

PROVINCE OF THE WESTERN CAPE

Provincial Gazette Extraordinary

7983

Friday, 28 September 2018

PROVINSIE WES-KAAP

Buitengewone Provinsiale Koerant

7983

Vrydag, 28 September 2018

Registered at the Post Office as a Newspaper

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*(*Reprints are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)*

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Drakenstein Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic of South Africa as amended, read together with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, has made the By-law set out below:

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW, 2018

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CHAPTER 1: DEFINITIONS

CHAPTER 1: DEFINITIONS**1. Definitions**

“abattoir” means a place where animals are slaughtered and may include preparation and packaging for distribution to shops and markets;

“adult services” is a shop where goods of a pornographic or erotic nature is sold, or a place of entertainment where services, events, shows or films of a sexually explicit nature take place or are shown, and includes, but is not limited to strip clubs, adult shops, massage parlours, or escort agencies;

“agricultural building” means any building normally erected and used in direct connection with the farming operations on an agricultural enterprise and includes sheds, packing sheds, stores and cold stores for unprocessed produce, but excludes abattoirs, agricultural processing buildings, employee housing or any of the consent uses in the Agriculture Zone;

“agricultural processing” means an industry for the processing of agricultural products that are primarily produced on the agricultural enterprise concerned, and includes the storage of the processed product and where the agricultural processing activity is subservient to the dominant agricultural use on the property and there is a rational relationship between the processing and the produce of the agricultural enterprise and units in the immediate vicinity of the property; and may include a winery, wine cellar with associated tasting facilities, distillery, cheese making industry, dairy, fruit ripening plant and food processing factory, but excludes the extraction of resources such as bottling of water and sand mining;

“agricultural enterprise” means a farming enterprise which is conducted on one or more agricultural land units as a single business;

“agriculture” means the cultivation of land for raising of crops or other plants, including plantations, and covered crop cultivation areas; and/or the keeping and breeding of animals, birds or bees, stud farming, game farming, riding schools and includes horticulture and uncultivated veld, but excludes intensive animal farming;

“airport” means a complex comprising of one or more aircraft runways and associated buildings for the use by civilian aircraft and may include facilities for the handling and storage of airfreight and ancillary uses including a shop;

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

“animal care facility” means any facility used for the keeping of animals for humane purposes or safe keeping, and includes animal shelters and commercial kennels and may also include ancillary veterinarian services;

“apartment building” means a building containing three or more dwelling units together with such outbuildings, open space and roads and parking ordinarily associated with apartments;

“aquaculture” means intensive animal farming for the breeding of water flora or fauna in artificially constructed dams or holding tanks, or suspended from floating supports in natural water bodies;

“balcony” means a floor projecting outside a building at a level higher than that of the ground floor, which is intended as outdoor space for occupants of a building; it is enclosed only by low walls or railings or by main containing walls of rooms abutting such projecting floor and may include a roof, if any, over such floor and pillars supporting such roof;

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“basement” means any storey or division of a storey with a ceiling level that does not protrude more than 1m at any point above existing ground level;

“base level” of a building or structure means the mean level between the highest and lowest point of the natural ground level of the site immediately adjacent to the building or structure; provided that where a basement has been constructed, the base level is the floor level of the slab covering the basement;

“base zone” means the zone that determines the lawful land use and development rules for a land unit before the application of additional parameters or rules of an overlay zone;

“big box retail” means a single retail business with a floor area of more than 2000m²;

“boundary wall” means a wall or fence erected on a land unit which serves as a division between properties including public and private streets, whether it is erected on or next to the property boundary, and includes any gate, or pillar or any contrivance forming part of the said wall;

“business” means any enterprise for commercial and/or professional services and/or retail uses such as, but not limited to shops, offices, financial institutions, big box retail, postal agencies, gambling venues, wellness centres, restaurants, supermarkets, shopping centres, medical consulting rooms which are not in a clinic or hospital, conference facilities, commercial gymnasiums, veterinary services, plant nursery, tavern, liquor outlet, funeral parlours and adult services, but in a particular zone excludes any business use that is a consent use or requires the technical approval or permission in terms of the Scheme or from neighbours, or that is prohibited in that zone; provided that all businesses which were lawfully conducted or approved (in accordance with Planning Law or on a building plan) at the commencement of the Scheme, shall remain lawful businesses in terms of the Scheme;

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

- i) any structure, whether of a temporary or permanent nature irrespective of the materials used in the erection thereof;
- ii) any roofed structure;
- iii) any external stairs providing access between different floors, balcony, stoep, veranda, porch or similar feature of a building;
- iv) any walls or railings enclosing any feature referred to in subsection iii);
- v) any wall, swimming bath, swimming pool, fireplace, reservoir or bridge or any other structure connected therewith;
- vi) any air conditioning unit, pump, fuel, water or other tank, or any structure used in connection therewith;

“building line” means an imaginary line on a land unit, which defines a distance from a specified boundary, within which the erection of buildings above or below ground are prohibited; provided that where a road reserve is not defined by cadastral boundaries, the reserve width as specified by the competent authority or applicable legislation will become the boundary from which the distance of a building line is to be measured;

“cemetery” means a place where the remains of the deceased are buried, stored or retained and commemorated and includes memorial parks and memorial structures and may include buildings that are necessary for the administrative and clerical uses associated therewith but does not include a crematorium;

“club house” means a place of assembly usually associated with sports facilities used by a sports club or group for social, recreational or sporting facilities for members of the club or association, and includes changing rooms, pro-shop, restaurant or licensed provision of alcoholic beverages for consumption on the property, but may not also be a liquor outlet;

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“commercial” combined with a use, such as ‘commercial gymnasium’ or used in relation to the terms such as ‘commercial gain’ or ‘commercial nature’ means an enterprise where services, goods or entertainment is sold or rendered for compensation, is undertaken with the intent of making a profit, and where there is no or little social or charitable objectives;

“commercial gymnasium” is a business where people pay to make use of specialised equipment to exercise and may include swimming pools, changing facilities, the sale of refreshments for users of the facility and areas for fitness training classes;

“community care facility” means a community facility where a range of social and welfare services may be provided to members of a community and includes legal advice offices which exclusively offer pro-bono legal advice, counselling rooms, resource centres, soup kitchens and day clinics, but does not include overnight or accommodation facilities, or a place of instruction;

“community residential” means long-term accommodation or overnight care facilities for people in need of special care, other than hospitalisation, and includes an orphanage, old-age home, medical recovery and care facility, hospice, halfway house, hostel and includes ancillary services for in-house residents such as medical or frail care, counselling and communal recreation facilities, but excludes a retirement village, hotels, and medical consulting rooms, facilities or services for non-residents; **“conference facility”** means a business where information is presented to, or ideas and information exchanged among groups of people, and includes the supply of meals to attendees;

“conservation” means the protection and management of natural resources aimed at long-term sustainability and includes ancillary facilities related to the main use;

“container depot” means a site or facility used for the storage of shipping or transport containers;

“correctional facility” means a place where people are incarcerated, accommodated and/or given instruction and/or rehabilitation following a court order and includes a reformatory, place of detention and prison;

“coverage” means the total area of a land unit that may be covered by buildings with a roof, slab or projection expressed in square meters or as a percentage of the area of the land unit;

“crematorium” means a place for in the incineration of corpses in a furnace and includes buildings that are necessary for the administrative and clerical uses associated therewith;

“crop cover” means any netting, plastic or glass material or other protective cover that is applied over a support structure constructed from wood, metal or any other similar material, on a permanent or semi-permanent basis to improve the yield and quality of agricultural or horticultural crops, plants or flowers and includes poly-tunnels;

“development charges” means a once-off bulk infrastructure access fee levied by the Municipality on an applicant, developer or landowner in terms of its relevant statutory powers in respect of a development which will result in an intensification of land use and an increase in the use of or need for bulk municipal utility services infrastructure, and may include any required social infrastructure;

“dwelling house” means a building consisting of one dwelling unit, together with outbuildings usually associated with a dwelling house including a garage, braai facilities and a garden shed, and second dwelling house has the same meaning except that it refers to the second such dwelling unit on the same land unit;

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“dwelling unit” means a group of interrelated rooms and ancillary facilities for the accommodation of a single household and can be a dwelling house, second dwelling house, third dwelling unit, employee housing or a dwelling unit in an apartment building or a group housing scheme;

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

“energy generation” means a facility where electricity on a large scale for distribution into the national grid, is generated and includes the use of non-renewable and renewable energy sources and use waste material to generate such energy, as well as the ancillary infrastructure and buildings such as substations, step-down and storage facilities exceeding 25m², but excludes linear utility services;

“employee housing” means a dwelling unit provided for employees by an employer which is ancillary and subservient to the primary activity on the property, includes accommodation for labourers, caretakers and supervisory staff, provided that the employee housing is for the accommodation of one household only, of which at least one household member is employed on the property, is located on the same land unit on which the employment activity takes place, and may not be sold separately;

“event” see occasional use;

“floor area” in relation to any building means the area of a floor which is covered by a roof, slab or projection and shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor area shall be the sum of the floor area of all the levels, including that of basements. Any stairs, stairwells, lift wells and atriums that are covered by a roof shall only be counted once on its ground floor. The following shall be excluded:

- i) any area, including a basement, which is reserved solely for circulation, parking or loading of vehicles which are ordinarily associated with and which serves the land use on the property or in the particular building, provided that a commercial parking garage or additional parking in excess of the parking for land use inside the building are not excluded;
- ii) any area required for fire escapes regardless of the number of storeys, which are unroofed, open to the air and external to the main façade of the building and used solely for emergency purposes;
- iii) any projection or balcony including a projection of eaves, a canopy and a projection which acts as a sunscreen or an architectural feature which protrudes outside the façade of the building and remain open to the elements;
- iv) any unroofed internal courtyard, light well or other uncovered shaft;

“freestanding mast” 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;

“freight transport facility” means a facility for vehicles used for transportation of goods and the associated administrative facilities and includes a truck depot, and truck stop, but does not include a container depot;

“function venue” means a building or structure used for functions, weddings, receptions or exhibitions;

“fuel retail” means a facility where fuel is sold to the public and may include ancillary uses such as public ablution facilities, a car wash, a shop and a restaurant, but excludes vehicle repairs, sales, and servicing;

“funeral parlour” means a business enterprise which arranges burials and includes the sale of goods associated with burials but excludes a mortuary, the preparation of bodies for burials or cremation and a place of assembly;

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“gambling” means any business which entails the wagering of money or something of value on an event with an uncertain outcome with the primary intent of winning money and/or material goods and includes totalisators (totes) and gambling machines;

“gate house” means a roofed structure located at the entrance to a property used for the controlling of access to the property;

“green infrastructure” means man-made or natural green corridors, wetlands, biological corridors or stormwater management facilities which are required because of development, to protect biodiversity, ensure links between biodiversity sites, or any other such purpose which has the effect of improving climate resilience;

“gross leasable area (GLA)” means the total floor area designed for or capable of occupancy by tenants for their exclusive use, including storage areas which are leased, but excludes internal parking and loading bays and vehicular circulation areas and communal spaces which are used by more than one tenant, such as communal passages, toilets, kitchens, entrance lobbies, lift shafts, stairwells, service ducts, service areas and vertical penetration of floors and also excludes all spaces which are used exclusively by employees who fulfil their work function in another space which is already included in the calculation of GLA, such as staff canteens, staff change rooms;

“group housing” means a group of four or more separate and/or linked dwelling units, where the development is planned and designed as a harmonious architectural entity which may have a low, medium or high-density character and where dwelling units may be on one cadastral entity, cadastrally subdivided or sold separately through sectional title and may include buildings or land used for ancillary administrative or recreational purposes, and may also be group housing for retired persons in which case ancillary medical care services may be included;

“health care facility” means a facility where human medical diagnosis, care, treatment, services and procedures are administered, such as a clinic, hospital, medical or substance abuse rehabilitation facility, and may include one or more of associated land uses such as medical consulting rooms, pathologists’ rooms, operating theatres, pharmacy, pathologist laboratories, trauma and emergency units;

“height” of a building or structure means the vertical dimension measured in meters from one specified level to another specified level;

“helipad” means any portion of land, building or structure or part thereof which has been demarcated and approved by the Civil Aviation Authority for the purposes of landing or taking off of helicopters or associated vertical lift-off aircraft;

“heliport” means a complex comprising of structures for the landing or taking off of civilian helicopters or associated vertical lift-off aircraft and associated buildings and ancillary uses including a shop;

“hotel” means a commercial residential establishment, with its primary source of business being the supply of visitors’ accommodation and meals for paying guests on a short-term basis and may include ancillary facilities ordinarily associated with a hotel such as restaurants, taverns, and wellness centre that may be used by guests accommodated in the hotel as well as the general public, but may not include a liquor outlet; and may consist of one or a group of buildings that are operated as one entity;

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“hostel” means residential establishment in a custom built or converted building other than a dwelling house or dwelling unit, where lodging accommodation is provided in rooms against payment, and where communal facilities are shared, with or without the provision of meals, such as student accommodation, school hostels, staff hostels and commercial boarding houses;

“household” means one or more persons who occupy a dwelling unit on a permanent basis and who share the ancillary facilities in a dwelling unit under the control of a member of the household who accepts responsibility for the occupational affairs of the household without the objective of financial gain;

“house shop” means the use of a portion of dwelling house or outbuildings for the sale of convenience goods to the public in a structure or portion of building on the premises that allow for the serving of goods to customers directly from the street;

“incremental house base structure” means a structure that forms the basis of a dwelling unit intended to be completed over time and typically includes (but is not limited to) a floor, wall, and connections to utility services and building plans for the base structure and future to-be-completed dwelling unit must be approved by the Municipality;

“indoor sport” means any form of physical exercise or sporting activity taking place in a roofed structure, and may include uses ancillary to such a use including a shop but excludes a commercial gymnasium;

“industry” means a place, which in the Municipality’s opinion, is used as a factory and in which produce, a product, article or part of such article is made, manufactured, produced, built, assembled, compiled, printed, decorated, processed, treated, adapted, repaired, renovated, rebuilt, altered, painted, spray-painted, polished, finished, cleaned, dyed, washed, broken up, disassembled, sorted, packed, containerised, cooked, prepared, chilled, frozen or stored in cold storage, and can also be a brewery, distillery or wine related industry, and includes any use which is ancillary and subservient to the aforementioned activities mentioned for example an office, employee housing, shop, but does not include a noxious industry;

“informal trading” means the legal selling of products in outdoor areas which may be from temporary structures, in accordance with the Municipality’s informal trading by-law;

“intensive animal farming” means a concentrated, confined animal keeping or growing operation, for production of meat, milk, eggs, or other animal products, located in open air pens, structures or buildings wherein the animals are provided with externally sourced feed and where the concentration of animals in a confined area has the potential to cause a public nuisance or health hazard, and includes enterprises such as aqua-culture, battery chicken farming and piggeries;

“kitchen” means a room or part of a room equipped for preparing and cooking meals and excludes a braai room, drinks preparation area (for example domestic bar facilities in a bona fide home entertainment area);

“liquor outlet” means a shop where alcoholic beverages are sold for off-site consumption;

“light industry” means a place where the same activities as described in ‘industry’ is undertaken but which in the opinion of the Municipality is of such a limited scale and nature that the impact can be considered of a light industrial nature due to it having no external impact on the amenity of the neighbourhood. The floor area of any one light industrial building or unit may not exceed 2000m² and transportation of materials or products do not involve the use of articulated trucks. The machinery, processes or materials used do not cause any external noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;

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“lodging accommodation” means the provision of accommodation against payment, in rooms in a dwelling house, where communal facilities such as a kitchen and lounge is shared by residents, and where paying lodgers rent rooms on an individual basis on a medium (monthly) to long-term (annual) basis, typically for a period of longer than 30 days, with or without the provision of meals and lodger has a corresponding meaning;

“medical care services” means specialised medical services or facilities provided in community residential buildings, community care facilities or other such accommodation establishments facilities, and includes frail care;

“military facility” means a place or property used for the storage or development of military equipment, or the stationing and training of military personnel on a large scale, and provided that where the use of a property by the military is confined to a use defined elsewhere in this Scheme, such as offices or a health care facility, the parameters applicable to that use will apply;

“mortuary” means a place where corpses are kept, stored, examined, laid out or prepared for identification, burial or cremation and may also include an ancillary place of assembly and/or funeral parlour;

“museum” means a place used for displaying and/or conserving art, and artefacts of a social, engineering, scientific or historic nature, which are not offered for sale, and may include an ancillary restaurant and shop to serve patrons of the museum;

“Municipal By-law” means the Drakenstein Municipal Land Use Planning By-Law;

“Municipality” means the Drakenstein Municipality established by Establishment Notice No. 488 of 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 political office bearer of the Municipality authorised or delegated to perform a function or exercise power in terms of this Scheme; the Tribunal, authorised or delegated to perform a function or exercise a power in terms of this Scheme; the Municipal Manager; or any employee of the Municipality acting in terms of delegated or sub-delegated authority of the Municipality;

“monument” means a structure or object erected to preserve the memory of a person, event or cultural resource, and may with the Municipality’s permission include the interment of human remains;

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

“natural level of the ground” means the level of the land surface on a land unit in its unmodified state prior to development, or in a state which has been graded, with the Municipality’s permission, for the purposes of development, provided that where land has been excavated around the external facade of the building, the excavated level is regarded as the natural ground level and where it is not possible to determine the natural level of the ground due to irregularities or disturbances of the land, the level shall be determined by the Municipality; and ‘natural ground level’ has the same meaning;

“non-motorised transport” means any public facilities which support non-motorised modes of transport, such as walking, bicycling, skating, or wheelchair travel, and may include dedicated lanes, parking and storage facilities, rental kiosks or other associated facilities, but excludes visitors’ facilities such as mountain trails or recreational facilities;

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“noxious industry” means a place where an offensive, poisonous or potentially harmful trade, use or activity which, because of fumes, emissions, dust, smell, vibration, noise, waste products, nature of material used, processes employed, or other cause, is deemed by the Municipality to be a potential source of danger, nuisance or offence to the general public or persons in the surrounding area;

“occasional use” is the use of land for an event which involves the gathering of people (indoors and/or outdoors) which are extraordinary to the normal permitted or approved uses in the zone or for another occasional activity or event which is not ordinarily permitted in the zone, on an intermittent basis, either at regular intervals or not, such as music festivals, filming, promotional events, intermittent outdoor markets or intermittent sporting events;

“office” means property used for the conducting of an enterprise primarily concerned with administrative, clerical, financial, or professional duties and includes medical consulting rooms;

“open space” means land which may be public or privately owned and which is set aside for open space, such as a park, garden, vegetable garden, square, river or stream and may include private roads as well as ancillary structures for management and maintenance of such open spaces;

“outdoor sport” means active recreational or sporting activities or physical exercise (whether organised or on an individual basis) that takes place outdoors and include the ancillary facilities required for such activities such as sports fields, skate board parks, paths, outdoor equipment, courses, and change rooms, but does not include stadiums and club houses;

“overlooking feature” means any structural or architectural feature on the first floor or higher, that will provide a view onto an abutting property and may include a window with a sill height lower than 1.7m, door or balcony;

“passenger transport facility” means all infrastructure, buildings or structures required for providing a service for the mass transport of people by means of buses, trains, mini-buses or any other similar means of transport and includes staging areas, bus stations, train stations, bus stops, transport interchanges and all ancillary facilities such as maintenance areas, offices for the administration and management of the facility, shops, restaurants and ablution facilities which serve the people using these facilities as well as employee housing;

“parapet” a low protective wall along the edge of a roof or balcony;

“parking garage” means a structure or part of a building used for the parking of vehicles on a short-term commercial basis which exceeds the normal parking provision required for the activities on the property;

“permanent resident” means the registered owner of a property who resides in that property on a full-time basis or a tenant who has entered into a lease contract with the registered owner and who permanently resides at the premises; provided that in the case of a tenant wanting to embark on visitors accommodation or lodging accommodation activities, the resident tenant who is the head of household shall have entered into a lease contract which is valid for at least one year from the date of commencement of the activity in question;

“place of assembly” means the use of facilities for the gathering of groups of people for religious, social and community needs, and facilities may include buildings used for practicing religion, community hall, club house, sport stadium, function venue and indoor sports centre which offer facilities for spectating, and may include licensed provision of alcoholic beverages for consumption on the property;

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“place of entertainment” means a place used predominantly for commercial entertainment where patrons may participate in the activities or observe performances or gather for entertainment purposes, such as a night club, tavern, cinema, theatre, amusement arcade and may include licensed provision of alcoholic beverages for consumption on the property gambling activities and adult services;

“place of instruction” means any form of daily care, tuition or instruction of people, and includes colleges, schools, day-care centres, crèches, early childhood development centres, after-school care, instruction in physical exercise and training, skills training, arts and crafts classes, additional and further education tuition, libraries and computer resource centres, but excludes a commercial gymnasium;

“Planning Law” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), or the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), or the Drakenstein Municipal Land Use Planning By-Law, whichever is applicable in the context, and may also include former planning law such as the Land Use Planning Ordinance, 1985 (No 15 of 1985) and Townships Ordinance, 1934 (No. 33 of 1934) if these were lawfully enacted at the time when a decision was made in terms of this legislation;

“plant nursery” means a place where plants and associated gardening equipment and other ancillary goods for use in gardens are offered for sale either in buildings or under a roof, or in hot-houses or poly-tunnels, and includes the cultivation of said plants on the same premises;

“poly-tunnel” see crop cover;

“porte cochère” 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;

“private road” means a gravel, paved or surfaced road which is used by vehicles and/or pedestrians, which may be on the same property as the land uses it serves, or may be a separate cadastral entity, or a right of way servitude, and which is privately owned and does not vest in the Municipality or other public road authority;

“proclaimed road” is a road proclaimed by the competent authority in terms of the Roads Ordinance No 19 of 1976 or any subsequent legislation as a provincial road;

“public institution” means a facility that provides non-commercial services to the general public and includes museums, monuments, public galleries, courts, police station, government offices which provide services to the public;

“public road” means a gravel, paved or surfaced road which may be a separate cadastral entity, a registered right of way servitude, or exist by means of other legislation, and which is set aside to provide for vehicular access and movement, and which vest in or is owned by the Municipality or another public road or transport authority, and may also include on-street parking;

“public transport infrastructure” see passenger transport facility;

“recycling facility” means a facility where used materials and goods of any nature are collected, dismantled, sorted, cleaned and processed for re-use and includes a vehicle scrapyards;

“renewable energy generation” means the generation of energy by means of 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 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, but excludes the infrastructure to connect to the electrical grid;

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“restaurant” means a commercial establishment where meals and beverages are prepared and 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 prepared on the premises for consumption off the property;

“retail business” means a business involving the sale of goods to customers, and may include businesses which sell goods over the internet for delivery to customers;

“road” means either a public or private road, regardless of ownership;

“risk industry” 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 an explosion and includes major hazardous installations and activities involving dangerous and hazardous substances that are controlled in terms of national legislation;

“rooftop base station” means the base station infrastructure, any support structure and the antenna or mast 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;

“Scheme” means the zoning scheme of the Drakenstein Municipality as defined in section 1 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), and includes the components referred to in section 24, and is the same as a ‘land use scheme’ as defined in section 1 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“service depot” means premises for storage, maintenance, and rental of equipment, materials and vehicles used in the building and construction industry such as equipment rental, road maintenance depots, earth moving operations;

“shelter” means an informal dwelling unit or outbuildings, constructed of any material whatsoever, even though such material or construction does not comply with the standards of durability intended by the National Building Regulations, and may include inter-leading or separate rooms for lodgers or transient guests as an additional use in accordance with the parameters of the zone, provided that sufficient communal ablution facilities are provided for such rooms;

“shop” means a place for the operation of a retail business where customers visit the premises to purchase goods or where goods are displayed for customers to view before purchasing, including all associated storage of goods sold or displayed on the premises, and may include an area which does not exceed 50% of the total floor area of the premises for the manufacturing, packaging and repairing of articles which are sold in the same premises, provided that these activities do not cause any traffic nuisance, emissions, smells, dust or noise pollution;

“spatial development framework” means the Municipality’s spatial development framework approved in terms of Planning Law;

“special use” a use which is not provided for in any of the definitions of land uses in this Scheme;

“tavern” means a place of entertainment where the primary business is the sale of alcoholic beverages exclusively for on-site consumption and may include the serving of meals, provided that all taverns which were lawfully approved in accordance with Planning Law or on a building plan, at the commencement of the Scheme, shall remain lawful taverns in terms of the Scheme;

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“top of roof” in the case of a pitched roof is the highest point on the roof measured to the outer roof covering;

“urban edge” means the demarcated line which in an approved spatial development framework or similar approved municipal policy document, defines the outer limits of urban areas and separates urban areas from rural areas; **“urban horticulture”** means the cultivation of crops in areas within the urban edge or in urban areas, for own consumption or sale, provided that for the purposes of this Scheme, the cultivation of a garden by the occupant of a land unit in an urban area shall not be regarded as urban horticulture;

“utility plant” includes aboveground public or private infrastructure which is not a linear service which take up a land area exceeding 5mx5m which is required for generation, processing or storage of bulk and other municipal water, sewerage, electricity, gas, or solid waste and includes dams, water purification, electricity generation, sewerage plants, gas or energy storage facilities, large electrical substations, solid waste disposal sites or any other such similar infrastructure sites which serve the Municipal area or a part thereof;

“utility services” means underground or aboveground public or private linear infrastructure, installed in the process of developing land, for the provision of municipal and other services such as water, sewerage, electricity, gas, roads, stormwater drainage systems and telecommunication and other similar electronic communication cables, including related aboveground substations and pump stations and other installations not exceeding a land area of 5mx5m, but excludes all uses listed under the definition of ‘utility plant’;

“vehicle depot” means premises used for the non-public storing of vehicles, trucks or buses, and may include dispatching, maintenance, service and fuelling areas for the stored vehicles that are ancillary to the vehicle depot but excludes temporary storage area of construction vehicles whilst construction is in progress, and the permanent storage of agricultural vehicles on Agriculture zone for vehicles associated with that farm unit shall not be classified as a vehicle depot;

“vehicle sales” means a business which involves the sale and/or storage of vehicles, whether new or pre-owned and may include a subservient service for the servicing of vehicles;

“vehicle services” means a business which provides for the servicing, maintenance, repair, alteration of vehicle and the fitment of parts to vehicles;

“visitors’ accommodation” means the provision of overnight accommodation for paying guests on a short-term basis (where the same guests stay for periods typically less than 30 days) and includes examples such as self-catering dwelling units, bed and breakfast facilities, guest house, guest lodge, backpackers’ accommodation, camping and includes ancillary facilities to serve such resident guests only, but excludes an hotel;

“visitors’ facility” means a facility or amenities for visitors such as a restaurant, shop, farm stall, outdoor market, restroom, recreational facilities, function venue, information centre, conference facility, 4x4-, mountain bike-, cycle- and hiking trails, abseiling and rock climbing routes, picnic facility, wellness centre, wine tasting and -sales or other visitor attractions related to the land unit, but excludes visitors’ accommodation, hotels or any land use which requires permission, technical approval or is a consent use in that zone;

“wall plate” means the highest point on a building where the roof trusses are affixed to the supporting walls of the external façade, and in the case of a roof structure which does not require a wall plate, or in the case of a flat or concrete roof, the line where the highest point of the outermost roof cover material intersects with the supporting walls of the façade;

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“warehouse” means a place used for the storage and distribution of goods, or a distribution business for goods that are exclusively sold over the internet, including ancillary uses such as offices, and is also a building in which storage units are rented out on an individual basis, but excludes the retailing of goods in a shop where goods are on display;

“wellness centre” means a business enterprise where health and beauty treatments are offered, and may with the Municipality’s permission include additional facilities such as live-in accommodation for patrons;

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- (1) As from the date of the notice of adoption published in the Provincial Gazette, this Scheme applies to the Drakenstein Municipal area (WC023) including Saron, where the Rural Areas Act, 1987 (Act 9 of 1987) applied and where no zoning scheme was previously adopted.

3. Composition of Zoning Scheme

- (1) The Drakenstein Municipal Zoning Scheme consists of this By-law, the zoning register kept by the Municipality to record decisions made in terms of this By-law and any zoning maps that have been prepared in accordance with section 4.

4. Zoning Map

- (1) The Municipality must create a zoning map or maps to indicate the application of this Scheme to land units within the municipal area and shall approve the map together with this Scheme.
- (2) In preparing the zoning map the Municipality shall take account of:
 - (a) zoning maps and approvals that form part of any previous zoning schemes together with the conversion table in Schedule 2;
 - (b) approved land use rights, and;
 - (c) existing lawful use of land.
- (3) The new zoning map shall indicate:
 - (a) the zone(s) that applies(y) to each land unit shown on the zoning map, and;
 - (b) any areas where special development parameters apply by virtue of overlay zones.
- (4) The zoning map shall be updated by the Municipality on an ongoing basis to capture all rezoning's, subdivisions and lapsed rezoning's and subdivisions;
- (5) In the event that zoning has been wrongly allocated on the zoning map or wrongly converted from a former zoning map, or if the Municipality failed to accurately capture the zoning of a property for whatever reason, the owner of the property may submit to the Municipality a request to correct the zoning map.
- (6) The request in sub-section 5 must be accompanied by documentary proof of the lawful property rights, upon which the Municipality shall make a determination and amend the zoning map accordingly should an error be confirmed.
- (7) The Municipality shall of its own accord, correct the zoning map should an error come to its attention.
 - (a) In such an event, the Municipality shall inform the owner of the property accordingly, furnish him with reasons and documentary proof of the error and invite comments from the owner within 30 days of the date of the notification.
 - (b) Once all information including the owner's comments has been considered, the zoning map shall be amended if necessary to reflect the correct zoning of the property.

5. Interpretation

- (1) The following rules of interpretation shall apply when implementing this Scheme:
 - (a) after the commencement of this Scheme, any words in this Scheme, annotations used on the zoning map and register, words and expressions used in planning reports and any conditions of approval imposed after the commencement date shall have the meanings assigned to them in accordance with the definitions contained in section 1 of the Scheme except where a different meaning is clear from the context or an application is concluded with in terms of a previous scheme, in which case that scheme's definitions will prevail;

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- (b) with regards to conditions of approval imposed prior to the commencement of this Scheme, terms describing land use, shall, for the purposes of interpretation, retain their meaning as was effective under the previous legislation. For all other aspects, the meaning of this Scheme shall prevail;
- (c) interpretation of words not defined in this Scheme will have the meanings assigned to them in the latest "Oxford English Dictionary" published by Oxford University Press, except where a different meaning in the Municipality's opinion is clear from the context;
- (d) headings may be considered when interpreting the sections;
- (e) the masculine gender includes the feminine and neuter, and vice versa and the singular includes the plural unless otherwise indicated by the context;
- (f) if there is any conflict between the English version and any other translation, the English version will prevail;
- (g) whenever reference is made to a law, ordinance, by-law or regulation, the reference applies to all substitutions, amendments, and additions of the said law, ordinance, by-law or regulation;
- (h) whenever reference is made to the use of a building, the reference applies also to the erection of a building, to the use of part of the building and to the use of the land unit or part thereof, whether a building is erected or not;
- (i) the terms "must" and "shall" are mandatory, and the term "may" is not mandatory;
- (j) the Municipality's interpretation shall prevail unless the contrary meaning is proven;
- (k) any text included in bold and italics at the start of a chapter may be used for interpretation and to inform decisions in terms of the Scheme, but do not form part of the By-law itself.

6. Severance, other legislation, and by-laws

- (1) If any provision in this Scheme is struck down as invalid by a court of law, such provision shall be severed from the zoning scheme, and shall not affect the validity of the remaining provisions.
- (2) Where this Scheme is in conflict with national or provincial legislation, the provision of such legislation shall prevail, except where the provisions are a local competency, as mandated by the National Constitution.
- (3) Where this Scheme prescribes parameters or conditions which differ from other legislation or by-laws, the most restrictive parameters shall prevail.

7. Transitional arrangements for existing schemes and approvals

- (1) Any application in terms of the Planning Law or in terms of a former zoning scheme submitted prior to the implementation of this Scheme and which is still in process at the date of commencement of this Scheme, will be assessed and finalised within the provisions of such former zoning scheme, unless the applicant has informed the Municipality in writing of the withdrawal of the application.
- (2) A building plan will be assessed and finalised within the approval granted (applying the land use restrictions or provisions of the applicable zone in the former zoning scheme), where:
 - (a) A building plan application was formally submitted before commencement of this Scheme, and did not contravene the provisions of the former zoning scheme at the time of submission, or
 - (b) A building plan application is formally submitted after commencement of this Scheme with the express purpose to act on a valid approval granted for any application in terms of planning law or any other application in terms of a former zoning scheme, provided that such building plan application is submitted within 30 months after commencement of this Scheme, or within the validity period of said application, whichever is the later date.

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- (3) Buildings used and constructed in accordance with an approved building plan which was already approved prior to the commencement of this Scheme or which are subsequently constructed in accordance with a prior or subsequently approved building plan and which is or was lawful because of a previous scheme or approval, will not be considered to be contravening this Scheme but will be a lawful non-conforming use.
- (4) Where a rezoning or consent use application was approved prior to commencement of this Scheme but has not yet been acted on, or where a rezoning was approved as contemplated in this section within the provisions of a former zoning scheme after the commencement of this Scheme, the affected land unit/s in such approval shall be deemed to be allocated with a corresponding zone or consent use in accordance with this Scheme as determined by the Municipality, where such an approval is acted on.
- (5) Where any approval in terms of Planning Law or any other application in terms of a former zoning scheme has been lawfully acted on and it contravenes any provision in this Scheme, it will, for the purposes of this Scheme, not be considered to be an offence but a lawful non-conforming use.
- (6) A consent use will be deemed to have been granted for any existing land use which was a primary right in terms of a previous scheme, and which was approved on a building plan and lawfully utilised, but which is now only permitted as a consent use in terms of the provisions of the applicable zone in this Scheme. Any addition to the land use after the commencement of the Scheme will require an application for a further consent use.
- (7) Where the provisions pertaining to maximum floor area, height, and parking of this Scheme are more onerous or restrictive than a former scheme, the owner may, for a period of five years from the date of commencement of the Scheme, continue to implement the particular more permissive parameter of a former scheme to any building plan or application in terms of this Scheme. In all other respects, the provisions of this Scheme will prevail.
- (8) If a building envelope is extended or the land use inside a building is altered after the date on which this Scheme comes into effect, the provisions of this Scheme shall only apply to such alterations and extensions.

8. Deemed zoning

- (1) Any portion of land designated on an approved General Plan or Surveyor General Diagram as 'public place' and which in the Municipality's opinion serves the function of open space shall be deemed to be zoned as Open Space Zone, and should the Municipality discover that the zoning map does not reflect the zoning in this manner, the zoning map shall be amended accordingly.
- (2) Any portion of land indicated on an approved General Plan or Surveyor General Diagram as 'public road' or 'public street', or any other land which in the Municipality's opinion serves the function of a public road, public street or public parking area, or is reserved under any other law for a public street or public parking shall be deemed to be zoned Transport Zone.
- (3) Any portion of land set aside to be used as a private road or private open space shall be deemed to be zoned as "Transport Zone or Open Space Zone, as may be applicable when such land is subdivided from the parent property, and the zoning map shall be updated accordingly.
- (4) Where land zoned Open Space Zone or Transport Zone is changed due to the amendment, cancellation or withdrawal of a subdivision plan or general plan or SG diagram prior to the first transfer having been affected, the Municipality shall determine the appropriate zoning for such land unit and the land shall be deemed to be zoned accordingly. Once transfer of the first land unit has taken place, the land shall be rezoned as is required in Planning Law.
- (5) All land subject to the provisions of section 13 of the Legal Succession of the South African Transport Services Act, 1989 (Act 9 of 1989) is deemed to be zoned, Transport Zone.

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- (6) Where an agreement has been entered into between the Municipality and the South African Transport Services or any of its divisions or its successors in title in terms of the Legal Succession of the South African Transport Services Act, 1989 (Act 9 of 1989) or preceding legislation, provisions, and conditions contained within such agreement shall prevail over the Transport Zone.
- (7) Where land owned by the South African Transport Services or any of its divisions has been lawfully rezoned for any other use, such land will retain its zoning and shall be allocated the corresponding zoning in terms of this Scheme on the Municipality's zoning map, and all provisions of this Scheme shall apply.
- (8) Any portion of land which has been declared a National, Provincial or Local Authority protected area in terms of the National Environment Management: Protected Areas Act, 2003 (Act 57 of 2003) is deemed to be zoned Natural Environmental zone.

