of the Tribunal without the leave of the Chairperson of the Tribunal;
 - b) the member tenders his or her resignation in writing to the Chairperson of the Tribunal or, if the member who is resigning is the Chairperson, to the Council
 - c) the members are removed from the Tribunal under section (3); or
 - d) the member dies.
- 3) The Council may, after having given the member an opportunity to be heard, remove a member of the Tribunal if:
 - a) sufficient grounds exist for his or her removal;
 - b) the member contravenes the Code of Conduct referred to in section 76;
 - c) the member becomes subject to a disqualification from membership of the Tribunal as referred to in section 74.

- 4) A vacancy on the Tribunal must be filled by the Council in terms of section 71 and 72.
- 5) A member who is appointed by virtue of sub-section (4) holds office for the unexpired part of the period for which the member he or she replaces, was appointed.
- 6) Members of the Tribunal referred to in section 71(1)(b) must be appointed on the terms and conditions and must be paid the remuneration and allowances and be reimbursed for expenses, as determined by the Council.
- 7) An official of the municipality appointed in terms of section 71(1)(a) as a member of the Tribunal:
 - a) may only serve as member in this capacity for as long as he or she is in full-time employ of the municipality.
 - b) is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other additional employee benefit as a result of his or her membership on the Tribunal.
- 8) A person appointed in terms of section 71(1)(b) as a member of the Tribunal:
 - a) is not an employee on the staff establishment of the municipality;
 - b) in the case of a person referred to in section 71(2)(a), is bound by the conditions of service determined in his or her contract of employment and is not entitled to additional remuneration, allowances, leave or sick leave or any other additional employee benefit as a result of his or her membership of the Tribunal;
 - c) performs the specific tasks in respect of the consideration of an application allocated to him or her by the chairperson of the Tribunal;
 - d) sits at such meetings of the Tribunal that requires his or her relevant knowledge and experience as determined by the chairperson of the Tribunal;
 - e) in the case of a person referred to in section 71(2)(b), is entitled to a seating and travel allowance as determined by the municipality for each meeting of the Tribunal that he or she is required to attend; and
 - f) in the case of a person referred to in section 71(2)(b), is not entitled to overtime, annual leave, sick leave, maternity leave, family responsibility leave, study leave, special leave, a performance bonus, medical scheme contribution, pension, motor vehicle or any other benefit to which a municipal employee is entitled.
- 9) The allowances referred to in sub-section (8)(e) are subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Service.

74 Disqualification from membership of Tribunal

- 1) A person may not be appointed or continue to serve as a member of the Tribunal if that person:
 - a) is an un rehabilitated insolvent;
 - b) fails to comply with the Act or this by-law.
 - c) has at any time been convicted of an offence involving dishonesty;
 - d) is not a citizen or permanent resident of the Republic of South Africa;
 - e) has at any time been removed from an office of trust on account of misconduct;
 - f) has been declared by a court of law to be mentally incompetent or has been detained under the Mental Health Care Act, 2002 (Act 17 of 2002);
 - g) is a member of Parliament, a Provincial Legislature, a Municipal Council or a House of Traditional Leaders;
 - h) has been found guilty of misconduct, incapacity or incompetence; or
 - i) has previously been removed from a tribunal for a breach of the Act or this by-law;
- 2) A member must vacate office if that member becomes subject to a disqualification as contemplated in sub-section (1).
- 3) A member of a Tribunal:
 - a) must make full disclosure of any conflict of interest, including any potential conflict; and
 - b) may not attend, participate or vote in any proceedings of the Tribunal in relation to any matter in respect of which the member has a conflict of interest.

- 4) For the purposes of this section, a member has a conflict of interest if:
 - a) the member, a spouse, family member, partner or business associate of the member is the applicant or has a pecuniary or other interest in the matter before the Tribunal;
 - b) the member has any other interest that may preclude or may reasonably be perceived as precluding the member from performing the functions of the member in a fair, unbiased and proper manner;
 - c) the member is an official in the employ of national, provincial or local government, if the department by which such an official is employed, has a direct or substantial interest in the outcome of the matter.
- 5) The Council may at any time remove any member of the Tribunal from office:
 - a) if there are reasonable grounds justifying the removal; or
 - b) where a member has been disqualified in terms of sub-section (1), after giving such a member an opportunity to be heard.
- 6) If a member's appointment is terminated or the member resigns, the Council may appoint a person to fill the vacancy for the unexpired portion of the vacating member's term of office, in accordance with sections 71 and 72.

