

REVISION OF THABAZIMBI LAND USE SCHEME

LOCATION OF 2014 CLAUSES IN 2022 CLAUSES – 18 OCTOBER 2021

PART I: GENERAL

1. RESPONSIBLE AUTHORITY

The Thabazimbi Local Municipality or its successor in title shall be the authority responsible for the enforcing and execution of the provisions of this Land Use Scheme.

Clause 1.4

2. AUTHORITY OF LAND USE SCHEME

This Land Use Scheme has been prepared in terms of the Town Planning and Townships Ordinance, 1986 (Ordinance No.15 of 1986). The implementation of this scheme must be read in conjunction with the Legislation as stipulated in Section 8, and any other pieces of legislation which have relevance.

Clause 1.6.2

3. CONTENTS OF THE LAND USE SCHEME

This Land Use Scheme is divided into two parts relating to the following matter, viz:

Clause 1.8

3.1. SCHEME CLAUSES

- Part I: General.
- Part II: Definitions.
- Part III: General Conditions applicable to all properties.
- Part IV: Interpretation of use zones and use of land and buildings.
- Part V: Specific conditions and development criteria applicable to use zones.
- Part VI: Special, written and temporary consent of the Local Municipality.
- Part VII: Application of the scheme and powers of the Local Municipality.

3.2. THE MAP

4. TITLE OF LAND USE SCHEME

Clause 1.1

This scheme shall be known as the Thabazimbi Land Use Scheme, 2014.

5. AREA OF THE LAND USE SCHEME

5.1. AREA

Clause 1.2

The area to which the Land Use Scheme applies is the area of the Thabazimbi Local Municipality as amended from time to time.

5.2. ADMINISTRATION OF LAND USE SCHEME IN AREA

Clause 1.8

5.2.1. The land uses permitted are the use/s as depicted by the notations applicable to use zones on the map and in Part IV of the scheme clauses.

5.2.2. All land not depicted by a notation indicating a use zone as referred to in paragraph 5.2.1. above shall be deemed to be zoned and used for Agricultural use; provided that should any owner of land furnish proof of alternative rights obtained in terms of any previous lawful authority, such rights/uses shall be deemed to be legally obtained in terms of this scheme.

5.2.3. This Land Use Scheme shall be updated as and when required.

6. SUBSTITUTION

The Scheme substitutes any existing scheme in operation only regarding the relevant area of this Scheme and Regulations.

Clause 1.6.2

7. CONFLICT BETWEEN PROVISIONS OF THIS LAND USE SCHEME, CONDITIONS OF TITLE AND LEGISLATION

A consent granted by the Local Municipality by virtue of provisions of this scheme as well as a zoning in the terms of the scheme does not entitle any person the right to use any land, or to erect or use buildings thereon in any manner or for any purpose which is prohibited by the provisions of any condition registered against the title deed under which such land is held, or imposed by legislation in respect of such land.

Clause 1.13

8. OTHER APPLICABLE LEGISLATION

The implementation of this scheme shall be read in conjunction with other pieces of legislation applicable to physical development.

Clause 1.6.2 (8)

PART II – DEFINITIONS

See attached document on comparison between definitions.

PART III – GENERAL CONDITIONS APPLICABLE TO ALL PROPERTIES

10. CONDITIONS APPLICABLE TO ALL PROPERTIES

Clause 3.4

10.1. USE OF ALL LAND

Land may only be used in accordance with its approved land-use zone as determined in this land-use scheme.

10.2. EXCAVATIONS AND BOREHOLES

Clause 3.4.1

10.2.1. Except with the written consent of the Local Municipality and subject to such conditions as it may impose, neither the owner nor occupant shall, or allow any other person to –

- a) Excavate any material from an erf or other land within the jurisdictional area of the Local Municipality saves as may be necessary to prepare such erf or land for building purposes;

- b) Sink any wells or boreholes on such erf or other land within the jurisdictional area of the Local Municipality or extract any underground water there from, save as may be necessary on land where the Local Municipality is not the service provider;
- c) Manufacture or permit the manufacturing of tiles or earthenware, pipes or other articles of similar nature for any purpose whatsoever on the erf or other land within the jurisdictional area of the Local Municipality unless the erf or land falls within Use Zones 10, 11 and 12; and
- d) Excavations will not be applicable to Use Zone 29 (Mining).

10.3. PROTECTION OF LAND AND THE ENVIRONMENT

Clause 3.5.1

10.3.1. No person may soil or damage land in any Use Zone so as to impair its use or the purpose for which it was zoned.

10.3.2. No person may develop land without complying with the requirements of the Environmental Management Act, 1998 (Act 107 of 1998) and the Environmental Conservation Act, (Act 73 of 1989) as amended from time to time and without observing the requirements relating to listed activities.

10.4. HANDLING AND DRAINAGE OF STORMWATER

Clause 3.4.2

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

discharged over the erf, subject to the approval of the pipeline or drain by the Local Municipality.

Clause 3.5.2

10.5. PLACING AND DEVELOPMENT OF BUILDINGS

10.5.1. The siting of buildings, including outbuildings erected on the erf, as well as exists and entrances to a public street system shall be to the satisfaction of the Local Municipality.

10.5.2. No building of any nature shall be erected on that portion of the property which is likely to be inundated by the floodwater of a public stream on an average of 100 years, as determined by the relevant legislation or within building lines/restricted areas.