9. Consolidation of land

- (1) When two or more individual land units are consolidated, building lines, coverage and other provisions which previously applied to individual land units, shall not remain in force over those former land units, but shall apply to the consolidated land unit in accordance with this Scheme.
- (2) The Municipality may impose additional development rules where two or more individual land units are consolidated, and the application for consolidation would, in the Municipality's opinion:
 - (a) substantially alter the character of the area, with negative consequences, as a direct result of the size of the consolidated land unit, or
 - (b) include a larger surface area of building, larger massing of building structure, or reduction of space between built elements, than would have been possible prior to consolidation due to the building lines, floor space or coverage provisions that formerly applied to the individual land units in terms of this Scheme.
- (3) The additional development rules referred to above may:
 - (a) relate to the massing, spacing, and position of buildings on the consolidated land unit, and
 - (b) be more restrictive than the development rules that would normally apply to the consolidated land unit in terms of this Scheme,but may not be more restrictive than the development rules which applied to the former individual land units, prior to consolidation, unless the land is rezoned.
- (4) If consolidation of erven results in intensification of land use, additional development charges shall be levied on a property.

10. Evasion of intent of the Scheme

- (1) It is unlawful for a building plan or any other application in terms of the Scheme to evade the intent of the Scheme, and the Municipality may refuse such an application if the plan or application facilitates or constitutes the evasion of the intent of this Scheme or any of its provisions.

11. Methodology of measuring and rounding off

- (1) The Municipality may require an applicant or owner to appoint a registered land surveyor, at the owner/applicant's cost, to supply and verify information necessary for the Municipality to make decisions about, or ensure compliance with, distances or levels in terms of this Scheme. This information may be required at any stage of the application, building plan submission or construction process, or prior to an occupation certificate being issued in terms of the National Building Regulations.
- (2) The distance between a building and a boundary shall be measured along the shortest distance between a point on the building and the boundary measured on the same horizontal plane.

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- (3) Where reference is made to the boundary opposite a point or building, that portion of the boundary is defined by drawing lines from the point on the building at right angles to the boundary.
- (4) Where reference is made to the existing ground level or the natural level of ground such level shall be calculated in accordance with recognised geometric principles.
- (5) Where it is not possible to measure a height, distance or level due to irregularities which make the application of geometric principles impractical or inconsistent with the intent of the Scheme, the Municipality shall determine the distance, level or height for purposes of administering the Scheme, taking into consideration the overall intent of the Scheme.
- (6) If a calculation of a requirement results in a fraction, and where such a fraction applies to a number of whole units which cannot be provided in fractions (e.g. dwelling units, parking bays, bedrooms and so forth) then the result of the calculation will be rounded up or down as follows: when the calculation results in a fraction which is less than 0,5 the number shall be rounded down, and where the fraction is 0,5 or more, the number shall be rounded up.

12. Land use tables in zones

- (1) The land use tables for each zone in this Scheme, set out the primary and additional land uses which may be conducted on a land unit in that zone, as well as which uses are permitted, require technical approval or neighbours' permission or are consent uses.
- (2) The land use table also identifies prohibited uses which may not be undertaken in that zone. (Refer to section 16).
 - (a) Row 2 of the land use table shows primary land uses, which are land uses which may be conducted from the whole land unit, and where more than one primary land use is listed, one or any combination of primary land uses may be conducted, unless specific limitations on the scale or number of different primary land uses are imposed in the particular zone.
 - (b) Row 3 of the land use table shows additional land uses, which may be undertaken in conjunction with a primary land use as a subservient use to the primary land use. At least one of the primary uses must be conducted on the land unit in order to also conduct an additional use.
 - (c) Column 2 of the land use table shows the permitted land uses which may be undertaken with no further approvals from the Municipality.
 - (d) Column 3 of the land use table shows the land uses which require technical approval from the Municipality in terms of section 13 of this Scheme before they may be conducted from the land unit.
 - (e) Column 4 of the land use table shows the land uses for which neighbours' permission will be required in terms of section 14 before the land uses are deemed to have been granted by the Municipality.
 - (f) Column 5 of the land use table shows the land uses which may only be conducted as consent uses, which application is made in terms of the Planning By-law, subject to all procedures as described in terms of that By-law. (Also refer to section 15).
 - (g) Column 6 of the land use table lists the land uses which are prohibited in terms of section 16 and which may not be conducted from a property.

13. Technical Approval

- (1) Where a land use falls in the "Technical Approval" column of a land use table in a zone, it may only be exercised once the Municipality has approved a site development plan.

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- (2) Where provision is made for a land use or development parameter to be permitted with technical approval, the following application process shall apply:
- (a) An application shall submit to the Municipality by the owner or the property or the person wishing to conduct the activity, with the property owner's written permission, on the prescribed form, together with such documentation that the Municipality may prescribe, including all relevant details of the proposal for which a technical approval is required;
 - (b) A site development plan shall accompany the application for a technical approval unless the Municipality has waived the need for a site development plan;
 - (c) The Municipality shall circulate the site development plan to the relevant departments for their comment and, upon receiving such comment, will forward same to the applicant for incorporation in the plan;
 - (d) Once all departmental comments have been satisfactorily incorporated and the plan amended where required, the Municipality shall decide on the technical approval;
 - (e) The applicant may respond to departmental comments by amending the site development plan or motivate why incorporation of a specific requirement is not possible or legally required;
 - (f) A technical approval application may only be refused if it does not adhere to the parameters of this Scheme, or is not permitted in terms of other applicable law, or conflicts with other adopted regulations or standards, or is likely to lead to development which is hazardous or unsafe for occupants of the land unit or the general public;
 - (g) The Municipality will retain a copy of all documentation, including the site development plan, for their record and capture the approval in the zoning register;
 - (h) The applicant may agree to the imposition of conditions, or amendments to the plan, in order to address compliance or concerns and facilitate the approval, provided that these must be put in writing and agreed to by all the relevant departments;
- (3) If the applicant is unable to obtain the agreement of all internal Municipal departments, the applicant may submit an application for rezoning, consent use, a departure or permission in terms of the Scheme, as the case may be, if this would resolve the conflict, upon which the official application process in terms of Planning Law will apply, including the right to appeal.
- (4) There is no right of appeal against a refusal of a technical approval.

14. Neighbours' permission

- (1) Where land use falls in the "Neighbours' permission" column of the land use table in a zone, or where provided for elsewhere in the Scheme, the use may be exercised if the written permission of the affected neighbours has been obtained, in which case the Municipality's permission is deemed to have been granted.
- (2) Where provision is made in the Scheme for a land use or specific development requirement to be permitted with the neighbours' permission, the following application process shall apply:
- (a) The applicant shall submit to the Municipality an application, on the prescribed form, together with such documentation and plans that the Municipality may prescribe;
 - (b) The Municipality shall evaluate which neighbours are affected by the proposal and return the application to the applicant, together with instructions on how to proceed with obtaining said neighbours' permission;
 - (c) The applicant shall then obtain the necessary signatures from the identified neighbours signifying their permission is granted, and if all signatures are thus obtained, the applicant shall submit the documentation to the Municipality, upon which the approval is deemed to have been granted and the Municipality will provide the applicant with written proof of such permission being granted to their satisfaction;

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- (d) The Municipality shall retain a copy of all documentation for their record and capture the permission in the zoning register;
 - (e) If the applicant does not obtain written permission from all the identified neighbours, or do not submit the required completed documentation to the Municipality's satisfaction, the permission is deemed not to have been granted;
 - (f) The applicant may agree to the imposition of conditions or amendments to the plan, whichever is appropriate, in order to obtain the necessary neighbours' permission, provided that these must be put in writing and be signed by all the parties so identified by the Municipality, in order for the revised proposal to be deemed to be granted;
- (3) If the applicant is unable to obtain written permission from all identified neighbours, the applicant may submit an application for a consent use, or a departure, as the case may be, upon which official notification to neighbours will be made in terms of the Planning Law and parties who have not provided their permission, will be given an opportunity to comment on the application in terms of Planning Law. In the event of this process being followed, the application process as set out in Planning Law shall apply, including giving the right of appeal to any persons who may have a right to appeal against a decision.
- (4) The Municipality will, in its sole discretion, determine which neighbours are likely to be affected by a proposal for which neighbours' permission is required and written agreement from all the identified neighbours will be obtained prior to the approval being deemed to be granted.

15. Consent uses

- (1) Consent use applications are made in terms of the Planning By-law.
- (2) Where the land use rights and development extent of a consent use are approved on a site development plan, the approval of such a consent will be limited to the extent shown on the approved site development plan and any expansion of land uses or buildings beyond that shown on the site development plan, will require a further consent use application.

16. Prohibited uses and uses not mentioned in a zone

- (1) The Municipality may not allow any use that is indicated as prohibited in a zone through the approval of a temporary departure or consent for special use, as the case may be.
- (2) Where an application is made for a land use not mentioned in the specific zone, such use could be considered through the approval of a temporary departure or consent for a special use, as the case may be, provided that the application satisfies the criteria for assessment of applications as set out in the Planning Law.

17. Permission in terms of this Scheme or conditions of approval

- (1) An owner of land may apply for permission where such provision is made in the Scheme, or where a condition of approval requires such further permission to be obtained.
- (2) The following application process shall be followed to obtain such permission:
 - (a) The applicant shall submit to the Municipality an application, on the prescribed form, together with such documentation and, if required, site development plan, as the Municipality may prescribe;
 - (b) The Municipality shall evaluate whether any parties are adversely affected by the proposal and if so, cause a notice to be served, as provided for in the Planning By-law;
 - (c) The Municipality will, in its sole discretion, determine whether any party is adversely affected by an application. Where a permission or approval is required in terms of a condition of approval, the Municipality shall only notify objectors to the original application if the application substantially deviates from what was originally approved.

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- (d) A person may respond to a notice contemplated in this section, as provided for in the Planning By-law, and an applicant shall have a right to reply in a similar manner as contemplated in the By-law;
- (e) An assessment, recommendation, and conditions of an application shall be in writing, and a decision shall be made by an authorised employee within 60 days reckoned from either the submission date, the closing date of comment period, or date when a reply was submitted as, as the case may be, and the application may be approved in whole, or in part, or refused or varied;
- (f) The Municipality shall notify the applicant, and any other party who may have commented on the application, of the decision within 14 days of the decision being made;
- (g) Errors and omissions in an approval may be corrected in a similar manner as contemplated in the Planning By-law;
- (h) The decision is final and there is no right of further appeal;
- (i) The Municipality will retain a copy of all documentation and site development plans, as the case may be, for their record and capture the permission in the zoning register.

18. Site development plan

- (1) The requirement for a site development plan to accompany an application for a change in land use rights is specified in each zone.
- (2) Where a site development plan is required in terms of the Scheme for any consent use application, additional use, neighbours' permission or other permission in terms of the Scheme, a condition will be imposed once approved, to the effect that the site development plan shall become the development parameters for such approval.
- (3) The Municipality may, upon application by the owner, amend an approved site development plan and the same application process applicable to the original application shall apply to an application to amend the site development plan, provided that notification may be waived if the amendment will not have a material adverse impact on any other person or the public, or the site development is generally in accordance with the original approval.
- (4) The Municipality may, prior to approving a site development plan, request adjustments to the plan to ensure compliance with the provisions and intent of the Scheme or any other regulations, standards or legal requirement, or health, safety or other relevant technical requirements of the Municipality provided that the Municipality must approve a site development plan if it is consistent with the requirements of the Scheme and if all permissions and approvals specified in the Scheme has been dealt with.
- (5) To this end, the Municipality may determine what information is relevant for a particular application type, may adopt guidelines in this regard to assist applicants, and may request some, or all of the information below depending on the details of the development, or any relevant additional information it deems necessary:
 - (a) existing contours, rivers or streams and trees or landscaping on the site;
 - (b) existing orchards, vineyards, grazing or any other existing agricultural land use;
 - (c) existing critical bio-diversity areas, natural veld or other vegetated areas;
 - (d) any information contained in an approved environmental management framework pertaining to the property;
 - (e) the position, extent, and use of existing buildings, and other features, including indicating what is to be retained and demolished/removed;
 - (f) all existing historic buildings and structures and other heritage resources;
 - (g) the position, use and extent of all proposed new buildings;
 - (h) elevations and cross sections of the new development;

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- (i) the alignment and general specification of proposed vehicle access, roads, parking areas, pedestrian footpaths, cycle lanes, public transport stops, including facilities which require to be provided in adjacent public and private roads;
 - (j) typical details of proposed fencing or walls around the perimeter of the land unit;
 - (k) provisions for the disposal of stormwater, sewage and refuse which result from the proposals;
 - (l) provisions for water supply;
 - (m) external lighting proposals;
 - (n) external signage proposals;
 - (o) the position and extent of proposed private, public and communal space, general landscaping proposals including trees to be preserved, removed or planted, external paving, and measures for stabilising outdoor areas where applicable;
 - (p) the proposed phasing of the development;
 - (q) the proposed development in relation to existing and finished ground levels, including excavation, cut and fill;
 - (r) all relevant information about the extent of the proposed development, floor area allocations and parking supply to illustrate compliance with the development parameters of this Scheme;
 - (s) the Municipality shall indicate upon request by an applicant whether a site development plan may be un-scaled, hand drawn, drawn on an aerial photo or whether plans require to be dimensioned and to scale; this shall be determined by the complexity of the application and the need for scaled drawings to inform the particular application at hand (e.g. to determine extent of departures);
 - (t) any other details as may reasonably be required by the Municipality.
- (6) The Municipality may also accept, solely in their own discretion and to their own satisfaction, illustrations, plans or drawings which are drawn by hand, which may not necessarily be drawn-to-scale, especially in cases where accuracy and scale is of lesser importance, and in informal areas where owners are unable to afford professional drafting services.

19. Owners' Associations and other laws

- (1) An approval in terms of this Scheme will not obviate the need to obtain permission, consent or any permit required in terms of any other law.
- (2) Where a home owners' association, property owners' associations or body corporate is in operation, any application in terms of Planning Law must be accompanied by the association's comment unless the rules of the association make explicit provision for such application to be submitted without the said approval of the association concerned.
- (3) Where any other law or approval in terms of another law prescribes conditions to be adhered to or requirements to be met, the owner or operator shall comply with all such conditions, and in all cases, the most restrictive of conditions shall be adhered to.

20. Lapsing of permission

- (1) Any permission granted in terms of this Scheme will lapse after five years, or a shorter period as the Municipality may determine if the activity has not commenced.
- (2) In this section, commencement means that the land or buildings are utilised in accordance with the permission, or a building plan has been approved to allow for the utilisation of the permission and construction to implement such an approved building plan has commenced.

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21. Environmental construction management plans

- (1) An environmental construction management plan:
 - (a) may be required by the Municipality, in its sole discretion, to be submitted together with a building plan for its approval if construction activities may have, in the opinion of the Municipality:
 - (i) an adverse impact on the natural and/or built environment or neighbours; or
 - (ii) on-site or adjacent trees or vegetation require protection during the site preparation or construction phase; or
 - (iii) heritage resources require protection during the site preparation or construction phase; or
 - (iv) any other related matter which requires management during the site preparation or construction phase and which is not adequately dealt with by means of the provisions of the National Building Regulations.
 - (b) may be imposed as a condition when the Municipality considers an application in terms of the Planning By-law or this Scheme.
- (2) The Municipality may adopt a policy to direct when a construction environmental management plan may be requested.
- (3) The construction environmental management plan and building plan may be submitted simultaneously for the Municipality's consideration and may be approved simultaneously.
- (4) The Municipality may specify requirements in relation to the qualifications of the specialist who will prepare, implement and oversee the construction environmental management plan¹.
- (5) After considering the construction environmental management plan, the Municipality must either:
 - (a) approve the construction environmental management plan, with or without conditions;
 - (b) or require amendments to the environmental management plan to be re-submitted;
 - (c) or refuse the plan.
- (6) The Municipality has the right to impose additional requirements for mitigation after it has granted its approval in terms of this section if in its opinion the original required measures are not adequate to mitigate impacts.
- (7) It is an offence for any person to develop, construct or use land without an approved construction environmental management plan, where one is required, or develop, construct or use land contrary to an approved construction environmental management plan.
- (8) No parties require to be notified of the Municipality's intention to consider or approve a construction management plan, and the Municipality's decision is final. There is no right of appeal.

22. Visual impact assessments

- (1) A visual impact assessment:
 - (a) shall be required where this Scheme specifies such an assessment to be submitted;
 - (b) may be required information to accompany an application in terms of the Planning Law or this Scheme;
 - (c) may be imposed as a condition when the Municipality considers an application in terms of the Planning Law, prior to which a building plan will not be approved.
- (2) A visual impact assessment must be undertaken by a suitably qualified specialist, to the Municipality's satisfaction, and shall contain sufficient information to enable the Municipality to make a decision and impose appropriate conditions to mitigate the impact of the proposed development.

¹ Usually an Environmental Control Officer

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- (3) The Municipality shall assess all relevant aspects of the proposed development, including, but not limited to building height, bulk and the siting of the building and/or structure, proposed design, façade and composition, material, colour, texture, architectural treatment and appearance of the outer elements as well as any element of such building or structure visible to the public, such as parking, outdoor lighting, landscaping, signage and grading.
- (4) The Municipality may determine what information is relevant to a particular visual impact assessment and may request all or any of the following information:
 - (a) description of the affected environment;
 - (b) identification and response to issues;
 - (c) identification of alternatives;
 - (d) identification of opportunities and constraints;
 - (e) prediction of and assessing of impacts; and
 - (f) mitigatory measures.
- (5) A visual impact assessment informs either a planning application in terms of the Scheme, or a land use application in terms of the Planning By-law, or a building plan in terms of the National Building Regulations, and the Municipality shall either decide on the planning application, in which case appropriate conditions shall be imposed, or will decide on the building plan which incorporates the recommendations of the visual impact assessment.
- (6) When a visual impact assessment informs a building plan, no parties require to be notified of the municipality's intention to consider or approve a visual impact assessment, and the Municipality's decision is final. There is no right of appeal.

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CHAPTER 3: GENERAL DEVELOPMENT PARAMETERS & PARKING

CHAPTER 3: GENERAL DEVELOPMENT PARAMETERS & PARKING**23. General parameters applicable to all zones**

- (1) This Chapter sets out development parameters for land use and land development that are applicable to all land units in the Drakenstein Municipality; in addition to the parameters set out for each land use zone.
- (2) The Municipality will determine the applicability of these general parameters to a particular property depending on the type of development proposal, the base zone and any other information related to the property which may apply in the particular case.
- (3) Where the Municipality has adopted a policy regarding an aspect of land use management, such policy will inform Municipal decisions made in terms of this Scheme where applicable.

24. Access requirements

- (1) Vehicular and pedestrian access to a property shall be to the satisfaction of the Municipality and, where applicable, to the satisfaction of the Provincial Roads Engineer.

25. Ancillary uses

- (1) Land uses which are ancillary to the lawful land use may, in the sole opinion of the Municipality, be allowed to be included on a land unit, unless such uses are indicated in the land use table as requiring permission or a consent use in that applicable zone, or being prohibited in that zone, in which case the requirements pertaining to such permission or consent use shall apply, or a rezoning shall be required.
- (2) The Municipality may not allow a land use as an ancillary use if believes that permitting such use will evade the intent of the Scheme.

26. Boundary walls and fences

- (1) The maximum height of a boundary wall or fence on the street boundary is 1,8m.
- (2) At least 40% of a boundary wall or fence on a street boundary must be visually permeable, and gates, entrance structures and buildings situated on the street boundary will be included in the calculation of the requirement.
- (3) The maximum height of a boundary wall or fence on a common boundary is 2,1m.
- (4) If a land unit is a corner property, or is abutted by more than one street, the Municipality may, for the purposes of applying the boundary wall requirements, deem one or more street boundaries to be common boundaries to ensure that a property can be walled sufficiently to provide for privacy, provided that a minimum of one street boundary will comply with the street boundary requirements.
- (5) Solid portions of a wall shall not interfere with sight lines of vehicles entering or leaving a property or passing traffic.
- (6) Where a common boundary abuts a land unit zoned Open Space Zone, the Municipality may require that at least 40% of the boundary wall or fence on such a common boundary is visually permeable.
The height of boundary walls and boundary fences shall be measured from the level of the pavement and in the absence of a pavement, from the natural level of the ground outside the property immediately adjacent to such wall or fence. If the ground level slopes longitudinally along the length of the wall, then its height at each end of the slope shall not exceed the permitted height and when the wall/fence is stepped, such stepping shall be in a series of even steps between piers (where necessary). The deviation from this section shall be at the discretion of the Municipality provided that such deviation shall not be more than 15% of the permitted height.
- (7) The height of additional security precautions such as spikes, electrical fencing/wiring, and such like is restricted to 400mm above the height of a wall or fence and shall be to the Municipality's satisfaction.

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- (8) Electrical fencing shall comply with any Municipal guidelines on electrical security fence installations, the Electrical Machinery Regulations, the Occupational Health and Safety Act and any other applicable legislation.

27. Building height

- (1) Unless otherwise prescribed in an approval or condition, the height of buildings or structures shall be measured from the base level, immediately adjacent to the building, to the highest point of the wall plate.
- (2) A pitched roof may extend a maximum of 2m above the highest point of the wall plate.
- (3) A roof parapet wall may extend a maximum of 1m above the wall plate.
- (4) Chimneys and smoke stacks may exceed the maximum height indicated in the zone.
- (5) Stairs and stairwells which provide access to a flat roof, and elevator overruns and motor rooms may not exceed 2,5m in height above the wall plate.
- (6) In approvals which limit the number of storeys rather than indicating the maximum height above wall plate level, a storey may not exceed 4m measured from floor below to the underside of the floor above, or ceiling where there is a roof above.

28. Building lines

- (1) Notwithstanding the building lines prescribed in this Scheme, a 5m building line is required where the street boundary abuts a proclaimed road.
- (2) Notwithstanding the building lines prescribed in this Scheme, the Municipality may require buildings to be set back from underground services along common boundary lines or services servitudes;
- (3) In the event of applying for a departure from a common boundary building line, the Municipality may require a servitude for the protection of any utility services along land unit boundaries, should a departure be granted;
- (4) Notwithstanding the building lines prescribed in this Scheme, the regulations promulgated in terms of the National Building Regulations may require greater building setbacks from common boundaries for fire safety or other purposes, in which case such greater setbacks will prevail over this Scheme;
- (5) Notwithstanding the building lines prescribed in this Scheme, the following structures or portions of structures may be erected within the prescribed building line², provided they do not extend beyond the boundaries of the land unit:
- (a) boundary walls, fences (which may straddle a common boundary with the permission of the affected neighbour);
 - (b) gates and doors (which may not open over a cadastral boundary);
 - (c) open uncovered stoeps that are less than 500mm above the natural level of the ground;
 - (d) entrance steps, landings, and entrance porches, excluding porte cochères;
 - (e) an entrance structure or gatehouse;
 - (f) eaves, awnings, and sunscreens projecting no more than 1 m from the wall of a building;
 - (g) cornices, chimney breasts, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500mm from the wall of a building;
 - (h) screen-walls not exceeding 2,1m in height above the natural ground level abutting such wall;
 - (i) swimming pools not closer than 1m from any boundary;

² This provision does not exempt an owner from complying with the provisions of section 17 of the Roads Ordinance Act (No 19 of 1976) which requires approval of all structures within 5 meters of a proclaimed road, or from complying with section 9 of the Advertising on Roads and Ribbon Development Act (No 21 of 1940) which prohibits any structures being erected within 95 meters from the centerline of a restricted proclaimed road without approval. In both cases approval should be obtained from Provincial Department of Transport and Public Works.

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- (j) electrical substations and refuse storage rooms not exceeding 5mx5m and 2,4m high are not subject to street building line requirements and shall be placed and constructed to the satisfaction of the Municipality;
 - (k) a basement and access ramp to a basement provided that no part of such a basement projects above natural ground level;
 - (l) water storage tanks not exceeding the height of the boundary wall.
- (6) Any other building, structure or equipment not mentioned in subsection (5), which area associated with or attached to the building or related to the operations of the building, such as braais, tool or storage sheds, pool pumps, air conditioner units, water tanks exceeding the height of boundary wall, extractor vents or electrical substations may be constructed outside of the building line restrictions on the common boundaries, with neighbours' permission and the provisions of section 14 shall apply.

29. Decommissioning of various installations and land uses

- (1) The owners of land, where crop covers, renewable energy infrastructure, telecommunication antennae masts and other similar infrastructure, noxious industry or mining was undertaken, shall be responsible for the rehabilitation, decommissioning and reparation of any damage to the environment.
- (2) The Municipality may impose conditions prior to construction commencing relating to rehabilitation, decommissioning and repair of any environmental damage and may require that the owner makes financial provision up front for such rehabilitation, decommissioning and repair, to the satisfaction of the Municipality.
- (3) In all instances, whether financial provisions were put in place or not, the owner remains financially responsible for any rehabilitation, decommissioning and repair to the environment, should the costs of rehabilitation, decommissioning or repair, exceeds the financial provision made.
- (4) If the facility is abandoned, or, if the owner fails to rehabilitate, decommission or repair, as the case may be as contemplated above, the Municipality may, after written notice to the owner, use all or part of the financial provision to rehabilitate, decommission or repair the environmental, or to remove the facility and may recover such or any related additional costs from the owner.

30. Development charges

- (1) The Municipality may impose development charges for any intensification of existing land use in line with the Municipality's Development Charges Policy, where such development may have the effect of increasing the burden on external utility services. Charges may apply (but are not limited to the following instances):
 - (a) Second, third and employee dwelling units;
 - (b) any additional uses in a dwelling house, second or third dwelling unit;
 - (c) any new development where the development extent exceeds the primary rights which existed on the property before the adoption of this Scheme;
 - (d) any new development where existing or new development cause an additional impact on utility services and specifically where the proposed development exceeds the floor area which was permitted in terms of the previous zoning schemes applicable to that property;
 - (e) where consolidation was undertaken which resulted in the indirect intensification of land use which results in an increase in demand for utility services;
 - (f) any consent use which results in an increase in demand for utility services;
 - (g) any other development which triggers the imposition of the charge as set out in the Municipality's policy dealing with development charges.

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- (2) In each base zone, the threshold above which development charges may be levied for any permitted or additional uses are set out and the levies shall be calculated upon submission of a building plan and shall be payable prior to building plan approval.

31. Door and window openings, gutters and roof eaves

- (1) Unless servitudes have been registered on an abutting property in favour of the subject property:
- (a) no door, or window which opens, is permitted in a wall facing a common boundary closer than 1m to the common boundary;
 - (b) windows which cannot open, or glass bricks may be allowed in walls within one meter of the common boundary but in any event not closer than 0,5m from the common boundary.

This provision is subject to the applicable building and fire regulations which may impose more restrictive requirements.

- (2) Unless servitudes have been registered on an abutting property in favour of the subject property, no eave or gutter may protrude over a common boundary.
- (3) No door or window (including garage doors and gates) may open over a common or street boundary.

32. Dwelling house in all zones: use and leasing

- (1) Notwithstanding the zoning of a property, where a dwelling house is lawfully constructed on a land unit and approved as such on a building plan in any zone in this Scheme, the land uses and development parameters of the Conventional Housing zone will apply to that property until such time as a building plan is approved for alternative primary land uses permitted in the relevant zone in this Scheme.
- (2) On any property where a dwelling house is lawfully constructed, new development or land uses, including additional uses which are permitted in the Conventional Housing zone may be undertaken, subject to the parameters in the Conventional Housing Zone and permission or consent use may also be granted by the Municipality in terms of that zone.
- (3) Nothing in this Scheme shall be construed to prohibit the leasing of a dwelling house to a household as defined for them to use as their *bona fide* permanent residence.
- (4) The short-term lease of an entire dwelling unit or leasing of a dwelling as rooms to transient guests, where the owner does not permanently reside on the property, is classified as visitors' accommodation, which will only be permitted in the appropriate zones, subject to the parameters of the particular zone or with appropriate approvals as are required in this Scheme.

33. Entrance porches and gate houses

- (1) Notwithstanding the height restrictions on boundary walls and fences in this Scheme, a covered entrance porch which forms part of a street boundary wall may be enclosed on up to three sides, and a gate house, which may be open or enclosed on all four sides, may be constructed on the street boundary of the land unit.
- (2) A covered entrance porch or gate house may exceed the height restriction of boundary walls and fences, but may not exceed a height of 2,8m.
- (3) The floor area of a covered entrance porch is restricted to 2m² except on land units exceeding 1 500m², where an entrance porch may not exceed 10m².
- (4) A gate house is allowed on land units exceeding 1 500m², provided that:
- (a) A gate house shall have floor area of no less than 5m² and no more than 10m².
 - (b) The Municipality may require a gate house to be set back from the street boundary, to its satisfaction, to facilitate safe access to the property or safe sight distances to enter a public road.

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34. Freestanding mast

- (1) Any freestanding mast for telecommunication purposes shall comply with the parameters in this section.
- (2) The mast of a freestanding mast installation may not extend more than 30m in height above the natural ground level.
- (3) The height of any structures and buildings associated with a freestanding mast installation (excluding the mast itself) may not exceed 4m unless permission is granted by the Municipality in terms of this Scheme.
- (4) The Municipality may require appropriate context-specific screening or other measures to mitigate the impact of a freestanding mast and its ancillary structures and buildings.
- (5) The Municipality may request that a pre-electromagnetic radiation test be commissioned.

35. Loading bays

- (1) The parameters for on-site loading facilities are set out below:
 - (a) for supermarkets and shopping centres 1 loading bay/500m² GLA;
 - (b) in Industrial Zone, all loading of goods shall take place on the premises and the owner shall supply sufficient loading space to ensure this requirement is met. The minimum requirement for loading shall be 1 bay per 250m² GLA, plus 1 bay for every 1000m² GLA thereafter;provided that where on-street loading bays are available the Municipality may relax these requirements at its discretion.
- (2) Loading and offloading bays in public streets are to be used for short-term loading facilities for shops and all other loading associated with a particular land use shall take place on the land unit concerned and sufficient provision shall be made on the land unit to the Municipality's satisfaction.

36. Mobile homes and caravans

- (1) A recreation vehicle, such as a caravan or mobile home, may not be used for permanent habitation by the residents or visitors on a land unit for more than 60 days during any 12-month period unless the Municipality has granted its permission in terms of the Scheme, subject to conditions they may impose.
- (2) A recreational vehicle may not be used for an additional use.

37. Motorcycle, bicycle and other non-motorised transport provision

- (1) The Municipality may require that parking for motorcycles and/or bicycles be provided in lieu of normal parking bays on any property and the Municipality may adopt a policy with regards to the compulsory nature of such non-motorised transport parking provision.
- (2) Dimensions, position, and layout of these parking bays shall be to the Municipality's satisfaction.
- (3) An owner may of their own accord provide unlimited bicycle and/or motorcycle bays over and above the normal vehicle parking bay requirement set out in Table A.
- (4) The Municipality may agree that an owner can provide bicycle and/or motorcycle bays in lieu of parking bays in which case the Municipality shall determine the maximum number of parking bays which may be replaced by bicycle and/or motorcycle bays and all such parking shall be to the Municipality's satisfaction.
- (5) Should motorcycle or bicycle parking be provided in lieu of normal parking, the following shall apply:
 - (a) four motorcycle spaces shall count towards one parking bay; or
 - (b) six bicycle spaces shall count towards one parking bay.
- (6) These bays shall be clearly marked, easily accessible to users and allow bicycles to be locked.
- (7) In the event that an owner does not provide the required bicycle and/or motorcycle bays or ceases to make such facilities available to users as set out in the conditions, the normal parking requirements applicable to the development shall be complied with.

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- (8) The Municipality may require that an owner provides bicycle routes or pedestrian pavements adjacent to a development at his cost as part of the developer's responsibility when a site is extensively re-developed and may require that such works be completed prior to the issuing of an occupancy certificate for the building.

38. Occasional use

- (1) One occasional use activity or event is allowed on a land unit in any use zone within one calendar year as a permitted additional use, and for which no further approval of the Municipality is required, provided that the following conditions are adhered to:
- (a) land uses listed in the column for prohibited uses are not permitted;
 - (b) the activity may not involve amplified sound;
 - (c) the event may not take place outside the hours of 8:00 am and 22:00 pm;
 - (d) the event may not exceed 500 attendees including all staff, performers, and vendors;
 - (e) off-street parking shall be provided on the property concerned or on a property within walking distance thereof and specifically leased for the event. Off-street parking shall be provided at a ratio of at least 1 bay per 4 attendees including staff, and attendees shall be directed to such parking;
 - (f) the event organiser shall provide sufficient portable ablution facilities as may be required to serve the number of people attending;
 - (g) the event may not take place for more than three consecutive days;
 - (h) the event organiser shall ensure clearing of the event is completed within 24 hours of the end of the event;
- (2) This clause does not grant exemption from other legal requirements.
- (3) If an occasional use takes place more frequently or does not comply with any of the conditions in subsection (1), the activity is not permitted and can only be undertaken once an additional consent use is approved by the Municipality. Such an application for consent use shall be submitted in terms of Planning Law and shall be made in good time to allow the consent application process to be concluded in terms of the Planning By-law.
- (4) Where consent use is granted, the frequency and duration of occasional uses or recurring occasional uses on a land unit are limited as set out below:³
- (a) an occasional use may only take place for a maximum of five days per month;
 - (b) the duration of any one occasional use event may not exceed three consecutive days;
 - (c) an occasional use may not take place more than once a week.
- (5) Where consent use is applied for, the Municipality may waive the notification process for a consent use if it is satisfied that the impacts of the particular occasional use (especially, but not limited to, traffic and noise) will not extend beyond the boundaries of the subject property.
- (6) Where consent use is applied for, and where the occasional use is likely to have impacts beyond the boundaries of the land unit, and in all cases where an occasional use will involve the use of amplified sound, the application will be subject to the serving of notices as required in terms of Planning Law.
- (7) A consent use application for occasional use must be accompanied by the sufficient information, to the Municipality's satisfaction, which may include all or some of the following:
- (a) the time and duration of the event, including time needed for preparation (set up) and clearing;

³ The undertaking of occasional uses on a continuous basis to the extent that it becomes the primary use on the property is not permitted in this Scheme. If the primary activity on a property is to be regular events which is taking place frequently enough to be regarded by the Municipality, in their sole opinion, as a permanent land use, then the activity should be classified according to one of the land use categories and an application for consent use and/or rezoning, as the case may be, must be lodged with the Municipality.

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- (b) the maximum number of people that will be involved in or attend the occasional use or event including all staff, artists, vendors or participants;
 - (c) the parking to be provided, access locations and proposed access control and traffic marshalling;
 - (d) the intended use of musical instruments, amplified sound, public announcement systems, equipment that generates noise or identification of any other likely disturbances, including any measures to mitigate such impacts;
 - (e) arrangements for refuse removal;
 - (f) a management plan that addresses at least traffic management, parking, noise, dust (if applicable), or any other nuisance likely to be caused, the provision of ablution facilities, cleansing, and provision for emergency services;
 - (g) any additional information that the Municipality deems needed to adequately assess the application.
- (8) In addition to the above information, the Municipality may require a site development plan to be submitted with an application for consent use which shows the location of parking, the event area, position of stages, sound equipment and any other information which may have relevance to the application.
- (9) The Municipality may impose conditions to mitigate the impact of the occasional use when approving an application for consent use, including, but not limited to, conditions relating to the duration and frequency of the event, erection, and removal of temporary structures, cleansing, hours of operation, traffic management, and any other matter.
- (10) The operator of the occasional use and the owner of the land unit shall be jointly responsible for adherence to all conditions of the Municipal consent, as well obtaining all other permits, approvals or permissions which may be required.
- (11) The Municipality may withdraw its consent use approval for an occasional use upon complaints from affected parties or if the conditions of the approval are, in its sole opinion, not adhered to.
- (12) The Municipality may formulate additional policies to inform decisions for consent use for occasional uses.

39. Outdoor storage of vehicles and other goods

- (1) The following provisions shall apply in all zones for the outdoor storage and parking of vehicles:
- (a) motor vehicles (such as bakkies, taxis, and mini-bus taxis) owned by the occupant of a dwelling house, and used for commercial activities conducted away from the dwelling house, may be parked on the property concerned, provided that:
 - (i) no more than two commercial vehicles shall be parked on any land unit with a dwelling house;
 - (ii) the gross weight of any such commercial vehicle shall not exceed 3500kg;
 - (iii) no goods or passengers may be loaded or offloaded at the residential property on a regular basis;
 - (b) no area visible from a public street shall be used for the outdoor storage of inoperable vehicles;
 - (c) no area visible from a public street shall be used for the outdoor storage of building material, appliances, boats, rubbish, rubble, garden refuse or similar items except:
 - (i) when being temporarily stored for construction purposes in accordance with a valid building plan approval; or
 - (ii) in conjunction with a yard or garage sale with a duration of not more than two consecutive days; or
 - (iii) with the Municipality's permission.

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40. Panhandle properties

- (1) No buildings shall be constructed on the panhandle portion of a property which provides access to the property.
- (2) Common boundary building lines apply to the portion of the property which does not form part of the panhandle.
- (3) The panhandle portion of a panhandle property must be:
 - (a) not less than 3,5m wide for its entire length for a property with a Conventional Housing zoning;
 - (b) in other zones, sufficiently wide to accommodate two-way traffic if the Municipality determines it to be necessary, given the volume of traffic;
 - (c) disregarded for the purposes of calculating coverage.