75 Meetings of Tribunal for municipal area

- 1) Subject to section 78, the Tribunal contemplated in section 70(1)(a) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for:
 - a) the convening of meetings;
 - b) the procedure at meetings; and
 - c) the frequency of meetings.And must inform Council thereof.
- 2) The Tribunal may constitute itself to comprise one or more panels to determine:
 - a) applications in specific geographical areas;
 - b) applications in specific areas within the municipality;
 - c) a particular application or type or category of application; or
 - d) other circumstance that would warrant, its constitution as a panel.
- 3) In this section, section 77 and section 78, unless the context indicates otherwise, 'the Tribunal' includes a panel of the Tribunal contemplated in sub-section (2).
- 4) The Tribunal must meet at the time and place determined by the chairperson or in the case of a panel, the presiding officer, appointed by the chairperson, provided that it must meet at least once per month if there is an application to consider.
- 5) If the Tribunal constitutes itself to comprise a panel, the Tribunal must designate at least three members of the Tribunal to be members of that panel, of whom one must at least be a member contemplated in section 71(1)(b), provided that the panel shall consist of at least one person who is a town planner.
- 6) A quorum for a meeting of the Tribunal is the majority of its appointed members.
- 7) A quorum for a meeting of a panel of the Tribunal is:
 - a) the greater of a majority of its designated members or
 - b) three, if the panel consist of only three members.
- 8) Meetings of the Tribunal or a panel of the Tribunal must be held as contemplated in this section and section 78 in accordance with the rules of the Tribunal.

76 Code of conduct for members of Tribunal for municipal area

- 1) The code of conduct in Schedule 1 applies to every member of a Tribunal contemplated in section 71(1).

- 2) If a member contravenes the code of conduct, the Council may:
 - a) in the case of member contemplated in section 71(1)(a), institute disciplinary proceedings against the member;
 - b) remove the member from office.

77 Administrator for Tribunal for municipal area

- 1) The Municipal Manager must appoint or designate an employee as the Administrator and other staff for the Tribunal contemplated in section 70(1)(a) in terms of the Municipal Systems Act.
- 2) The Administrator must:
 - a) arrange venues for Tribunal meetings;
 - b) maintain a diary of meetings of the Tribunal;
 - c) allocate a meeting date for, and application number to, an application;
 - d) arrange the attendance of members of the Tribunal at meetings;
 - e) perform the administrative functions in connection with the proceedings of the Tribunal;
 - f) liaise with the relevant Tribunal members and the parties concerned regarding any application to be determined by, or other proceedings of, the Tribunal;
 - g) ensure that the proceedings of the Tribunal are conducted efficiently and in accordance with the directions of the chairperson of the Tribunal;
 - h) arrange the affairs of the Tribunal so as to ensure that time is available to liaise with other organs of state regarding the alignment of integrated applications and authorizations;
 - i) notify the parties concerned of decisions and procedural directives given by the Tribunal and ensure that they are published on the Council's website within fourteen days of the decision;
 - j) keep a record of all applications submitted to the Tribunal as well as the outcome of each, including:
 - i) reasons for decisions;
 - ii) decisions of the Tribunal;
 - iii) proceedings of the Tribunal; and
 - iv) and on-site inspections and any matter recorded as a result thereof;
 - k) keep records by any means as the Tribunal may deem expedient;
 - l) ensure that all parties to an application including the applicant, objectors and commenting parties are given timeous notice of any meeting of the tribunal for which the application is on the agenda and are informed of their rights in connection therewith.

78 Functioning of Tribunal for municipal area

- 1) The meetings of the Tribunal contemplated in section 75(1)(a) must be held at the times and places as the chairperson may determine and be open to the public and the date, time and venue must be published on the municipal website;
- 2) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application, requests to make an oral representation at a meeting of the Tribunal, he or she must submit a written request to the Administrator, including a brief summary of the oral representation that they intend to make, at least 7 days before that meeting.
- 3) The Chairperson may approve a request contemplated in sub-section (2), subject to reasonable conditions. Such approval may not be unreasonably withheld.
- 4) An application may be considered by the Tribunal by means of:
 - a) an oral hearing; or
 - b) the consideration of the written application and comments;
- 5) The application may be considered in terms of sub-section (4)(a) if it appears to the Tribunal that the issues for determination of the application can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.

- 6) An oral hearing may be held:
 - a) if it appears to the Tribunal that the issues for determination of the application cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or
 - b) if such hearing would assist in the expeditious and fair disposal of the application.
- 7) If appropriate in the circumstances, the oral hearing may be held by electronic means.