10.6. STREETS, WIDENINGS AND LINES OF NO ACCESS

10.6.1. Provision of New Streets and Widening

- a) The Local Municipality or Controlling Authority may at any time reserve land for new streets or for the widening of existing streets for which no reservation has been made. The Local Municipality shall give public notice of its decision and such notice shall contain a statement that a plan indicating the position of the land reserved for street and street widening will lie open for inspection at a specified place and that any owner of land affected thereby who is aggrieved may appeal to the Townships Board within 28 days of the publication of the said notice and the owners of the affected land shall be informed, in writing by registered mail or similar.
- b) No "Proposed new road and widening" shall be deemed to be a public street until it or any portion thereof falls within any township which may be established on the land traversed by such proposed road or widening, or it is proclaimed as a public road, or until it vests in the Local

Deleted – covered in Municipal Systems act and expropriate act

10.6.2. Prevention of Visual obstruction at corners

Clause 3.5.3

- a) Where the Local Municipality is satisfied that in the interest of safety any obstruction to the visibility at a corner or bend in a street ought to be regulated, it may impose restrictions in regard to the height or the position of the obstruction by serving by registered mail upon the owner stating the requirements of the Local Municipality and the notice shall be accompanied by a plan showing the land to which it relates.
- b) The restrictions imposed by a notice served under this clause shall take effect upon the service of the notice and shall remain in force until the notice is withdrawn by the Local Municipality. Consensual agreement can be reached between the land owner and Local Municipality.
- c) A breach of any restrictions imposed under this clause shall be a contravention of the scheme.

10.6.3. Closing or Division of Street

Deleted – See SPLUMA and By-Laws

Subject to the provision of the Ordinance, the Local Municipality may permanently close or divert any street by following the necessary procedures in doing so.

10.6.4. Lines of no access

Clause 3.5.4

Entrance to and exit from a property from or to a public street or road where it is prohibited across any boundary line, shall be shown on the Map by the following symbol



After obtaining the approval from the controlling authority, an amendment to the scheme should be applied for to remove the above symbol from the specific map.

10.7. SCREEN WALLS AND FENCES

Clause 3.5.5

10.7.1. A screen wall or walls shall be erected and maintained to the satisfaction of the Local Municipality if and when required by it. The extent, material, height and design shall be to the satisfaction of the Local Municipality.

10.7.2. Where a property has been fenced, such fence shall be maintained to the satisfaction of the Local Municipality.

10.8. MAINTENANCE OF BUILDINGS, GARDENS AND SITES

Clause 3.5.6

10.8.1. The owner is responsible for the maintenance of the entire development on the property.

10.8.2. Where the amenity of any use zone is detrimentally affected by the condition of any garden, yard, building or any development on a property, the Local Municipality may, by notice served upon the owner of the premises on which such condition exists, require him to take, within a period of 28 days or such other period the Local Municipality in his discretion may deem reasonable from the date of service of the notice, such steps as may be necessary to abate such condition and the measures required to be taken at his expense to abate the condition complained of, shall be set out in such notice. In the event that the notice is not adhered to, the Local Municipality shall be entitled to undertake such work at the cost of the registered owner.

10.9. EXEMPTION OF EXISTING BUILDINGS

Clause 3.2

10.9.1. The stipulations of the Land Use Scheme are not applicable to existing buildings other than existing buildings in accordance with Section 43 of the Ordinance where such buildings are altered or added to and where such altered use, alteration, rebuilding or construction is in the opinion of the Local Municipality substantial, the stipulations of this Land Use Scheme are considered to be binding and valid in respect of

those parts that are changed, altered or rebuilt: Provided that additions and constructions that do not exceed 30m² in total (or is of a limited extent such as the removal of non-load bearing internal walls, the erection of movable partitions, safes and toilets inside an existing building, or repair work inside or outside a building), are not considered to be substantial. However, the conditions of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) shall apply.

10.10. BUILDINGS USED FOR MORE THAN ONE PURPOSE

Clause 3.3

10.10.1. Where a building is used, or a proposed building is designed for more than one purpose, it shall, for the purposes of Clauses 17, 18, 19 and 20, (density; height; coverage and parking), to be deemed to be partially used or to have been partially designed, for each such purpose or use: Provided that for the purposes of this clause if more than 75% of a building is otherwise designed or used for a single use is predominant in such building, it shall be dealt with as if used or designed for such predominant use. The Local Municipality shall, in its discretion when considering a building plan, or upon application for the purpose being made by the person in charge of the erection of a building, or proposing to erect a building, decide which use is predominant.

10.10.2. The Local Municipality shall notify the applicant, within twenty-eight (28) days or such other period the Local Municipality in his discretion may deem reasonable, after official receipt of the building plan or application in terms of any decision in terms of sub-clause 10.10.1.

10.11 ADVERTISEMENT HOARDINGS

Clause 3.5.7

- a) No advertisement sign shall be erected, nor shall advertisements be displayed, without the consent of the Local Municipality granted providing, that the consent of the Local Municipality granted under this Clause shall not in any way be taken to excuse compliance with any regulations of the Local Municipality relating to the erection and the display of advertisement boarding and advertisements including the National Building Regulations and Building Standards Act, 1977.
- b) The Local Municipality may impose any condition it deems necessary on any applications approved under this Clause in order to govern the erection or use of any hoarding or advertisement if the proposed advertisement will detrimentally affect the neighbouring area.
- c) Subject to the provisions of home businesses no consent shall be given for the erection of any such sign or advertisement. Provided that the provisions of this sub-cause shall not apply to a brass plate or board, not exceeding 600mm by 450mm in size, affixed to the fence or entrance door, or gate of a dwelling – house, and in the case of residential building, to the wall of the entrance hall, or the entrance door of a flat, or to display of an advertisement relating solely to entertainment, meeting, auction or sale to be held upon or in relation to the premises upon which such advertisement is displayed.