41. Parking: disabled and universal access

- (1) A site development plan or building plan shall incorporate and be consistent with the requirements of the National Building Regulations and any Municipal policy applicable at the time in relation to the provision of parking that is capable of use by physically disabled persons and universal access and it remains the owners' responsibility to ensure compliance with these regulations and the Municipality's policy.

42. Parking: on-site provision requirements

- (1) On-site parking requirements for any new development are set out in Table A and shall apply to all new buildings or portions of new buildings or new land uses approved on building plans after the commencement of this Scheme.
- (2) The parking standard indicated in Table A applies to each land use, notwithstanding the base zone, unless otherwise indicated.
- (3) On-site parking shall be provided -:
 - (a) on the same land unit where the activity or building is located for which the parking is required; or
 - (b) in a public parking facility to be provided by the developer near the site, to the Municipality's satisfaction and subject further to any conditions it may impose in this regard; or
 - (c) on another land unit, in which case the land on which such parking is provided shall be located to the Municipality's satisfaction and shall be notarially tied with the subject property in accordance with this Scheme.
- (4) Where an addition is made to an existing building, or where an existing building or its land use is altered, the required parking shall be calculated by only taking account of the additional gross leasable area, or new land uses, as the case may be, and any parking shortfall on land use which existed at the commencement of the Scheme is regarded as a non-conforming use.
- (5) If the Municipality approves a departure from minimum parking requirement stipulated in this Scheme, it may impose a condition which requires payment of a levy in lieu of the shortfall of the number of bays, on the basis that public parking or roads may be utilised for parking of vehicles connected to the activity.
- (6) Except in Conventional Housing Zone, no more than an additional 10% of the total number of bays required on a property in terms of this Scheme may be provided on the property.
- (7) Apart from the provision for two commercial vehicles not exceeding 3500kg to be parked on a residential zoned property in connection with the resident's work or business related activities as provided for in section 0(2)(6), all parking of vehicles on a property shall only be serving land uses which are lawfully permitted on the property.
- (8) Except in the case of dwelling houses, tandem parking bays count as one bay.
- (9) Parking areas shall be constructed, adequately signposted, demarcated and maintained to the Municipality's satisfaction.

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- (10) Parking layout, circulation and dimensions shall be to the Municipality's satisfaction. Minimum parking bay dimensions are recommended to be 2,5m wide by 5m long. The Municipality may require that bays are wider to ensure they are accessible especially in cases where they are adjacent to solid walls and support columns or where narrow aisle widths require wider bays.
- (11) All parking bays required in terms of this Scheme shall remain accessible for use as parking and may not be otherwise used or encroached upon.
- (12) Notwithstanding subsection (1) and (6), when approving a rezoning, consent use or departure application in terms of the Planning Law, the Municipality may impose conditions which require more or less parking than stipulated in this section and may also impose parking requirements for land uses not stipulated in Table A.
- (13) Where two or more uses combine to share a common parking area, parking requirements may be reduced with the Municipality's permission and the applicant of a planning application or building plan may submit a motivation prepared by a suitably qualified person in support of shared parking together with such application or building plan. Such an application shall be for technical approval for reduced parking, shall be accompanied by a site development plan and a motivation, and shall be solely at the Municipality's discretion.
- (14) Shared parking may not be allocated to individual users on an exclusive use basis or sold by sectional title to individual unit holders.

43. Parking: visitors

- (1) The following parameters shall apply to visitors' parking required in terms of this Scheme:
 - (a) visitors' parking as required by this Scheme shall be clearly demarcated, readily visible, and accessible to visitors with suitable signage to direct visitors to such parking;
 - (b) visitors' parking shall not be sold via sectional title for exclusive use nor shall it be leased or allocated for the exclusive use of a person, other than visitors.

44. Public transport embayments

- (1) The Municipality may require the provision of a bus or mini-bus embayment in a suitable position in the public street, by the operator of any new business, lodging or visitors' accommodation establishment, hotel to their satisfaction, and the cost of such construction shall be for the owner's account.

45. Prospecting and mining

- (1) Prospecting and mining may only be allowed through a temporary departure and as permitted by the Planning Law and the maximum period of such departure shall be the life expectancy of the mine.
- (2) Conditions relating to the rehabilitation and decommissioning of the mine and time frames attached thereto shall be imposed at the time of approval.
- (3) In cases where mines were approved prior to the commencement of this Scheme, and where no provision was made in the conditions for decommissioning and rehabilitation, the Municipality may, after informing the owner of its intentions to do so, impose suitable conditions prior to the mine closing down, where it deems necessary to protect the environment and facilitate suitable rehabilitation of a site used for mining.

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TABLE A: OFF-STREET PARKING REQUIREMENTS

Land Use Category	Normal parking	Additional parking reserved for visitors
Residential		
Visitors' and lodging accommodation:	1 bay/2 persons accommodated (or alternatively 1 bay/2 single beds and 1 bay/double bed) plus 1 bay/employee	
Community residential building:		
Normal provision	0,3 bay/persons accommodated	
Associated with tertiary institution	0,3 bay/ persons accommodated	
Associated with school	4 bays & facilities for stop and drop	
Dwelling house:	1 bay / dwelling unit	
Second and third dwelling unit >30m²:	1 bay / dwelling unit	
Apartments	1 bay / dwelling unit	0,5 bay / dwelling unit
Group house:	1 bay /dwelling unit	0,5 bay / unit
Hotel:	0,7 bays/ 2 persons accommodated (or alternatively 0,7 bays/2 single beds or 0,7 bay/double bed plus 0,5 bays/employee plus, additional parking for as required for additional facilities accessed by non-guests as required elsewhere in the Scheme (e.g. office, restaurant, conference, wellness centre etc.)	
Business and office		
Business premises:	4 bays / 100m ² Gross Leasable Area	
Commercial gymnasium:	6 bays / 100m ² Gross Leasable Area	
Conference facility:	0,25 bay / seat	
Vehicles sales: Light vehicles	3 bays / 100m ² Gross Leasable Area	
Vehicles sales: Medium and heavy vehicles	1 bay / 100m ² Gross Leasable Area with a min of 6 bays plus 1 bay / 800m ² Gross Leasable Area for heavy vehicles: Minimum 1 bay	
Vehicle services	4 bays per service bay plus 4 bays / 100m ² Gross Leasable Area: Minimum 8 bays	
Offices:	4 bays / 100m ² Gross Leasable Area	
Place of entertainment:		
General	4 bays / 100m ² Gross Leasable Area	
Cinemas and theatres		
-in shopping centre	0,25 bay / persons seated or standing	
-standalone facility outside centre	0,5 bay / persons seated or standing	
Plant nursery	1 bay / 100m ² Gross Leasable Area (total indoor and outdoor sales area)	
Restaurants	8 bays / 100m ² Gross Leasable Area (total indoor and outdoor seating area)	
Fuel retail	1 bay / service bay plus 2 bays/100m ² Gross Leasable Area	
Shops:		
up to and including 1500m ²	4 bays / 100m ² Gross Leasable Area	
>1500m ²	6 bays / 100m ² Gross Leasable Area	
Industrial		
Industry	1,5 bays / 100m ² Gross Leasable Area	
Warehouse, Abattoir	1 bay / 100m ² Gross Leasable Area	
Recycling facility	1 bay / 100m ² Gross Leasable Area	
Community facilities and medical		
Medical consulting rooms	6 bays / 100m ² Gross Leasable Area	
Clinics and hospitals	1 bay /person admitted (or per single bed) plus 3 bays/consulting room	
Community care	1 bay per employee (or alternatively 1 bay/classroom, office or other space capable of occupation by a staff member.)	
Place of instruction other than a school or tertiary institution	1 bay / 4 students; plus 1 bay per employee (or alternatively 1bay/ classroom, office or other space capable of occupation by a staff member)	
Pre-primary (ECD), primary and secondary schools	1 bay / classroom & stop and drop facilities	
Tertiary educational institution	1 bay / lecture room	0,5 bay /student
Place of assembly and indoor sport:	0,25 bay / seated or standing or 20 bays / 100m ² Gross Leasable Area	
Public institution (e.g. library, museum)	2 bays / 100m ² Gross Leasable Area	

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46. Resource conservation and efficiency

- (1) When granting any new use rights in terms of this Scheme, the Municipality may require measures to improve resource conservation and efficiency, including, but not limited to rainwater harvesting, grey water recycling, waste recycling, renewable energy use for domestic, business, industrial and agricultural uses, and any other such similar sustainable practices.
- (2) The Municipality may demarcate different areas where measures to achieve resource conservation or more efficient use, will apply, and shall consider the economic feasibility and practical application of newly built versus retrospectively fitting such measures, before imposing these conditions.
- (3) These may include:
 - (a) the installation of rainwater and/or grey water recycling in new buildings or major refurbishments where building plans are approved after the commencement of this Scheme;
 - (b) that water conservation measures and technologies be indicated on building plans approved after the commencement of this Scheme;
 - (c) the installation of photovoltaic panels or other appropriate renewable energy technologies for heating and/or reducing electrical demand where building plans are approved after the commencement of this Scheme;
 - (d) any other initiatives or programmes which may promote sustainable use of resources and services.

47. Retaining walls, earth banks or raising ground level

- (1) Unless the permission of the Municipality has been obtained:
 - (a) no earth bank, retaining structure, column, suspended floor, other device or series of such devices may be constructed that enables the ground floor of a building to be raised more than 1m above existing ground level, provided that where the raising takes place and where a maximum height in meters for a building is stipulated, the height must still be measured from existing ground level;
 - (b) 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 2,5m above existing ground level; and
 - (c) no series of earth banks or retaining structures may be constructed to a cumulative height of more than 2,5m above existing ground level unless an approximately level area of at least 1m wide is incorporated between successive embankments or retaining structures for every 2,5m of cumulative height

48. Rooftop base stations and antennae

- (1) A rooftop base station and antennae for telecommunication attached to a building in any use zone shall comply with the parameters in this section.
- (2) The antennae associated with a rooftop base station may not extend more than 3 meters in height above the part of the building that it is attached unless permission of the Municipality has been obtained.
- (3) All supporting equipment (whether installed in cabinets or shelters or inside the building) which are ordinarily attached to the antennae, shall be accommodated within the envelope of the building itself or inside its roof structure and shall not be visible from a public street unless permission has been granted by the Municipality.
- (4) The Municipality may request that a pre-electromagnetic radiation test be commissioned.

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49. Satellite dish antennae

- (1) Satellite dish antennas of 1,5m in diameter and smaller, and used solely for the purposes of television reception or telecommunication on the property concerned, do not require the Municipality's approval and are excluded from height restrictions.
- (2) Any satellite dish antenna with a diameter more than 1,5m requires permission from the Municipality, must be placed in a position that minimises the visual and other impacts on the surrounding area and must comply with building parameters in the zone.

50. Sectional title

- (1) Portions of properties used or zoned for the following purposes may be registered separately by sectional title:
 - (a) Conventional Housing Zone: provided that on an existing conventional residential property only two dwelling units may be sectionalised for residential purposes, and no more than two residential sections and common property may be created. Each residential section shall have at least one parking bay which has with pedestrian access to the dwelling unit (either direct, via a servitude or via common property) with vehicular access either from a public street, a right of way access servitude (private road), or common property;
 - (b) Business premises;
 - (c) Hotel;
 - (d) Apartment building;
 - (e) Group housing;
 - (f) Industry;
 - (g) Light industry;
 - (h) Freestanding mast;
 - (i) Office.

51. Screening of visual impacts

- (1) The Municipality may require visual screening in accordance with the following provisions:
 - (a) any part of a land unit which is used for the storage or loading of goods shall be enclosed with a suitable wall or landscape screening or both;
 - (b) any utility service or equipment which is required for a building and attached externally shall be appropriately screened from view from a public street or common boundary;
 - (c) any building, structure or wall which contains no window and/or door openings may require to be screened by means of landscaping, planting or other screening measures to soften the visual impact of the blank appearance of the structure.
- (2) The Municipality may require of its own accord, or upon request from an abutting affected landowner, that a common boundary wall or other suitable screen be erected in instances where business or industrial zoned properties abut residential, community, open space, or any other use zone and has an adverse impact on the adjacent property.

52. Shipping containers, wooden houses, and tented structures

- (1) The use of shipping containers, wooden houses, tented and other similar portable structures for permanent habitation and occupation (for any use including storage) is not permitted in a position where the said structure is visible from a public road or public open space unless specifically provided for in the zone or with the permission of the Municipality.

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- (2) All such structures, whether temporary or permanent, when used for habitation or storage, are regarded as buildings in terms of this Scheme, shall be compliant with the development rules of the particular zone and require approved building plans.

53. Solar and wind energy generation

- (1) The installation of apparatus on roofs to generate solar energy for any on-site consumption is permitted in any zone in this Scheme, provided that the Municipality may regulate the visual appearance of such apparatus in accordance with the provisions of the Scheme.
- (2) Installation of wind power generation apparatus on roofs for on-site use only is permitted with the permission of the neighbours.
- (3) Excess electricity generated by such apparatus may be fed into the electricity network, subject to relevant legislation, provided that energy generation apparatus continues to serve the land uses on the property, it does not adversely affect the continued primary permitted use of the property and does not have an adverse impact on the surrounding land uses or character of the area.
- (4) The Municipality may limit the scale of such solar and wind energy apparatus on any land unit to ensure that it primarily serves the energy needs of the land unit concerned and does not have an adverse impact on the character of the area or neighbouring properties.
- (5) The Municipality may grant permission for the erection of freestanding solar and wind apparatus which are not attached to the roofs of buildings to generate solar energy for any on-site use, subject to the same conditions as above.
- (6) This section does not enable renewable energy generation which sole purpose is to feed into the national grid. The appropriate application shall be required depending on the property's zoning.

54. Special use

- (1) Any land use which is not described in one of the land use definitions or provided for in this Scheme may be granted as a "special" consent use, provided that the land use is compatible with the purpose of the base zone, taking into consideration the characteristics of the special use itself and nature of uses which would ordinarily be permitted in the zone.
- (2) If there is incongruence between the intended special use and the primary uses of the base zone, a rezoning to an appropriate base zone must be undertaken prior to or at the same time as the consent use application.
- (3) An approval for special consent use shall be included in the zoning register.

55. Steep slopes and ridgelines outside urban edge

- (1) No new buildings except fences, outside the urban edge as indicated in an approved Spatial Development Framework, are permitted on properties where the slopes are steeper than 1:4, except with the permission of the Municipality.
- (2) No new buildings or structures except fences, outside the urban edge as indicated in an approved Spatial Development Framework, are permitted on or protruding above ridgelines except with the permission of the Municipality.
- (3) Such permission may be granted after due consideration of the visual impact of the proposed building or structure, together with any infrastructure which serves the development or gives access to it, and the Municipality may impose conditions to mitigate adverse impacts.

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56. Structures or equipment on top of or attached to building

- (1) On a pitched roof, external geysers, solar panels, or other equipment affixed to the roof of a building may not at any point extend more than 2m above the roof surface, measured vertically from that surface; provided that it may protrude more than 0,5m above the roof ridge.
- (2) On a flat roof, external geysers, solar panels, or other equipment affixed to the roof or any other features such as ventilation shafts, water tanks, air conditioning plants, units and ducts or other equipment on top of the roof may not exceed a height of 2,5m above the wall plate and must be set back at least 3m from the edges of the building.
- (3) Notwithstanding subsection (2), rooftop base station masts may be a height of 3 meters provided that it must be set back at least 3m from the edges of buildings (refer to section 48).
- (4) The Municipality may require screening for any equipment or structures on top or attached to a building.

57. Traffic studies

- (1) The Municipality may require that a traffic impact study be undertaken by an owner or developer when a rezoning, subdivision, consolidation or consent use application is submitted and the thresholds in subsection (2) are met or exceeded.
- (2) The Municipality may at building plan submission require that a traffic impact study be undertaken in any instance where intended development constitutes a redevelopment or intensification of land use within the parameters of the zone, where the thresholds set out in subsection (3) are met or exceeded, notwithstanding that proposed development may be in accordance with the zone.
- (3) The following are the thresholds for traffic studies to be undertaken. Trip generation rates to be based on applicable South African Trip data manual or any suitable trip rate agreed to by the relevant municipal department:
 - (a) When less than 50 additional peak hour trips are generated, no study is required;
 - (b) When 50 or more additional peak hour trips are generated, but less than 150 trips, then a limited traffic impact statement may be required by the Municipality;
 - (c) When 150 or more additional peak hour trips are generated then a full-scale traffic impact assessment may be required by the Municipality.

58. Urban horticulture

- (1) Nothing in this Scheme prohibits the use of land in any use zone for small-scale urban horticulture, provided that the extent and nature of the activity will remain compatible with the primary land uses in that zone, in the sole opinion of the Municipality.
- (2) The use of pesticides, fertilisers, equipment, machinery, and trucks will take account of the abutting land uses surrounding it and will not cause a nuisance or adverse impact on existing rights of neighbours.
- (3) Crop cover for urban horticulture may only be permitted with the Municipality's technical approval and may not exceed the height of the boundary wall, except with neighbours' permission.
- (4) Should the activity pose a health risk or cause undue public nuisance, the Municipality may issue a compliance notice, impose conditions, or require the activity to cease.

59. Utility services

- (1) Underground linear utility services for water, sewerage, electricity and telecommunication cables, above ground transmission lines and substations, pump stations and switching stations which are associated with this linear infrastructure may be installed in any use zone, except where indicated that it is a consent use, provided that any above ground infrastructure will not exceed 4m in height and the area occupied by such infrastructure, whether a separate land unit or not, does not exceed 25m².

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- (2) If the above land area required for utility infrastructure is exceeded, the required portion, or the whole land unit, as the case may be, shall be rezoned Utility zone.
- (3) No buildings (except buildings associated with the particular service) may be constructed over utility services unless the Municipality has granted permission.
- (4) No concentrated rainwater may be discharged onto an abutting neighbour's property directly from a roof or gutter unless such neighbour has granted consent, and in the event of any new building work, granted permission for a suitable servitude to be registered.

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CHAPTER 4: MIXED-USE ZONE

CHAPTER 4: MIXED-USE ZONE

The purpose of this zone is to make provision for the following:

- *the greatest mix of business, residential, tourist and community uses in central business nodes, at strategic nodes, and along activity streets;*
- *the greatest intensity of development;*
- *the improvement of traditional central business areas and increasing its competitiveness; and*
- *improved feasibility of public and non-motorised transport, by allowing a high intensity of land use.*

60. Zone name and Designation

- (1) The Mixed-use Zone may be referred to by the code (MU) and must be indicated on the zoning map in blue (Colour code 38, 109, 252).

61. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Apartment building • Business ≤ 2000m² • Community care facility • Community residential • Conference facility • Dwelling house • Function venue • Group housing • Healthcare facility • Hostel • Hotel • Indoor sport • Informal trading • Liquor outlet • Lodging accommodation • Mortuary • Outdoor sport • Place of assembly • Place of entertainment • Place of instruction • Public institution • Second dwelling house • Third dwelling unit • Vehicle sales • Vehicle services • Visitors' accommodation 	<ul style="list-style-type: none"> • Business > 2000m² 	None	<ul style="list-style-type: none"> • Big box retail • Fuel retail • Light Industry <2000m² • Parking garage • Passenger transport facility (whole site) • Special use • Warehouse <2000m² 	<ul style="list-style-type: none"> • Noxious industry • Risk industry • Utility plant
ADDITIONAL	<ul style="list-style-type: none"> • Freestanding mast • House shop • Non-motorised transport • Occasional use (x1) • Open space • Rooftop base station • Utility services 	<ul style="list-style-type: none"> • Passenger transport facilities (portion of site) 	None	<ul style="list-style-type: none"> • Occasional use (>1x) 	

- (2) One or more of any of the permitted uses may be conducted on a land unit zoned for Mixed Use at the same time.



DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 4: MIXED-USE ZONE

- (3) For a property developed with a dwelling house, (and where applicable, second dwelling house and third dwelling unit) in this zone, the same development and land use parameters contained in the Conventional Housing Zone apply, which means the additional uses permitted in a dwelling house and second dwelling house in Conventional Housing Zone are also permitted as additional uses in dwelling houses and second dwelling houses in this zone, except where otherwise indicated in the table above.

62. Business premises

- (1) The floor space of any one business entity may not exceed 2000m² without the technical approval of the Municipality.
- (2) An application as contemplated in subsection (1) above must be accompanied by a site development plan.
- (3) When granting its consent for business premises with a floor space of more than 2000m², the Municipality must ensure that such building is designed to accommodate more than one business entity and that the scale of the building and its interface with public spaces are not detrimental to the character of the area.
- (4) A business may prepare, manufacture and/or package food, beverages or goods which are sold or consumed on the premises. Such preparation, manufacturing, storage and/or packaging shall not exceed 50% of the floor area of the premises concerned.
- (5) A retail or personal services business may include a workshop on a portion of the premises where household appliances, electronic devices, clothes and household goods are stored, manufactured, repaired and serviced. Such an area may not exceed 50% of the area of the shop.

63. Informal trading

- (1) Informal trading may be conducted from property in this zone provided that such trading does not impact on pedestrian and vehicle circulation and parking provision as required by this Scheme, and that adequate services are provided to ensure that trading complies with Municipal standards.

64. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

65. Building development parameters in this zone

- (1) The following building restrictions shall apply in this zone:

	STREET BUILDING LINES)	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
For properties abutting MU, IND and U zones	0m	0m	100%	20m
For properties abutting zones other than MU, IND and U zones	0m	4,5m	100%	20m

- (2) Except with the permission of the Municipality, parking may not be positioned within 10m of the street boundary of a property in this zone to encourage activation of the street edge;
- (3) When approving building plans for structures in this zone, the Municipality must ensure the creation of active edges and facades to buildings facing onto designated activity streets or nodes as identified in an approved Spatial Development Framework. Such requirements may include the placement of building edges on or close to the street boundary (build-to lines), the use of openings and visually permeable windows on ground floor facades, balconies and terraces on first floors to ensure visual surveillance, stipulation of the nature of ground floor land uses, the placement of parking and vehicle circulation spaces behind buildings and landscaping and boundary wall treatment and detailing.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 4: MIXED-USE ZONE

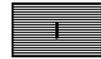
- (4) The Municipality may formulate a policy about the creation of active edges and façades and enforce the policy in terms of this provision.
- (5) Notwithstanding the street building line, the Municipality may permit a projection of the building over the street boundary subject to the following conditions:
 - (a) the projection may not be closer than 500mm to the kerb of the road;
 - (b) the ground floor level below the projection shall be used exclusively as a public pedestrian way, with or without a colonnade;
 - (c) the projection shall provide at least 2,8m clearance above the level of the pavement; and
 - (d) the owner must enter into an encroachment agreement with the Municipality.
- (6) No overlooking features are permitted on the common boundaries in this zone unless such features are setback at least 4,5m from the common boundary.
- (7) For an existing dwelling house in this zone, the same building development parameters as set out in Conventional Housing zone shall apply

66. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the for permitted and additional uses and any other development on property in question, and shall be complied with, unless a departure has been granted otherwise.

67. Development charges in this zone

- (1) The Municipality may impose development charges for any additional permitted use or consent use application.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation as a result of this Scheme.
- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the land owner prior to the approval of said building plan.
- (4) The Municipality shall consider imposing development charges for any development in this zone that exceeds a floor factor of 3,0.



DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 5: INDUSTRIAL ZONE

CHAPTER 5: INDUSTRIAL ZONE

The purpose of this zone is to make provision for:

- *sufficient land to be retained for general manufacturing and large-scale industrial and warehousing purposes and for any activity exercised in connection therewith or addition thereto;*
- *the location of industrial uses in areas where negative impacts of such uses can be limited to the industrial area and its environs;*
- *certain large-scale retail activities which are not appropriate in the historical centre of towns;*
- *shops and restaurants of a limited scale, which is aimed at serving the surrounding workforce and clients;*
- *certain non-industrial uses, which are never the less compatible with the primary purpose of this zone.*

68. Zone name and Designation

(1) The Industrial Zone may be referred to by the code (IND) and must be indicated on the zoning map in purple (Colour code 183, 80, 217.).

69. Land use in this zone

(1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Animal care facility • Freestanding mast • Freight transport facility • Fuel retail • Industry • Informal trading • Light industry • Mortuary • Passenger transport facility • Restaurant < 500m² • Service depot • Shop < 500m² • Vehicles sales • Vehicle services • Warehouse 	None	None	<ul style="list-style-type: none"> • Abattoir • Adult services • Big-box retail • Container depot • Crematorium • Energy generation • Function venue • Freestanding masts (abutting CH or MUH) • Indoor sport • Intensive animal farming • Noxious industry • Parking garage • Place of assembly • Place of entertainment • Recycling facility • Renewable energy generation • Risk industry • Shop > 500m² • Special use • Utility plant • Vehicle depot 	None
ADDITIONAL	<ul style="list-style-type: none"> • Employee housing (1unit) • Non-motorised transport • Occasional use (1x) • Open space • Rooftop base station • Utility plant • Utility services 	<ul style="list-style-type: none"> • Further employee housing • Passenger transport facilities (portion of site) 	None	<ul style="list-style-type: none"> • Occasional use(>1x) 	



DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 5: INDUSTRIAL ZONE

70. Shops, restaurants, and factory shops

- (1) Goods for sale in shops in this zone shall be limited to, at the sole discretion of the Municipality, convenience goods, and food, and may include foodstuffs, groceries, household cleaning agents and toiletries. The floor area of a shop or restaurant in this zone shall not exceed 500m².
- (2) Where a shop is provided on a property used for industrial purposes which is not a convenience shop or restaurant as indicated above, only goods that are stored or manufactured on the land unit may be sold. The floor area of such a shop shall not exceed 25% of the floor area of the industrial uses on a land unit or 500m² whichever is the smallest.
- (3) The Municipality may grant consent for a shop to exceed a floor area of 500m² and shall when considering such applications give due consideration to the need to provide industrial land in the Municipality and not inhibit industry by approving land uses which could negatively impact on the industrial potential of land.

71. Employee housing

- (1) No more than one dwelling unit for employee housing shall be permitted on any land unit used for industry or warehousing, except with permission granted by the Municipality for enterprises where it is necessary for the operational functioning of the industry to have additional employees accommodated on the property.
- (2) The floor area of an employee housing dwelling unit shall not exceed 120m².
- (3) The dwelling unit shall be occupied by only one household as defined.
- (4) One of the occupants must be employed in connection with the main activity on the site.

72. Freestanding masts

- (1) Freestanding masts are permitted in this zone provided they comply with the General parameters set out in section 34.
- (2) Notwithstanding subsection (1), consent is required for a freestanding mast on a property zoned Industrial Zone, which abuts a property which is zoned Conventional Housing Zone or Mixed-Use Housing Zone.

73. Vehicle sales

- (1) All vehicles being sold from a vehicle sales enterprise shall always be stored on the premises concerned, together with the required parking bays for customers.

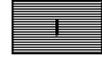
74. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property, shall comply with the general parameters set out in Section 38

75. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
For properties abutting MU, IND and U zones	0m	0m	75%	21m
For properties abutting zones other than MU, IND and U zones	0m	4,5m	75%	11m



DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 5: INDUSTRIAL ZONE

- (2) Provision must be made for on-site delivery, queuing and turning of vehicles to the satisfaction of the Municipality.
- (3) When approving building plans or consent uses in this zone, the Municipality may stipulate requirements for the landscaping and screening of a property or parts thereof, which may include requirements for landscaping on land units abutting the property.

76. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

77. Development charges in this zone

- (1) The Municipality may impose development charges for additional permitted use or any consent use application.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation as a result of this Scheme.
- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the landowner prior to the approval of said building plan.
- (4) The Municipality shall consider imposing development charges for any development in this zone that exceeds a floor factor of 2,0 in the former Mbekweni zoning scheme area, and 1,5 anywhere else in the municipal area.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 6: UTILITY ZONE

CHAPTER 6: UTILITY ZONE

The purpose of this zone is to make provision for the use of land for the provision and protection of any infrastructure services for the general public, whether in public or private ownership.

78. Zone name and Designation

- (1) The Utility Zone may be referred to by the code (U) and must be indicated on the zoning map in red (Colour code 255, 0, 0).

79. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> Existing land use Green infrastructure Utility services 	None	None	<ul style="list-style-type: none"> Abattoir Animal care facility Correctional facility Energy generation Freestanding mast Military facility Recycling facility Renewable energy generation Service depot Special use Utility plant 	<ul style="list-style-type: none"> Sectional title
ADDITIONAL	<ul style="list-style-type: none"> Employee housing Non-motorised transport Occasional use (x1) Open space Rooftop base station 	<ul style="list-style-type: none"> Further employee housing Informal trading 	None	<ul style="list-style-type: none"> Occasional use (>1x) 	

- (2) Permitted uses in this zone are limited to current uses; new or further primary uses will require a consent use application to be made prior to the activity commencing.
- (3) More than one primary land use may be conducted from the property.

80. Existing lawful land uses is a primary permitted land use

- (1) In this zone, notwithstanding section 7(6), any existing lawful land use which appears in the consent column is considered to be a primary permitted use and land may be used and developed accordingly without obtaining first the Municipality's consent first for further development.

81. Employee housing

- (1) No more than dwelling unit for one employee housing shall be permitted on any land unit, except with permission granted by the Municipality where it is necessary for the operational functioning of the facility to have additional employees accommodated on the property.
- (2) The floor area of an employee housing dwelling unit shall not exceed 120m².
- (3) The employee dwelling unit shall be occupied by one household only as defined.
- (4) One of the occupants must be employed in connection with the main activity on the site.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 6: UTILITY ZONE

82. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

83. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
5m	5m	60%	8m

- (2) When approving building plans or consent uses in this zone, the Municipality may stipulate requirements for the landscaping and screening of a property or parts thereof, which may include requirements for landscaping on land units abutting the property.

84. Site development plan

- (1) A site development plan may be required by the Municipality for consent uses on the site.

85. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the for permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

86. Development charges in this zone

- (1) Refer to Section 30.

T

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 7: TRANSPORT ZONE

CHAPTER 7: TRANSPORT ZONE

The purpose of this zone is to make provision for:

- *roads, whether private or public, as indicated on a general plan or diagram, whether or not constructed, and roads which may not be cadastrally defined, but which are public roads by virtue of their use or other legislation;*
- *Public areas for parking of motor vehicles that are operational. Such parking may be provided in buildings or in open parking areas in order to address the need for on - or off-street parking in an area, with or without the payment of a fee;*
- *facilities for public transport services and commercial uses ancillary to such facilities;*
- *opportunities for additional uses and occasional uses on land units zoned for transport purposes.*

87. Zone name and Designation

- (1) The Transport Zone may be referred to by the code (T) and must be indicated on the zoning map in pale grey (Colour code 255,255,255).

88. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Non-motorised transport • Passenger transport facilities (infrastructure and structures) • Private road • Public road 	<ul style="list-style-type: none"> • Railway lines • Surface parking 	None	<ul style="list-style-type: none"> • Airport • Container depot • Freestanding mast • Freight transport facilities • Fuel retail • Helipad • Heliport • Parking garage • Special use • Vehicle depot 	<ul style="list-style-type: none"> • Adult services • Gambling • Sectional title
ADDITIONAL	<ul style="list-style-type: none"> • Employee housing • Occasional use (x1) • Open space • Rooftop base station • Utility services 	<ul style="list-style-type: none"> • Further employee housing • Informal trading 	None	<ul style="list-style-type: none"> • Occasional use (>1x) 	

- (2) One or more of the abovementioned uses are permitted on any land unit at the same time.
- (3) The Municipality may indicate new proposed streets, widening and closing of streets for information purposes on the zoning map.
- (4) The original zoning of the affected properties will remain in place until the new street or widening has been proclaimed in terms of the relevant legislation and the required rezoning has become effective.

89. Employee housing

- (1) No more than one dwelling unit for employee housing shall be permitted on any land unit, except with permission granted by the Municipality where it is necessary for the operational functioning of the facility to have additional employees accommodated on the property.
- (2) The floor area of an employee housing dwelling unit shall not exceed 120m².
- (3) The dwelling unit shall only be occupied by one household as defined.
- (4) One of the occupants must be employed in connection with the main activity on the site.

T

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 7: TRANSPORT ZONE

90. Sidewalks and business outdoor

- (1) Pedestrian sidewalks may not be obstructed by signboards or any other object which may impede the flow of pedestrians. If objects cause such obstruction the Municipality shall immediately issue a compliance notice and the responsible party shall comply with such notice forthwith by removing the object or objects.
- (2) The Municipality may grant its permission for sidewalks or portions of land units in this zone that is not required for the primary use to be used for occasional uses, informal trading, and on a more permanent basis for outdoor businesses, provided that the flow for pedestrians or other primary uses are not impeded by these uses.
- (3) The Municipality may allow projections above ground level over sidewalks where a road abuts a Mixed-use Zone, provided that such projection must have a clearance of at least 2,8m above the level of the sidewalk and must be set back at least 500mm from the kerb with the road.

91. Passenger transport facilities

- (1) Linear passenger transport facilities and open structures (which are not an enclosed building) are permitted as a primary right in this zone.
- (2) All facilities which entail the construction of enclosed buildings, including bus stations, new train stations, and taxi ranks require the submission of a technical site development plan.

92. Non-motorised transport facilities

- (1) All non-motorised transport facilities which are open to the elements are permitted in this zone as a primary right, including ancillary buildings, kiosks, and structures.

93. Deeming of private roads

- (1) When approving a subdivision where no other change of zoning is required other than the creation of one internal private road, rezoning to Subdivisional Area Zone is not required, and the private road will be deemed Transport Zone upon confirmation of the subdivision.

94. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

95. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
5m	5m	60%	8m

- (2) When approving building plans or consent uses in this zone, the Municipality may stipulate requirements for the landscaping and screening of a property or parts thereof, which may include requirements for landscaping on land units abutting the property.

T

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 7: TRANSPORT ZONE

96. Site development plan

- (1) A site development plan shall be required by the Municipality for any use in this zone requiring a technical site development plan or consent use.
- (2) If trading areas in this zone are demarcated in terms of the Municipality's Informal Trading Policy, Outdoor Trading Policy or any other similar policy or by-law, a site development plan is not required for this activity.

97. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the for permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

98. Development charges in this zone

- (1) The Municipality may impose development charges for any consent use applications granted and for any ancillary business or industrial uses.

NB

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 8: NEIGHBOURHOOD BUSINESS ZONE

CHAPTER 8: NEIGHBOURHOOD BUSINESS ZONE

The purpose of this zone is to make provision for:

- *lower order commercial and community uses to serve the surrounding community that will not impact negatively on the amenity of the surrounding residential area;*
- *lower intensity business development outside central business nodes and activity streets;*
- *occasional uses and informal trading serving the surrounding area;*
- *residential opportunities in the form of apartments.*

99. Zone name and Designation

- (1) The Neighbourhood Business Zone may be referred to by the code (NB) and must be indicated on the zoning map in pale powder blue (Colour code 135, 174, 250).

100. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Apartment building • Business <2000m² • Community care facility • Community residential • Dwelling house • Indoor sport • Lodging accommodation • Place of assembly • Place of instruction • Public institution • Second dwelling house • Third dwelling unit • Vehicle sales • Visitors' accommodation 	None	None	<ul style="list-style-type: none"> • Adult services • Business >2000m² • Conference facility • Freestanding mast • Fuel retail • Function venue • Gambling • Healthcare facility • Hostel • Hotel • Mortuary • Outdoor sport • Place of entertainment • Special use • Vehicle services • Warehouse 	<ul style="list-style-type: none"> • Big box retail • Noxious industry • Risk industry • Utility plant
ADDITIONAL	<ul style="list-style-type: none"> • House shop • Informal trading • Non-motorised transport • Occasional use (1x) • Open space • Utility services 	<ul style="list-style-type: none"> • Passenger transport facilities • Roof top base station 	None	<ul style="list-style-type: none"> • Occasional use (>1x) 	None

- (2) One or more of any of the permitted uses may be conducted on a land unit zoned for NB at the same time.
- (3) For a property developed with a dwelling house, (and where applicable, second dwelling house and third dwelling unit) in this zone, the same development and land use parameters contained in the Conventional Housing Zone apply, which means the additional uses permitted in a dwelling house and second dwelling house in Conventional Housing Zone are also permitted as additional uses in dwelling houses and second dwelling houses in this zone., except where otherwise indicated in the table above.

NB

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 8: NEIGHBOURHOOD BUSINESS ZONE

101. Business premises

- (1) Any one business enterprise may not have a floor area exceeding 2000m² unless the Municipality has granted its consent.
- (2) When granting a consent use for business buildings with a floor area exceeding 2000m², the Municipality will ensure that such premises are able to accommodate more than one business entity and that the scale of the building and its interface with public spaces are not detrimental to the character of the area.
- (3) A business may prepare, manufacture and/or package food, beverages and goods which are sold or consumed on the premises. The area used for such preparation, manufacturing, storage and/or packaging shall not exceed 50% of the floor area of the premises concerned.
- (4) A shop may include a workshop on a portion of the premises where household appliances, electronic devices, clothes and household goods are manufactured, repaired and serviced. Such an area may not exceed 50% of the floor area of the shop.