79 Appeals

- 1) The Executive Mayor of the municipality is the Appeal Authority in respect of decisions made by an authorized employee or the Tribunal referred to in sections 68(1) and (2) respectively.
- 2) In considering an appeal, the Appeal Authority may consult with an advisory panel consisting of the Mayoral Committee member responsible for the Planning function and two other members chosen by the Appeal Authority either from Council or from the administration of the municipality, of whom at least one member must have knowledge and experience in the disciplines relating to spatial planning or land use management and of whom at least one must have knowledge of the law relating thereto.
- 3) The Appeal Authority has the discretion to obtain advice from technical and or other experts, as the Appeal Authority deems necessary;
- 4) Experts, consulted by the Appeal Authority in terms of 79(3) who are not public servants may be remunerated for their service;
- 5) The following persons may, within 21 days of notification of a decision made in terms of the by-law, appeal in writing to the Appeal Authority against the decision:
 - a) the applicant;
 - b) the owner, if the owner is not the applicant;
 - c) the Municipal Manager;
 - d) a person who has been granted intervener status;
 - e) a person who has submitted a comment on or objection to the application which complies with the requirements for a comment or objection set out in this by-law;
 - f) the owner or other person:
 - i) in respect of whom the municipality decides to withdraw an approval for a temporary departure or an approval granted for a limited period of time.
 - ii) who is issued with a directive in terms of this by-law; or
 - iii) upon whom a contravention penalty is imposed in terms of this by-law; and
- 6) An applicant may appeal in writing to the Appeal Authority in respect of the failure of the Tribunal or an authorized employee to make a decision within the period contemplated in section 57(1) or (2), any time after the expiry of the period contemplated in those sections.
- 7) An appeal is lodged by serving the appeal on the Municipal Manager in the form determined by the municipality and, in the case of an appeal contemplated in sub-section (2), within the period contemplated in sub-section (2).
- 8) When the Appeal Authority considers an appeal, it must have regard to:
 - a) the provisions of section 65(1), read with the necessary changes; and
 - b) the comments of the Provincial Minister contemplated in section 52 of the Land Use Planning Act.

80 Procedure for appeal

- 1) An appeal is valid if:
 - a) in the case of an appeal contemplated in section 79(5), it is not lodged within the period referred to in that sub-section; or
 - b) it does not comply with sub-sections (2) to (7).

- 2) An appeal must set out the following:
 - a) grounds for the appeal which may include the following grounds:
 - i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 of (Act 3 of 2000);
 - ii) grounds relating to the merits of the land development or land use application on which the appellant believes the Tribunal or authorized employee erred in coming to the conclusion that the Tribunal or authorized employee did, as the case may be;
 - b) whether the appeal is lodged against the whole decision or a part of the decision;
 - c) if the appeal is lodged against a part of the decision, a description of the part;
 - d) if the appeal is lodged against a condition of approval, a description of the condition;
 - e) the factual or legal findings that the appellant relies on;
 - f) the relief sought by the appellant; and
 - g) any issue that the appellant wishes the Appeal Authority to consider in making its decision; or
 - h) in the case of an appeal in respect of the failure of a decision-maker to make a decision, the facts that prove the failure.
- 3) An applicant who lodges an appeal must, within the period referred to in sub-section 79(5), submit proof of payment of appeal tariffs as may be determined by the municipality to the Municipal Manager.
- 4) An applicant who lodges an appeal must within 48 hours serve notice of the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
- 5) The notice must be served in accordance with section 35.
- 6) The notice contemplated in sub-section 5 must invite persons to comment on the appeal within 21 days of the date of notification.
- 7) The appellant must submit proof of service of the notice as contemplated in sub-section (5) to the Municipal Manager within 14 days of the date of notification.
- 8) If a person other than the applicant lodges an appeal, the Municipal Manager must give written notice of the appeal to the applicant within 14 days of receipt thereof.
- 9) An applicant who has received notice of an appeal in terms of sub-section (8) may submit comment on the appeal to the Municipal Manager within 21 days of the date of notification.
- 10) The Appeal Authority may only accept comments on an appeal submitted after the closing date where:
 - a) the applicant agrees to the acceptance; or
 - b) condonation to do so is granted by the Appeal Authority; or
 - c) the person submitting the comment shows good reason why the comment was submitted late; and
 - d) the comment is different from, or materially adds to the comments already received within the time limit; and
 - e) in the opinion of an authorized employee, recorded in writing with reasons, failure to consider the comment might have significant negative impacts on the environment or on the welfare or rights of affected parties.
- 11) The Municipal Manager:
 - a) may request the Provincial Minister within 14 days of the receipt of an appeal to comment in writing on the appeal within 60 days of the date of notification of the request;
 - b) must notify and request the Provincial Minister within 14 days of the receipt of an appeal to comment on the appeal within 60 days of the date of notification of the request in respect of appeals relating to the following applications:
 - i) a development outside the municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;
 - ii) if the municipality has no approved municipal spatial development framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area;