PART IV – INTERPRETATION OF USE ZONES AND USE OF LAND AND BUILDINGS

11. STRUCTURES WHICH MAY BE ERECTED IN ANY USE ZONE

Clause 4.2

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

12. ERECTION AND USE OF BUILDINGS OR USE OF LAND

Clause 4.3

12.1. For the purposes of this clause, the expression "erection and use of a building" includes the use of land and a building, as well as the conversion of a building that use whether or not it entails the structural alteration thereof.

12.2. The purposes for which buildings and land in each of the use zones:

- a) may be erected and/or used;
- b) may be erected and/or used only with the special consent of the Local Municipality, permanently or for a specified period; or
- c) may not be erected and/or used.

are shown in Columns 3, 4 and 5, Table "1"

12.3. No person shall without consent being granted in terms of Part VI hereof use, or cause or permit to be used, any building or property or part thereof for a purpose other than the purpose for which it was zoned.

12.4. If the use of building changes because of the rights that has been granted to a property or has already vested in the property, such building and the property shall comply with all the conditions laid down and which are applicable to the use.

- 12.5.** If the use of an existing building changes and it is not in accordance with the rights attached to the property, the necessary steps shall be taken by the owner to see to it that it shall comply with all the stipulations of the scheme.
- 12.6.** Where the use of land or a building can only be conducted with the permission of the Local Municipality, the use may not be conducted prior to the consent being given.
- 12.7.** Nothing herein contained shall be deemed to grant exemption from any of the Local Municipality's by-laws nor any other Act.

PART V – SPECIFIC CONDITIONS AND DEVELOPMENT CRITERIA APPLICABLE TO USE ZONES

13. CONDITIONS APPLICABLE TO ERVEN ZONED RESIDENTIAL 2

Clause 4.4.1

- 13.1.** Subject to the general conditions in Clause 10, the following additional conditions will apply to the erven in Use Zone 2 (Residential 2):
- a) The requirements as set out in Table "1" Column 3 to 13;
 - b) A site development plan shall be submitted, as set out in the definitions (Part II) and Clause 22;
 - c) The erf or any group of erven shall not be subdivided into portions with single dwelling units thereon, before full implementation of the proposals embodied in the site development plan relating to the particular erf or group of erven have been fully implemented or the Local Municipality has granted written consent thereto. If it is not the intention to develop the total extent of the erf or any group of erven simultaneously, the grouping

- d) of the dwelling units and programming of the development must be shown clearly on the site development plan.
- e) The internal roads on the property shall be constructed and maintained by the owner as required by the Local Municipality.
- f) The Local Authority shall not approve any building plan which does not comply with proposals in the approved site development plan with particular reference to the elevation and architectural treatment of the proposed building or structure.
- g) Buildings may be sited contrary to any provisions of the local Authority's building by-laws, if such siting is in accordance with an approved site development plan.

14. CONDITIONS APPLICABLE TO RESIDENTIAL 3 AND 4 ERVEN

Clause 4.4.1

14.1. In Use Zones 3 and 4 where development takes place at a density not greater than 20 dwelling units per hectare, the provisions of Clause 13 shall apply.

14.2. Where the development takes place at a density greater than 20 dwelling units per hectare, the following conditions shall apply:

- a) The registered owner of the erf shall make available and accessible, to the satisfaction of the Local Municipality, at least 250m² of the erf as children's play area for pre-school children, which area may include paved areas and laws. Play apparatus, according to the requirements of the residents, shall be provided on the erf by the registered owner to the satisfaction of the Local Municipality.
- b) A site development plan shall be submitted, as set out in the definitions (Part II) and Clause 22.

Clause deleted – cannot be applied to all developments, must be incorporated into approval conditions in the rezoning process.

15. CONDITIONS APPLICABLE TO PUBLIC GARAGE AND FILLING STATION ERVEN

Clause 4.4.2

15.1. Subject to the general conditions in Clause 10, the following additional conditions will apply to erven used for public garages or filling stations:

- a) The requirements as set out in Table "1" Columns 3 to 13.
- b) A site development plan shall be submitted, as set out in the definitions (Part II) and Clause 22.
- c) A screen wall or walls, of which the extent, material, design, height and position shall be to the satisfaction of the Local Municipality, shall be erected and maintained to the satisfaction of the Local Municipality by the registered owner.
- d) No material or equipment of any nature whatsoever may be stored or stacked to a height greater than the height of the screen wall.
- e) No repair work to vehicles or equipment of any nature shall be performed outside the garage building, except in an area screened off for the purpose to the satisfaction of the Local Municipality.
- f) No material or equipment of any nature whatsoever shall be stored or stacked outside the garage building, except in an area screened off for the purpose.
- g) The Local Municipality may relax conditions in Clauses 15(c), 15(d) and 15(e) by written consent in terms of Part VI.