102. Informal trading

- (1) Informal trading is permitted provided that such trading does not impact on pedestrian and vehicle circulation and parking provision and that adequate services are provided to ensure that trading complies with Municipal standards.

103. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

104. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
For properties abutting NB, MU, IND and U zones	0m	0m	80%	11m
For properties abutting zones other than NB, MU, IND and U zones	0m	4,5m	80%	8m

- (2) Except with the permission of the Municipality, parking may not be positioned within 10m of the street boundary of a property in this zone to encourage activation of the street edge;
- (3) When approving building plans for structures in this zone, the Municipality must ensure the creation of active edges and facades to buildings facing onto designated activity streets or nodes or similar areas as indicated in an approved Spatial Development Framework. Such requirements may include enforcement of the placement of building edges on or close to the street boundary (build-to lines), the use of openings and visually permeable windows on ground floor facades, balconies and terraces, stipulation of the nature of ground floor uses, the placement of parking and vehicle circulation spaces behind buildings and landscaping and boundary wall treatment and detailing.
- (4) The Municipality may formulate a policy about the creation of active edges and facades and enforce the policy in terms of this provision.

NB

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 8: NEIGHBOURHOOD BUSINESS ZONE

- (5) For a dwelling house in this zone, the same building development parameters as set out in Conventional Housing zone shall apply.

105. General parameters and parking

- (1) The general parameters, including parking, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the development or property in question, and shall be complied with, unless a departure has been granted otherwise.

106. Development charges in this zone

- (1) The Municipality may impose development charges for any additional permitted use or consent use application.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation as a result of this Scheme.
- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the land owner prior to the approval of said building plan.
- (4) The Municipality shall consider imposing development charges for any development in this zone that exceeds a floor factor of 1,5.

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DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 9: MULTI-UNIT HOUSING ZONE

CHAPTER 9: MULTI-UNIT HOUSING ZONE

The purpose of this zone is to make provision for:

- *development of medium and high-density multi-unit residential development of a range of housing types, such as dwelling houses, group-, semi-detached- or row houses;*
- *high-density residential development, such as apartments;*
- *group housing development of medium or high density with a uniform group character and shared private services and access, which can either be subdivided or on one cadastral erf;*
- *other multi-unit residential land uses such as student and tourism accommodation and other forms of residential accommodation.*

107. Zone name and Designation

- (1) The Multi-Unit Housing Zone may be referred to by the code (MUH) and must be indicated on the zoning map in orange (Colour code 255, 102,0).

108. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Apartment building • Community residential • Dwelling house • Group housing • Hostel • Lodging accommodation • Second dwelling house • Third dwelling unit • Visitors' accommodation 	None	<ul style="list-style-type: none"> • Non-habitable structures outside common boundary building lines 	<ul style="list-style-type: none"> • Hotel • Office • Place of assembly • Place of instruction • Special use 	<ul style="list-style-type: none"> • Abattoir • Adult services • Gambling • Liquor outlet • Mortuary • Noxious industries • Risk industries • Tavern • Utility plant
ADDITIONAL	<ul style="list-style-type: none"> • Occasional use (x1) • Open space • Private road • Restaurant (on ground on activity street) • Shop (on ground on activity street) • Utility services 	<ul style="list-style-type: none"> • Ancillary medical care services • Non-motorised transport • Rooftop base station 	None	<ul style="list-style-type: none"> • Additional uses in Group houses • House shop • Occasional use (>1x) 	

109. Dwelling house, group housing, and apartment dwelling units

- (1) Each dwelling unit or dwelling house shall only be occupied by a household as defined, and/or be utilised in accordance with the provisions of the Scheme or conditions of an approval.
- (2) For a property developed with a dwelling house (and where applicable, second dwelling house and third dwelling unit) in this zone, the same development and land use parameters contained in the Conventional Housing Zone apply, which means the additional uses permitted in a dwelling house and second dwelling house in Conventional Housing Zone are also permitted as additional uses in dwelling houses and second dwelling houses in this zone., except where otherwise indicated in the table above.

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CHAPTER 9: MULTI-UNIT HOUSING ZONE

110. Shops and restaurants on the ground floor

- (1) Shops and restaurants on the ground floor of buildings in this zone may only be allowed as an additional use, over and above the residential uses, on properties where the property faces onto an activity corridor, -street or -node in an approved Spatial Development Framework and shall face onto and be accessed from such a street boundary which is an activity corridor or street or node.
- (2) A shop and/or restaurant on the ground floor of buildings in this zone may occupy no more than 25% or 100m² of the ground floor space, whichever is the lesser.
- (3) The hours of operation of shops and restaurants on the ground floor shall be limited to between 6:00 and 22:00.

111. Medical care services

- (1) An apartment building, community residential building or group housing complex may include ancillary medical care services for the residents which may be amongst others aged, indigent, abused, handicapped or orphaned, provided that the service may only be extended to bona fide residents of the residential facility and remains subservient to the primary residential use of the property.

112. Group housing

- (1) Group housing developments shall be accompanied by architectural guidelines or typical unit plans and elevations.
- (2) More than one group house may be constructed on a cadastral entity and may be subdivided at the same time or at a later stage.
- (3) No additional uses are permitted from dwelling units in Group Housing, except as a consent use.
- (4) The maximum density for a group housing development in this zone is 35du/ha.

113. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

114. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
All buildings up to a point 10m above base level	5m	5m	75%	24m
Buildings or portions exceeding 10m above base level	7m	7m		
Group housing	External: 3m Internal: 0m	External: 3m Internal: 0m	75%	12m

- (2) An external building line referred to in subsection (1) above in this a building line on a common or street boundary which has another external land owner abutting it, whilst an internal building line is along a common or street boundary which is along a proposed subdivision boundary which is internal to the land unit under consideration.

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CHAPTER 9: MULTI-UNIT HOUSING ZONE

- (3) When approving building plans for buildings in this zone, the Municipality must ensure that the design allows for visual surveillance of designated activity streets or nodes as indicated in an approved Spatial Development Framework. Such requirements may include the placement of building edges on or close to the street boundary (build-to lines), the use of openings and visually permeable windows on ground floor, balconies and terraces on first floors, stipulation of the nature of ground floor uses, the placement of parking and vehicle circulation spaces behind buildings and landscaping and boundary wall treatment and detailing.
- (4) The Municipality may formulate a policy about the creation of active edges and facades and enforce the policy in terms of this provision.
- (5) Any other permanent structures which are used not for human occupation may be constructed outside of the building line restrictions on the common boundaries, with the written permission of owners of the affected abutting properties.

115. Recreational and outdoor space and service yards

- (1) Outdoor space including private outdoor space in a group housing development shall be provided at a rate of at least 25m² per dwelling unit. This outdoor space may be provided in any combination of private and/or communal open space, provided that each dwelling unit has at the minimum a private outdoor space measuring 2mx5m. The Municipality may, at its discretion, reduce this requirement provided that sufficient public open space and recreational area exists near the property.
- (2) For properties accommodating apartments, lodging accommodation, and community residential buildings, communal outdoor space shall be provided at a rate of at least 10% of the area of the land unit, and that such outdoor space shall not be used for vehicles and shall be landscaped to the Municipality's satisfaction and reserved for recreation purposes for residents. The Municipality may, at its discretion, reduce this provision provided that sufficient landscaping is provided on site to address the interface with streets and sufficient outdoor or open space is available in proximity of the site for recreation purposes.
- (3) A service yard shall be provided to the Municipality's satisfaction in a group housing scheme or apartment building either for each dwelling unit or on a communal basis.
- (4) If required by the Municipality, an enclosed refuse area shall be provided in a position accessible from a public street to the satisfaction of the Municipality.

116. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

117. Development charges in this zone

- (1) The Municipality may impose development charges for additional permitted use or any consent use application.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation because of this Scheme.
- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the land owner prior to the approval of said building plan.
- (4) The Municipality shall consider imposing development charges for any development in this zone that exceeds a floor factor of 0,75 or group housing exceeding 35 dwelling units per hectare.

CH

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 10: CONVENTIONAL HOUSING ZONE

CHAPTER 10: CONVENTIONAL HOUSING ZONE

The purpose of this zone is to make provision for:

- *the use of land for the purposes of predominantly lower density conventional housing;*
- *the welfare and safety of the occupants of dwelling houses within a neighbourhood by limiting uses which are likely to give rise to a public nuisance or impact adversely on residents’ health, safety, and welfare;*
- *preserving a lower density character to certain residential areas whilst promoting moderate densification in line with the principles of the Spatial Development Framework;*
- *controlled opportunities for home employment and income generation through activities which are compatible with and ancillary to residential uses;*
- *moderate densification through additional dwellings of a similar built form and character.*

118. Zone name and Designation

- (1) The Conventional Housing Zone may be referred to by the code (CH) and must be indicated on the zoning map in Yellow (Colour code 255,255,0).

119. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS’ PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Dwelling house • Second dwelling house • Third dwelling unit ≤ 30m² 	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Non-habitable structures outside common boundary building lines 	<ul style="list-style-type: none"> • Community care facility • Community residential (no resident operator) • Group housing • Lodging accommodation (no resident operator) • Monument • Museum • Special use • Third dwelling >30m² • Visitors’ accommodation (no resident operator) 	<ul style="list-style-type: none"> • Abattoir • Adult services • Freestanding mast • Gambling • Liquor outlet • Mortuary • Noxious industry • Risk Industry • Tavern • Utility plant • Vehicle sales
ADDITIONAL	<ul style="list-style-type: none"> • Occasional use (x1) • Open space • Utility services • Urban horticulture • From Operator occupied dwelling/second dwelling house: <ul style="list-style-type: none"> ○ Business ○ Community residential ○ Lodging accommodation ○ Place of instruction ○ Visitors’ accommodation 	<ul style="list-style-type: none"> • Crop cover 	<ul style="list-style-type: none"> • Additional uses which generate noise, involve vehicle repairs or take place outdoors • Shelter 	<ul style="list-style-type: none"> • House shop • Occasional use (>1x) • Additional use that exceeds the threshold stipulated in this chapter. • Rooftop base station 	

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 10: CONVENTIONAL HOUSING ZONE

120. Dwelling house, second dwelling house, third dwelling unit and shelter

- (1) One main dwelling house is permitted on a land unit zoned for Conventional Housing Zone.
- (2) One second dwelling house is also permitted on the property, either in the same building as the main dwelling house or as a separate building.
- (3) A third dwelling unit not exceeding 30m² is furthermore permitted, to be included in either the main or second dwelling house or outbuilding, or as a stand-alone building.
- (4) A third dwelling unit exceeding 30m² is a consent use application and may only be conducted once approved by the Municipality.
- (5) In total, no more than three dwelling units are permitted on any land unit zoned for Conventional Housing.
- (6) When three dwelling units are erected on one land unit, these should be configured in such a way that they have the appearance of two or more buildings or divisions and be designed in a uniform architectural style, unless the Municipality has granted its permission for one building to contain all three dwelling units.
- (7) Outbuildings which are ordinarily used in connection with the dwelling houses, such as parking garage, storerooms and the like are permitted on the land unit and may be separate to the dwelling houses or provided in the same building.
- (8) Each dwelling unit on a land unit zoned Conventional Housing Zone shall not be occupied by more than one household except insofar it may be used for additional uses as provided in this zone.
- (9) Notwithstanding subsection (9) above and other provisions in this Chapter, the Municipality's permission will be required to accommodate more than 10 people in total on a land unit in this zone.
- (10) A shelter in this zone may be allowed in the place of a second or third dwelling unit, as the case may be, with the permission of the neighbours abutting and opposite the property, as well as any other land owners that will in sole opinion of the Municipality, be affected by the erection of a shelter.
- (11) A shelter shall comply with all other use and building parameters as prescribed for a dwelling house in this zone.

121. Additional uses where operator must reside on premises

- (1) The following additional uses may be conducted from a dwelling house or second dwelling house, only where the operator of the business is a *bona fide* permanent resident of the property:
 - (a) business (also see section 122);
 - (b) community residential (also see section 123);
 - (c) lodging accommodation (also see section 123);
 - (d) place of instruction (also see section 122);
 - (e) visitors' accommodation (also see section 123).
- (2) The activity may only be conducted from a dwelling house or second dwelling house on the property.
- (3) The activity may continue when the operator goes on holiday, provided that additional use activities will not continue for a period exceeding two weeks unless a resident manager is appointed to supervise the activities and may in any event not proceed without the *bona fide* operator's presence for more than one continuous month.
- (4) An operator of an additional use may either use a portion of the dwelling house in which he permanently resides or a portion of, or the entire second dwelling house or third dwelling unit for such additional use, on condition that all other parameters in this Scheme are adhered to. If the additional use is conducted from the same dwelling in which the operator resides, a household (other than the operator's household) may be accommodated in the other dwelling unit(s) on the land unit.

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CHAPTER 10: CONVENTIONAL HOUSING ZONE

- (5) Where the additional use entails the use of power tools, amplified sound, activities in unroofed outside spaces, or any activity involving the maintenance, repair or alteration of vehicles, the prior written permission of neighbours are required.
- (6) No more than two commercial vehicles not exceeding 3500kg each, used in connection with the additional use and may be stored on the land unit.
- (7) The operator of any additional use may employ one additional person, which is not resident on the land unit, to assist with the operation of the additional use.
- (8) Where an operator wishes to conduct an additional use which exceeds the area limitation, hours of operation, or number of people specified in this section, the Municipality may grant permission for alternative parameters for the particular use, provided that due notice is served to anyone whose rights or legitimate expectations may be affected by such permission.
- (9) Additional uses may not cause a public nuisance or affect the health, welfare, safety or rights of occupants or neighbours, including but not limited unreasonable noise, emissions, odours and traffic.
- (10) Residents who believe that an additional use causes a public nuisance or affect their health, welfare, safety or rights, may lodge a complaint with the Municipality, who shall investigate the matter in terms of the provisions of the Planning Law.
- (11) Where an additional use causes a public nuisance, or affects the health, welfare, safety or rights residents, in the sole opinion of the Municipality, the Municipality may serve a compliance notice in terms of the Planning Law, or an order to cease the additional use.

122. Instruction and business as additional use

- (1) Only one additional use for instruction or business may be conducted from the land unit at any given time.
- (2) The parameters below apply to additional business use:
 - (a) The total floor area occupied by a business, including storage of goods, may not exceed 30% of the total floor area of buildings on the land unit up to a maximum area of 50m².
 - (b) The nature of any alterations to the dwelling house(s) to accommodate additional uses must be such that the building can at any time revert to its use as a normal dwelling house and the residential character of the property shall be retained to the satisfaction of the Municipality.
 - (c) No goods related to the additional use may be displayed in view of public streets or public spaces.
 - (d) Signage in relation to the additional use shall be restricted to a single un-illuminated sign or notice not exceeding 2 000cm² in area which may not project over a road.
 - (e) The hours of operation of any additional use, other than visitor's or lodging accommodation, shall be restricted to between 07:00 and 17:00 daily; except where the use entails a place of instruction for under-aged children, in which case the hours are restricted to between 06:00 to 18:00.
 - (f) Where an additional use is a place of instruction, no more than 6 people including residents on the property partaking in the instruction, may be instructed on the property at any given time.

123. Visitors', lodging and community residential accommodation as additional use

- (1) The following use parameters apply to visitors', lodging and/or community residential accommodation in a dwelling house, second dwelling house or 3rd dwelling unit the Conventional Housing Zone:
 - (a) A maximum of 5 bedrooms in total on a land unit zoned for Conventional Housing Zone, accommodating not more than two persons per room, may be used for visitors', lodging and/or community residential accommodation.

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CHAPTER 10: CONVENTIONAL HOUSING ZONE

- (b) No alterations to the dwelling house(s) are permitted to accommodate visitors', lodging and/or community residential accommodation, which in the opinion of the Municipality, are such that the dwelling house(s) will not be able to revert back to use as a dwelling house by a single household.
 - (c) Meals, beverages and any other services may only be served to *bona fide* visitors or lodgers.
 - (d) The Municipality may require the screening of outdoor communal areas and overlooking features from adjacent properties.
 - (e) Double rooms used for accommodation shall have a minimum floor area of 14m².
 - (f) Single rooms used for accommodation shall have a minimum floor area of 6m².
 - (g) No cooking of meals shall be permitted in individual bedrooms or any common area except in an area designated on an approved building plan as the kitchen or braai area associated with the dwelling house or dwelling unit concerned.
 - (h) At least one bathroom with a washbasin, toilet and bath or shower shall be provided for every five guests, in addition to ablution facilities for the primary occupants on the property.
- (2) Visitors', lodging and/or community residential accommodation as an additional use in this zone may not consist of camping and may also not include a conference facility, gym or wellness centre.

124. Visitors', lodging and community accommodation as a consent use

- (1) In this zone, a land unit may not be used exclusively for visitors', lodging or community residential accommodation, without a permanent resident also living on the property, unless a consent use application was first granted by the Municipality.
- (2) The following provisions shall apply when a consent use is granted:
 - (a) No alterations to the dwelling house, second dwelling house or third dwelling unit, as the case may be, are permitted to accommodate visitors', lodging or community residential accommodation, which, in the opinion of the Municipality, prevent the buildings to revert back to be used as a dwelling house, second dwelling or third dwelling unit, as the case may be, and the scale of the buildings shall remain for the accommodation of a household in each unit.
 - (b) The Municipality shall impose a condition limiting the number of bedrooms and occupants which are permitted at any given time on the property, which may not exceed the number of rooms that would ordinarily have been approved in the three permitted dwelling houses on a property in this zone and taking into consideration the available on-site parking.
 - (c) On-site parking shall be provided for all visitors or lodgers, to the Municipality's satisfaction.
 - (d) The registered owner of the property or the operator of the facility shall designate in writing a person who will take responsibility for the management of the accommodation and shall provide the Municipality and abutting neighbours with the person's contact details.
 - (e) All other rules, except those pertaining to the number of rooms and lodgers, set out in Section 123 above shall apply where visitors', lodging or community residential accommodation is conducted exclusively from the property.

125. Group housing as a consent use

- (1) Group housing in this zone may only be conducted with the Municipality's consent.
- (2) Group housing developments shall be accompanied by architectural guidelines or typical unit plans and elevations.
- (3) More than one group house may be constructed on a cadastral entity.
- (4) A site with group houses may also be subdivided at the same time or at a later stage with the approval of a subdivision application in terms of Planning Law.

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CHAPTER 10: CONVENTIONAL HOUSING ZONE

- (5) The minimum and maximum density for a group housing development in this zone will be stipulated by the Municipality when granting the consent use approval and shall be inserted as a condition.
- (6) No additional uses are permitted from dwelling units in Group Housing, except as a consent use.
- (7) The requirements for recreational and outdoor space and service yards as set out in the Multi-Unit Housing zone shall apply to group housing developments in this zone.

126. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Notwithstanding the provisions in section 38, the number of attendees at an occasional use activity in this zone may not exceed 100 and the use, shall in all other respects comply with the general parameters set out in section 38.

127. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

AREA OF LAND UNIT	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
Up to 250m ²	1m	1m on one & 0m on two boundaries	70%	8m
251m ² to 500m ²	2m	1,5m	60%	
>500m ²	4,5m	1,5m	50%	
Garages and carports	0m	0m	n/a	4m

- (2) Garages and carports which are closer than 4,5m to the street boundary or 1,5m to the common boundary, shall not have garage doors or other closures that open towards or over the said boundary, and shall have automated doors or gates, unless the Municipality permits otherwise;
- (3) The width of the garage measured parallel to the street boundary shall not exceed 6,5m, and the height shall not exceed 4m;
- (4) A balcony or terrace, whether projecting from the face of the building or whether positioned on the roof of a building below, or a window or door on first-floor level, may not be located within the common boundary building line or closer than 1m from the common boundary whichever is the most restrictive.

128. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

129. Development charges in this zone

- (1) The Municipality may impose development charges for additional permitted use or any consent use application.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation because of this Scheme.

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CHAPTER 10: CONVENTIONAL HOUSING ZONE

- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the landowner prior to the approval of said building plan.
- (4) The Municipality shall consider imposing development charges for any development in this zone that exceeds one dwelling unit per land unit.

CU

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CHAPTER 11: COMMUNITY USE ZONE

CHAPTER 11: COMMUNITY USE ZONE

The purpose of this zone is to make provision for:

- *a wide range of community and welfare purposes including places of instruction, and places of assembly which include religious gatherings; and*
- *ancillary uses such as administrative offices, residential uses, libraries, school hostels, recreational and sports facilities and any other uses and buildings that are ordinarily associated with the particular facility.*

130. Zone name and Designation

- (1) The Community Use Zone may be referred to by the code (CU) and must be indicated on the zoning map in cyan (Colour code 153, 255, 237).

131. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Community care facility • Community residential • Healthcare facility • Hostel • Indoor sport • Lodging accommodation • Open space • Outdoor sport • Place of assembly • Place of instruction • Public institution 	For any significant change in existing land use	None	<ul style="list-style-type: none"> • Cemetery • Correctional facility • Mortuary • Special use 	<ul style="list-style-type: none"> • Abattoir • Adult services • Gambling • Liquor outlet • Noxious industries • Risk industries • Sectional title • Utility plant
ADDITIONAL	<ul style="list-style-type: none"> • Club house • Employee housing • Green infrastructure • Non-motorised transport • Occasional use (x1) • Restaurant • Shop • Utility services • Urban horticulture 	<ul style="list-style-type: none"> • Further employee housing • Informal trading • Rooftop base station 	None	<ul style="list-style-type: none"> • Club house, assembly, restaurant, (with liquor license) • Freestanding mast • Helipad • House shop • Occasional use (>1x) 	

- (2) The land use rights permitted in this zone does not include the right to transmit amplified sound. Approval to transmit amplified sound will require permission under the relevant legislation and/or by-law.

132. Employee housing and hostels

- (1) No more than one dwelling unit for employee housing shall be permitted on a property in this zone, except with permission granted by the Municipality where it is necessary for the operational functioning of the facility to have additional employees accommodated on the property.
- (2) The floor area of an employee dwelling unit on a property zoned for Community Use Zone shall not exceed 120m².
- (3) An employee dwelling unit shall be occupied by only one household as defined.
- (4) One of the occupants must be employed in connection with the main activity on the site or the house must be ancillary to the primary use on the property.

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CHAPTER 11: COMMUNITY USE ZONE

- (5) A hostel associated with or ancillary to a community facility is permitted in this zone, whether it is on the same land unit or not.

133. Place of assembly, shops, restaurants or club houses

- (1) A shop, club house, and/or restaurant in this zone must be related to or serve the patrons of the primary activity on the property.
- (2) The total floor area of a shop, club house, and/or restaurant may not exceed 25% of the floor area of the building, to a maximum of 250m².
- (3) Any use that includes the sale of liquor for consumption on the property is a consent use, and the Municipality may prescribe more restrictive building and land use parameters to mitigate the impacts on the amenity of the surrounding area, including, but not limited to the hours of operations and the number of occupants.

134. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

135. Building development parameters in this zone

- (1) The following building restrictions shall apply to buildings within this zone:

SIZE OF LAND UNIT	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
<2000m ²	5m	5m	50%	8m
≥2000m ²	5m	5m	1000m ² plus 30% of area exceeding 2000m ²	8m

- (2) Church steeples, minarets, and similar architectural features may exceed the maximum height prescribed in this zone at the discretion of the Municipality, provided that the Municipality is satisfied that such additional height is not intended to evade the intention of the Scheme.

136. Refuse areas

- (1) A refuse area shall be provided to the Municipality's satisfaction.

137. Site development plan

- (1) A site development plan shall be required by the Municipality for any building plan, land use application, or significant change in the permitted primary use for a property in this zone.
- (2) If trading areas in this zone are demarcated in terms of the Municipality's Informal Trading Policy or By-law, a site development plan is not required for this activity.

138. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the for permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

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DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

CHAPTER 11: COMMUNITY USE ZONE

139. Development Charges

- (1) The Municipality may impose development charges for additional permitted use or any consent use application.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation because of this Scheme.
- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the landowner prior to the approval of said building plan.

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MAY 2018

CHAPTER 12: OPEN SPACE ZONE

CHAPTER 12: OPEN SPACE ZONE

The purpose of this zone is to make provision for:

- *active or passive recreational spaces;*
- *open and landscaped spaces which contribute to the sense of place or visual amenity of an area;*
- *open space which accommodates riverine corridors, stormwater detention areas or fulfil other ecosystem services.*

140. Zone name and Designation

- (1) The Open Space Zone may be referred to by the code (OS) and must be indicated on the zoning map in pale green (Colour code 153, 255, 0).

141. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Conservation • Green infrastructure • Monument • Open space • Urban horticulture 	<ul style="list-style-type: none"> • Outdoor sport 	None	<ul style="list-style-type: none"> • Cemetery • Community care facility • Conference facility • Hotel • Indoor sports facilities • Public Institutions • Special use • Visitors' accommodation • Visitors' facilities 	<ul style="list-style-type: none"> • Adult services • Container depot • Gambling • Group housing • Noxious industries • Parking garage • Risk industries • Sectional title • Utility plant
ADDITIONAL	<ul style="list-style-type: none"> • Non-motorised transport • Occasional use (x1) • Utility Services 	<ul style="list-style-type: none"> • Crop cover • Employee housing • Informal trading • Place of Assembly • Restaurant • Shop 	None	<ul style="list-style-type: none"> • Freestanding mast • Further employee housing • Helipad • Occasional use (>1x) • Rooftop base station 	

142. Site development plan

- (1) A site development plan may be required by the Municipality for any primary use on the property.
- (2) A site development plan shall be submitted for additional uses prior to the commencement of an activity and the Municipality will ensure that any additional use does not impact negatively on the primary uses in this zone.
- (3) If trading areas in this zone are demarcated in terms of the Municipality's Informal Trading Policy or By-law, a site development plan is not required for this activity.

143. Employee housing

- (1) No more than one dwelling unit for employee housing shall be permitted on a property in this zone, except with permission granted by the Municipality where it is necessary for the operational functioning of the facility to have additional employees accommodated on the property.
- (2) The floor area of an employee dwelling unit on a property zoned for Community Use Zone shall not exceed 120m².
- (3) An employee dwelling unit shall be occupied by only one household as defined.

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- (4) One of the occupants must be employed in connection with the main activity on the site or the house must be ancillary to the primary use on the property.

144. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
 (2) Consent shall be obtained for any further occasional uses in a year.
 (3) Occasional use of a property for the purposes of events which are not normally conducted from the property, shall comply with the general parameters set out in section 38.

145. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

BUILDING	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM HEIGHT	MAXIMUM FLOOR AREA
Employee housing	10m	10m	5m	120m ²
All other buildings				500m ²

146. Boundary walls and fences

- (1) Notwithstanding the requirements set out in section 26 of this Scheme, only fencing will be allowed in this zone which shall be at least 80% visually permeable.

147. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the permitted and additional uses, and any other development on property in question, and shall be complied with, unless a departure has been granted otherwise.

148. Development charges in this zone

- (1) The Municipality may impose development charges for additional technical approval or any consent use application.
 (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation as a result of this Scheme.
 (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the land owner prior to the approval of said building plan.

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CHAPTER 13: AGRICULTURE ZONE

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The purpose of this zone is to make provision for:

- *use of land for purposes of bona fide agricultural production;*
- *buildings and structures which may be erected for reasonable and normal agricultural purposes;*
- *a range of ancillary and subservient uses which may take place on agricultural land units, either as additional rights or as consent uses and which provides for more intensive agricultural use, agricultural industry or agri-tourism with the objective of creating variety, ensuring sustainability and providing diversified income to landowners, without adversely impacting on the primary use of the land for agricultural production.*

149. Zone name and Designation

- (1) The Agriculture Zone may be referred to by the code (A) and must be indicated on the zoning map in mid green (Colour code 188, 235, 188).

150. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Agricultural buildings • Agriculture • Conservation • Dwelling house • Employee housing (1unit) • Second dwelling house 	None	<ul style="list-style-type: none"> • Animal care facilities • Intensive animal farming • Special use 	<ul style="list-style-type: none"> • Airport • Apartment building • Commercial gymnasium • Container depot • Freight transport facility • Fuel retail
ADDITIONAL	<ul style="list-style-type: none"> • Green infrastructure • Open space • Occasional use (x1) • From Operator occupied dwelling/second dwelling or employee housing <ul style="list-style-type: none"> ○ Business ○ Visitors' accommodation ○ Lodging accommodation ○ Community residential 	<ul style="list-style-type: none"> • Abattoir < threshold • Agricultural building > 2000m² • Agricultural processing ≤ 2000m² • Crop cover • Employee housing (>1 unit) • Monument • Museum • Non-motorised transport • Place of instruction ≤ 250m² • Plant nursery • Utility services • Visitors' accommodation < • Visitors' facilities • From operator occupied dwelling unit: <ul style="list-style-type: none"> ○ House shop 	<ul style="list-style-type: none"> • Abattoir > threshold • Agricultural processing > 2000m² • Additional use exceeding the parameters in this zone • Conference facility • Dwelling units (max 4 additional) • Freestanding mast • Function venue • Helipad • Occasional use (<1x) • Renewable energy generation • Rooftop base station • Service depot • Visitors' accommodation > threshold • Visitors facilities > threshold • Wellness centre 	<ul style="list-style-type: none"> • Funeral parlour • Group housing • Healthcare facility • Heliport • Hotel • Hostel • Industry • Light industry • Liquor outlet • Military facility • Mortuary • Noxious industry • Parking garage • Place of instruction > 250m² • Risk industry • Sectional title • Utility plant • Vehicle depot • Vehicle sales • Vehicle services

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CHAPTER 13: AGRICULTURE ZONE

151. Site development plan for agricultural enterprise

- (1) After the commencement of this Scheme, and prior to the erection of any new buildings or alterations to existing buildings or the conversion of any existing buildings to a new land use, or together with a planning application, a site development plan for the agricultural enterprise shall be submitted to the Municipality to indicate the existing legal land uses on the property and, if proposed, the intended new buildings or land use.
- (2) A site development plan for an agricultural enterprise must identify primary, additional, consent uses and departures already approved, and also show new buildings or planning approvals for which an application is being made, as the case may be.
- (3) A farm site development plan may indicate new envisaged permitted buildings which may be intended for future construction and a clear distinction shall be made between existing and future proposed buildings.
- (4) When assessing a site development plan for an agricultural enterprise in terms of subsection (1) above, the Municipality may require amendments to the positioning and nature of proposed new buildings, structures and landscaping to address health, safety, environmental and visual impacts, but may not refuse primary permitted rights.
- (5) Once a site development plan for an agricultural unit is approved, the Municipality shall record the approval in the zoning register and retain a copy of the plan in their records.
- (6) A site development plan for an agricultural enterprise may only be refused if the land uses shown are not permitted or compliant with the Scheme or are not lawful.
- (7) If the site development plan contains any aspect for which technical approval, permission or consent use is required, the necessary application shall be made in accordance with this Scheme and/or the Planning By-law prior to approval of the said plan.

152. Dwelling house, second dwelling house, additional dwellings, employee housing

- (1) Notwithstanding the provisions of section 32 of this Scheme, no more than one dwelling house, one-second dwelling and one *bona fide* employee housing shall be permitted on any agricultural land unit as a primary right.
- (2) The Municipality may grant a consent use for additional dwelling units on land units exceeding 20ha in size and one unit per every 10ha exceeding 20ha in size may be approved, up to a maximum of four additional dwellings units.
- (3) The Municipality may not grant a departure or its consent for further additional dwelling units, other than provided for in subsection (2) above.
- (4) Each dwelling house, second dwelling or additional dwelling unit may be occupied by no more than one household as defined or may be used in a manner permitted for additional uses or consent uses if approved.
- (5) A dwelling and second dwelling may not exceed a floor area, including outbuildings and garages, of 500m² each whilst any additional dwelling is limited to a floor area of 120m² each.
- (6) Additional employee housing may be provided for *bona fide* employees of the agricultural enterprise upon submission of a technical approval application together with satisfactory proof that the units are to be used for *bona fide* employees on the farm unit.
- (7) At least one of the occupants of the employee housing dwelling unit must be permanently employed in connection with the agricultural activities on the agricultural enterprise concerned.
- (8) Employee housing is limited to a floor area of 120m² each.

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153. Additional uses and consent uses

- (1) The additional uses which are permitted in a dwelling house, second dwelling house, additional dwelling or employee dwelling in this zone shall be subject to the same parameters as are set out in sections 121, 122 and 123 of the Conventional Housing Zone, where applicable, except that on a land unit in Agriculture Zone, the maximum number of bedrooms for visitors shall be 7 per land unit, and maximum number of visitors accommodated as such shall be 14 per land unit, as is set out in section 157(5), regardless of whether the operator resides there not.
- (2) If the operator resides permanently in the dwelling-house concerned the use is considered permitted additional use, whilst if the operator is not a resident in the dwelling house, the Municipality's technical approval is required for visitors' accommodation.
- (3) Once an existing dwelling house, second dwelling, additional dwelling, employee housing or other non-residential agricultural building is converted for an additional use or a consent use, no further building plan approvals will be granted for the construction of similar dwellings or agricultural buildings, unless the Municipality is satisfied that the expansion of non-agricultural uses and subsequent need for additional structures will not impact negatively on the primary agricultural function of the property.
- (4) When considering an application for consent use, the Municipality shall only approve consent uses which are related to or serve the surrounding agricultural or rural community. Any consent use which does not serve the surrounding agricultural or rural community (such as for example certain types of service depots) shall not be approved. The Municipality shall also consider imposing conditions linking the activity to specific operations to ensure ongoing adherence to these objectives.

154. Agricultural buildings

- (1) Agricultural buildings which are directly related to the agricultural production on an agricultural enterprise may be erected, provided that where the floor area of one building exceeds 2 000m², a site development plan shall be submitted to the Municipality for technical approval prior to submission of a building plan.
- (2) When granting consent for agricultural buildings exceeding 2 000m² floor area, the Municipality shall consider whether the buildings are associated with the agricultural activity on the land unit itself and may impose conditions which require that land units be notarially tied to the processing facility should it serve more than one land unit.

155. Agricultural processing

- (1) Agricultural processing facilities up to and including 2 000m² in total, may be erected on an Agriculture Zone land unit, provided that technical approval shall be obtained prior to submission of a building plan and a site development plan shall accompany the application.
- (2) Agricultural processing facilities exceeding a total floor area of 2 000m² shall require the approval of a consent use application.
- (3) At least 50% of the produce which is processed in an agricultural processing facility must be produced on the land unit concerned or on a group of land units managed as one agricultural enterprise.
- (4) The Municipality may require information about produce, yields and production capacity to confirm that the scale of the proposed agricultural processing building is commensurate with the farming activities on the land unit or agricultural enterprise concerned.
- (5) Agricultural processing shall remain subservient to agricultural production on the agricultural enterprise.
- (6) An agricultural processing facility may not be subdivided, alienated via a registered lease, nor sold via sectional title.

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- (7) When granting consent for agricultural processing facilities exceeding 2 000m² floor area, where produce is processed from more than one agricultural land unit, the Municipality may impose conditions which require that land units be notarially tied to the processing facility.

156. Abattoirs

- (1) An abattoir is allowed as an additional use with technical approval, provided that only animals reared on the agricultural enterprise may be slaughtered by the owners of the farm, subject to the following thresholds: more than 50 birds or 6 units of reptiles, game or red meat is slaughtered per day.
- (2) An abattoir exceeding the above threshold or where any of the animals slaughtered are reared on other agricultural enterprises will require the approval of a consent use application.

157. Visitors' facilities, plant nursery, and visitors' accommodation

- (1) Visitors' facilities and related uses in this zone may only be undertaken as an additional use with technical approval on an agricultural enterprise where the primary use of the property remains agricultural production. The visitors' facilities shall always remain subservient to the primary agricultural activities and shall not interfere with the agricultural land uses on the property.
- (2) If the land unit ceases to be used for agricultural activities, the Municipality may instruct the owner to cease operation of the visitors' facilities.
- (3) Visitors' facilities may not have an adverse impact, such as, but not limited to, noise, traffic congestion, pollution, emissions or the gathering of large numbers of people, on surrounding properties, nor may the visitors' facilities have an adverse impact on any bona fide agricultural activities on the agricultural enterprise itself or on neighbouring properties.
- (4) Notwithstanding that such activities may be listed as additional primary rights, in the event that the Municipality is of the opinion that an activity has an adverse impact as described in subsection (3), it reserves the right to impose any conditions it deems fit in order to mitigate adverse impacts or instruct the owner that the activity must cease and the Municipality shall issue a compliance notice in accordance with the Municipal Planning By-law.
- (5) Visitors' accommodation in the Agriculture Zone may not exceed 7 bedrooms or 14 people per land unit.
- (6) Notwithstanding the definition of visitors' facilities, in this zone a function venue, conference facility or wellness centre shall require the Municipality's consent.
- (7) The total floor area for all buildings used for visitors' facilities, visitors' accommodation and a plant nursery may not exceed 5% per hectare of the land unit up to a maximum of 1500m².
- (8) Where an owner wishes to conduct an additional use which exceeds the area limitation, or number of people specified in this section, the activity shall be a consent use.