- iii) a rezoning of land zoned for agricultural or conservation purposes;
 - iv) any category of land use applications as may be prescribed by the Provincial Minister; and
- c) must on receipt of an appeal in terms of this section notify the applicant in writing whether or not the operation of the approval of the application is suspended.
- 12) An authorized employee must draft a report assessing an appeal and must submit it to the Municipal Manager within:
 - a) 30 days of the closing date for comment requested in terms of sub-section (6) and (9), if no comment was requested in terms of sub-section (11); or
 - b) 30 days of the closing date for comments requested in terms of sub-section (11).
- 13) The Municipal Manager must within 14 days of receiving the report contemplated in sub-section (12) submit the appeal to the Appeal Authority.
- 14) The Municipal Manager or an employee designated by him or her must:
 - a) liaise with the Appeal Authority and the parties concerned regarding any appeal lodged with the Appeal Authority;
 - b) maintain a diary of meetings of the Appeal Authority and the advisory panel;
 - c) allocate a meeting date for, and appeal number to, an appeal;
 - d) arrange the venues and attendance of the Appeal Authority and the advisory panel at meetings;
 - e) give notice to all parties to the appeal of the date of the appeal and ensure that it is published on the website;
 - f) perform the administrative functions in connection with the proceedings of the Appeal Authority;
 - g) ensure that the proceedings of the Appeal Authority are conducted efficiently and in accordance with the directions of the Appeal Authority;
 - h) arrange the affairs of the Appeal Authority so as to ensure that time is available to liaise with other organs of state regarding the alignment of integrated appeal procedures;
 - i) notify the parties concerned of decisions and procedural directives given by the Appeal Authority;
 - j) keep a record of all appeals lodged as well as the outcome of each, including:
 - i) decisions of the Appeal Authority;
 - ii) on-site inspections and any matter recorded as a result thereof;
 - iii) reasons for decisions; and
 - iv) proceedings of the Appeal Authority; and
 - k) keep records by any means as the Appeal Authority may deem expedient.
- 15) An appellant may, at any time before the Appeal Authority makes a decision on an appeal submitted by the appellant, withdraw the appeal by giving written notice of the withdrawal to the Municipal Manager.
- 16) The appellant must in writing inform the municipality if he or she has withdrawn the power of attorney given to his or her former agent and confirm whether he or she will personally proceed with the appeal.

81 Consideration by Appeal Authority

- 1) An appeal may be considered by the Appeal Authority by means of:
 - a) the consideration of the written appeal and comments; or
 - b) an oral hearing.
- 2) The appeal may be considered in terms of sub-section (1)(a) if it appears to the Appeal Authority that the issues for determination of the appeal can be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it.
- 3) An oral hearing may be held:
 - a) if it appears to the Appeal Authority that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by considering the documents or other material lodged with or provided to it; or

- b) if such hearing would assist in the expeditious and fair disposal of the appeal.
- 4) If appropriate in the circumstances, the oral hearing may be held by electronic means.
- 5) If the Appeal Authority decides to hold an oral hearing, any party to the appeal proceedings may appear in person or may be represented by another person.
- 6) The Appeal Authority must ensure that every party to a proceeding before the Appeal Authority is given an opportunity to present his or her case, whether in writing or orally as contemplated in sub-sections (2) and (3) and, in particular, to inspect any documents to which the Appeal Authority proposes to have regard in reaching a decision in the proceeding and to submit comments thereon in accordance with this Chapter or, in the case of an oral hearing, to make submissions in relation to those documents.
- 7) The Appeal Authority must:
 - a) consider and determine all appeals lawfully submitted to it;
 - b) confirm, vary or revoke the decision of the Tribunal or authorized employee;
 - c) provide reasons for any decision made by it;
 - d) give directions relevant to its functions to the municipality;
 - e) keep a record of all its proceedings; and
 - f) determine whether the appeal falls within its jurisdiction.
- 8) Subject to sub-section (12), the Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report as contemplated in section 80 (13).
- 9) If the Appeal Authority revokes a decision of the Tribunal or authorized employee it may:
 - a) remit the matter to the Tribunal or authorized employee:
 - i) if there was an error in the process which is unfair and which cannot be corrected by the Appeal Authority; and
 - ii) with instructions regarding the correction of the error; or
 - b) replace the decision with any decision it regards necessary.
- 10) The Appeal Authority must within 21 days from the date of its decision notify the parties to an appeal in writing of:
 - a) the decision and the reasons therefore; and
 - b) if the decision on an appeal upholds an approval, notify the applicant in writing that he or she may act on the approval.
- 11) The Appeal Authority may extend the period contemplated in sub-section (8) in exceptional circumstances including the following:
 - a) if an interested person has submitted a petition for intervener status;
 - b) if an oral hearing is to be held.

CHAPTER VIII: PROVISION OF ENGINEERING SERVICES

82 Responsibility for provision of engineering services

- 1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development once an application is approved.
- 2) The municipality is responsible for the provision and installation of external engineering services.
- 3) If the municipality is not the provider of an engineering service, the applicant must satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of that service.
- 4) The municipality may enter into a written agreement with an applicant to provide that:
 - a) the applicant is responsible for the provision, installation and costs of external engineering service instead of paying the applicable development charges; or
 - b) the applicant is responsible for the provision, installation and costs of external engineering service and that the fair and reasonable costs of the external engineering service may be set off against the development charges payable by the applicant.

83 Development charges and other contributions

- 1) The applicant must pay development charges to the municipality in respect of the provision and installation of external engineering services.
- 2) These external engineering services for which development charges are payable must be set out in a policy adopted and annually reviewed by the municipality.
- 3) The amount of the development charges payable by an applicant must be calculated in accordance with the policy adopted by the municipality.
- 4) The date by which development charges must be paid and the means of payment must be specified in the conditions of approval.
- 5) The development charges imposed are subject to escalation at the rate calculated in accordance with the policy on development charges.
- 6) The municipality must annually submit a report to the Council on the development charges paid to the municipality, together with a statement of the expenditure of the amount and the purpose of the expenditure.
- 7) When determining the contribution contemplated in section 66(4) and (5), the municipality must have regard to provincial norms and standards as well as:
 - a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
 - b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
 - c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
 - d) money in respect of contributions contemplated in section 66(4) paid in the past by the owner of the land concerned; and
 - e) money in respect of contributions contemplated in section 66(4) to be paid in the future by the owner of the land concerned.