16. CONDITIONS FOR THE OPERATION OF A HOME BUSINESS

Clause 4.4.3

The following conditions apply when applying or operating a home business:

Now primary right, in light of Covid, cannot apply levy anymore.

17. DENSITIES, SUBDIVISION AND OCCUPATION

Clause 5.6

17.1. Table "1" Column 7 stipulates density in terms of the maximum number of dwelling units per netto hectare or per erf, attached to the erf as a primary right.

17.2. No dwelling house shall be erected in such a manner that the number of dwelling houses on an existing erf exceeds the number specified in Table "2" for the density zone in which the existing erf is situated.

Provided that the Local Municipality may, on receipt of written request from the owner of the erf in a "Residential 1 " use zone or such other erf where there is already erected a dwelling house, grant permission of the erection of a second dwelling unit according to the conditions which is accepted as policy by the Local Municipality.

TABLE 2: DENSITIES

Notation as shown on the "B" series of the Map	Number of dwelling houses per existing erf	Minimum area of site required per dwelling house in square metre
	1	-
	1	100
	1	200
	1	300
	1	400
	1	500
	1	700
	1	800
	1	1000
	1	1250
	1	1500
	1	2000
	1	2500
	1	3000
	1	4000

Clause 5.5 and Table 4

No density zones will be allocated. No series B maps.

Provided that further:-

Deleted

- a) In those areas in which in terms of Table "2" only one dwelling house per existing erf is permitted, the Local Municipality may consent to the subdivision of only the following existing erven, if such subdivisions will not cause the coverage permitted under Table "1"(Column 9).exceeded.
- An existing erf, subject thereto that any portion so created (including the remainder) which is smaller in extent than 90 percent of the area of the existing erf shall not be used as the site of a dwelling house.
 - If an erf created by the consolidation of two or more erven is subdivided, the number of new erven created shall not exceed the number of erven which were so consolidated and the extent of any new erf created shall not be less than 90 percent of the area obtained by dividing the area of the consolidated erf by the number of erven created by the subdivision.

17.3. The Local Municipality shall not, in those areas in which in terms of Table "2" a minimum area of a site is required for a dwelling house, approve of any subdivision of land whereby any portion (including the remainder) of such land shall have an area of less than such minimum. The Local Municipality may, however, consent to the subdivision of land into portions smaller than such minima, provided that no smaller portion shall be used as a site for a dwelling house.

17.4. In Use Zones where dwelling houses may be erected and where no density zone is applicable, only one dwelling house may be erected per existing erf except where the Local Municipality may permit the erection of an additional dwelling unit subject to the regulations as set out in sub-clause 17.2 hereof.

17.5. Panhandle Subdivisions

Clause 5.6 (10)

- a) the panhandle shall provide access from a street to the panhandle portion;
- b) the panhandle shall not be less than 3m wide along its whole length, unless the Local Municipality otherwise grants written consent;
- c) the area of the panhandle portion, excluding the panhandle, shall be in accordance with the density requirements of this scheme;
- d) except with the written consent of the Local Municipality the slope of the panhandle shall not exceed 1:8;
- e) a panhandle shall provide access only to the erf of which it forms part as well as the property in favour of which a servitude of right of way has been registered over the panhandle, except where the Local Municipality otherwise determines;
- f) the registered owner of the panhandle portion shall, when required by the Local Municipality, at his own expense pave the panhandle to the satisfaction of the Local Municipality prior to or simultaneously with the erection of any building on the erf and such roadway shall thereafter be maintained dust free to the satisfaction of the Local Municipality;
- g) the registered owner of the panhandle portion shall, when required by the Local Municipality, erect screen walls or dense barriers along the boundaries of the panhandle to the satisfaction of the Local Municipality. The extent, material, design, height, position and maintenance of such screen walls or barriers shall be to the satisfaction of the Local Municipality;
- h) no buildings or structures except such walls and barriers envisaged in sub-clause 17.5 (g) shall be erected in the panhandle.

17.6. Occupation

Delete - obsolete

Not more than one household, together with two other persons, or a maximum of eight (8) persons may live on a permanent basis in one dwelling unit. If the number of persons exceeds above-mentioned, written consent must be obtained from the Local Municipality.

17.7. Splaying of Corners

Deleted - obsolete

- a) In calculating the area of a corner erf the portion thereof cut off by the splay shall be included in the area of the erf for the purpose of "Table "2"
- b) Upon subdivision of any land where any portion of such land is physically separated by the execution of proposed execution of public works, and provided that such portion does not fall below 75% of the minimum areas as laid down in Table "2" for the said land, the portion so separated may be regarded as an existing erf.

18. HEIGHT OF BUILDINGS

Clause 5.4

18.1. No building shall be higher than the number of storeys set out in Table "1" (Column 8) or on the applicable schedule provided that:-

- a) If a dwelling unit or residential building in the "Residential 1 and 2" use zones exceeds 1 storey and due to the topography of the area may impair on the privacy, aesthetics or view of adjacent properties a site development plan may be required for approval, by the Local Municipality.
- b) Any chimney, ornamental tower, tower-like projection or similar architectural feature or lift servicing room or room wherein mechanical or electrical equipment is installed, shall not be taken into account.
- c) Where 75 % or more of a floor is used for the parking of vehicles, it shall not be considered as a storey.
- d) In Use Zones 22 (Public Open Space) and 23 (Private Open Space) buildings may not exceed

- (1) storey in height unless otherwise permitted in the Scheme.
- e) Basements shall not be included in height, provided that the floor area ratio is not exceeded.
 - f) The maximum height of a storey shall not exceed 6m in respect of the ground storey and 4.5m in respect of any other storey.