158. Place of instruction

- (1) A place of instruction is an additional use which requires technical approval in this zone.
- (2) The total floor area of place of instruction facilities on an agricultural enterprise may not exceed 250m² and only one such facility may be provided per agricultural enterprise.
- (3) Instruction may only be provided for residents on the agricultural enterprise and their immediate families.
- (4) A place of instruction in this zone may also include a place of assembly for use of residents on the agricultural enterprise, subject to the overall floor area limitation for a place of instruction.

159. Crop covers

- (1) Crop cover of any kind may only be permitted with the technical approval of the Municipality.

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- (2) When considering a technical approval application for crop covers the Municipality shall have due regard for the primary agricultural rights, whilst also considering the importance of the cultural landscape, sense of place and visual impacts which contribute to the local economy.
- (3) In considering an application for technical approval the Municipality must seek to implement, through appropriate conditions, mitigatory measures which can address the possible adverse visual impacts, without adversely affecting the food production potential on an agricultural enterprise.
- (4) The Municipality may request that a visual impact assessment accompany a technical approval application for crop cover.
- (5) The Municipality may serve a compliance notice in terms of the provisions of the Planning Law if the mitigation measures imposed as conditions are not implemented to its satisfaction.
- (6) The Municipality may adopt a policy to indicate areas where a technical approval for crop covers will not be required, or not be approved, as the case may be.

160. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

161. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

	STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM HEIGHT	MAXIMUM FLOOR AREA
Agricultural building	5m	3m	12m	2000m ²
Dwelling house & second dwelling	5m	3m	8m	500m ² each
Employee housing	5m	5m	8m	120m ²
All other structures	5m	3m	8m	
Crop covers	25m	5m		
Land and structures used for the keeping of animals	5m	30m	5m	
Abutting another zone	5m	30m	As above	

- (2) Notwithstanding the building lines specified above the Municipality will determine the setback of abattoirs in this zone.
- (3) Notwithstanding the above, the Municipality may determine the appropriate position of any new buildings in this zone when considering the Site Development Plan required as part of such an application.
- (4) Where a public road has not been cadastrally demarcated, the Municipality may use the fence along such road, or the edge of the outside edge of the road itself (whichever is the most restrictive in the sole opinion of the Municipality) as the line from which to measure the building line.

162. Site development plan

- (1) A site development plan for an agricultural enterprise shall be required before any new buildings may be approved on a building plan.
- (2) All technical approval applications shall require a site development plan.

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- (3) A site development plan shall be required for a consent use application and once approved, shall become the development parameters for such use once approved.

163. Boundary walls and fences

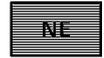
- (1) Notwithstanding the requirements set out in section 26 of this Scheme, only fencing will be allowed in this zone which shall be at least 80% visually permeable.

164. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the permitted and additional uses and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

165. Development charges in this zone

- (1) The Municipality may impose development charges for any additional permitted use, technical approval, consent use application in this Scheme.
- (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation as a result of this Scheme.
- (3) The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the landowner prior to the approval of said building plan.



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CHAPTER 14: NATURAL ENVIRONMENT ZONE

CHAPTER 14: NATURAL ENVIRONMENT ZONE

The purpose of this zone is to make provision for:

- *the protection of the natural environment, whether the land has been proclaimed for conservation purposes in terms of the relevant legislation, or not;*
- *the controlled utilisation of such areas for recreation purposes.*

166. Zone name and Designation

- (1) The Natural Environment Zone may be referred to by the code (NE) and must be indicated on the zoning map in dark forest green (Colour code 0, 153, 51).

167. Land use in this zone

- (1) The following use restrictions apply to property in this zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Conservation • Open space 			<ul style="list-style-type: none"> • Special use 	<ul style="list-style-type: none"> • Abattoir • Adult services • Business • Container depot • Freight transport facility
ADDITIONAL	<ul style="list-style-type: none"> • Green infrastructure • Occasional use (x1) 	<ul style="list-style-type: none"> • Monument • Museum 		<ul style="list-style-type: none"> • Dwelling house • Employee housing • Freestanding mast • Helipad • Occasional use (>1x) • Place of assembly • Rooftop base station • Utility services • Visitors' accommodation • Visitors' facilities 	<ul style="list-style-type: none"> • Fuel retail • Hotel • Hostel • Industry • Light industry • Liquor outlet • Mortuary • Noxious industry • Risk industry • Sectional title • Tavern • Vehicle services • Vehicles sales • Warehouse

- (2) Any combination of the above-mentioned uses may be permitted on a land unit.
- (3) Notwithstanding the land use restrictions set out in the table above the Municipality may, on rezoning a property to Natural Environment zone, consider preserving some of the rights that applied under the previous zoning, subject to technical approval.

168. Employee housing in this zone

- (1) The floor area of an employee dwelling unit on a property zoned for Natural Environment use shall not exceed 120m².
- (2) An employee dwelling unit shall be occupied by only one household as defined.
- (3) One of the occupants must be employed in connection with the main activity on the site or the house must be ancillary to the primary use on the property.

169. Visitors' facilities in this zone

- (1) Visitors' facilities provided in this zone must, in the opinion of the Municipality, be directly related to the natural resources present on the land unit.



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CHAPTER 14: NATURAL ENVIRONMENT ZONE

- (2) Visitors' facilities permitted as an additional use shall exclude all activities involving motorised vehicles, including cars, trucks, go-carts, motorcycles, quad bikes, drones, planes, helicopters, boats, jet-skis, unless the permission of the Municipality has been obtained.

170. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
 (2) Consent shall be obtained for any further occasional uses in a year.
 (3) Occasional use of a property for the purposes of events which are not normally conducted from the property shall comply with the general parameters set out in section 38.

171. Building development parameters in this zone

- (1) The following building restrictions shall apply within this zone:

STREET BUILDING LINES	COMMON BOUNDARY BUILDING LINES	MAXIMUM COVERAGE and floor area	MAXIMUM HEIGHT
5m	5m	500m ² or as restricted in SDP	5m

- (2) The floor area of any single building in this zone shall not exceed 120m² and the combined coverage and floor area of all buildings on a land unit shall not exceed 500m², without the permission of the Municipality.

172. Site development plan

- (1) All technical approval applications and consent use applications shall be accompanied by a site development plan (SDP).
 (2) The Municipality may prescribe a material and colour palette for buildings and structures in this zone.

173. Boundary walls and fences

- (1) Notwithstanding the requirements set out in section 26 of this Scheme, only fencing will be allowed in this zone which shall be at least 80% visually permeable.

174. General parameters and parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the for permitted and additional uses, and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

175. Development charges in this zone

- (1) The Municipality may impose development charges for additional permitted use, technical approval or any consent use application.
 (2) A development charge is payable in terms of section 30 in instances where a building plan is submitted to utilise intensified primary development rights which came into operation as a result of this Scheme. The Municipality shall, prior to approval of such a building plan, determine the extent of such additional rights utilised on the building plan, and calculate the required levy, which shall be paid by the landowner prior to the approval of said building plan.



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CHAPTER 15: LIMITED USE ZONE

CHAPTER 15: LIMITED USE ZONE

The purpose of this zone is to make provision for the following:

- *properties previously zoned 'undetermined' or other abolished zones in previous schemes which cannot be appropriately converted to a new use zone;*
- *existing lawful land uses in such zones to continue, but no new land uses shall be permitted, and properties must be rezoned to the appropriate use zone in order to permit new land uses;*
- *progressively phasing out the zone;*
- *no new rezoning to Limited Use Zone shall be permitted.*

176. Zone name and Designation

- (1) The Limited Use Zone may be referred to by the code (LU) and must be indicated on the zoning map in brown (Colour code 153, 102, 51).

177. Land use in this zone

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Limited to existing lawful uses at commencement date 	None	None	None	<ul style="list-style-type: none"> • New development without rezoning • Sectional title

- (1) No alteration to an existing land use or an existing building shall be permitted in Limited Use Zone.
- (2) No rezoning to Limited Use Zone shall be permitted after the commencement date.
- (3) Should additional uses or development rights be sought in this zone, a rezoning application to an appropriate use zone in terms of this Scheme must be made in terms of Planning Law.

178. Occasional use

- (1) Only one occasional use is permitted as an additional use in any one calendar year.
- (2) Consent shall be obtained for any further occasional uses in a year.
- (3) Occasional use of a property for the purposes of events which are not normally conducted from the property, shall comply with the general parameters set out in section 38.

179. Boundary walls and fences

- (1) Notwithstanding the requirements set out in section 26 of this Scheme, only fencing will be allowed in this zone which shall be at least 80% visually permeable.

180. Destruction of existing building

- (1) Buildings which have by accident been partially or completely destroyed may be reconstructed in accordance with lawful development rights which existed at the commencement date, provided that building plans for such reconstruction are approved within 12 months from the date of the accidental destruction.
- (2) Where a rezoning application is made from this zone to any other zone, for the sole purpose of regularising the zoning and no additional rights are sought, development contributions will not be payable.



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CHAPTER 15: LIMITED USE ZONE

181. General parameters including parking

- (1) The general parameters, including parking requirements, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the permitted and additional uses, and any other development on the property in question, and shall be complied with, unless a departure has been granted otherwise.

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CHAPTER 16: SUBDIVISIONAL AREA ZONE

CHAPTER 16: SUBDIVISIONAL AREA ZONE

The purpose of this zone is to make provision for the following:

- *the designation of land for future subdivision with development rights by providing development directives through specific conditions as approved in terms of the Planning Law.*
- *confirmation of the principle of development and acceptance of future subdivision of land; but not the detailed layout, which will be determined when an actual application for subdivision is approved.*

182. Zone name and designation

- (1) The Subdivisional Area Zone may be referred to by the code (SA) and must be indicated on the zoning map in purple double line hatching (Code191, 195, 254).

183. Land use in this zone

- (1) Land zoned as a subdivisional area may be subdivided as contemplated in the Planning By-law.
- (2) Any existing use or development on a property which is lawful at the time that the property is rezoned to Subdivisional Area may continue for as long as the Subdivisional Area zoning remains in place, provided that:
- (a) the Municipality may approve additional uses and extensions to existing lawful development if these are ancillary to the existing, lawful uses; and
 - (b) once a subdivision is confirmed, all future development on the subdivision concerned shall comply with the development rules of the base zoning on the confirmed land units, any overlay zonings which may be applicable, and any conditions imposed in terms of the Planning Law.

184. Development parameters

- (1) When the Municipality approves a rezoning to subdivisional area, it must impose conditions making provision for at least the following, but not limited to:
- (a) maximum density or number of units approved;
 - (b) main land uses and the extent of the uses approved;
 - (c) requirements of organs of state;
 - (d) public open space requirements.
- (2) If necessitated by the complexity of the proposed development, a development framework may be approved by the Municipality at the same time as rezoning to subdivisional area, which framework may contain all or some of the following information:
- (a) physical development constraints and opportunities;
 - (b) main circulation routes, access points, public or private roads;
 - (c) land uses, density and development extent;
 - (d) bulk infrastructure;
 - (e) landscape framework;
 - (f) phasing plan.

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CHAPTER 17: PROVISIONS IN RESPECT OF OVERLAY ZONES

CHAPTER 17: PROVISIONS IN RESPECT OF OVERLAY ZONES

185. Requirements for preparing an overlay zoning

- (1) The following requirements shall be taken into consideration when preparing an overlay zone, and an overlay zone shall be informed by:
 - (a) the development principles contained in the Spatial Planning and Land Use Management Act (no 16 of 2013), the Western Cape Land Use Planning Act (no 3 of 2014) and the Municipality's Planning By-Law;
 - (b) the Municipality's planning vision and principles as set out in its Integrated Development Plan and Spatial Development Framework;
 - (c) any detailed policies adopted by the Municipality which may inform the preparation of overlay zone parameters, provisions or areas to be designated.

186. Identification and numbering

- (1) The Municipality shall approve a distinctive name and number for each overlay zoning when adopting such overlay zoning.

187. Status of overlay zoning

- (1) An overlay zoning applies to land which the Municipality has designated by notice in the Provincial Gazette as having that overlay zoning.
- (2) An overlay zone may vary the development rules or use rights relating to an area or land unit or may set new development rules or use rights.
- (3) The provisions of an overlay zoning may be more restrictive or more permissive than the provisions applicable to the base zoning of the property concerned or may set specific development rules for an area or land unit.
- (4) All development and land use parameters in the base zone apply in full in an overlay zone except if, and to the extent that it is specifically varied in the overlay zone.
- (5) A specific parameter in an overlay zone will always override the same parameter in a base zone, unless an overlay zone is silent on the matter, in which case the parameters in the base zone which are not addressed in the overlay zone, remain applicable.
- (6) The Municipality may grant departures from the development rules or restrictions or provisions of any overlay zone by following the departure procedures set out in the Municipal Planning By-Law.
- (7) An overlay zone may contain general provisions or specific provisions and the designation must indicate which provisions apply to a land unit or area.
- (8) The provisions of more than one overlay zone may apply to a land unit or area.

188. Development rules in overlay zones

- (1) The development rules of an overlay zone may apply to specific land units or to all land units in a specified area.
- (2) The Municipality may, on its own initiative, amend, replace or delete the overlay zone map, or development rules for an overlay zone by amendment of this zoning scheme, or delete an overlay zone in its entirety.

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CHAPTER 17: PROVISIONS IN RESPECT OF OVERLAY ZONES

189. Process to designate a new overlay area for an existing overlay zone

- (1) The Municipality may, after following a scheme amendment notice procedure contemplated in the Municipal Planning By-Law, and after considering the objections, comments or representations received, designate an area identified on a map to one or more of the Overlay Zones contained in this Scheme.
- (2) The designation of certain areas to an Overlay Zone shall be informed by the Municipality's Spatial Development Framework, or any other more detailed studies or policies the Municipality has adopted.
- (3) Unless otherwise stated in the Overlay Zone itself, an owner of land cannot apply for a rezoning to an Overlay Zone. The zone is designated by the Municipality and is based on common characteristics of an area, or common development or land use management objectives.
- (4) More than one area can be designated for a specific type of Overlay Zone.
- (5) The Overlay Zone map shall contain a unique name and number for the area and shall be listed in the appropriate table of the particular Overlay Zone.
- (6) Once approved, the designation and applicable parameters and provisions, together with a map of the designated property or area, or the relevant amendments, shall be published in the Provincial Gazette.

190. Process to create a new overlay zone

- (1) The Municipality may, after following a scheme amendment notice procedure contemplated in the Municipal Planning By-Law, and after considering the objections, comments or representations received, create a new type of Overlay Zone by amending the Zoning Scheme.
- (2) The new Overlay Zone shall contain the intended provisions, revised parameters or additional or more permissive development controls the Municipality wishes to apply to certain areas to promote their development objectives.
- (3) The Municipality may, at the same time, identify one or more areas to which such new Overlay Zone will apply, although it is not necessary to immediately identify and designate applicable areas.
- (4) Once approved, the revised Scheme, and any accompanying maps if areas are designated, shall be published in the Provincial Gazette.

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CHAPTER 18: LOCAL ECONOMIC DEVELOPMENT OVERLAY ZONE

CHAPTER 18: LOCAL ECONOMIC DEVELOPMENT OVERLAY ZONE

The purpose of a Local Economic Development Overlay zone is to designate certain areas (as identified in the Spatial Development Framework) where additional businesses should be permitted from home in order to promote a greater economic flexibility and diversity of formal and informal business uses, to particularly address the needs of poor and vulnerable communities.

191. Zone name and Designation

- (1) The Local Economic Overlay Zone may be referred to by the code (LEDO) and must be indicated on the zoning map in blue colour outline and transparent blue fill (Colour code 0, 0, 255).

192. Areas designated as Local Economic Overlay zone areas

- (1) The Municipality has designated certain areas as a Local Economic Development Overlay zone, and these are listed in the table in section 196.

193. Land use in this overlay zone

- (1) In these Overlay Zone areas, the following land uses are allowed over and above what is already allowed on land units with a Conventional Housing or Multi-Unit Housing base zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	As in base zone	As in base zone	As in base zone	As in base zone, plus: <ul style="list-style-type: none"> • Apartment building • Business • Community residential building 	As in base zone, removing Liquor outlet and tavern from prohibited list.
ADDITIONAL	As in base zone	As in base zone	As in base zone, plus: <ul style="list-style-type: none"> • House shop 	As in base zone, plus: <ul style="list-style-type: none"> • Liquor outlet • Tavern 	

194. House shops

- (1) A house shop is permitted as an additional use with neighbours' permission.
- (2) The following conditions shall be adhered to:
- The floor area of a house shop shall not exceed 30m² or 25% of the total coverage of the property, whichever is the lesser.
 - All new or additional structures, to accommodate a house shop, whether temporary or permanent are subject to building plan approval and the design shall illustrate due cognisance of the residential character of the area.
 - The serving counter of the house shop must be set back at least 1,5m from the street boundary to allow sufficient space for customers and the pavement may not be obstructed with any goods or clients.
 - The activity should be of such a limited nature that the operator shall employ no more than two persons at any given time to assist in the running of the house shop.
 - The hours of operation shall be limited between 07:00 to 21:00.
 - The following shall not be permitted in a house shop: sale of fireworks; sale or storage of gas or flammable fuel or gas/fuel containers, gambling, vending machines, games machines, video games, pool tables or the sale of alcoholic beverages.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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- (g) The house shop operator and employees shall have access to ablution and hand-washing facilities on the land unit.
- (h) Permission to operate a house shop applies to a particular land unit and is not transferable to another land unit.
- (i) Only one un-illuminated sign, which shall be affixed to the wall of the dwelling or outbuilding, which may not exceed 2 000cm² in area may be allowed. No illuminated, mobile, freestanding-, or protruding signs shall be allowed.
- (j) Approval for the operation of a house shop shall be linked to the specific property as well as the house shop operator and may only be deemed to have been granted if the registered owner (if different from the operator) has granted the operator a Power of Attorney make said application for neighbours' permission.
- (k) A house shop may not be operated as a co-operative.
- (l) Any deviation of the standard conditions for the operation of a house shop can only be considered upon application for the Municipality's consent.

195. Taverns as a consent use

- (1) In addition to the consent uses permitted in a Conventional Housing or Multi-Unit Housing base zone, a tavern is a consent use in this Overlay Zone, and may only be operated with the written consent of the Municipality in a Local Economic Development Overlay zone area, subject to the following conditions:
 - (a) the total area used for the tavern on the property, including storage, shall not consist of more than 40% of the total floor area of the dwelling unit(s) on the property;
 - (b) in addition to the tavern, the property must contain a dwelling house, which must be occupied by the proprietor or manager of the house tavern; and
 - (c) the tavern must be accommodated in a permanent structure and must have ablution facilities for patrons which are separate from the dwelling house;
 - (d) the applicant must take adequate measures to the satisfaction of Municipality to mitigate the following potential negative impacts:
 - (i) visual impact;
 - (ii) impact of built form;
 - (iii) impact on privacy of surrounding properties; and
 - (iv) noise;
 - (e) the applicant must make adequate provision to the satisfaction of Municipality of the following:
 - (i) parking and loading;
 - (ii) disposal of garbage; and
 - (iii) ablution facilities;
 - (f) provision must be made for all goods connected with the tavern to be stored inside a building or screened from the neighbours and the street;
 - (g) the Municipality may restrict the maximum number of patrons and number of staff related to the tavern;
 - (h) the Municipality may require structural alterations to the property for fire or health reasons and to ensure that the impact of the tavern on neighbouring uses is minimised;
 - (i) the following uses are not permitted in a tavern except if specifically approved in writing as part of the consent use approval an included in the conditions of approval: vending machines, gambling machines, video games, pool tables, amusement centre and discotheque;
 - (j) a liquor license shall be obtained from the Western Cape Provincial Liquor Board in terms of the relevant legislation within a reasonable period from the granting of the consent. In the event of the

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- liquor license being not issued within 18 months, or if refused, withdrawn or suspended, the Municipality's approval for the consent use of the tavern shall automatically lapse;
- (k) consent to operate a tavern applies to a particular land unit, and is not transferable to another land unit;
 - (l) no external evidence of the tavern may be visible from the street, except for one un-illuminated sign, which shall be affixed to the wall of the dwelling or outbuilding, which may not exceed 2 000cm² in area and such sign shall indicate only the name of the owner, and name of the business;
 - (m) no tavern may be authorized or established where its proximity to community uses, such as schools, places of worship, old age homes, crèches, public open spaces, hospitals, clinics, libraries, is likely, in the opinion of Municipality, to have a negative impact on the facility;
 - (n) trading may only be conducted during the operating hours specified by the Municipality.

196. Designated Local Economic Development areas

- (1) The Municipality has designated the following areas as Local Economic Development Overlay zone areas:

COLUMN 1	COLUMN 2
Area Name	Plan number
Paarl East (1)	LEDO-01
Paarl East (2)	LEDO-02
Wellington	LEDO-03
Mbekweni	LEDO-04
Van Wyksvlei	LEDO-05
Hermon	LEDO-06
Gouda	LEDO-07
Saron	LEDO-08

- (2) Where there is any dispute about the extent of a Local Economic Development Overlay zone or whether a property is included in the area, the Municipality will make the determination.

197. General parameters including parking

- (1) The general parameters, including parking, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the property in question, the zoning, or proposed development, and shall be complied with, unless a departure has been granted otherwise.

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 Paarl East (1) Local Economic Development Area

**LOCAL ECONOMIC DEVELOPMENT
OVERLAY ZONE**

Map No.: LEDO-01
Date: February 2018
Scale: 1:20 000 (A4)



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 Paarl East (2) Local Economic Development Area

**LOCAL ECONOMIC DEVELOPMENT
OVERLAY ZONE**

Map No.: LEDO-02
Date: February 2018
Scale: 1:12 000 (A4)



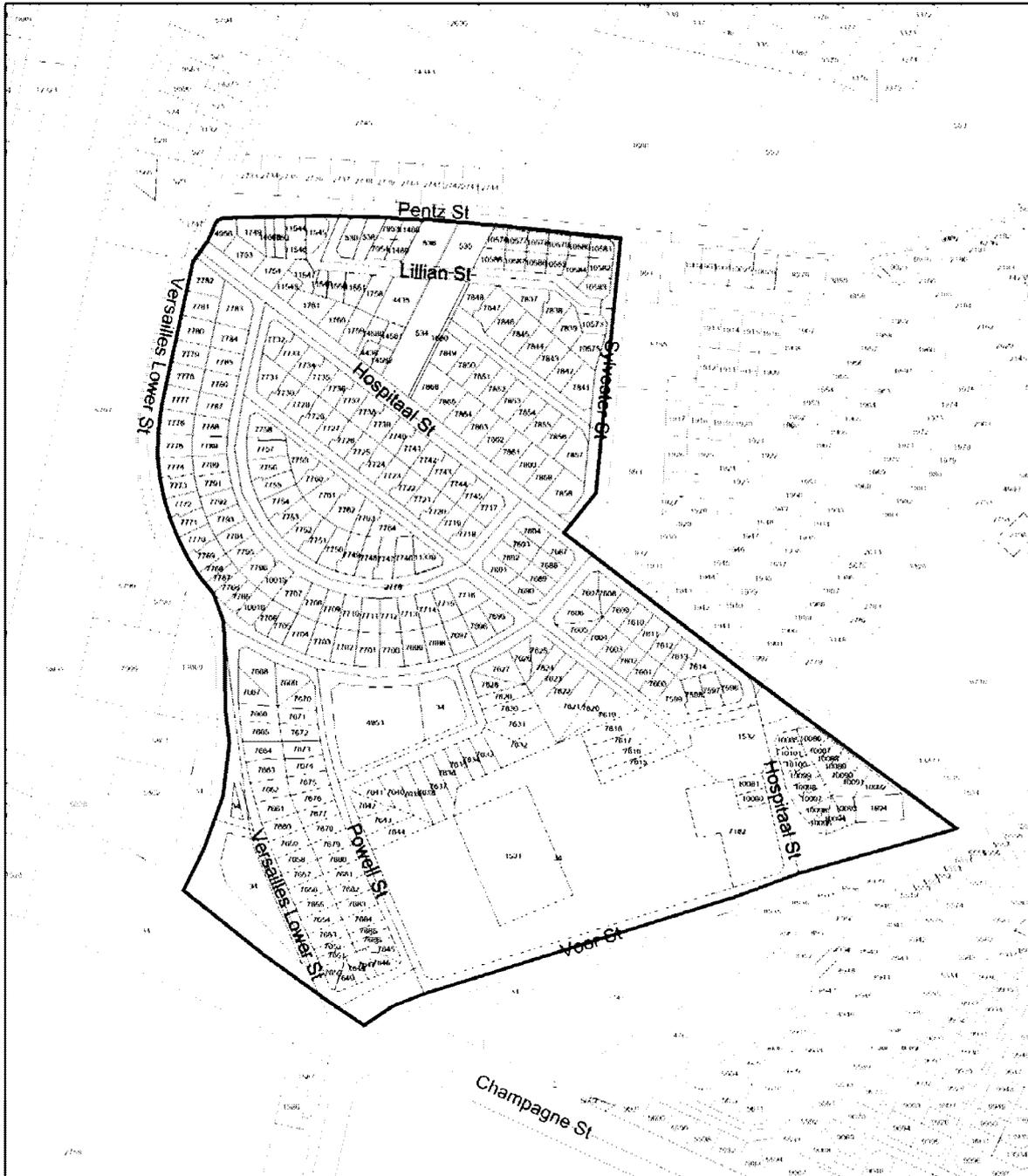
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 Wellington Local Economic Development Area

LOCAL ECONOMIC DEVELOPMENT OVERLAY ZONE

Map No.: LEDO-03
 Date: February 2018
 Scale: 1:4000 (A4)



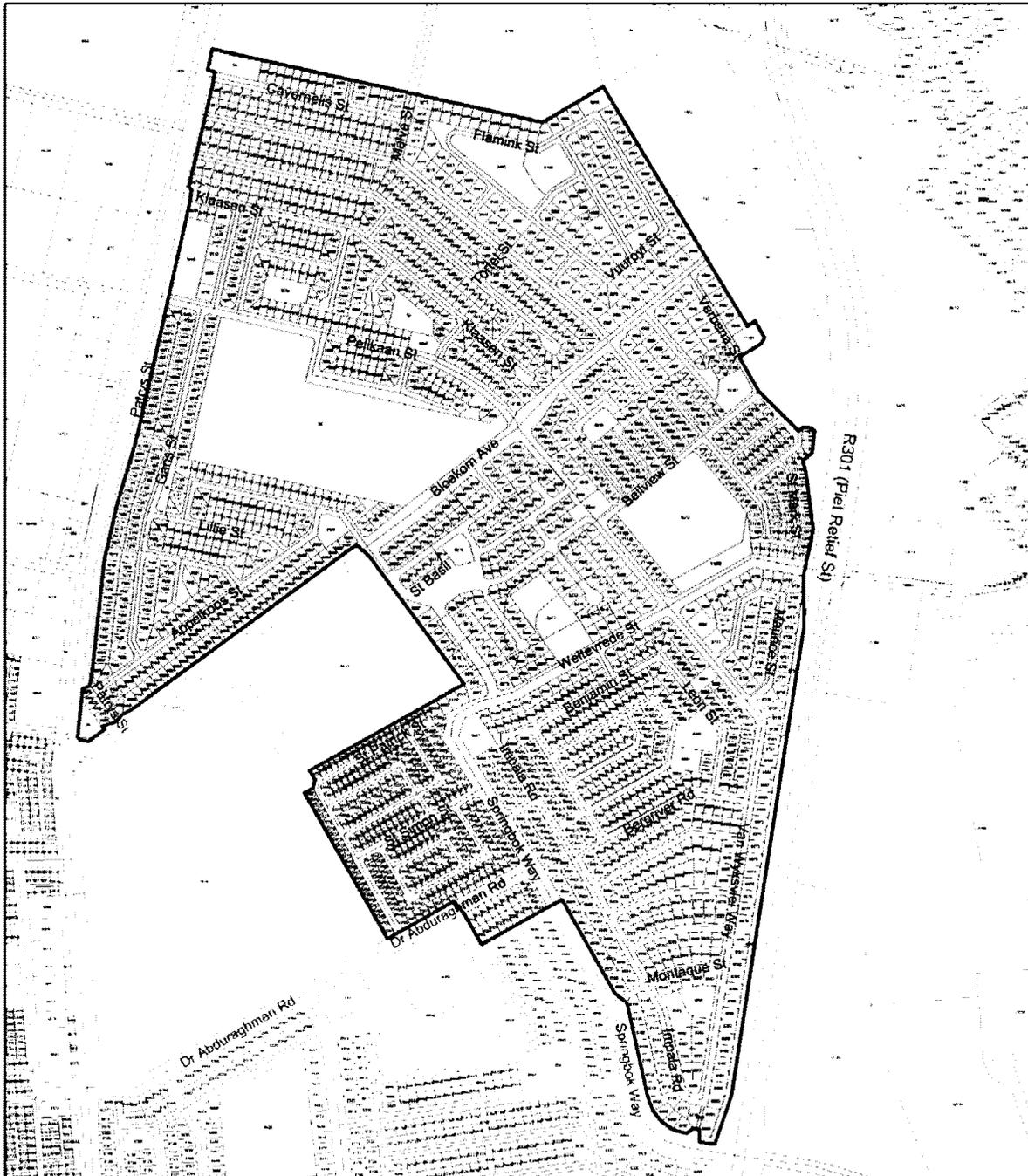
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 Van Wyksvlei Local Economic Development Area

LOCAL ECONOMIC DEVELOPMENT OVERLAY ZONE

Map No.: LEDO-05
 Date: February 2018
 Scale: 1:8000 (A4)



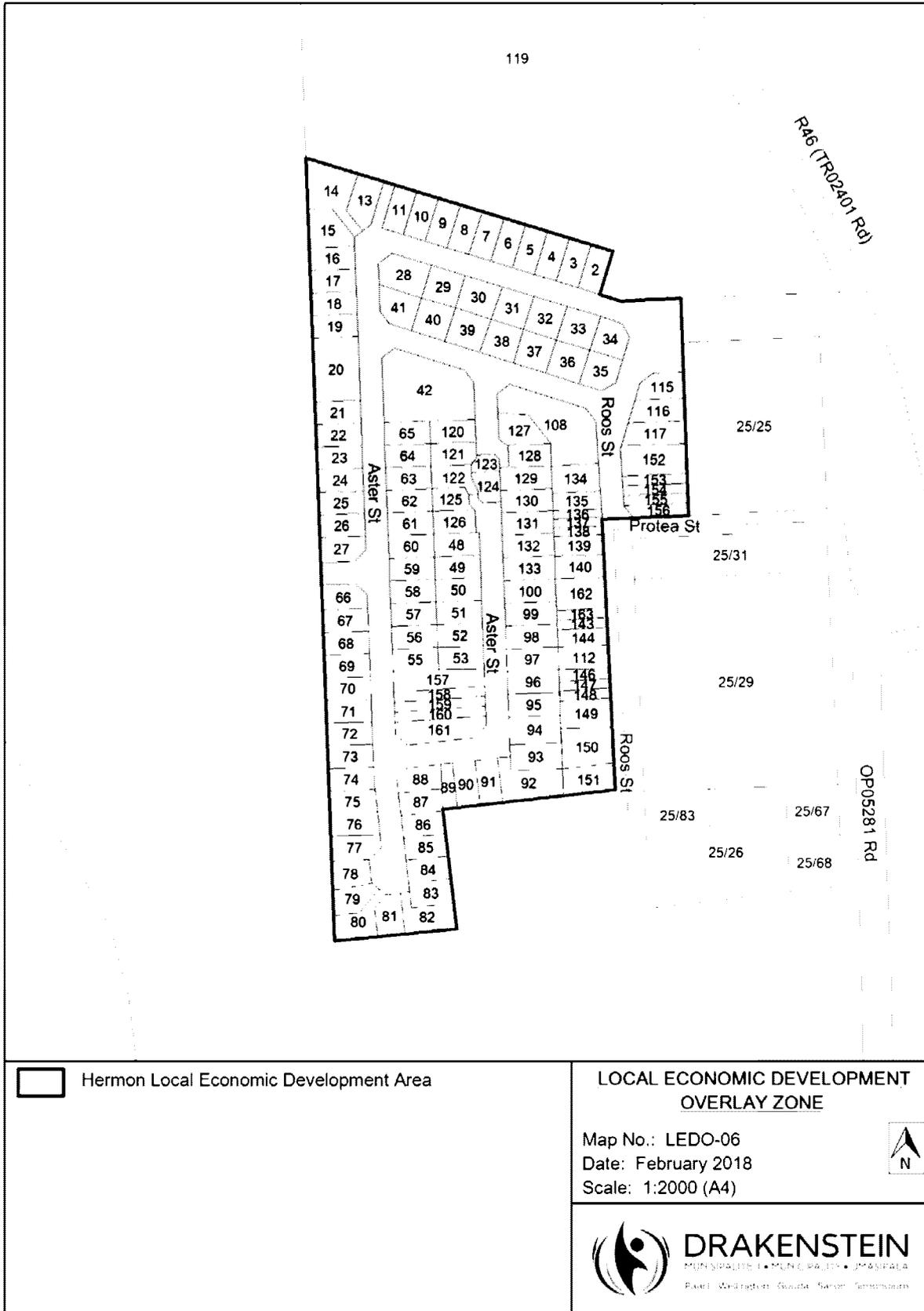
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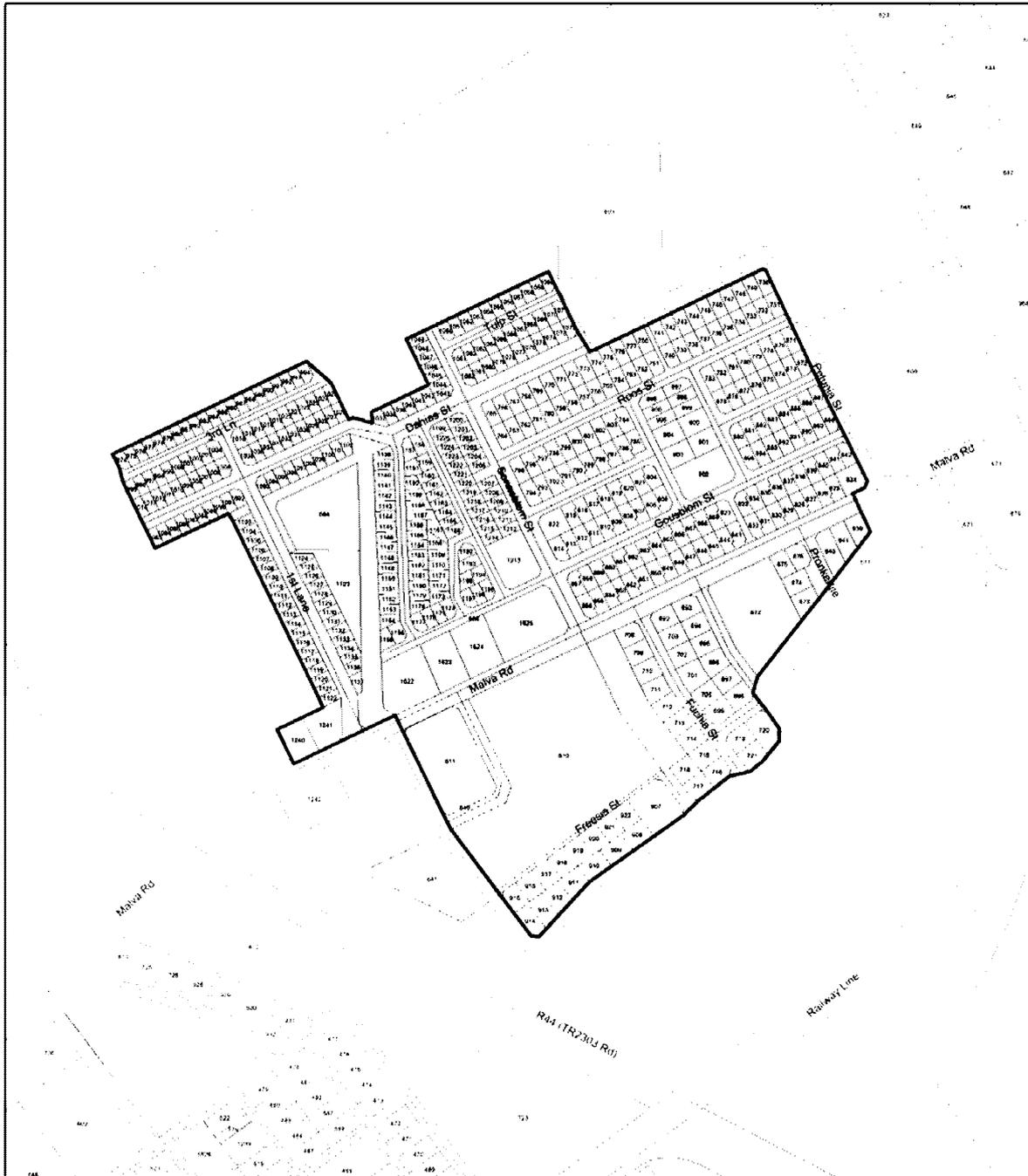