84 Land for parks, open spaces and other uses

- 1) When the municipality approves an application for the use of land for residential purposes, the municipality may require the applicant to provide land for parks or public open spaces in terms of conditions of approval imposed in accordance with section 66.
- 2) The extent of land required for parks or public open spaces is determined by the municipality in accordance with a policy adopted by the municipality.
- 3) The land required for parks or public open spaces must be provided within the land area of the application or may, with the consent of the municipality, be provided elsewhere within the municipal area.
- 4) When an application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay money to the municipality in lieu of the provision of land.

CHAPTER IX: ENFORCEMENT

85 Enforcement

- 1) The municipality must comply and enforce compliance with:
 - a) the provisions of this by-law;
 - b) the provisions of a zoning scheme;
 - c) conditions imposed in terms of this by-law or any law repealed by the Land Use Planning Act.
- 2) The municipality may not do anything that is in conflict with sub-section (1).

86 Offences and penalties

- 1) A person is guilty of an offence and is liable on conviction to a fine not exceeding R10 million or imprisonment not exceeding 20 years or to both a fine and such imprisonment if he or she:
 - a) contravenes or fails to comply with sections 15(1) and (4), 20(1), 21(4), 31(1), 59(3), 62(2) or 88(2);
 - b) utilizes land in a manner other than prescribed by a zoning scheme without the approval of the municipality;
 - c) upon registration of the transfer of ownership of the first land unit arising from a subdivision to a person other than the developer, fails to transfer all common property arising from the subdivision to the owners' association;
 - d) supplies particulars, information or answers in an application, or in an appeal against a decision on an application, or in any documentation or representation related to an application or an appeal, knowing it to be false, incorrect or misleading or should reasonably have known it to be incorrect or misleading;
 - e) falsely professes to be an authorized employee or the interpreter or assistant of an authorized employee; or
 - f) hinders or interferes with an authorized employee in the exercise of any power or the performance of any duty of that employee.
- 2) An owner who permits his or her land to be used in a manner set out in sub-section (1)(b) and who does not cease that use or take reasonable steps to ensure that the use ceases, is guilty of an offence and liable upon conviction to a fine not exceeding R10 million or imprisonment not exceeding 20 years or to both a fine and such imprisonment.
- 3) A person convicted of an offence in terms of this by-law who, after conviction, continues with the action in respect of which he or she was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three months or to a fine not exceeding R125 000 or to both such fine and imprisonment, in respect of each day on which he or she so continues or has continued with that act or omission.
- 4) The municipality may adopt fines and contravention penalties to be imposed in the enforcement of this by-law.

87 Serving of compliance notices

- 1) The municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person is guilty of an offence in terms of section 86.
- 2) A compliance notice must instruct the person to cease the unlawful utilization of land or construction activity or both, without delay or within the period determined by the municipality, and may include an instruction to:
 - a) demolish, remove or alter any building, structure or work unlawfully erected or constructed or to rehabilitate the land or restore the building concerned to its original form or to cease the activity, as the case may be, within the period determined by the municipality.
 - b) submit an application for the approval of the utilization of the land or construction activity in terms of this by-law within 30 days of the service of the compliance notice and to pay the contravention penalty within 30 days of the determination thereof; or
 - c) rehabilitate the land or restore the building concerned to its original form or to rectify the contravention of or non-compliance with a condition of approval within a specified period.
- 3) A person who has received a compliance notice with an instruction contemplated in sub-section (2)(a) may not submit an application in terms of sub-section (2)(b).
- 4) An instruction to submit an application in terms of sub-section (2)(b) must not be construed as an indication that the application will be approved.
- 5) In the event that the application submitted in terms of sub-section (2)(b) is refused, the owner must demolish, remove or alter the building, structure or work unlawfully erected or constructed and rehabilitate the land or restore the building.

- 6) A person who received a compliance notice in terms of this section may object to the notice by submitting written representations to the municipality within 30 days of the date of notification.