19. COVERAGE AND FLOOR AREA RATIO OF BUILDINGS

Clause 5.2 and 5.3

- 19.1.** Table "1", Columns 9 and 10 contains respectively, the coverage and floor area ratio which may be implemented on a property.
- 19.2.** No building shall be erected with a greater coverage than that set out in Table "1" Column 9 or on the applicable Annexure: Provided that –
- a) where a proposed building is designated for more than one use, the maximum portion of the site which may be covered by buildings at the floor level of each storey shall be in accordance with the coverage shown in Table "1" Column 9 for the predominant use of the particular storey;
 - b) in Use Zones 5 and 6, the Local Municipality may if mechanical or electrical air conditioning system is installed, consent to a maximum coverage of 97.5 percent on ground floor of buildings on corner erven and 95 percent on ground floor of buildings on other erven: Provided that in the case of a building erected or used for banking purposes, such consent may be given in respect of ground and first floors; and
 - c) the Local Municipality may consent to that a basement situated under the natural ground level, may be erected in such a way that the permissible coverage in Table "1" Column 9 may be exceeded.

19.3. For the purpose of this clause –

- a) a building includes fire escapes and all out-buildings on the site;
- b) the space occupied by sky-lights, parapets, pitched-roofing or similar projections and chimneys shall count as unoccupied space; and
- c) all structures which are not covered by a roof shall not be taken into account in the calculation of coverage.

19.4. Floor Area Ratio

No building shall be erected in such a way that it has a greater floor area rather than indicated in Table '1", Columns 10 or on the applicable schedule.

20. PARKING AND LOADING ZONES

Clause 5.8

20.1. The parking requirements are indicated in Column 6, Table "1":

- a) Effective paved parking and manoeuvring space for the various use zones and uses shall be provided, laid out, constructed and maintained on all properties in accordance with the requirements stipulated in Table "1" Column 6, to the satisfaction of the Local Municipality by and at the cost of the person who intends to erect a building.
- b) The number of parking spaces to be provided according to Table "1" Column 6, shall be determined by the Local Municipality and shall be applicable to all existing and/or new buildings (excluding a single dwelling unit) and to extensions to existing buildings (excluding a single dwelling unit).
- c) The Local Municipality may consent to a maximum of thirty (30) percent of the required parking and manoeuvring space, as stipulated in Table "1" Column 6, not being provided on the property: Provided that the owner shall in this event be liable for payment of a cash contribution to the Local Municipality in lieu of the provision of parking spaces for all

- d) the property in terms of sub-clause 20.1(a). Such contribution for parking shall be used solely for the provision of parking areas.

Provided further than any owner may provide the parking required on an alternative site approved by the Local Municipality.

- e) The owner of a building in respect of which parking spaces are required in terms of sub-clause 20.1(a) shall keep such parking spaces in a proper condition for such purposes to the satisfaction of the Local Municipality.

20.2. Loading areas:

- a) The Local Municipality may, upon application being made for approval of building plans submitted in terms of the National Building Regulations and Building Standards Act (Act 103 of 1977) and any amendments thereof, require the owner to in terms of Clause 21 submit proposals for the provision on the property of appropriate and sufficient facilities for loading and off-loading of goods, which proposals shall, indicate positions for parking, stopping or fuelling of service vehicles.
- b) No owner or occupant of a building in respect whereof proposals in terms of this clause are required, may undertake or permit the loading, off-loading, parking or fuelling of vehicles otherwise than in accordance with a written approval from the Local Municipality and in accordance with the conditions imposed in this regard.

21. BUILDING LINES AND BUILDING RESTRICTION AREAS

Clause 5.7

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

21.1.2. The building lines as defined in Table "1 Column 11, 12 and 13" are applicable to all properties according to the use zones as set out therein. Provided that, in addition to the building lines stipulated in Table "1".

- a) The Local Municipality has the right to use a 2m strip next to any two boundaries of a property (street boundary excluded) and in case of a panhandle, an additional servitude, 2m wide across the access portion of the erf for the installation of engineering services, and such strips are to be considered as building restriction areas (no building or other structure shall be erected within the foresaid servitude area and no large rooted trees shall be planted within the area).
- b) The erection of buildings on distances from boundaries other than street boundaries must comply with the Act on National Building Regulations and Building Standards Act (Act 103 of 1977) and any amendments thereof.
- c) The Local Municipality may, after receipt of an application for written consent in terms of Clause 26 from the owner, and subject to such conditions as the Local Municipality may find expedient –
 - i. permit the erection of a building in the building restriction area in the case of corner properties or where, due to the slope of the property or adjoining land, or the proximity of buildings already erected in the building restriction area, compliance with the building line requirements will hamper development of the property to an unreasonable extent or where the building line is not needed for the installation of services.
 - ii. during consideration of a site development plan, relax the building restriction area for all erven, if it is of the

- iii. result in an improvement of the development potential of the erf and the esthetical quality of the building;
 - iv. permit the construction of a swimming pool or tennis court in the building restriction area; and
 - v. relax the building line on any boundary other than a street boundary of any erf upon consolidation of such erf with an additional erf.
- d) Where an erf or other land borders on a national or provincial road, or if provided otherwise in the conditions of title, the applicable building line shall be the building line prescribed by the Controlling Authority, or the building line indicated in Table "1", Column 11, 12 and 13, whichever is the wider, and such building line shall not be relaxed, modified or amended without the written consent of the Controlling Authority.
- e) For the purpose of this clause a sanitary and pedestrian alley is not considered to be a street or road.