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 Gouda Local Economic Development Area

LOCAL ECONOMIC DEVELOPMENT OVERLAY ZONE

Map No.: LEDO-07
 Date: February 2018
 Scale: 1:5000 (A4)



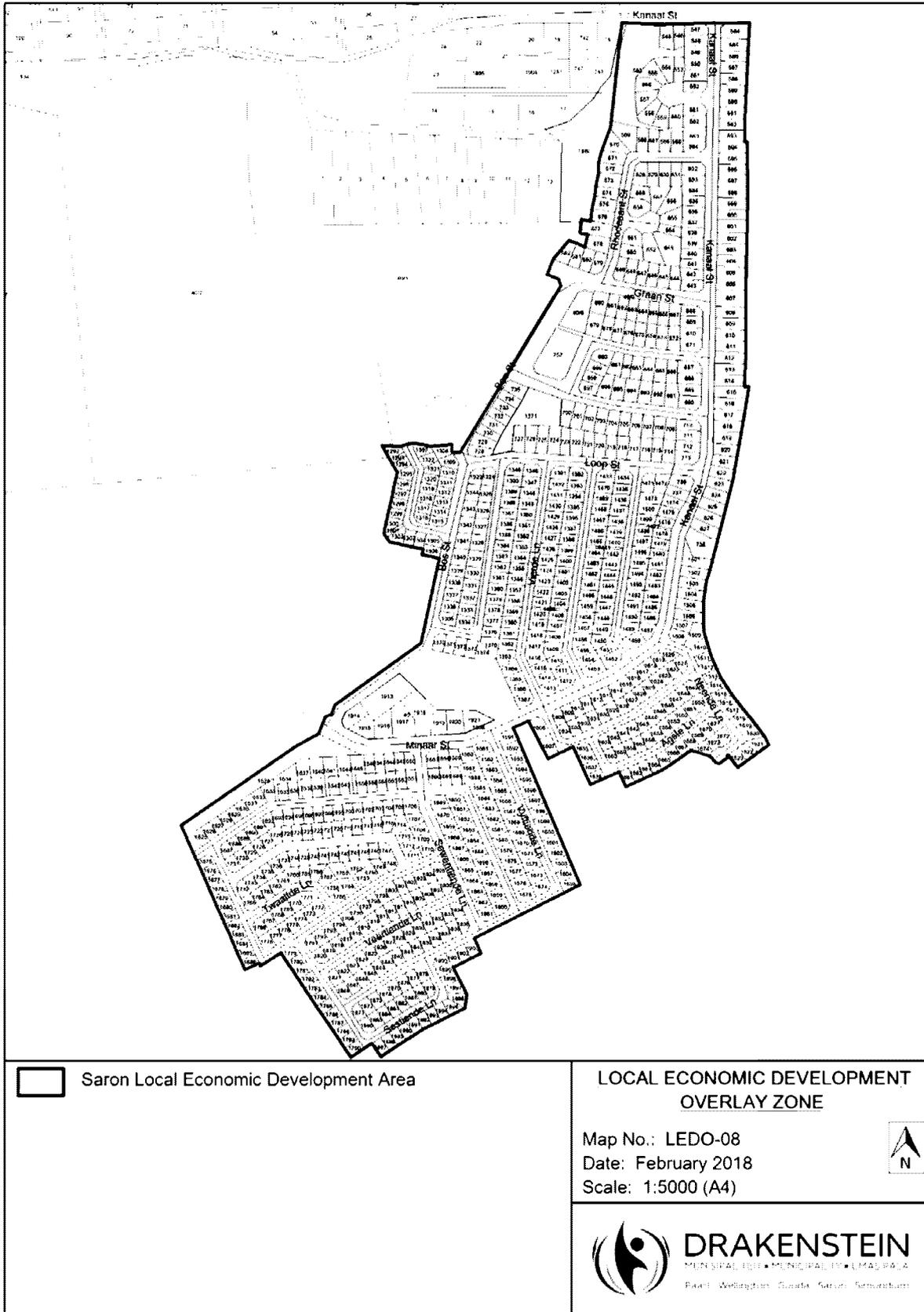
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CHAPTER 19 INCREMENTAL HOUSING OVERLAY ZONE

CHAPTER 19 INCREMENTAL HOUSING OVERLAY ZONE

The purpose of this zone is to make provision for:

- *the use of land for informal housing until such time as the built structures are formalised;*
- *settlement of people in an informal manner for emergency purposes;*
- *incremental upgrading of informal settlements;*
- *where conditions so dictate, to accommodate persons residing in areas where financial constraints require less stringent land use management and building development management provisions;*
- *increased economic and social opportunities;*
- *the exemption by the competent authority from the National Building Regulations.*

198. Zone name and Designation

- (1) The Incremental Housing Overlay Zone may be referred to by the code (IHO) and must be indicated on the zoning map in dusty pink colour outline and transparent dusty pink fill. (Colour code 219, 112, 219)

199. Areas designated as incremental housing areas and rezoning

- (1) The Municipality has designated certain areas as Incremental Housing Overlay zones, and these are listed in the table in section (2).
- (2) The Municipality may, in future, designate any land as an incremental housing area without going through a rezoning process provided that:
- (a) an emergency situation exists; and
 - (b) the area has been identified for residential development in an approved Spatial Development Framework, and
 - (c) the owner of the subject property and owners of the abutting properties have been notified and have been given a reasonable opportunity to respond.
- (3) When it is not an emergency, land may be rezoned to this Overlay zone in accordance with the application processes set out in Planning Law.

200. Land use within this zone

- (1) Notwithstanding provisions in the base zone, the following land uses apply to all land in this overlay zone, regardless of the base zone:

	PERMITTED	TECHNICAL APPROVAL	NEIGHBOURS' PERMISSION	CONSENT	PROHIBITED
PRIMARY	<ul style="list-style-type: none"> • Additional shelter • Dwelling house • Incremental house base structure • Informal trading • Private road • Public road • Shelter • Utility services 	None	None	<ul style="list-style-type: none"> • Apartment buildings • Business • Community care facility • Community residential • Liquor outlet • Place of assembly • Place of instruction • Tavern 	None
ADDITIONAL	<ul style="list-style-type: none"> • In structure where operator resides: <ul style="list-style-type: none"> ○ Business ○ Community residential ○ House shop ○ Lodging accommodation ○ Place of assembly ○ Place of instruction ○ Visitors' accommodation 	None	None	None	None

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- (2) The permitted primary and additional uses may be allowed on a land unit within any base zone.
- (3) The consent uses listed above may not be granted for permanent buildings on land units which are zoned Agriculture, Natural Environment, Limited Use or Open Space Zone.
- (4) Notwithstanding that land uses are expressed in the singular, multiple land uses and more than one building or structure for the same land use are permitted on the same land unit in areas where no subdivision has been approved to establish a formal township.

201. Shelters, additional shelters and incremental house base structures in already subdivided developments

- (1) No more than three structures suitable for the accommodation of three families shall be permitted on any land unit in this overlay zone on properties which have already been subdivided for development purposes unless the property is zoned for Multi-Unit Housing, in which case the parameters and densities of that zone will apply.
- (2) Shelters, or partially walled and/or partially roofed structures, may contain formal water, electricity, and sewer supply connections or sanitary fixtures, which are linked to municipal utility services networks, as may be permitted by the Municipality.
- (3) Each shelter shall be occupied by only one household as defined and/or be utilised for an additional and/or consent use as permitted in this zone.

202. Shelters on any land

- (1) No shelter in this zone shall be approved on a building plan and no shelter shall require to comply with the National Building Regulations.
- (2) It shall be the sole responsibility of the owner or occupant of a shelter to ensure the structural stability, safety and fire resistance of a shelter.
- (3) The Municipality may prepare guidelines regarding aspects such as improving structural stability, safety, fire resistance and avoiding of flooding and advise owners or occupants of shelters in this regard.
- (4) The Municipality may instruct an owner of a shelter to rectify a public health, safety, and fire risk and such owner shall rectify such risk forthwith upon receiving such compliance notice.

203. Additional uses

- (1) An occupant of a shelter may use the property for any of the additional uses listed above, provided that the specific use is not a consent use as listed in section 200(1), subject to the parameters set out in this section.
- (2) A site development plan shall not be required for any additional uses in this zone.
- (3) The operator of an additional use activity shall reside in the shelter from which the additional use activity is conducted, and the dominant use of the shelter must remain the operator's residence.
- (4) Apart from an additional shelter and lodging establishment combined, only one other additional use may be conducted from the property at any given time in the case of a subdivided residential land unit.
- (5) The hours of operation of any additional use shall be restricted to between 07:00 and 17:00 daily; except where the use entails a place of instruction in a shelter, in which case the hours are restricted to between 06:00 and 18:00. The hours of operation for a house shop shall be limited between 07:00 and 21:00.
- (6) On subdivided or demarcated residential land units, no more than one vehicle not exceeding 3500kg may be used in connection with the activity and may be stored on the property. In all other cases, the Municipality may limit the number of vehicles which may park on the land unit, in its sole discretion.

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- (7) The floor area of all additional uses in a shelter may not exceed 45% of the floor area of the shelters up to a maximum of 45m².
- (8) Where lodging accommodation is provided in this zone, the operator shall ensure that lodgers have access to suitable ablution facilities at all times.
- (9) On subdivided or demarcated residential land units a maximum of four bedrooms accommodating a maximum of 8 lodgers may be used for lodging accommodation.
- (10) Any one instruction activity accommodated in any one shelter may only serve 6 people at a time, including any children of the resident household who also receive instruction.
- (11) For a house shop in this zone, the following further parameters shall apply:
 - (a) the serving counter of the house shop must be set back at least 1,5m from any street boundary or future designated street to allow sufficient space for customers and the pavement or pedestrian walkways may not be obstructed with any goods or clients;
 - (b) the activity should be of such a limited nature that the operator shall employ no more than two persons to assist with the running of the house shop at any given time;
 - (c) the maximum floor area for a house shop (including storage but excluding a toilet) shall not exceed the lesser of 30% of the floor area of the shelter or 30m²;
 - (d) the following shall not be permitted in a house shop: sale of fireworks; sale or storage of gas or flammable fuel or gas/fuel containers, gambling, vending machines, games machines, video games, pool tables or the sale of alcoholic beverages.
- (12) Where an operator wishes to conduct an additional use, which exceeds the area limitation, hours of operation, or number of people specified in this section, the Municipality may grant permission for alternative parameters for the particular use, provided that due notice is served to anyone whose rights or legitimate expectations may be affected by such permission.
- (13) Additional uses may not cause a public nuisance or affect the health, welfare, safety or rights of occupants and neighbours, including but not limited unreasonable noise, emissions, odours, and traffic.
- (14) People who believe that an additional use causes a public nuisance or affect their health, welfare, safety or rights may lodge a complaint with the Municipality, who shall investigate the matter in terms of the provisions of the Planning Law.
- (15) Where an additional use does cause a public nuisance or has an effect on the health, welfare, safety or rights residents, in the sole opinion or the Municipality, the Municipality may serve a compliance notice in terms of the Planning Law, or an order to cease the additional use.

204. Taverns

- (1) All taverns which were lawfully approved on a building plan at the commencement of this Scheme will continue to be lawful as if consent use was granted.
- (2) Any alteration to the extent of an existing lawful tavern (outside or inside a building) may only be approved upon following a consent use application as set out in the Municipal Planning By-law.
- (3) The following parameters are applicable to taverns in this zone and information in this regard must be provided in the application for the consent use:
 - (a) the total area used for the tavern, including storage, shall not consist of more than 40% of the total floor area of the shelter or 30m², whichever is the lesser;
 - (b) in addition to the tavern, the shelter or property in the case of a subdivided residential erf, must contain a dwelling house, which must be occupied by the proprietor or manager of the tavern; and
 - (c) the applicant must take adequate measures to the satisfaction of Municipality to mitigate any negative impacts;

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- (d) the applicant must make adequate provision to the satisfaction of Municipality for parking and loading, disposal of waste and ablution facilities;
 - (e) provision must be made for all goods connected with the tavern to be stored inside a shelter or structure or screened from the neighbours and the street;
 - (f) the following uses are not permitted in a tavern except if specifically approved in writing as part of the consent use approval an included in the conditions of approval: vending machines, gambling machines, video games, pool tables, amusement centre and discotheque;
 - (g) a liquor license shall be obtained from the Western Cape Provincial Liquor Board in terms of the relevant legislation within a reasonable period of time from the granting of the consent. In the event of the liquor license is not issued within 18 months, refused, withdrawn or suspended, the Municipality's approval of the consent for the tavern shall automatically lapse;
 - (h) no external evidence of the tavern may be visible from the street, except for one un-illuminated sign, which shall be affixed to the wall of the dwelling or outbuilding, which may not exceed 2 000cm² in area and such sign shall indicate only the name of the owner, name of the business, and nature of the retail trade;
- (4) No tavern may be authorized or established where its proximity to community uses, such as schools, places of worship, old age homes, crèches, public open spaces, hospitals, clinics, libraries, is likely to have a negative impact on the facility in the opinion of Municipality.
- (5) Consent use to operate a tavern applies to a particular land unit or premises and is not transferable to another land unit or premises.
- (6) Trading may only be conducted during the operating hours specified by the Municipality.
- (7) The Municipality may restrict the maximum number of patrons and number of staff related to the house tavern.
- (8) The Municipality may require structural alterations to the property for fire or health reasons and to ensure that the impact of the tavern on neighbouring uses is minimised.

205. Building parameters applicable to incremental housing areas

	STREET BUILDING LINES OR FUTURE STREETS AS PER SDP	COMMON BOUNDARY BUILDING LINES	COVERAGE	HEIGHT
Dwelling units on land subdivided for residential purposes	1m	1m on one boundary & 0m on two boundaries	70%	8m
Dwelling units on un-subdivided land	1m	1m all around the structure	100m ²	8m
Garages and carports	0m	1m all round	Subject to overall 70% or 80m ² whichever apply	4m

- (1) Where an un-subdivided land unit is zoned for Incremental Housing purposes and accommodates more than two shelters, the Municipality may demarcate and approve an overall block layout for a predetermined area on a site development plan which takes account of future movement routes and emergency access lanes and other required land uses.
- (2) Within these demarcated blocks, occupiers may be permitted by the Municipality to erect shelters on an ad hoc basis or according to pre-determined positions, if so indicated on the site development plan.
- (3) The Municipality may require structures and shelters to be moved when they are erected within areas indicated for circulation, access, services or for fire safety purposes.

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- (4) The following additional parameters apply in respect of building lines:
- (a) Where a shelter is constructed against or next to a solid wall which sufficiently addresses fire safety issues to the Municipality's satisfaction, the common boundary building line may be reduced to 0m;
 - (b) Notwithstanding the building lines in this section, the Municipality may require a common boundary building line for the protection of any utility services provided along land unit boundaries;
- (5) The general development parameters as set out in this Scheme, shall, where applicable, be complied with, provided that the Municipality may waive the application of general development parameters where it is not in the interest of the informal nature of this zone to enforce such parameters.

206. Building plan approval in Incremental Housing overlay zones

- (1) In the event of emergency housing, informal settlements or incremental upgrade areas where a subdivision plan for the formal subdivision into a township has not yet been approved, the Municipality may approve building plans for buildings in terms of the National Building Regulations, provided that the Municipality is satisfied that:
- (a) The person constructing the building has permission of the owner of the land;
 - (b) The proposed building is acceptable as a permanent structure both in terms of position and land use, taking into consideration any plans to incrementally upgrade the area.
 - (c) The Municipality is in a position to provide basic service connections to the building, as may be required.
- (2) Incremental house base structures may only be erected with approved building plans. Such plans shall indicate the subsequent additions to the base structure to complete the dwelling unit and no further building plan submission will be required to complete the dwelling unit, provided that the dwelling unit is completed according to the approved building plan.

207. Areas identified as fire breaks and roads

- (1) No building or shelter shall be constructed in areas which has been identified by the Municipality and set aside for a future road or fire break on a site development plan, notwithstanding that a subdivision plan has not been formally approved.

208. Utility services and infrastructure

- (1) Utility services and other municipal infrastructure may be installed, constructed and provided notwithstanding that a formal subdivision plan has not been approved by the Municipality.

209. Parameters for boundary walls and fences

- (1) The general development parameters relating to boundary walls and fences do not apply in this zone.

210. Site development plan

- (1) The Municipality or an owner may prepare a site development plan for the incremental upgrade of an informal area and this site development plan shall serve as a guide for the incremental construction and installation of structures, shelters, buildings, roads, utility services, fire breaks and the like, until such time as a formal subdivision plan is approved.
- (2) A site development plan may be required for a consent use application and once approved, shall become the development parameters for such use once approved.

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CHAPTER 19 INCREMENTAL HOUSING OVERLAY ZONE

211. Designated Incremental Housing Overlay Zone areas

- (1) The Municipality has designated the following areas as incremental housing areas:

COLUMN 1	COLUMN 2
Area Name	Plan number
O.R Tambo	IHO-01

- (2) Where there is any dispute about the extent of an Incremental Housing Overlay zone or whether a property is included in the area, the Municipality will make the determination.

212. General parameters including parking

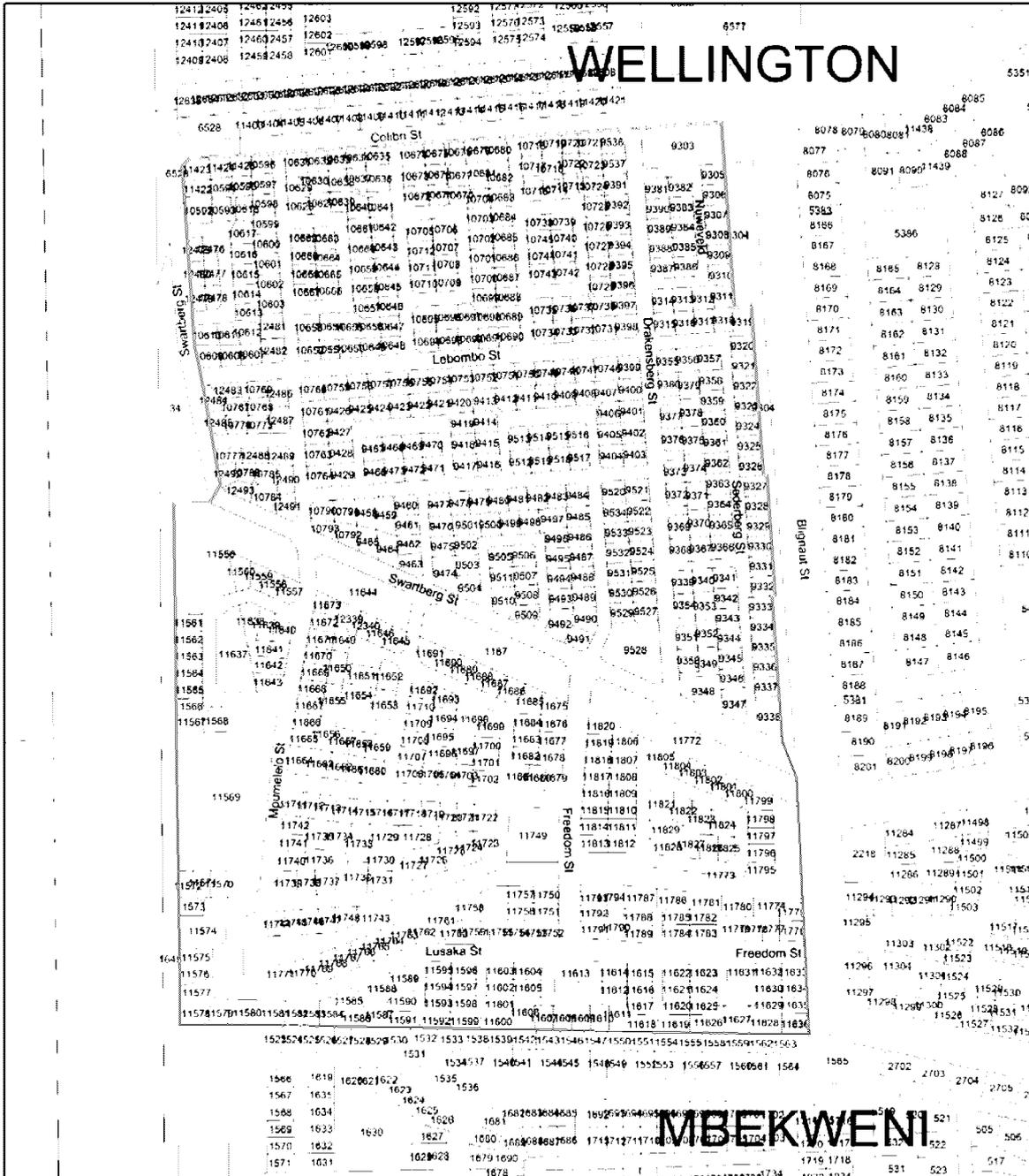
- (1) The general parameters, including parking, as set out in Chapter 3, apply to this zone, insofar as they are applicable to the property in question, the zoning, or proposed development, and shall be complied with, unless a departure has been granted otherwise.

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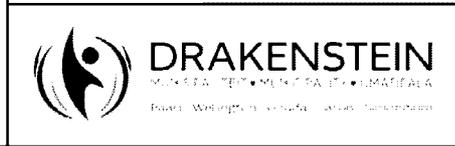
CHAPTER 19 INCREMENTAL HOUSING OVERLAY ZONE



O.R Tambo Incremental Housing Area

INCREMENTAL HOUSING OVERLAY ZONE

Map No.: IHO-01
 Date: February 2018
 Scale: 1:3000 (A4)



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DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 20: SPECIAL CHARACTER PROTECTED AREA OVERLAY ZONE

CHAPTER 20: SPECIAL CHARACTER PROTECTED AREA OVERLAY ZONE*The purpose of this zone is to:*

- *guide development to protect and enhance the character of demarcated area, which has special historical, social, cultural or architectural value;*
- *to mitigate possible adverse impacts a development or alteration may have on the significance of such an area;*
- *to not reduce existing development rights or to hinder development but rather to mitigate impacts of possible developments and re-arrange existing development rights to take cognisance of the significance of an area.*

213. Zone name and designation

- (1) The Special Character Protected Area Overlay zone may be referred to by the code (SCPAO) and must be indicated on the zoning map in purple colour outline and transparent orange fill (Colour code 255, 126, 0). Areas designated as Special Character Protected Areas and assessment criteria
- (2) The Municipality has designated certain areas as Special Character Protected Areas as indicated in the table in section 219. The areas listed in Column 1 and as defined in the plans listed in Column 2 of the following table are designated as Special Character Protected Area overlay areas.
- (3) The Municipality may adopt a Special Character Protected Area Policy in which the character statements, character-forming elements and aspects, and decision-making criteria for each area are set out and these informants and guidelines will guide decision-making on an application for the permission of the Municipality in terms of section.

214. Applications in Special Character Protected Area Overlay zone

- (1) No building, structure or landscape element, which may include trees, boundary fences, and walls, shall be demolished, altered, extended or erected without the Municipality's permission in terms of this chapter of the Scheme.
- (2) Furthermore, the Municipality's permission in terms of this chapter of the Scheme is also required for any subdivision, rezoning, consent use, departure or consolidation which is submitted in terms of Planning Law, regardless of whether the application results in buildings being demolished, altered, extended or erected.
- (3) The Municipality's consent is required for vehicle sales and vehicle services in this overlay zone.
- (4) The Municipality may, should it be deemed necessary, request that such application is accompanied by appropriate research into a building or place's history and that an analysis of space-related, spatial and/or aesthetic qualities is presented to explain or motivate the proposals and to demonstrate the impacts on the character and significance of the area and, where necessary, what measures are required to mitigate such impacts;
- (5) The Municipality shall not grant its permission if such demolition, alteration, extension or erection, as the case may be, will have an impact that will be detrimental to the character and significance of the area as may described in adopted policy;
- (6) When granting such permission, the Municipality may impose such conditions which, in its opinion, are necessary to protect the character or significance of the area in question.

215. Land use

- (1) The primary, additional and consent uses together with all related land use parameters as set out in the base zone, apply in this overlay zone, except for the following:

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CHAPTER 20: SPECIAL CHARACTER PROTECTED AREA OVERLAY ZONE

- (a) Notwithstanding the provisions of the base zone, inside the demarcated area fuel retail, vehicle services and vehicle sales are consent uses.

216. Building development parameters in this overlay zone

- (1) The building development parameters of the base zone apply in this overlay zone, provided that the Municipality may prescribe more or less restrictive building lines, or build-to lines, or restrict the height of a building when granting permission in terms of this overlay zone and these will be deemed to be departures or conditions as the case may be which shall be complied with.

217. Protected area advisory committee

- (1) The Municipality may establish an advisory committee (which may consist of one or more delegated sub-committees if required) who may either deal with certain areas or certain types of applications; to make recommendations on an application in terms of section 214 prior to the Municipality making a decision.
- (2) The Municipality shall by ordinary Council resolution prescribe rules and procedures for such committee(s).
- (3) Upon receipt of an application for permission in terms of this section of the Scheme, the Municipality will refer such application as determined by the rules to the committee for a recommendation.
- (4) The committee shall consider the application and submit their recommendation within the period prescribed by Planning Law.
- (5) The committee may forward recommendations which may include conditions to be imposed or recommendations on how the proposal should be amended to improve the compliance with character statement and assessment criteria in the Policy.

218. Visual impact assessment

- (1) A visual impact assessment may be required by the Municipality for any development in this zone.

219. Designated Special Character Protected Overlay Zone Areas

- (1) The Municipality has designated the following areas as Special Character Protected Areas:

COLUMN 1	COLUMN 2
Area Name	Plan number
Paarl Central	SCPAO-01
Wellington Central	SCPAO-02

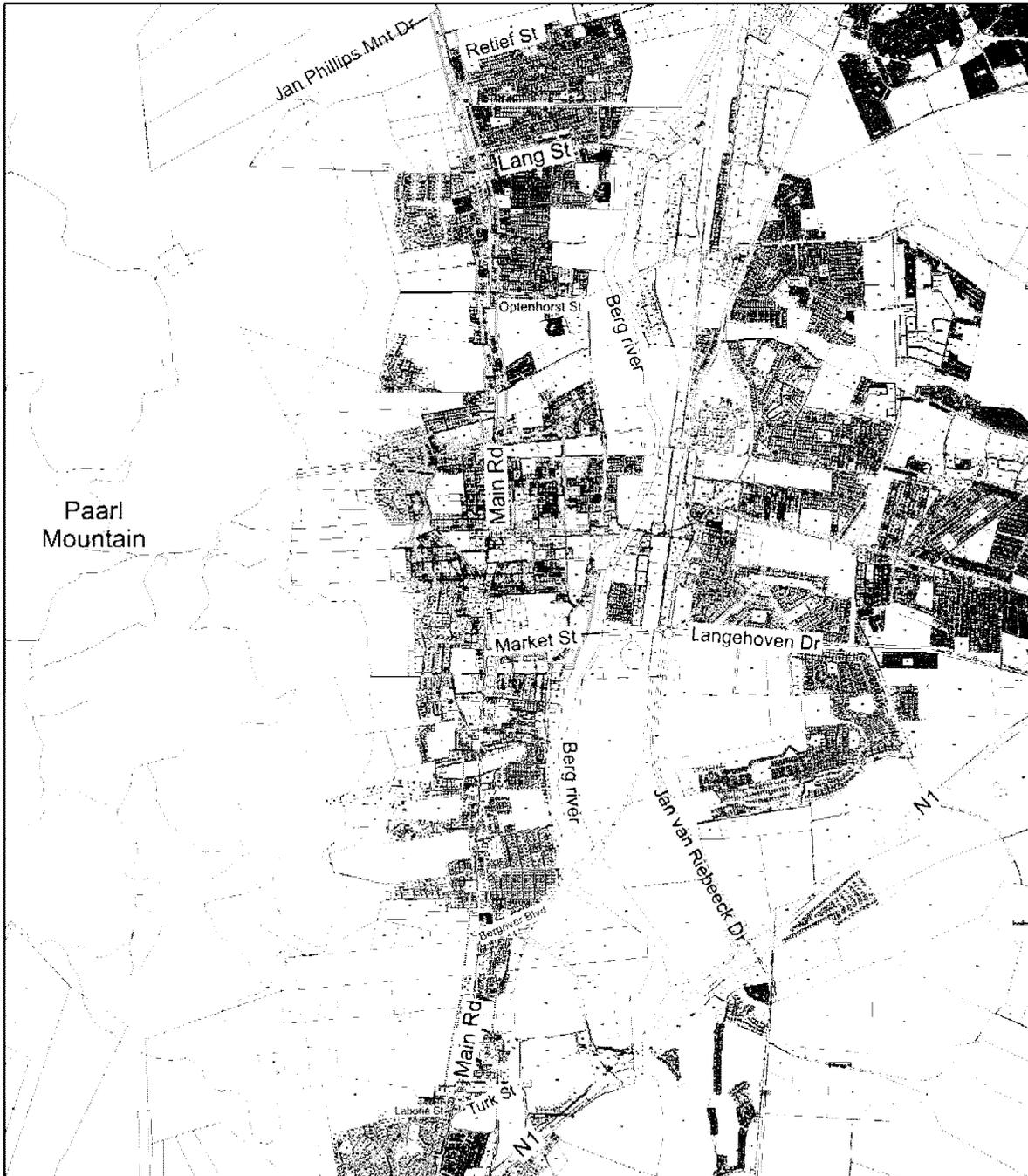
- (2) Where there is any dispute about the extent of a Special Character Protected Area Overlay zone or whether a property is included in the area, the Municipality will make the determination.

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CHAPTER 20: SPECIAL CHARACTER PROTECTED AREA OVERLAY ZONE



Paarl Central Special Character Protected Area

SPECIAL CHARACTER PROTECTED AREA OVERLAY ZONE

Map No.: SCPAO-01
 Date: February 2018
 Scale: 1: 35 000 (A4)

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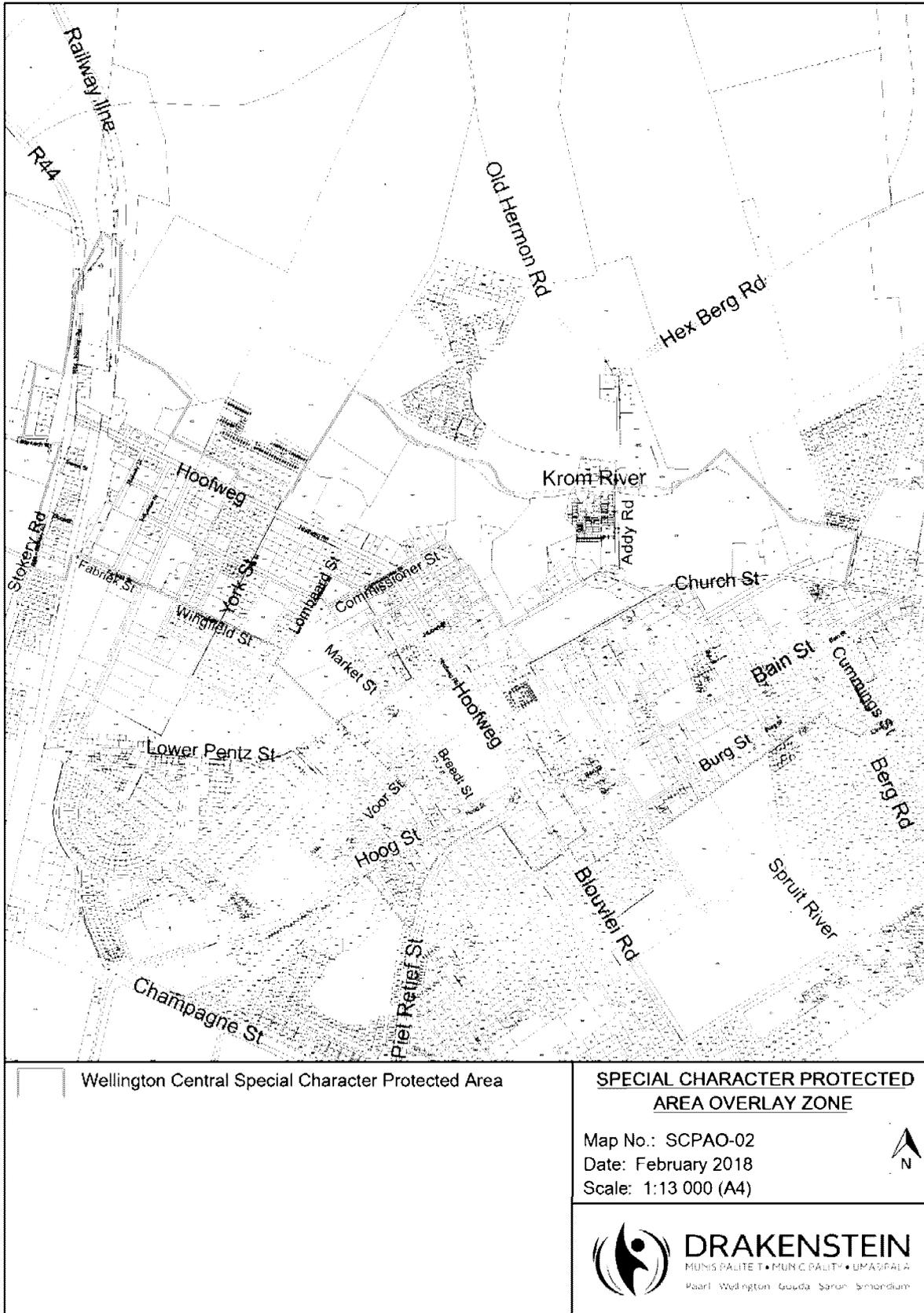
 **DRAKENSTEIN**
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 Paarl • Wellington • Gouda • Suron • Simonsdorp

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CHAPTER 20: SPECIAL CHARACTER PROTECTED AREA OVERLAY ZONE



SRO

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

The purpose of this overlay zone is to:

- *protect, conserve and enhance the visual environment and scenic resources adjacent to important tourist and transport routes, as identified in an approved Spatial Development Framework, and which contribute to the unique sense of place for residents and visitors;*
- *to assess the impact of buildings and structures, including fences, gates and gatehouses, berms, access roads, parking, crop cover, signage and telecommunication structures immediately abutting these roads in order to identify possible adverse impacts and implement measures which may mitigate such impacts;*
- *not to reduce existing development rights or to hinder development but rather to allow input in terms of the position and design of buildings and structures to reduce impacts on the scenic routes which are important for the character of the cultural landscape and which in turn are important economic drivers in the Municipality.*

220. Zone name and Designation

- (1) The Scenic Routes Overlay Zone shall be depicted on the zoning map in green lines (Code 35, 142, 35).

221. Areas designated as Scenic Routes Overlay Zones

- (1) The roads designated as scenic routes are listed in the table in section 230.
- (2) Unless otherwise stated or indicated on the plans, the demarcated Scenic Routes area of control consist of 200m either side of the road, measured from the centre line of the gravel or tarred road surface. The maps clearly indicate where a Scenic Route area of control applies to one side of the road only.
- (3) Should there be any dispute about the extent of the applicability of a Scenic Route area of control, the Municipality will determine the final extent and its determination is final.

222. Land use in this overlay zone

- (1) The primary, additional and consent uses together with all related land use parameters as set out in the base zone, apply in this overlay zone.

223. Building development parameters in this overlay zone

- (1) The building development parameters as set out in the applicable base zone apply in this overlay zone, provided that the Municipality may prescribe more or less restrictive building line, height or floor area parameters when granting permission in terms of this overlay zone and may also prescribe additional landscaping and screening for any development and these will be deemed to be departures or conditions as the case may be.

224. Application in a scenic route overlay zone area

- (1) The Municipality's permission is required for any new building and/or structure to be constructed within the demarcated Scenic Routes Area Overlay zone which may include, but are not limited to, the following:
- (a) all buildings, structures;
 - (b) crop covers, greenhouses or poly-tunnels, or any other covering for agricultural crops;
 - (c) refuse rooms;
 - (d) solid boundary walls, solid fencing, gatehouses or berms;
 - (e) parking lots and access roads;

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

- (f) telecommunication structures, above-ground utility services, and plant;
- (g) signage, excluding unilluminated signs not exceeding 2 000cm²;
- (h) removal, felling, lopping, topping or otherwise damaging any mature tree (other than removal of alien vegetation in line with an approved alien vegetation clearing management plan or other approved environmental management plan approved in terms of other legislation, dangerous branches or trees, and bona fide agricultural pruning, maintenance, and re-planting of orchards);
- (i) alteration or removal of any historical landscape features including mature hedges and avenues of mature trees.