88 Contents of compliance notice

- 1) A compliance notice must:
- a) identify the person to whom it is addressed;
 - b) describe the alleged unlawful utilization of land or construction activity and the land on which it is occurring or has occurred;
 - c) state that the utilization of land or construction activity is unlawful and inform the person of the particular offence contemplated in section 86 which that person allegedly has committed or is committing by the continuation of that activity on the land;
 - d) state the steps that the person must take and the period within which those steps must be taken;
 - e) state anything which the person may not do and the period during which the person may not do it;
 - f) make provision for the person to submit representations in terms of section 89 with the contact person stated in the notice; and
 - g) issue a warning to the effect that:
 - i) the person may be prosecuted for and convicted of an offence contemplated in section 86;
 - ii) on conviction of an offence, the person will be liable for the penalty as provided for;
 - iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work unlawfully erected or constructed or to rehabilitate the land or restore the building concerned or to cease the activity;
 - iv) in the case of a contravention relating to a consent use or temporary departure, the approval may be withdrawn; and
 - v) in the case of an application for authorization of the activity or development parameter, the contravention penalty in the amount as stated in the notice, including any costs incurred by the municipality, may be imposed.
- 2) Any person on whom a compliance notice is served must comply with that notice within the period stated in the notice unless the person has objected to the notice in terms of section 89 and the municipality has not decided on the matter in terms of that section or the municipality has agreed to suspend the operation of the compliance notice in terms of section 89(2).

89 Objections to compliance notice

- 1) Any person who receives a compliance notice in terms of section 87 may object to the notice by making written representations to the municipality within 30 days of the date of notification.
- 2) After consideration of any objections or representations made in terms of sub-section (1) and any other relevant information, the municipality:
- a) may suspend, confirm, vary or withdraw the compliance notice or any part of the compliance notice; and
 - b) must specify the period within which the person to whom the compliance notice is addressed must comply with any part of the compliance notice that is confirmed or varied.

90 Failure to comply with compliance notice

- 1) If a person fails to comply with a compliance notice, the municipality may:
- a) lay a criminal charge against the person;
 - b) apply to the Court for an order:

- i) restraining that person from continuing the unlawful utilization of the land;
- ii) directing that person to, without the payment of compensation:
 - (aa) demolish, remove or alter any building, structure or work unlawfully erected or constructed; or
 - (bb) rehabilitate the land concerned;
- c) in the case of consent use or a temporary departure, withdraw the approval granted and take any of the other steps contemplated in section 88(1)(g).

91 Compliance certificates

- 1) An authorized employee who is satisfied that the owner or occupier of any land or premises has complied with a compliance notice may issue a certificate, in the manner and form determined by the municipality, to confirm the compliance.
- 2) The authorized employee must submit a report to the municipality regarding his or her findings contemplated in sub-section (1) and the issuing of a compliance certificate.

92 Urgent matters

- 1) Where the circumstances of the unlawful utilization of land present a danger to persons, property, or the environment, the municipality may issue a compliance notice calling upon the person or owner to cease the unlawful utilization of land immediately, without having to comply with sections 87(6), 88(1)(f) and 89.
- 2) If the person or owner fails to cease the unlawful utilization of land immediately, the municipality may apply to the Court for an urgent interdict compelling the person or owner to cease such unlawful utilization, or any other relief necessary.

93 Contravention penalties

- 1) A person who is in contravention of this by-law, and who wishes to rectify the contravention in terms of section 87(2)(b), may apply to the municipality for the determination of an administrative penalty if the municipality has not issued a compliance notice in terms of sub-section 87(2)(a) in respect of the land or building or part thereof concerned.
- 2) The Municipal Planning Tribunal may, where any person has contravened this by-law:
 - a) decide to impose an administrative penalty; and
 - b) determine the amount of the penalty.
- 3) A person making an application contemplated in sub-section (2) must:
 - a) submit an application;
 - b) pay the prescribed fee; and
 - c) provide the information contemplated in sub-sections (8) and (9).
- 4) The municipality may, on its own initiative apply, to the Municipal Planning Tribunal for an order that a person who has contravened this by-law must pay an administrative penalty in an amount determined by the municipal Planning Tribunal, and must provide the information contemplated in sub-sections (8) and (9) to the extent that it is known to the municipality.
- 5) If the municipality submits an application as contemplated in sub-section (4), the municipality must invite the person concerned to make written representations on the application within 30 days of receipt, thereof.
- 6) An authorized employee must submit a written report to the Municipal Planning Tribunal for consideration of any application for a contravention levy.
- 7) The Municipal Planning Tribunal may:
 - a) call for additional information to decide an application in terms of this section; and
 - b) draw an adverse inference against a person who fails or refuses to provide, to the satisfaction of the Municipal Planning Tribunal, information contemplated in sub-section (3)(c) or paragraph (a).

- 8) After considering the report of the authorized employee, and any representations from a person concerned, if the Municipal Planning Tribunal decides to impose a contravention levy on a person who has contravened this by-law, it must determine **an amount which in accordance with Council's approved tariff structure.**
- 9) When determining an appropriate administrative penalty, the Municipal Planning Tribunal must consider at least the following factors:
 - a) the nature, duration, gravity and extent of the contravention;
 - b) the conduct of the person involved in the contravention;
 - c) whether the unlawful conduct was stopped; and
 - d) whether a person involved in the contravention has previously contravened this by-law or a previous planning law.
- 10) The person who has contravened this by-law must be notified of the decision of the Municipal Planning Tribunal and if the Municipal Planning Tribunal decides to impose an administrative penalty, the notice must:
 - a) set out the administrative penalty;
 - b) inform the person against whom the determination of the contravention levy has been made;
 - c) state that the person must pay the administrative penalty to the municipality within 30 days of the date of decision or within such further period that the Municipal Planning Tribunal may determine at the time of making the decision;
 - d) state that the payment of an administrative penalty in terms of this section does not limit the **municipality's power to investigate an offence** or institute a criminal prosecution; and
 - e) state that, without further notice, the municipality may apply to a competent court for an order confirming the administrative penalty and other appropriate relief including the costs of the application.
- 11) The municipality may apply to the High Court for an order confirming the order of the Municipal Planning Tribunal to pay an administrative penalty, if the person against whom the determination of the contravention levy has been made fails to pay the contravention levy.