22. SITE DEVELOPMENT PLANS

Clause 5.9

- 22.1.** A site development plan shall be prepared for all erven on which buildings are erected or extended in Use Zones 8, 10 to 16, 20, 21, 23, 33 and 34 or where the Local Authority may deem it necessary.
- 22.2.** A site development plan shall be submitted to the Local Municipality prior to submission of any building plans. No building may be erected on the erf before approval of such site development plan by the Local Municipality and the entire development on the erf shall be in accordance with the approved site development plan; Provided that the plan may from time to time be amended with the written consent of the Local Municipality; Provided further that alterations or additions to buildings, which in the opinion of the Local Municipality, will have no influence on the overall development of the erf, may be

22.3. The Local Municipality shall use its best endeavours to consider a site development plan, submitted in terms of Clause 22.2 hereof, within 60 (sixty) days after submission thereof.

23. USE OF ANNEXURES

Now Schedules – Part 7

23.1. Special rights, conditions and restrictions applicable to any property within any use zone, may be stipulated in an Annexure to this Land Use Scheme.

23.2. The special conditions and restrictions referred to in Clause 23.1 shall:

- a) apply in addition to the general conditions, restrictions and other provisions of this Land Use Scheme; and
- b) prevail, in case of conflict between such special condition and any other condition, restriction or provision of this Land Use Scheme.

23.3. An Annexure contemplated in Clause 23.1 shall consist of:

- a) a sheet upon which is inscribed the number of such Annexure, a description of the property to which it applies, the special rights, conditions and restrictions applicable to the property, as well as the name and number of the scheme in terms whereof the Annexure was prepared and
- b) a diagram of the property concerned which diagram shall correspond with the layout shown on the map.

23.4. The number of the Annexure concerned shall be inscribed inside a double circle within or adjacent to the figure of the relevant property on map 3A and, if adjacent to such figure, shall be joined thereto by means of a line.

23.5. The Local Municipality shall not, except as provided for in any of the conditions contained in an Annexure, grant any consent in terms of this Land Use Scheme.

PART VI – SPECIAL, WRITTEN AND TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY

24. CRITERIA FOR THE CONSIDERATION OF APPLICATIONS

Clause 6.1

24.1. Subject to the provisions of Clauses 25, 26 and 27 hereof, the Local Municipality may, when application is made for its special, written or temporary consent in terms of this scheme refuse or grant such consent subject to such conditions as it may think fit, with due consideration:

- a) the amenities of the area;
- b) health and safety of the area;
- c) the character of other uses in the area;
- d) the need and desirability of the use concerned; and
- e) the Integrated Development Plan (IDP) and the Municipal Spatial Development Framework and any review thereof.

24.2. The Local Municipality may upon the granting of any consent contemplated in of Part VI of this scheme, impose conditions regarding payment of contributions for the provision of services, open spaces and parks, as envisaged in Section 21(2)(c) of the Ordinance, for which purposes the provisions of Section 63 of the Ordinance shall *mutandis* apply.

25. SPECIAL CONSENT OF THE LOCAL MUNICIPALITY

Clause 6.2 (consent)

25.1. a) Any owner (hereinafter referred to as "the applicant") intending to apply to the Local Municipality for special consent for the erection and use of a building or for the use of land in any use zone, whether wholly or partially for any purposes which requires the special consent of the Local Municipality in terms of Column 4, Table "1" shall submit such application to the Local

Municipality in writing, in the prescribed manner.

the Local Municipality and the applicant within a period of 28

- b) An application shall include a report to the Local Municipality, containing full particulars on the criteria referred to in Clause 24.1, as well as particulars appearing in notices as set out in Clause 25 (d) or any other relevant particulars which may be required by the Local Municipality.
- c) The applicant shall:
 - i. At his own expense publish a notice twice (for two consecutive weeks) in a local newspaper/s, circulating in the area of the application;
 - ii. Such notice shall be in any two of the official languages of which one should be in English;
 - iii. Display notice, referred to in sub-clauses 25.1(c) (i) and (ii) and maintain same, for a period of not less than 14 consecutive days from date of first publication, in a conspicuous position, visible from the street on each separate portion of the land to which such consent will apply.
 - iv. Refer the application to any other person or body that may be required by the Local Municipality.
- d) The notice referred to :
 - i. In sub-clause 25.1(c)(i) and (iii) shall contain the name and address of the applicant; the description, address and locality of the property as well as particulars of the existing zoning and the purpose for which the land and buildings will be used and shall state that it lies for inspection at the Local Municipality offices and that any objection to or representation in connection with such application shall be lodged simultaneously with

- ii. days calculated from the day when the notice was first published and displayed on the site; and
 - iii. The notice in sub-clause 25.1(c) (iii) shall not be less than 594mm by 420mm in size and no letter thereon shall be less than 6mm in height.
- e) The applicant shall prior to the date of the first publishing and posting up of the notice on site as mentioned in sub-clauses 25.1 (c) (i) and (iii), lodged the application with the Local Municipality, failing which shall be deemed as non-compliance with the application procedures, save that the Local Municipality shall have the right to condone filing such application outside the 28 day time period, on good cause shown.
- f) The applicant shall lodged, simultaneously with the application, an affidavit confirming that the notice referred to in sub-clause 25.1 (c) (iii), was properly displayed and maintained.
- g) The applicant shall submit proof that the application referred to in sub-clause 25.1(c) (i), was published twice.