225. Site development plan

- (1) A site development plan may be required by the Municipality for any development in this zone.

226. Visual impact assessment

- (1) A visual impact assessment may be required by the Municipality for any development in this zone.

227. Consideration of applications in terms of this chapter

- (1) When considering an application for permission in terms of this chapter, the Municipality shall consider the visual impact of the development proposal and shall impose conditions which mitigate the visual impact, including positioning, landscaping, and screening of the building.
- (2) Where an application is to develop in accordance with existing development rights, the Municipality shall endeavour to permit such development in accordance with existing rights with or without mitigation measures, as the case may be.
- (3) Where an application is made for a rezoning, subdivision, consent use, technical approval, departure, consolidation or permission in terms of the Scheme, the Municipality shall refuse an application if the proposal will have a serious negative visual impact or be detrimental to the visual environment.
- (4) In considering applications in terms of this chapter, the Municipality may consider any or all of the following:
 - (a) building height, mass and positioning of the building and/or structure;
 - (b) design, façade, and composition;
 - (c) parking;
 - (d) material, colour, texture, architectural treatment and appearance of the outer elements as well as any element of such building or structure visible to the public;
 - (e) outdoor lighting;
 - (f) landscaping and grading.
- (5) When granting its permission in terms of the Scheme, the Municipality may do so subject to conditions it deems necessary to mitigate impact or to protect and promote the visual environment and scenic quality of the area in general.
- (6) The Municipality may adopt by ordinary resolution, rules or more detailed policy guidelines to provide a more detailed guide for decision-making in terms of this overlay zone.

228. Signage

- (1) All signs or billboards along a scenic route must comply with the approved Drakenstein Municipality Advertising Signage Policy or By-law if so adopted, and in this zone, when making a decision, the Municipality shall also take into consideration the impact on the visual environment and scenic quality of the area and may impose stricter requirements than set out in other policies or by-laws.

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DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

229. Activities exempted

- (1) The following activities and structures are exempt from applying for permission in terms of this section:
- general maintenance of existing buildings and structures where the building footprint is not altered;
 - any internal alterations to buildings;
 - any new buildings and structures that will not be visible from any position along the scenic route and is fully screened from view for more than 200m on either side of the scenic route by either existing topography, trees, landscaping or buildings.
 - replacement of an existing fence with a new painted wire or steel palisade fence which is at least 80% visually permeable.
 - Any other activities as decided by a Council resolution and published in the Provincial Gazette.

230. Designated Scenic Routes Overlay Zone areas

- (1) The Municipality has designated the following areas as scenic routes:

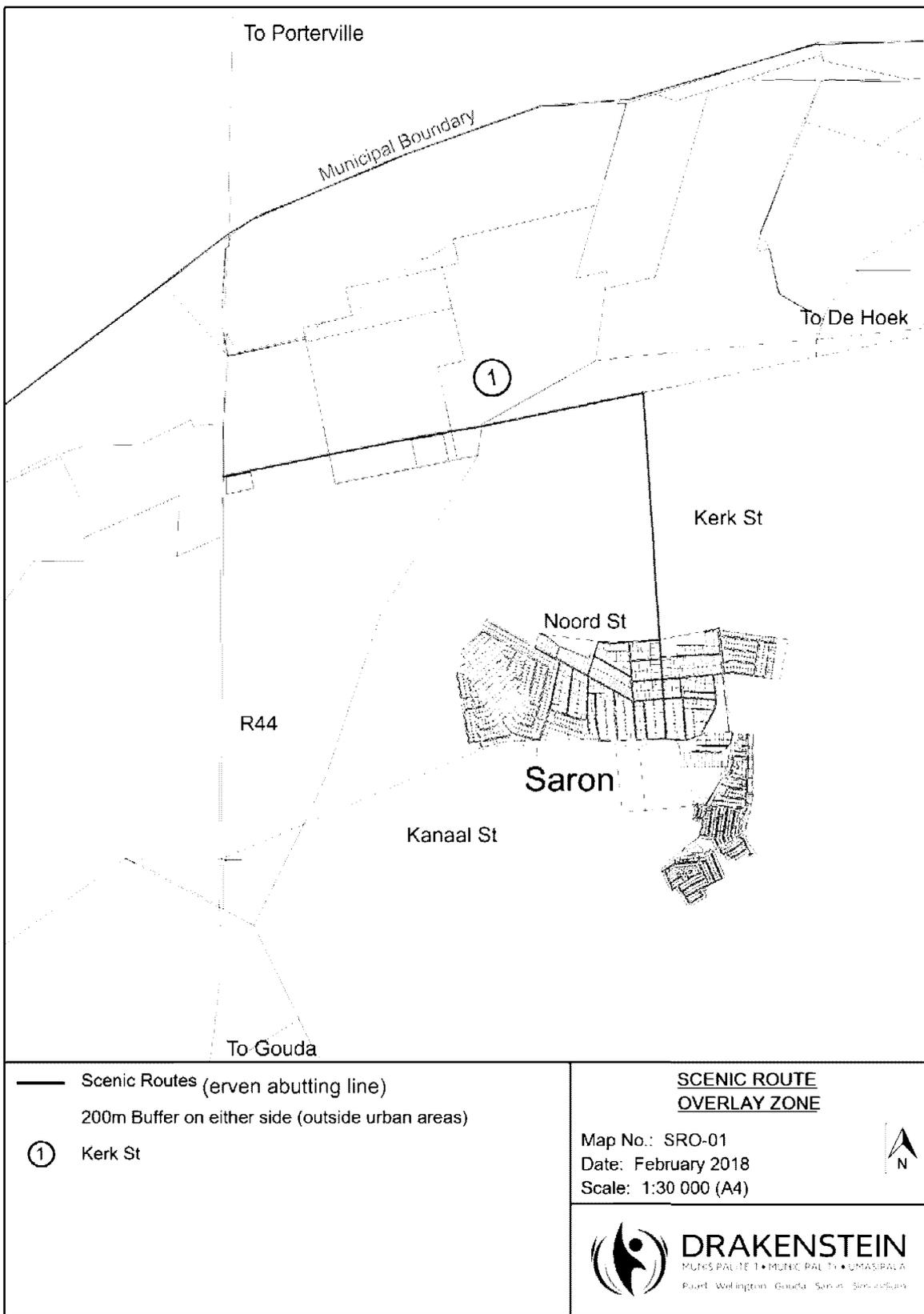
COLUMN 1	COLUMN 2
Area Name	Plan number
Kerk Street	SRO-01
R46	SRO-02; SRO-03
R44	SRO-03; SRO-04; SRO-05; SRO-06 SRO-08
Ondergeskikte Pad Nr. 05281	SRO-03
R45	SRO-04; SRO-05; SRO-06; SRO-09; SRO-10
Brakfontein Road	SRO-05; SRO-06
Lady Loch Road	SRO-06
Paardeberg Road	SRO-05
Noord Agter- Paarl Road	SRO-05
Rheeboksloof Road	SRO-05
Jan van Riebeek Drive	SRO-06; SRO-09
Berg/Blouville Road (Perdeskoen Road)	SRO-06; SRO-07
R301/Bain's Kloof	SRO-06; SRO-07
Roggeland Road	SRO-06; SRO-07; SRO-09
Swawelstert Road	SRO-06; SRO-09
Bo-Dal Josafat Road	SRO-06
Suid Agter – Paarl Road	SRO-08; SRO-10
Eenzaamheid Road	SRO-08
Protea Road	SRO-08
Klapmuts – Simondium Road	SRO-08; SRO-10
Sonstraat Road	SRO-09
Drakenstein Road	SRO-09
Watergat Road	SRO-10
R301	SRO-10



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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

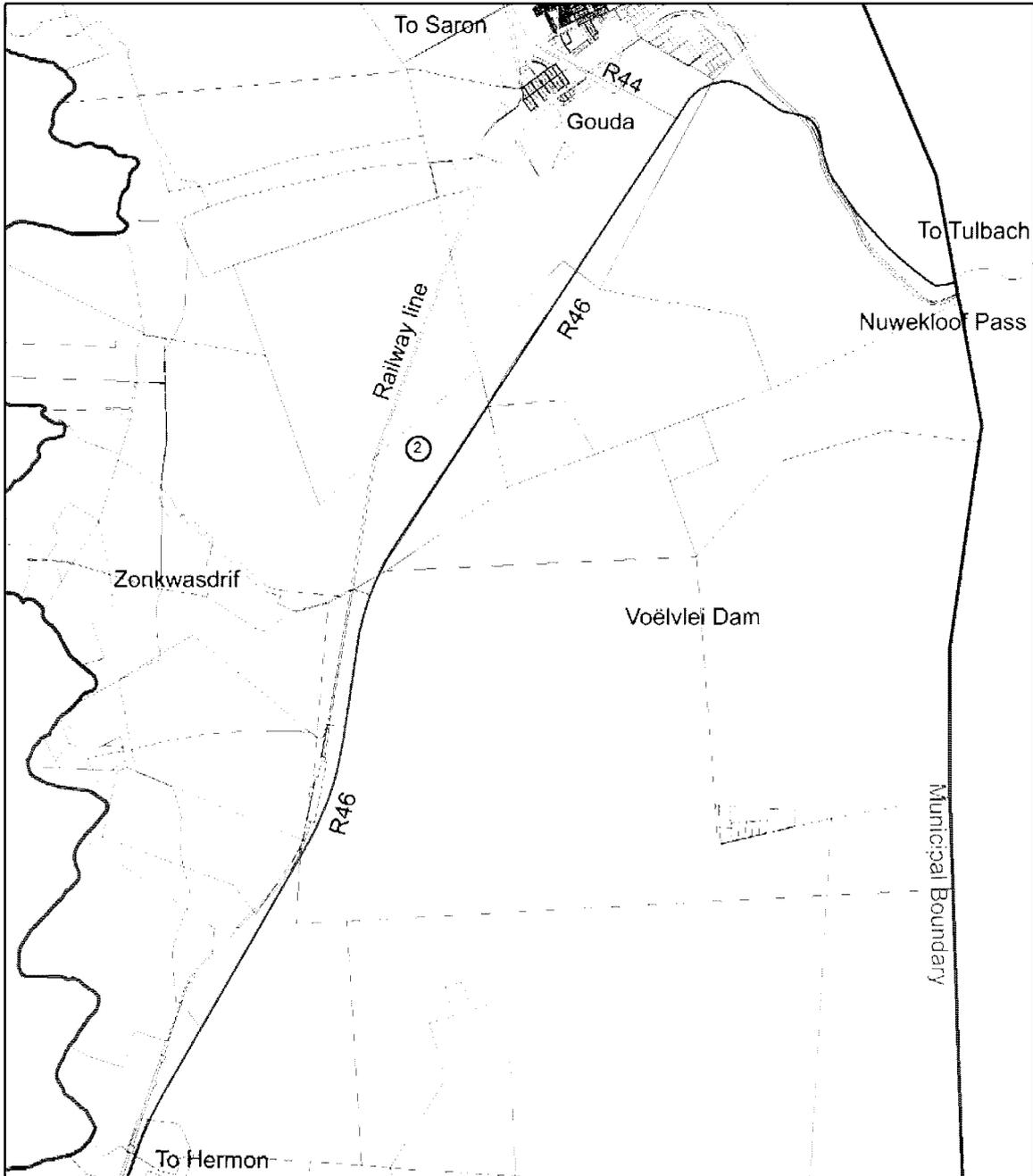




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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE



— Scenic Routes (even at cutting line)
 200m Buffer on either side (outside urban areas)

② R46

**SCENIC ROUTE
OVERLAY ZONE**

Map No.: SRO-02
 Date: February 2018
 Scale: 1:50 000 (A4)



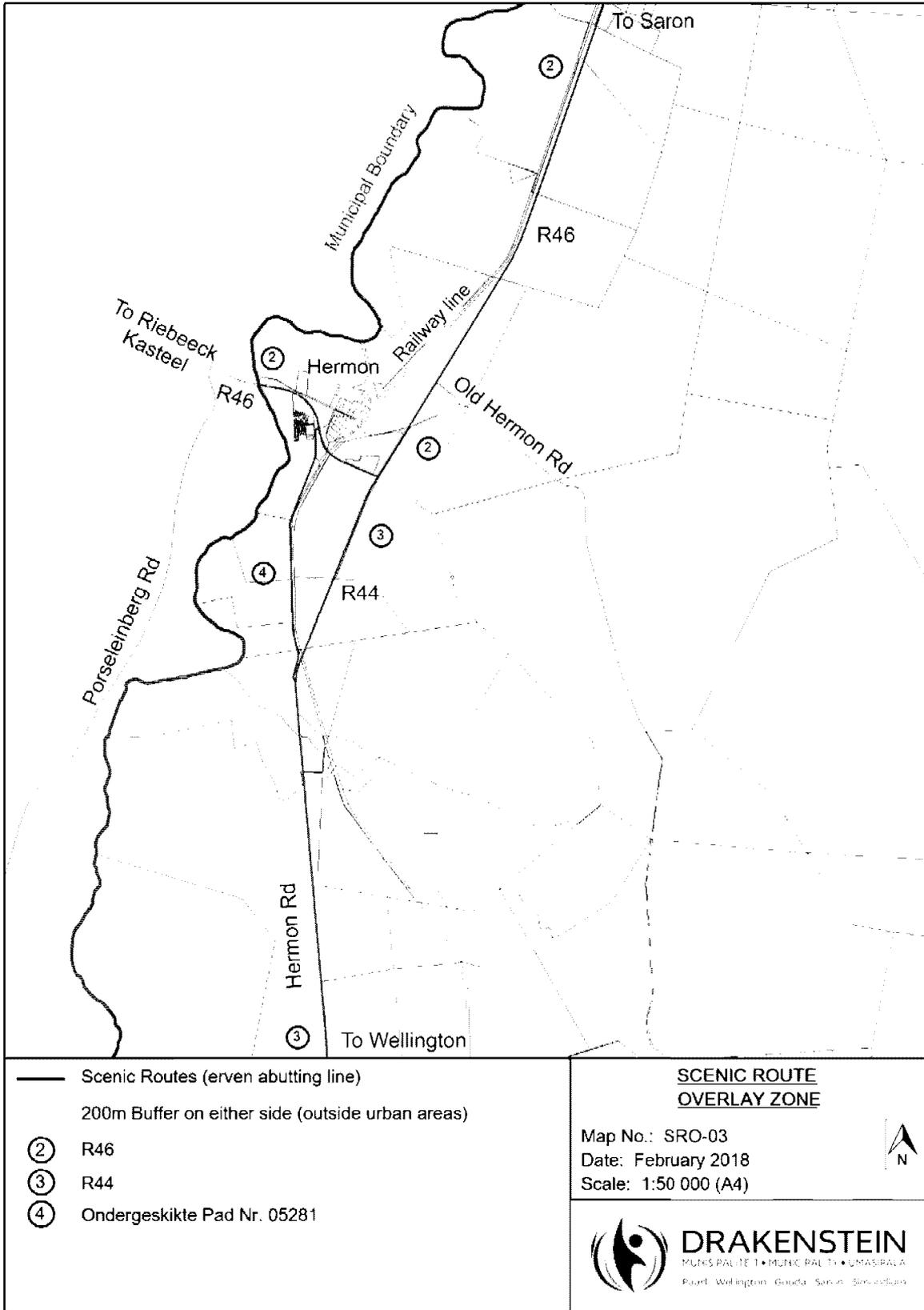
DRAKENSTEIN
 MURUS PALA LE 1 • MURUS PALA LE 11 • UMASIPALA
 Paarl • Worsington • Gouda • Saron • Sins-collies



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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

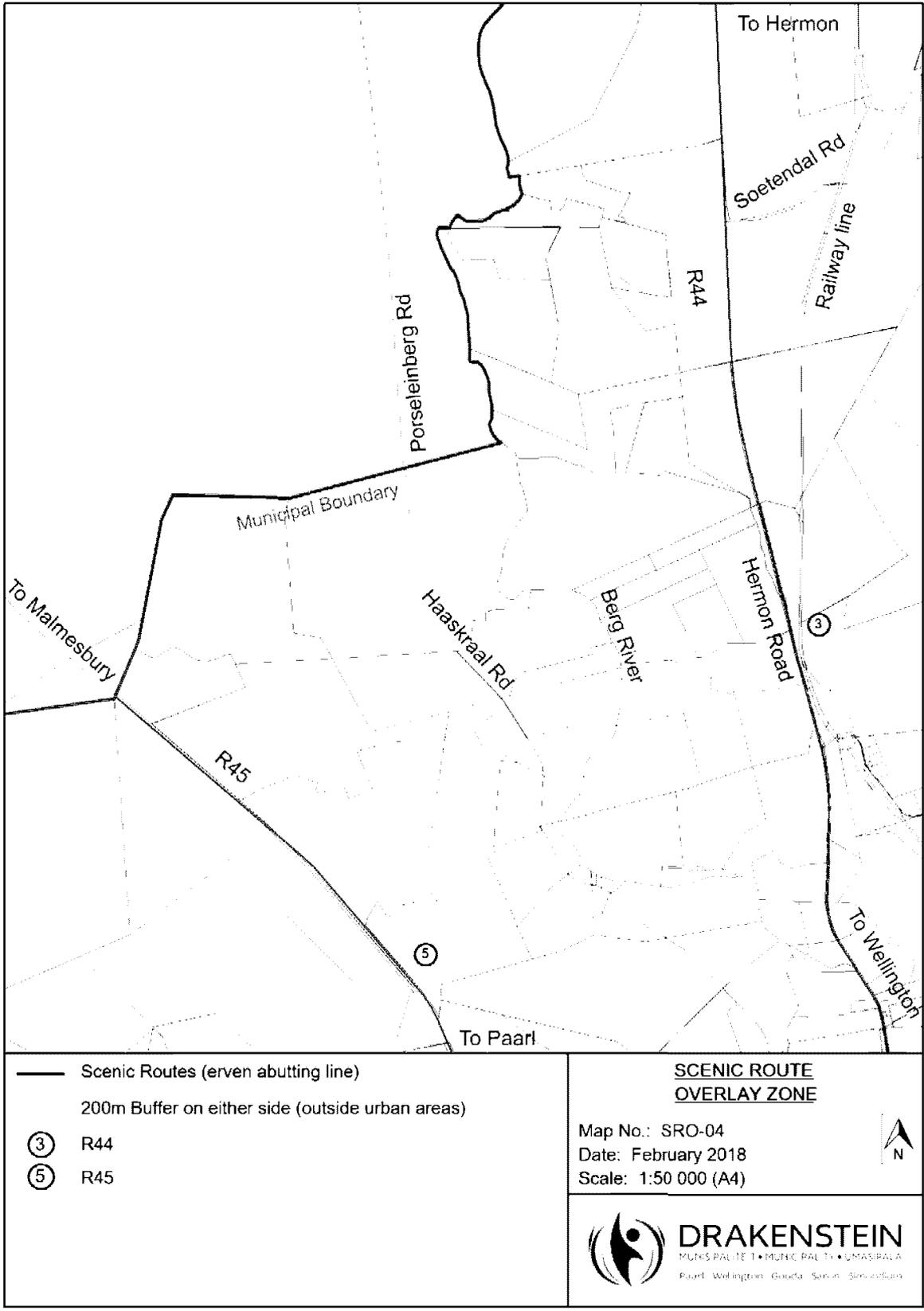




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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

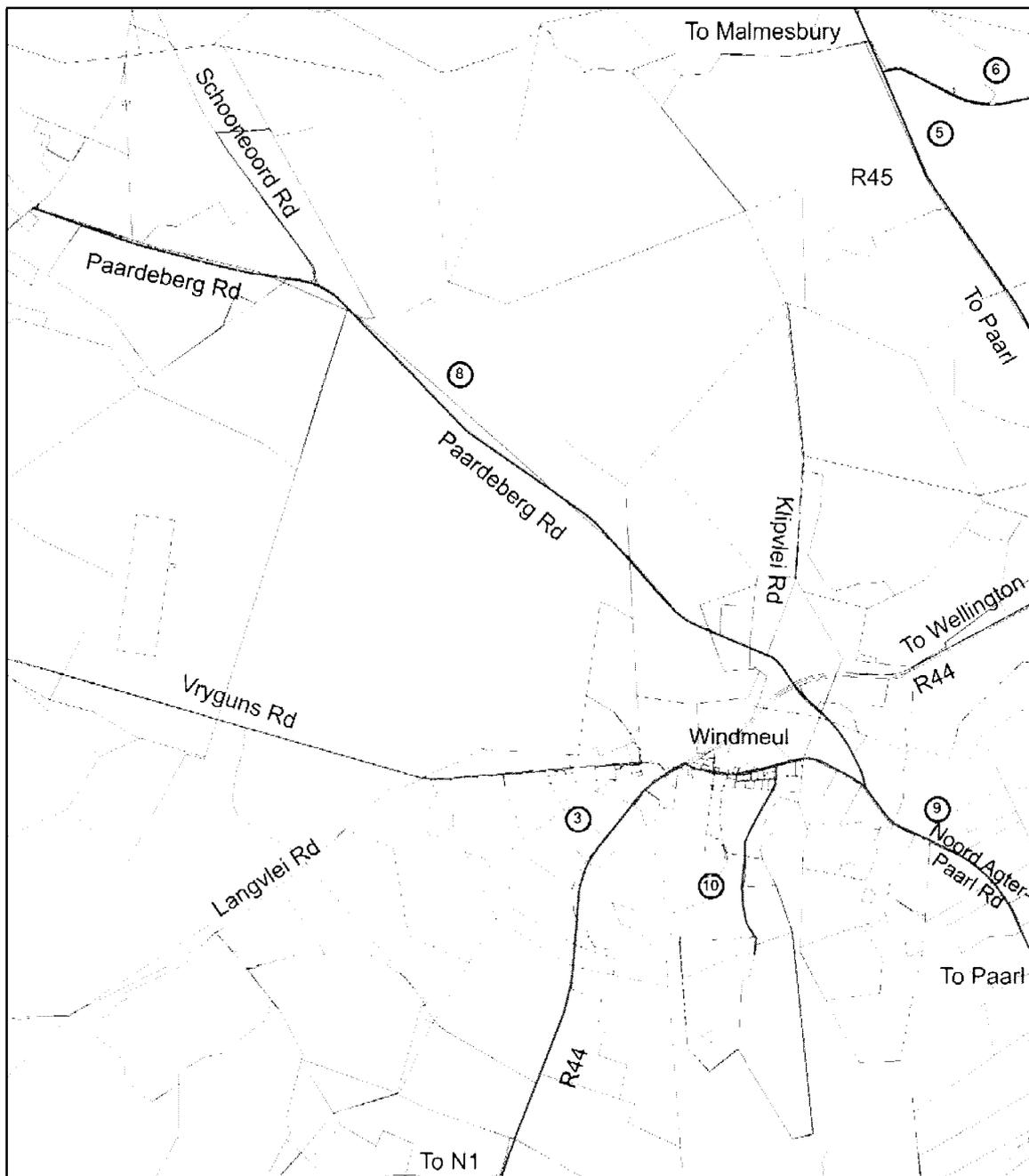




DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE



- Scenic Routes (erven abutting line)
- 200m Buffer on either side (outside urban areas)
- ③ R44
- ⑤ R45
- ⑥ Brakfontein Rd
- ⑧ Paardeberg Rd
- ⑨ Noord Agter-Paarl Rd
- ⑩ Rheeboekskloof Rd

SCENIC ROUTE OVERLAY ZONE

Map No.: SRO-05
 Date: February 2018
 Scale: 1:50 000 (A4)





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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE



— Scenic Routes (erven abutting line)
200m Buffer on either side (outside urban areas)

③ R44	⑫ Berg/Blouvier Rd (Perdeskoen Pad)
⑤ R45	⑬ R301
⑥ Brakfontein Rd	⑭ Roggeland Rd
⑦ Lady Loch Rd	⑮ Bo-Dal Josafat Rd
⑨ Noord Agter-Paarl Rd	⑯ Swawelstert Rd
⑪ Drommedaris	

SCENIC ROUTE OVERLAY ZONE

Map No.: SRO-06
Date: February 2018
Scale: 1:50 000 (A4)

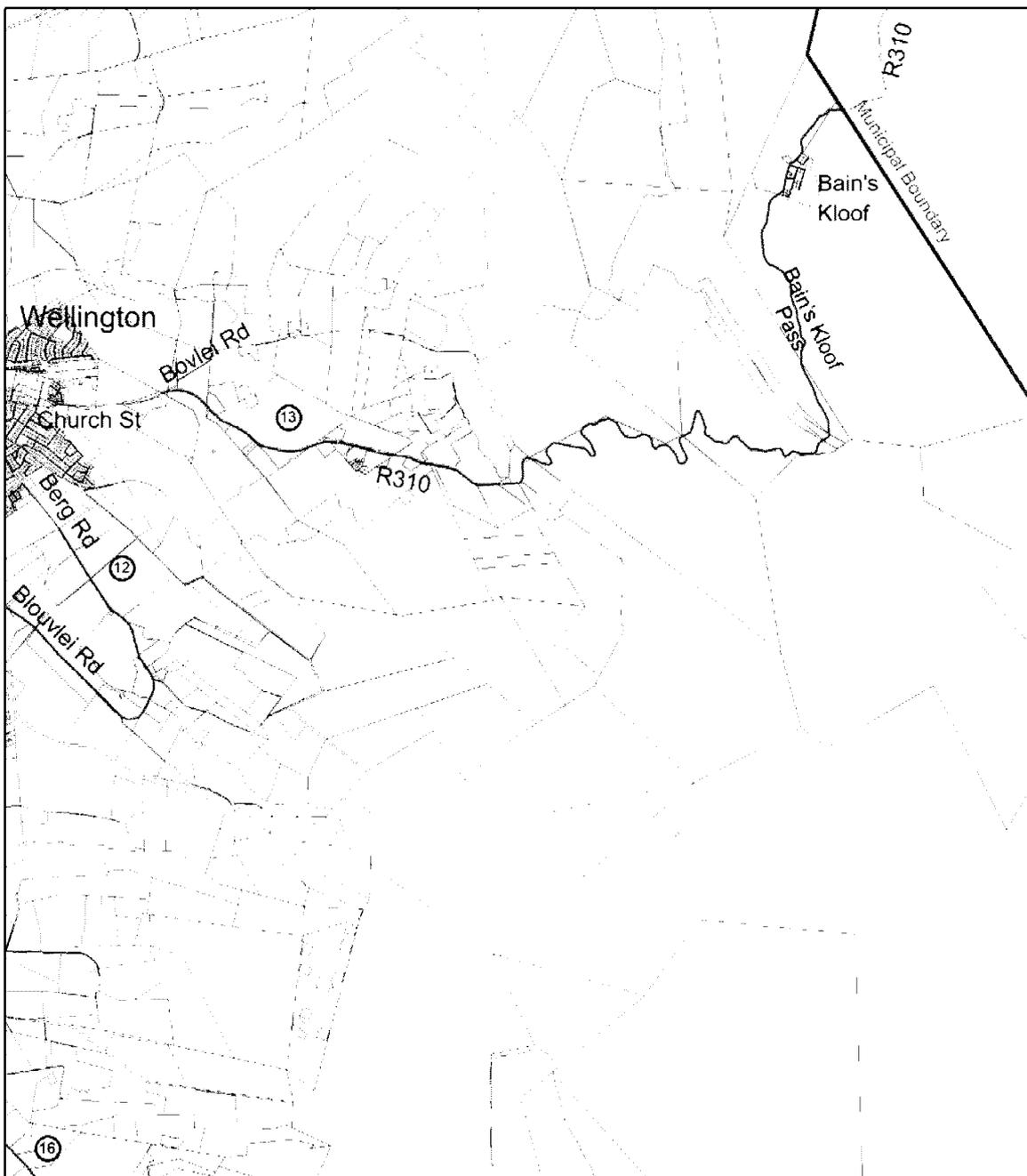




DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE



- Scenic Routes (erven abutting line)
- 200m Buffer on either side (outside urban areas)
- ⑫ Berg/Blouwelei Rd (Perdeskoen Pad)
- ⑬ R301/Bain's Kloof
- ⑬ Swawelstert Rd

**SCENIC ROUTE
OVERLAY ZONE**

Map No.: SRO-07
Date: February 2018
Scale: 1:50 000 (A4)

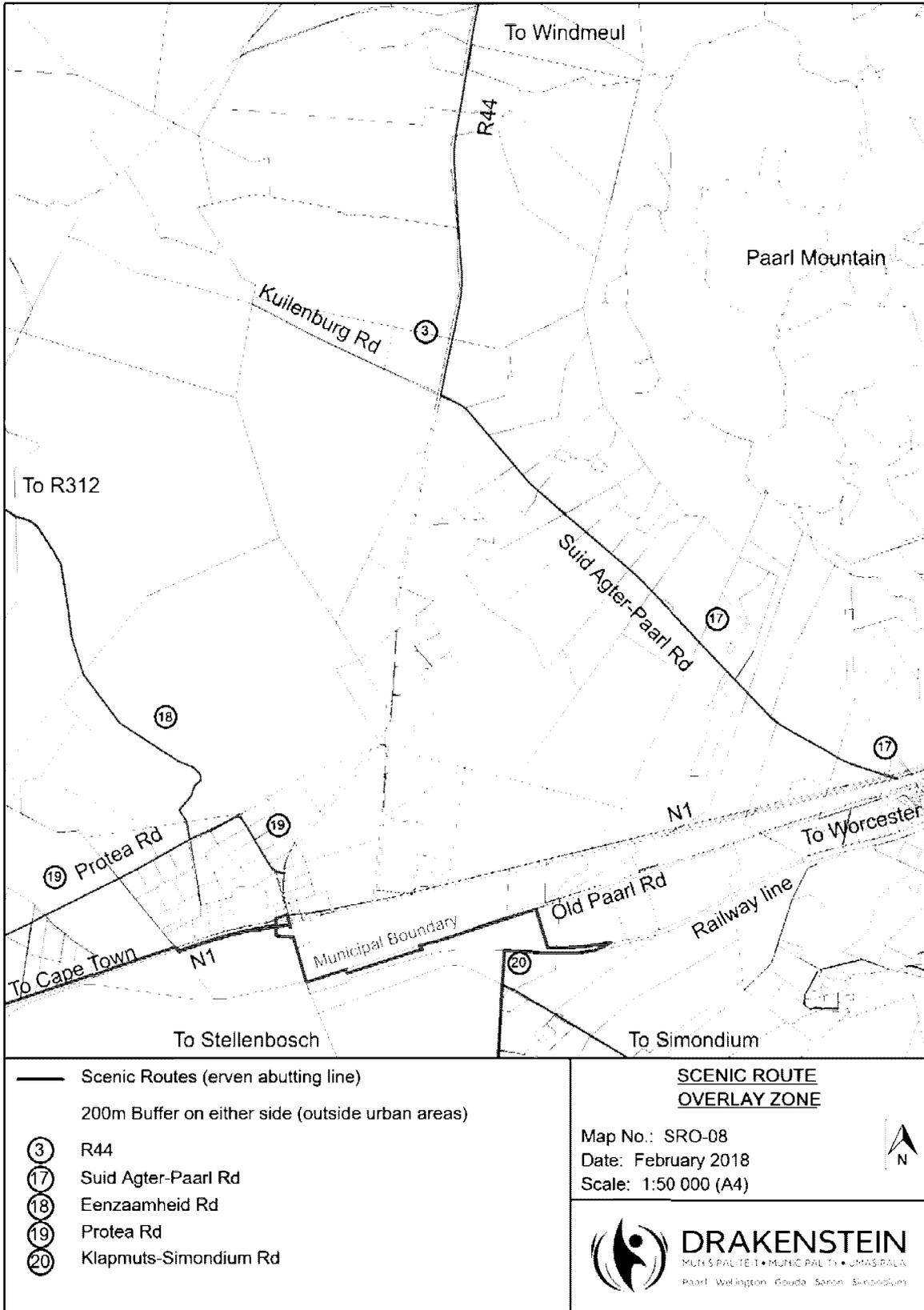





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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE

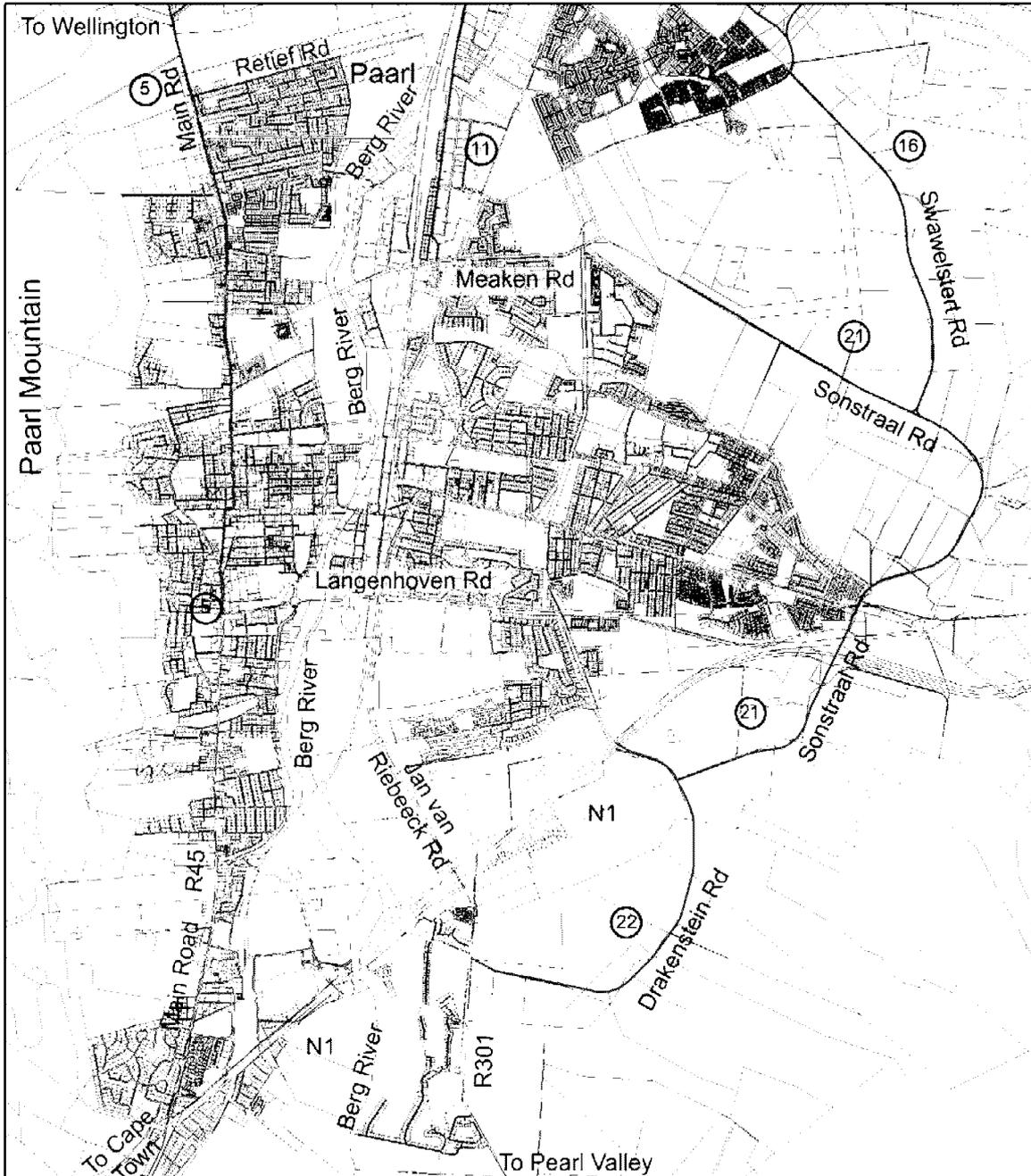




DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE



- Scenic Routes (erven abutting line)
- 200m Buffer on either side (outside urban areas)
- ⑤ R45
- ⑪ Drommedaris
- ⑯ Swawelstert Rd
- ⑳ Sonstraal Rd
- ㉒ Drakenstein Rd

SCENIC ROUTE OVERLAY ZONE

Map No.: SRO-09
 Date: February 2018
 Scale: 1:40 000 (A4)

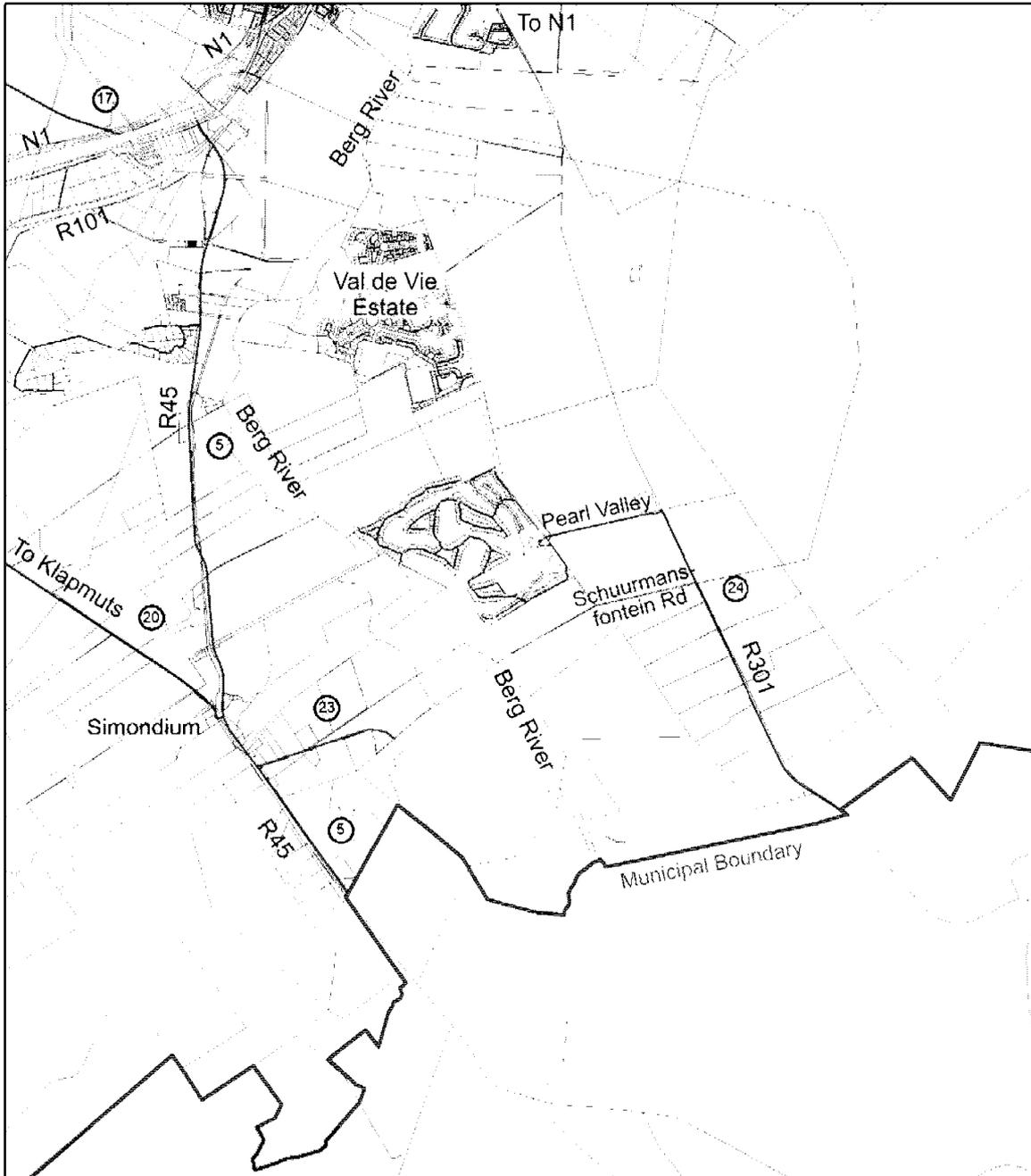




DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 21: SCENIC ROUTE OVERLAY ZONE



- Scenic Routes (erven abutting line)
- 200m Buffer on either side (outside urban areas)
- ⑤ R45
- ①⑦ Suid Agter-Paarl Rd
- ②① Klapmuts-Simondium Rd
- ②③ Watergat Rd
- ②④ R301

SCENIC ROUTE OVERLAY ZONE

Map No.: SRO-10
 Date: February 2018
 Scale: 1:50 000 (A4)



DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

RW

MAY 2018

CHAPTER 22: ROAD WIDENING OVERLAY ZONE

CHAPTER 22: ROAD WIDENING OVERLAY ZONE

The purpose of the Road Widening Overlay zone is to provide:

- *the Municipality and property owners with a regulated mechanism to identify land proclaimed for future road widening in terms of legislation and to reach an agreement on the future need and status of such a proclaimed road widening, some of which may no longer be required in future; and*
- *to provide landowners with a mechanism to retain their original development rights when having to forfeit land to a road widening scheme.*

231. Zone name and Designation

- (1) The Road Widening Overlay zone may be referred to by the code (RWO).