94 Inspections by authorized employees

- 1) An authorized employee may, with the written consent of the owner, occupier or person in lawful control of the land or building without a warrant, enter upon land or premises or enter a building at any reasonable time for the purpose of ensuring compliance with this by-law.
- 2) An authorized employee must be in possession of proof that he or she has been designated as an authorized employee for the purposes of sub-section (1).
- 3) An authorized employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

95 Powers of entry, search and seizure

- 1) In ensuring compliance with this by-law an authorized employee may in accordance with section 93:
 - a) question any person on land or premises entered upon or in a building entered, who, in the opinion of the authorized employee, may be able to provide information on a matter that relates to an investigation regarding an offence in terms of, or contravention of, this by-law;
 - b) question any person on that land or those premises or in that building about any act or omission in respect of which there is a reasonable suspicion that it constitutes:
 - i) an offence in terms of this by-law;
 - ii) a contravention of this by-law; or
 - iii) a contravention of an approval or a term or condition of that approval;
 - c) question that person about any structure, object, document, book, record, written or electronic information or inspect any structure, object, document, book, record or written or electronic

- information that may be relevant for the purpose of the investigation;
- d) copy or make extracts from any document, book, record, written or electronic information referred to in paragraph (c), or remove that document, book, record or written or electronic information in order to make copies thereof or extracts there from;
 - e) require that person to produce or deliver to a place specified by the authorized employee any document, book, record, written or electronic information referred to in paragraph (c) for inspection;
 - f) examine that document, book, record, written or electronic information or make a copy thereof or an extract there from;
 - g) require from that person an explanation of any entry in that document, book, record, written or electronic information;
 - h) inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
 - i) take photographs or make audio-visual recordings of anything or any person on that land or those premises or in that building relevant to the purposes of the investigation; or
 - j) remove or seize a book, record, written or electronic information referred to in paragraph (c) or article, substance, plant or machinery referred to in paragraph (h) or a part or sample thereof that in his or her opinion may serve as evidence at the trial of the person to be charged with an offence under this by-law or the common law, provided that the user of the article, substance, plant or machinery on the land or premises or in the building concerned may make copies of that book, record or document before the removal or seizure.
- 2) When an authorized employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this section, he or she must issue a receipt to the owner or person in control thereof.
 - 3) An authorized employee may not have a direct or indirect personal or private interest in the matter to be investigated.

96 Warrant of entry for enforcement purposes

- 1) A judge of a High Court or a magistrate for the district in which the land is situated may, issue a warrant to enter upon the land or premises or building if:
 - a) the prior permission of the occupier or owner cannot be obtained after reasonable attempts; or
 - b) **the purpose of the inspection would be frustrated by the occupier or owner's prior knowledge thereof.**
- 2) A warrant may be issued if it appears to the Judge or Magistrate from information on oath or affirmation that there are reasonable grounds for believing that:
 - a) an offence contemplated in section 86 is occurring or has occurred and an inspection of the premises is likely to yield information pertaining to that offence; and
 - b) an authorized employee has been refused or is likely to be refused entry to land or a building that he or she has a duty to inspect.
- 3) A warrant must authorize the municipality to enter upon the land or premises or to enter the building to take any of the measures referred to in section 94 as specified in the warrant, on one occasion only, and that entry must occur:
 - a) within one month of the date on which the warrant was issued; and
 - b) by day, unless the person issuing the warrant, in writing, authorizes the execution thereof by night.

97 Regard to decency and order

- 1) The entry upon land or premises or in a building under this Chapter must be conducted with strict regard to decency and order, which must include regard to:
 - a) **a person's right to respect for and protection of his or her dignity;**

- b) the right to freedom and security of the person; and
- c) **a person's right to personal privacy.**

98 Enforcement litigation

- 1) Whether or not the municipality lays criminal charges against a person for an offence contemplated in section 86, and despite section 87, the municipality may apply to the Court for an interdict or any other appropriate order, including an order compelling that person to:
 - a) demolish, remove or alter any building, structure or work unlawfully erected or constructed;
 - b) rehabilitate the land concerned;
 - c) cease the unlawful utilization of land.