25.2 The Local Municipality shall consider and hear any objection or representation received within the aforementioned period of twenty-eight (28) days, at a hearing arranged by the Local Municipality within a reasonable time period.

25.3. A reasonable time period referred to above shall be deemed to be 90 days calculated as from lapsing of 28 days referred to in paragraph 25.2 above.

25.4. Should any objection to, or representation against, the application be received by the Local Municipality, it shall set a time and place for the hearing of such objection or representation in a manner complying

communication or facsimile, at least 14 days prior to the hearing, to the applicant and/or his duly authorised agent and all objectors.

- 25.5.** Where the objections or representations contemplated in Clause 25.2 of more than one person are contained in one document, it shall be deemed sufficient compliance with the provisions of Clause 25.4 if the person who has lodged the document or is a signatory thereto is notified as contemplated in the latter clause.
- 25.6.** The Local Municipality shall after due consideration of any objections and the criteria stipulated in Clause 24 hereof, in writing notify the applicant and every person who lodged an objection or had made representations, of such decision.
- 25.7.** The decision of the Local Municipality shall (where any objection to this application was received) not come into operation before expiry of fifty-six (56) days calculated from the date of notification of the parties in writing envisaged in Clause 25.6 hereof.
- 25.8.** The applicant may note an appeal in terms of the provisions of the Ordinance if the application is refused by the Local Municipality.
- 25.9.** Every applicant shall, after approval by the Local Municipality, of an application envisaged in this clause, be obliged to, on an annual basis, in this month, during which the applicant was notified of such an approval as envisaged in Clause 25.6., to the satisfaction of the Local Municipality, submit an affidavit in confirmation of *inter alia* the fact that the conditions pertaining to such approval and use, are fully complied with.
- 25.10.** Granting of special consent for a noxious industry shall be considered: Provided that there is proof of compliance with the Environment Conservation Act (Act 73 of 1989) and a certificate be issued by the Medical Officer of Health of a Local Municipality certifying that the process proposed to be used in

the Definition of Noxious Industry of this scheme, will effectively eliminate any nuisance or health hazard in the vicinity of the property due to:

- a) Vapours, smoke or odours;
- b) Fluids or effluent originating on the property; and in the event of it being proposed to dispose of such materials by land treatment, the nature, slope and surface of the land concerned, as well as its location in relation to streams or water courses shall be disclosed; and
- c) Solid waste matter.

26. WRITTEN CONSENT OF THE LOCAL MUNICIPALITY

Clause 6.3

26.1. Any owner (hereinafter referred to as "the applicant") intending to apply to the Local Municipality for consent to:

26.1.1. Relaxation of building lines (see Clause 21.1.2. (c));

26.1.2 Amendment of a site development plan (see Clause 22);

Shall do so in writing in the prescribed manner (where applicable) to the Local Municipality.

26.2. An application shall include a report to the Local Municipality, containing full particulars on the criteria referred to in Clause 24.1 of the proposed uses, as well as:

- i) The name and address of the applicant;
- ii) The description, address and the locality of the subject property;
- iii) Existing zoning of the property; and
- iv) A complete description of the proposed use of the land and/or building.

26.3. No written consent shall be granted in terms of this clause until the applicant has, to the satisfaction of the Local Municipality, obtained the written comments of the surrounding owners, as envisaged in Clause 26.4.

- 26.4.** The applicant shall:
- i. Procure a form, as prescribed by the Local Municipality for the consent referred to in Clause 26.2, to be completed by every owner of land or his duly authorized agent, who resides or conducts or owns a business undertaking on any property situated within a radius of 50m or such other distance as determined by the Local Municipality from the closest point of the property in respect of which an application is made; and
 - ii. Supply full particulars and a description of the relaxation required; the property description; the owner; and record therein that none of the persons referred to in sub-clause 26.4(i), notwithstanding their being aware of their right in terms of Clause 26.5 to object thereto and such form shall be signed by, and disclose the name, street address and telephone number of, every person mentioned in sub-clause 26.4(i).

26.5. The Local Municipality shall consider any objection received and hear any representation made at a hearing arranged by the Local Municipality within a reasonable time period for which purpose the provisions of Clauses 26.3, 26.4 and 26.5 and 26.6 shall apply *mutatis mutandis*.

26.6. The Local Municipality shall notify in writing, the applicant, and if applicable to the objectors within a reasonable time of its decisions.

26.7. Every applicant shall, after approval by the Local Municipality, of an application envisaged in this clause, be obliged to, on an annual basis, in the month, during which the applicant was notified of such an approval as envisaged in Clause 26.6, to the satisfaction of the Local Municipality, submit an affidavit in confirmation of *inter alia* the fact that the conditions pertaining to such approval and use, are fully complied with.