CHAPTER X:

99 Intervener Status

- 1) A person contemplated in sub-section (2) may, within the period contemplated in sub-section (3), submit a petition on the prescribed form to the Municipal Manager to be granted intervener status;
- 2) A person may submit a petition only if he or she has not been given notice of the application in terms of section 46 and:
 - a) **If the application has not yet been decided – the petitioner has an interest in the application; or**
 - b) **if the application has been decided – the petitioner has a pecuniary or proprietary interest** which is adversely affected or is able to demonstrate that she or he will be adversely affected by the decision or an appeal in respect of the decision.
- 3) A petition is invalid if it is submitted:
 - a) more than seven days after the petitioner became aware of the application or might reasonably have been expected to have become aware of the application; or
 - b) after the effective date of decision contemplated in section 51.
- 4) A petitioner must submit together with the petition:
 - a) **if the application has not yet been decided – in** accordance with section 50, any objection, comment or representations and the reasons therefore that the petitioner wishes the decision-maker to consider;
 - b) **if the application has been decided – a written notice of appeal and grounds of appeal** in accordance with section 80(2); and
 - c) an affidavit stating that he or she is not colluding with any applicant, objector or appellant and is willing to act in regard to the application or appeal as the municipality may direct.
- 5) The Municipal Manager must provide a copy of the petition and the information contemplated in sub-section (4) to the existing parties to the proceedings for comment.
- 6) The Municipal Manager may:
 - a) refuse a petition if it is late;
 - b) if there is no question that the petition should be granted, grant the petitioner intervener status; or
 - c) in the event that a question arises as to whether the petition should be granted, refer the petition for determination to:
 - i) the Municipal Planning Tribunal if the application has not yet been decided; or
 - ii) the appeal authority if the application has been decided.
- 7) In deciding whether to grant a petitioner intervener status, the Municipal Planning Tribunal or the appeal authority, as the case may be, must consider at least whether:
 - a) the petitioner qualifies in terms of sub-section (2);
 - b) no existing party to the proceedings adequately represents the interest of the petitioner;

- c) the petitioner represents other persons who have a similar interest in the proceedings and who are not otherwise represented;
 - d) refusing the petition would impede the ability of the petitioner to protect his or her interest;
 - e) **the petitioner's objection, comment or representations are relevant to the proceedings,** different from those of the existing parties, and would assist the decision-maker; and
 - f) granting the petition would not cause undue delay or otherwise prejudice the interest of any party to the proceedings;
- 8) The decision-maker must notify the petitioner and the existing parties to the proceedings of the outcome of the petition;
 - 9) There is no appeal against a determination to grant or to refuse a petition;
 - 10) A person who is granted intervener status after an application is decided is regarded as an appellant.

CHAPTER XI: MISCELLANEOUS

100 Naming and numbering of streets

- 1) If as a result of the approval of a development application streets or roads are created, whether public or private, the municipality must approve the naming of streets and must allocate a street number to each of the erven or land units located in such street or road.
- 2) The proposed names of the streets and numbers must be submitted as part of an application for subdivision.
- 3) In considering the naming of streets, the municipality must take into account the relevant policies regarding street naming and numbering.
- 4) The municipality must notify the Surveyor-General of the approval of new streets as a result of the approval of an amendment or cancellation of a subdivision plan in terms of section 23 and the Surveyor-General must endorse the records of **the Surveyor-General's Office to reflect the** amendment or cancellation of the street names on an approved general plan.

101 Repeal

The provisions of any by-laws previously promulgated by the Knysna Municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

102 Short title and commencement

This by-law is called the Knysna Municipality's Spatial Planning and Land Use Management By-law and comes into operation on the date of promulgation thereof in the Western Cape Provincial Gazette.

SCHEDULE 1
CODE OF CONDUCT FOR MEMBERS OF TRIBUNAL

General conduct

- 1 A member of the Tribunal must at all times:
 - a) act in accordance with the principles of accountability and transparency; and
 - b) disclose his or her personal interests in any decision to be made in the planning process in which he or she serves or has been requested to serve;
 - c) abstain completely from direct or indirect participation as an advisor or decision-maker in any matter in which he or she has a personal interest and may only participate in any other capacity, if the personal interest has been declared and the decision maker has given written approval for his or her participation.
- 2 A member of the Tribunal may not:
 - a) use his or her position or privileges as Tribunal member or confidential information obtained as a Tribunal member, for private gain or to improperly benefit another person; or
 - b) participate as a decision-maker concerning a matter in which that Tribunal member or that **member's spouse, family member, partner or business associate**, has a direct or indirect personal interest or private business interest.

Gifts

- 3 A member of the Tribunal may not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers are intended **or expected to influence that member's objectivity as an advisor or decision-maker in the planning process**.

Undue influence

- 4 A member of the Tribunal may not:
 - a) use the power of his or her office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
 - b) use confidential information acquired in the course of his or her duties to further a personal interest;
 - c) disclose confidential information acquired in the course of his or her duties unless required by law to do so or by circumstances to prevent substantial prejudice or damage to another person; or
 - d) commit a deliberately wrongful act that reflects adversely on the Tribunal, the municipality, the government or the planning profession by seeking business by stating or implying that he or she is prepared, willing or able to influence decisions of the Tribunal by improper means.

7. CLOSURE

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