27. TEMPORARY CONSENT OF THE LOCAL MUNICIPALITY

Clause 6.4

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

- 27.1.** The erection and use of temporary buildings, or the use of existing buildings for site offices, storage rooms, workshops or such other uses as may be necessary during the erection of any permanent building or structure on the land; Provided that such consent shall ipso facto lapse upon completion of the permanent structure or on the expiry date thereof as determined by the Local Municipality.
- 27.2.** The occasional use of land or buildings for public religious exercises, place of instruction, institution, place of amusement or social hall.
- 27.3.** The use of land or the erection of buildings necessary for the purpose of informal retail trade.
- 27.4.** Any temporary consent granted in terms of this clause shall not be granted for any period in excess of 12 months, which period may however be extended by the Local Municipality for further periods of 12 months each, subject to a maximum period of 3 years in aggregate in cases falling within the ambit of Clauses 27.1 and 27.2.

28. CONSENT FOR SPECIFIC PURPOSES

Clause 6.5

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

- 28.1.** the exploitation of minerals on any land not included in a proclaimed township or in line with the Spatial Development Framework will not be considered;
- 28.2.** the letting of a dwelling unit for occupancy of only one family; and

29. REGISTER OF SPECIAL AND WRITTEN CONSENT APPROVALS AND RELEVANT CONDITIONS

Clause 6.6

29.1. The Local Municipality shall keep a complete register of amendments, special and written consents approved by it in terms of this Land Use Scheme, or granted through the verdict of appeals, as well as conditions imposed in such approvals. Such register together with the Land Use Scheme will be available for inspection at any reasonable time to any interested person or body.

PART VII – APPLICATION OF THE SCHEME AND POWERS OF THE LOCAL MUNICIPALITY

30. BINDING FORCE OF CONDITIONS

Clause 6.7

Where consent to erect a building, or to execute any works, or to use any building or land for a particular purpose, in terms of this land-use scheme is granted, subject to conditions, such conditions shall have the same legal force as if incorporated in this land-use scheme and shall be regarded as though they were part of this scheme.

31. ENTRY UPON AND INSPECTION OF PROPERTIES

Clause 6.8

31.1. The Local Municipality may, through its authorized officials, enter upon any property at all reasonable times to conduct any inspection which the Local Municipality or its representatives may consider necessary or desirable for the application of this scheme.

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

32. SERVING OF NOTICES

Clause 6.9

- 32.1.** Any directive, notice or other document which in terms of this scheme, requires or is authorised to be served, shall be signed by the Municipal Manager or another official authorized thereto by the Local Municipality, and shall be served in any of the following ways:
- a) On the person concerned, in person, or on his authorised representative.
 - b) If service cannot be effected in the manner contemplated in sub-clause 32.1 (a), at his residence or place of business or place of employment, on a person apparently not less than 16 years of age and apparently residing or employed there.
 - c) If no such person can be found on the property mentioned in sub-clause 32.1(b), by affixing such directive, notice or other document at a conspicuous place on the premises and by dispatching a copy of such directive, notice or other document by pre-paid registered post to the last known place of residence, business, employment or post box of the person concerned.
 - d) If such person upon whom a notice is to be served has chosen a **domicilium et exectandi, on such domicilium.**
- 32.2.** Where any service is effected in accordance with the provision of sub-clause 32.1(c), such service shall be deemed to have been effected at the time when a letter containing such directive, notice or other document would have been delivered in the ordinary course of postal deliveries and proof that such directive, notice or other document was properly addressed and registered, shall be deemed sufficient proof of service thereof.
- 32.3.** Any directive, notice or other document which in terms of the provisions of this Land Use Scheme is required to be given to the owner or occupant of any particular premises, may be addressed to the "owner" or "occupant" of such

given, without any further name or description, and shall be deemed to be in compliance with the provisions of this clause.

Clause 6.10

33. POWERS OF THE LOCAL MUNICIPALITY IN CASE OF CONTRAVENTION OF LAND USE SCHEME

33.1. Where any person, in conflict with any provision of the land uses scheme operation: –

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

The Local Municipality shall direct such person in writing:

- i. To discontinue such erection, alteration, addition or other work or to discontinue such use or cause it to be discontinued; and
- ii. At his own expense to:
 - aa) remove such building or other work or causes it to be removed.
 - bb) to cause such building or other work or such use to comply with the provisions of the scheme.

33.2. Any person who contravenes the provisions of this scheme or fails to comply with an instruction issued in terms of Clause 33.1 commits an offence.

33.3. If a person fails to comply with directive issued in terms of Clause 33.1, the Local Municipality may irrespective of the fact that such a person has criminally been charged or prosecuted, remove the building or other works at the expense

cause, the building or other work to comply with the provisions of its land-use scheme and to recover all expenditure incurred in connection therewith, from such person.

33.4. Whenever any person is required to perform any act to the satisfaction of the Local Municipality:

- a. the Local Municipality shall have the right to inspect the property or works under question to satisfy itself of compliance;
- b. if the Local Municipality is not satisfied that compliance is taking place it shall:
 - (i) send a notice to such a person informing the person of non-compliance, giving such a person 14 days or such an extended period as may be required to ensure compliance; and
 - (ii) failing which the stipulations of Clause 33.2 and 33.3 shall apply mutatis mutandis to this clause.

33.5. Any act or omission, being an offence in terms of clause 33.2 above, is terrible in a Magistrates Court created in terms of the MAGISTRATES COURTS ACT 1944 (Act 32 of 1944) and upon conviction, is punishable with a fine not exceeding R5000.000.