232. Roads designated for road widening

- (1) The roads along which road widening apply are listed in the table in section 235 below.

233. Use of land proclaimed for road widening

- (1) No landowner may use or develop land proclaimed for road widening which is part of his property, in such a manner that it cannot, in the opinion of the Municipality, be used for the widening of the abutting road in future, unless the Municipality has granted permission that such land is no longer required for road widening purposes, in which case the said Road Widening Overlay zone shall no longer apply to said land unit or land units.
- (2) If an owner intends to develop a property which is affected by road widening, the owner may approach the Municipality prior to submitting a planning application or building plan, for a decision on whether the road widening scheme will be continued, or not.
- (3) Should a decision be made by the Municipality to abandon a particular road widening scheme, the road widening portion of the land shall be deemed to be zoned the same zoning as the balance of the property, and the development proposals may proceed on the whole property, including the portion of land which form part of the abandoned road scheme.
- (4) Where a decision was made by the Municipality to abandon a road widening scheme, the decision takes immediate effect, and development proposals may proceed even though the decision has not yet been published in the Provincial Gazette.
- (5) The Municipality shall publish an annual revision of the Scheme containing at least the revised Road Widening Table indicating all amendments that are made to this Overlay zone by adding or removing certain properties in the preceding year.
- (6) An application or building plan, as the case may be, may proceed once the decision is made to amend the Overlay zone map and does not have to be held back until the revised table is published.
- (7) The Municipality shall record the decision to add or remove a property from the Road Widening Overlay Zone in the zoning register.

234. Transfer of land proclaimed for road widening to the Municipality

- (1) Where the Municipality decides that land proclaimed for road widening is needed for such purposes, and the owner undertakes to transfer the said land portion to the Municipality free of charge, the development parameters of the base zone will be applied to the property as if the road widening is not required, so as to allow the landowner to retain the original development rights on the land unit, provided that a building may not exceed the road widening line.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 22: ROAD WIDENING OVERLAY ZONE

- (2) The Municipality shall impose the necessary conditions with the approval of any application in terms of Planning Law or ensure that transfer of the said land portion takes place prior to or simultaneously with building plan approval to ensure said transfer of land takes place and may also grant permission for a relaxation of the applicable height parameter to should it be necessary to enable the permitted floor area on the reduced land unit area.
- (3) Should the owner not agree to transfer said land so required free of charge, the development parameters pertaining to building lines, coverage, floor area, as the case may be, will apply to the remainder of the property, once the portion required for road widening has been subtracted.

235. Schedule of roads subject to Road Widening Overlay zone

- (1) The following roads are designated for Road Widening:

No	Locality	Applicable Road Widening
1	Abattoir Street	Widening to 19m, on south side, from Harold Street to Van der Stel Street. Balance to be widened to 19m on Council property, where necessary.
2	Alberts Street Extension	New 12,5m link road between Ambagsvallei and Alberts Streets.
3	Alphorex Street	Widening to 19m from Main Street to High Level Road.
4	Ambagsvallei Street (West of Jan van Riebeeck Drive)	Widening to 19m on south side.
5	Auret Street	Widening to 12,5m at lower end.
6	Barbarossa Street	Widening to 12,5m.
7	Barker Street	Widening to 12,5m.
8	Basson Street	Widening to 12,5m.
9	Berg Street	Widening, where necessary, to 12,5m at east end.
10	Berg River Boulevard	Widen existing and create new streets as follows: <ul style="list-style-type: none"> From Main to Hospital Street 31,5m From Hospital to Lang Street 30m (Proclaimed Main Road)
11	Berg River Street	Widening to 14m on west side.
12	Bernhardi Street	New 16m wide road between Bernhardi and Market Streets.
13	Bethel Street	Widening to 19m between Fabriek and Main Streets.
14	Blake Street	Widening to 12,5m on north side over Council property.
15	Boegoe Street	Widening to 12,5m on east side when township is established.
16	Bond Street	Widening to 12,5m.
17	Boom Street	Widening to 12,5m on west side, when township is established.
18	Bosman Street	Widening to 19m.
19	Botha Street	Widening to 12,5m on south side between Main and Napier Streets.
20	Breda Street	Widening to 19m south of Lady Grey Street and 16m north of Lady Grey Street.
21	Brug Street	Widening to 16m on north side when farm Vredenburg is subdivided and on south over western section.
22	Cecilia Street	Widening to 30m from Berg River Boulevard to National Road (Proclaimed Main Road) Remainder to become cul-de-sac at western end.
23	Commercial Street	Widening to 12,5m when rebuilding takes place.
24	Constantia Street	Widening to 16m on west side, where necessary, and when township is established.
25	Crystal Street	Reinstate to original width of 14m and reclaim land encroached upon.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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CHAPTER 22: ROAD WIDENING OVERLAY ZONE

26	Derksen Street	Widening to 16m where street abuts sites on which flats are to be erected - otherwise to 12,5m.
27	Desmore Street	Widening to 12,5m.
28	Distillery Street	Widening to 14m on west side.
29	Distillery Street	Widening along western boundary to line up with western boundary of Eiland Street.
30	Dorp Street	Widening to minimum of 12,5m over short lengths.
31	Du Plessis Street	Widening to 12,5m on east side, between Plein and Navarre Streets.
32	Durr Street	Widening to 12,5m where necessary between Mill Street and High Level Road.
33	Du Toit Street	Widening to 16m where street abuts sites on which flats are to be erected - otherwise to 12,5m.
34	Dwars Street	Widening to 12,5m when subdivision takes place.
35	Eiland Street	Widening to 16m.
36	Enslin Street	Widening to 16m between Main Street and new High Level Road.
37	Eskdale Street	Widening to 16m where necessary and when subdivision takes place. New 16m road to south.
38	Evans Street	Widening to 12,5m.
39	Fabriek Street	Widening to 19m, between Lady Grey and Bethel Streets; remainder to be widened to 16m.
40	Foxglove Street	Widening of lower section to 12,5m.
41	Frater Street	Widening of section to 19m.
42	Gabbema Doordrift	Reserve width of 16m for new road.
43	Grawe Street	Widening to 12,5m.
44	Grebe Street	Widening to 12,5m.
45	Hartford Street	Widening to 30m. (Proclaimed Main Road)
46	Hermitage Street	Widening to 12,5m.
47	High Street	Widening to 12,5m on west side.
48	Hillside Road	Widening to 12,5m.
49	Hospital Street	Widening to 25m.
50	Hout Street	Widening to 14m, from Main to Orange Streets; remainder to Non Pareille Street (High Level Road), to be widened to 12,5m.
51	Huguenot By-Pass	New road 30m wide from Lady Grey Street to Hugos River Bridge (Proclaimed Main Road).
52	Jan Steyn Street	Widening to 16m on west side between Kerk and School Streets.
53	Jan van Riebeeck Drive	Widening to 30m (Proclaimed Main Road) except for length between Lady Grey Street and Klein Drakenstein Road, where widening is to be 19m.
54	Jones Street	Widening to 19m.
55	Kerk Street	Widening to minimum of 12,5m when area is subdivided.
56	Klein Drakenstein Road	Widening to 30m (Proclaimed Main Road)
57	Klein Reservoir Street	Widening to 12,5m where necessary.
58	Kohler Street	Widening to 19m between Railway Line and Cecilia Street.
59	Kolbe Street	Widening to 16m when road becomes available for public use.
60	Koning Street	Widening to 16m.
61	Kweek Street	Widening to 12,5m on north side.
62	Laborie Street	New 16m road extension to High Level Road when Picardie AA@ is subdivided.
63	Lady Grey Street	Widening to 30m between Main Street and Berg River. Widening to 30m between Berg River and Railway Bridge. Widening to 30m between Railway Bridge and Jan van Riebeeck Drive (Proclaimed Main Road).

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

RW

MAY 2018

CHAPTER 22: ROAD WIDENING OVERLAY ZONE

		6Widening to 14m between Main and Mill Streets.
64	Lang Street	Widening to 30m between Berg River and Main Street and 19m between Main Street and High Level Road
65	Langenhoven Avenue	Widening to 31,5m from Jan van Riebeeck Drive to intersection with National Road (Proclaimed Main Road)
66	Loop Street	Widening to 12,5m.
67	Main Street	Widening to 30m (Proclaimed Main Road)
68	Malan Street	Widening to 12,5m on north side.
69	Malherbe Street	Widening to 16m where street abuts sites on which flats are to be erected - otherwise to 12,5m.
70	Manus Fortuin Street and extensions	Widening to 12,5m and new 12,5m link between Manus Fortuin and Kolbe Streets.
71	Market Street	Widening to 30m between Main Street and Berg River and to 31,5m between Berg River and Jan van Riebeeck Drive (Proclaimed Main Road)
72	Meaker Street	25m wide road from Jan van Riebeeck Drive to Van der Stel Street.
73	Merten Street and Gericke Street	Widening to 12,5m.
74	Mill Street	Widening to 16m.
75	Moll Street	Widening to 16m when land is subdivided.
76	Moni Street	Widening to 12,5m on south side between Textile and Eiland Streets.
77	Muscadel and Frans Streets	Widening to 12,5m between Burbank and Ambagsvallei Streets.
78	Nantes Street	Widening to 12,5m where necessary between Mill and Commercial Streets and 19m between Commercial and Main Streets.
79	Napier Street	Widening to 12,5m between Plein and Malan Streets.
80	New Street	Widening to 13m.
81	New Street	Widening to 12,5m between Breda Street and Berg River Boulevard.
82	Newman Street	Widening to 12,5m on south side between Van der Stel and Field Streets.
83	Oosbosch and Meaker Streets	25m road between Berg River and New By-Pass (Van der Stel Street extension)
84	Optenhorst and Oosbosch Streets	New road 32m wide from Main Street to Westhoven Street and from there 31,49m wide up to Jan van Riebeeck Drive. (Proclaimed Main Road)
85	Orange Street	Widening to 12,5m where necessary.
86	Pastorie Avenue	Widening to 19m.
87	Patriot Street	Widening to 9,5m between Main Street and First Avenue; remainder to be widened to 12,5m
89	Paulus Street	Widening to 16m on east side.
90	Picardie Street	Widening to 12,5m.
91	Pine Street	Widening to 30m equally on both sides.
92	Plantasie Street	Widening to 12,5m.
93	Plein Street	Widening to 16m west of Main Street, where necessary and 19m between Main and Berlyn Streets.
94	Pontac Street	Widening to 12,5m.
95	Prins Street	Widening to 12,5m.
96	Prins Fortuin Street	Widening to 12,5m.
97	Reitz Street	Widening to 16m when subdivision takes place.
98	Retief Street	Widening to 16m when subdivision takes place.
99	Roodeberg Avenue	New 19m street linking Concordia and Cecilia Streets.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

RW

MAY 2018

CHAPTER 22: ROAD WIDENING OVERLAY ZONE

100	Rosaki Street	Widening to 12,5m.
101	Rosary Street	Widening to 16m north of La Moderne Street and new 16m road extending to Municipal Boundary.
102	Rose Street	Widening to 16m.
103	Sanddrift Street	Widening to 16m and new 16m link road to Berlyn Street.
104	Santa Rosa Street	Widening to 12,5m from Klein Drakenstein Road to Unnamed Road.
105	Second Avenue	Widening to 12,5m at Market Street end and new 12,5m extension to Templier Street.
106	South Street	Widening to 14m
107	Station Street	Widening to 16m.
108	Stirling Street and Stirling Street East	Widening to 10m on southern side.
109	Sultana Street	New 14m road to Koning Street when township develops.
110	Tabak Street	Widening to 30m to Pine Street and to 19m from Pine Street to the National Road Service Road.
111	Templier Street	Widening to 9,5m.
112	Textile Street	Widening to 12,5m.
113	Thom Street	Widening to 16m where street abuts sites on which flats are to be erected - otherwise to 12,5m.
114	Treurnich Street	Widening to 19m.
115	Turk Street	Widening to 12,5m on south side.
116	Unnamed New Road, east of Frater Street	New 16m road surrounding Industrial Area east of Frater Street.
117	Unnamed New Road between Road No. 15 and National Road	New 16m road.
118	Unnamed New Road from Berg River Boulevard along river bank to east of Nancy and Goede Moed to Cecilia Street	New 19m road.
119	Unnamed New Road between Jan Hofmeyr Street and Klein Drakenstein Road	New 25m road.
120	Van der Lingen Street	Widening to 16m
121	Van der Stel Street and extensions	Widening to minimum of 31,5m and new extensions from Klein Drakenstein Road to Jan van Riebeeck Drive.
122	Vercueil Street	Widening to 12,5m.
123	Victoria Street	Widening to 9,5m.
124	Vlei Street	Widening to 12,5m.
125	Voigt Street	Widening to 12,5m.
126	Waterkant Street	Widening to 12,5m from New Street to Castle Street.
127	Weiss Street	Widening to 12,5m on south side.
129	Wemmershoek Road	Widening to 30m.
130	Zeederberg Square (road around)	Widening to 12,5m.
131	Zeederberg Street	Widening to 12,5m.
132	Zion Street	Widening to 12,5m.
133	South of Richmond Avenue	New 13m wide cul-de-sac

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAWMAY 2018

236. Enforcement

- (1) Enforcement of this Zoning Scheme shall be undertaken in accordance with the Drakenstein Municipal Land Use Planning By-law.

237. Repeal

- (1) The zoning schemes listed in schedule 1 are repealed.

238. Short title and commencement

- (1) This by-law is called the Drakenstein Municipality Zoning Scheme By-law, 2018.
- (2) This by-law comes into operation on the date of publication in the Provincial Gazette.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

SCHEDULES**SCHEDULE 1****Zoning schemes repealed by this By-law**

Zoning Schemes Repealed by adoption of new scheme	
Paarl Zoning Scheme and all subsequent amendments	Section 7(2) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
Wellington Zoning Scheme and all subsequent amendments	Section 7(2) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
Section 8 Zoning Scheme and all subsequent amendments as applicable to the Drakenstein Municipal Area	Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
Mbekweni Town Planning Scheme	Black Communities Development Act, 1984 (Act 4 of 1984)

SCHEDULE 2**Conversion of zoning on repealed zoning maps**

- (1) In the column on the left the zoning of the repealed zoning scheme is indicated.
- (2) In the column on the right the proposed new zoning in terms of this Scheme is indicated.
- (3) In cases where a suitable corresponding zone does not exist in the new scheme, the zoning was manually converted based on the lawful existing land use.

PAARL	
REPEALED PAARL ZONING SCHEME ZONES	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Single Dwelling Residential	Conventional Housing Zone; or Agriculture Zone (Paarl Farms)
Group Housing	Conventional Housing Zone, or Transport Zone, or Open Space Zone
General Residential <ul style="list-style-type: none"> • Subzone A • Subzone B 	Multi-unit Housing Zone (Group housing developments same as Group Housing above)
Informal Residential	Conventional Housing Zone
Special Business	<u>Manual allocation based SDF intensification area:</u> <ul style="list-style-type: none"> • Mixed-use Zone; or • Neighbourhood Business Zone
General Business	<u>Manual allocation based on SDF intensification area:</u> <ul style="list-style-type: none"> • Mixed-use Zone; or • Neighbourhood Business Zone
Resort Zone I	<u>Manual allocation</u> <ul style="list-style-type: none"> • Agriculture Zone; or • Open Space Zone; or • Limited Use Zone; or • Neighbourhood Business Zone; or • Mixed-use Zone
Resort Zone II	<u>Manual allocation</u> <ul style="list-style-type: none"> • Conventional Housing Zone; or • Limited Use Zone • Transport Zone • Open Space Zone
Special Civic	Multi-unit Housing Zone
General Commercial	<u>Manual allocation based on SDF intensification area:</u> <ul style="list-style-type: none"> • Mixed-use Zone; or • Neighbourhood Business Zone
Industrial	Industrial Zone

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018

PAARL	
REPEALED PAARL ZONING SCHEME ZONES	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Agriculture	Agriculture Zone
Undetermined	Limited Use Zone
Education	Community Use Zone
Government	Manual allocation
Municipal Purposes	Manual allocation
Parking	Transport Zone
Public Worship	Community Use Zone
South African Railway	Transport Zone
Special Zone	Manual allocation
Subdivisional Area	Manual allocation
Street Closure	Transport Zone
Redevelopment Area	Manual allocation
Public and Private Open Space	Open Space Zone; or Transport Zone (public parking areas)
New Streets and Street Widening	Retain base zone of main erf
Street	Transport Zone
Unknown	Limited Use Zone
Undetermined	Limited Use Zone

SECTION 8	
REPEALED SECTION 8 ZONING SCHEME ZONES	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Agricultural I	Agriculture Zone
Agricultural II	Industrial Zone
Residential I	Conventional Housing Zone
Residential II	Conventional Housing Zone Transport Zone Open Space Zone
Residential III	Conventional Housing Zone Transport Zone Open Space Zone
Residential IV	Multi-unit Housing Zone Group housing same as Res III
Residential V	<u>Manual allocation</u> <ul style="list-style-type: none"> • Multi-Unit Housing Zone; or • Open Space Zone Group housing same as Res III
Informal Residential	Conventional Housing Zone
Business I	Neighbourhood Business Zone
Business II	Neighbourhood Business Zone
Business III	Neighbourhood Business Zone
Business IV	Manual allocation: <ul style="list-style-type: none"> • Mixed-use • Industrial Zone; or • Neighbourhood Business Zone
Business V	<u>Manual allocation</u> <ul style="list-style-type: none"> • Mixed-use Zone; or • Industrial Zone; or • Neighbourhood Business Zone
Industrial I	Industrial Zone
Industrial II	Industrial Zone

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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SECTION 8	
REPEALED SECTION 8 ZONING SCHEME ZONES	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Institutional I	Community Use Zone
Institutional II	Community Use Zone
Institutional III	Community Use Zone
Resort Zone I	<u>Manual allocation</u> <ul style="list-style-type: none"> • Agriculture Zone; or • Open Space Zone; or • Transport Zone; or • Limited use Zone; or • Neighbourhood Business Zone; or • Mixed-use Zone
Resort Zone II	<u>Manual allocation</u> <ul style="list-style-type: none"> • Conventional Housing Zone; or • Limited Use Zone; or • Open Space Zone; or • Transport Zone
Open space I	Open Space Zone; or Transport Zone (public parking areas)
Open space II	Open Space Zone Transport Zone (public parking areas)
Open space III	Natural Environment Zone Transport Zone (public parking areas)
Transport I	Transport Zone
Transport II	Transport Zone
Transport III	Transport Zone
Special	Manual allocation
Undetermined	Limited Use Zone
Authority	Manual allocation
Subdivisional Area	Manual allocation
Unknown	Limited Use Zone

WELLINGTON	
REPEALED WELLINGTON ZONING SCHEME ZONES	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Agriculture Zone	Agriculture Zone
Single Dwelling Residential Zone	Conventional Housing Zone
General Residential Zone	Multi-unit Housing Zone
Group Housing Zone	Conventional Housing Zone; or Transport Zone; or Open Space Zone
Informal Residential	Conventional Housing Zone
Business Zone	<u>Manual allocation SDF</u> <ul style="list-style-type: none"> • Mixed-use Zone; or • Neighbourhood Business Zone
Industrial Zone	Industrial Zone
Undetermined Zone	Limited Use Zone
Cemetery	Open Space Zone
Education	Community Use Zone
Government	Manual allocation
Local Authority	Manual allocation
Public Open Space	Open Space Zone; or Transport Zone (public parking areas)
Public Parking	Transport Zone

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

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Private Open Space	Open Space Zone
Railway	Transport Zone
Subdivisional Area	Manual allocation
Street	Transport Zone
Street Closure	Transport Zone
Street Widening	Retain base zone of main erf
Undetermined	Limited Use Zone
Unknown	Limited Use Zone

MBEKWENI	
REPEALED MBEKWENI TOWN PLANNING CONDITIONS ZONES	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Residential I	Conventional Housing Zone
Residential II	Multi-unit Housing Zone; or Conventional Housing Zone; or Transport zone; or Open Space Zone
Business	Neighbourhood Business Zone
Industrial	Industrial Zone
Institutional I	Community Use Zone
Institutional II	Community Use Zone
Institutional III	Community Use Zone
Services	Utility Zone
Open space I	Open Space Zone; or Transport Zone (public parking areas)
Open space II	Open Space Zone Transport Zone (public parking areas)
Street	Transport Zone
Parking	Transport Zone
Special	Manual allocation
Undetermined	Limited Use Zone
Unknown	Limited Use Zone

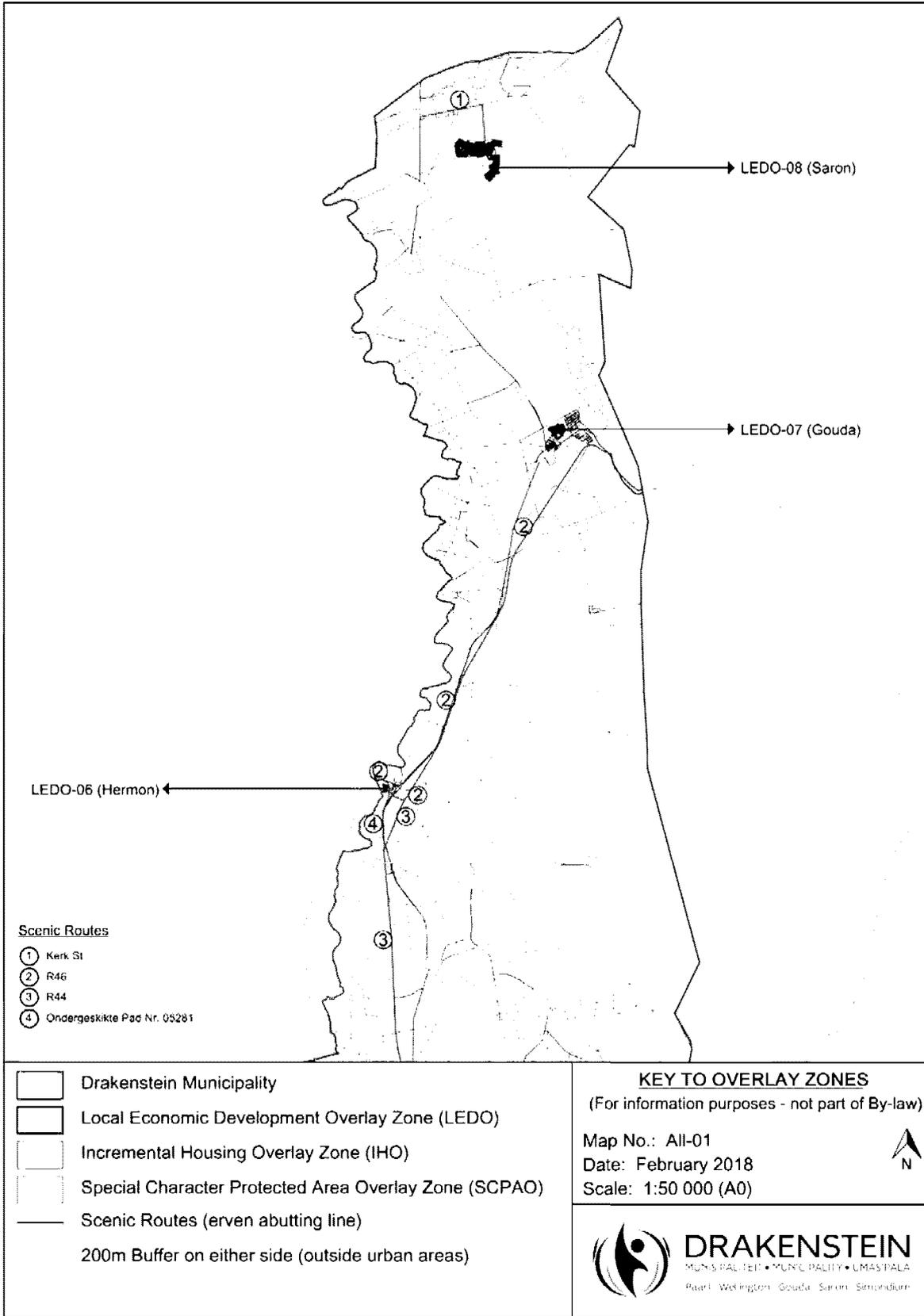
SARON		
LAND USE SURVEY – NO PREVIOUS ZONING	DEEMED SECTION 8 ZONING	DRAKENSTEIN MUNICIPALITY ZONING SCHEME 2018
Residential	Residential I	Conventional Housing Zone
Informal Residential	Informal Residential	Conventional Housing Zone
Business	Business I	Neighbourhood Business Zone
Worship	Institutional II	Community Use Zone
Open Space/Recreation	Open space I	Open Space Zone; Transport Zone (public parking areas)
Agriculture	Agricultural I	Agriculture Zone
Education	Institutional I	Community Use Zone
Utility	Authority	Utility Zone
Vacant/no land use	Residential I	Conventional Housing Zone

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAWMAY 2018

SCHEDULE 3**Key to Overlay Zone maps**

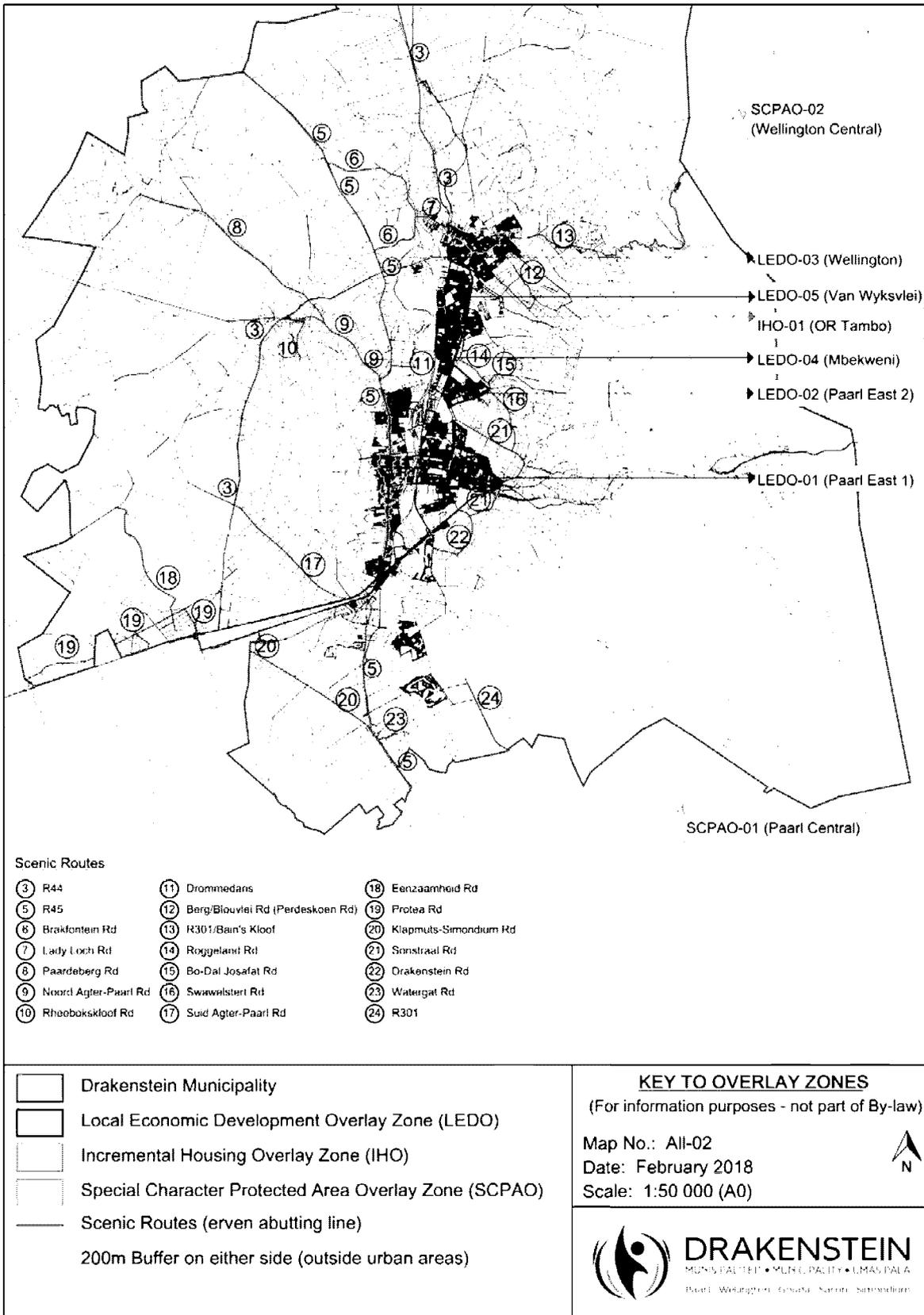
- (1) The plans in this schedule is a key to Overlay Zone maps and does not form part of the By-law.
- (2) The plans contained in each Overlay Zone shall solely be used for determination of inclusion into an Overlay Zone area.

DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW
MAY 2018



DRAKENSTEIN MUNICIPALITY ZONING SCHEME BY-LAW

MAY 2018



Drakenstein Municipality, by virtue of the powers vested in it by section 156(2) of the Constitution of the Republic of South Africa as amended, read together with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, has made the By-law set out below:



DRAKENSTEIN

MUNISIPALITEIT • MUNICIPALITY • UMASIPALA

Paarl | Wellington | Gouda | Saron | Simondium

Drakenstein By-law on Municipal Land Use Planning, 2018

Date of approval/Review by Council

23 August 2018

Implementation date

1 October 2018



A city of excellence

DRAKENSTEIN MUNICIPALITY**BY-LAW ON MUNICIPAL LAND USE PLANNING: 2018**

Under section 156 of the Constitution of the Republic of South Africa, 1996, Drakenstein Municipality, enacts as follows:-

To regulate and control municipal land use planning.

ARRANGEMENT OF SECTIONS AND SCHEDULES**CHAPTER I****INTERPRETATION AND APPLICATION**

1. Definitions
2. Application of By-law

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

CHAPTER III**DEVELOPMENT MANAGEMENT**

13. Determination of zoning
14. Non-conforming uses
15. Land development requiring approval and other approvals required in terms of this By-law
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 services infrastructure
26. Closure of public places
27. Services arising from subdivision
28. Certification by Drakenstein 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

CHAPTER IV**APPLICATION PROCEDURES**

35. Manner and date of notification
36. Procedures for applications
37. Pre-application consultation
38. Information required
39. Application fees
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
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 appeals
- 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. General powers and functions of authorised employees
- 94. Powers of entry, search and seizure
- 95. Warrant of entry for enforcement purposes
- 96. Regard to decency and order
- 97. Enforcement litigation

- 98. Administrative penalty
- 99. Rectification of contravention

CHAPTER X MISCELLANEOUS

- 100. Naming and numbering of streets
- 101. Delegations
- 102. Repeal of by-laws
- 103. Transitional arrangements
- 104. Short title and commencement

SCHEDULE 1: CODE OF CONDUCT FOR MEMBERS OF TRIBUNAL

CHAPTER I INTERPRETATION AND APPLICATION

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—

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

“agent” means a person authorised in terms of a power of attorney to make an application on behalf of the 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 by-law 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);

“authorised employee” means the person who is authorised in terms of section 69 to exercise a power or perform a duty in terms of the categorisation of applications as contemplated in section 68;

“authorised official” means an employee of the Municipality responsible for carrying out any duty or function or exercising any power in terms of this by-Law and includes an employee delegated or designated to carry out or exercise such duty, function or power;

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

“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 foundation;

“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;

“common property” means—

- (a) in the case of an erf on which a sectional title scheme is developed, common property as defined in the Sectional Titles Act, which is not subject to an exclusive right of use by a member in terms of that sectional title scheme;
- (b) the land registered in the name of the association, including, but not limited to, private space;
- (c) any portion of the development which is not subject to an exclusive right in favour of a member of the association;

“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 Drakenstein 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 once-off bulk infrastructure access fee levied by the Municipality on an applicant, developer or owner in terms of its relevant statutory powers in respect of a development which will result in an intensification of land use and increase in the use or need for bulk municipal utility services infrastructure, and may include any required social infrastructure;

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

“Executive Director” means the manager appointed by the municipality in terms of section 56 of the Municipal Systems Act, 2000 (Act 32 of 2000) who is responsible for the function of municipal planning as contemplated in Schedule 4B of the Constitution of the Republic of South Africa, 1996;

“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 utilisation and development of the land;

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

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

“City Manager” means the person appointed as the Municipal Manager of the City in terms of section 54A of the Municipal Systems Act;

“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 Drakenstein Municipality established by Establishment Notice 488 in the Provincial Gazette No 5590 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, authorised or delegated to perform a function or exercise a power in terms of this By-Law;
- (c) the Tribunal authorised or delegated to perform a function or exercise a power in terms of this By-Law;
- (d) duly authorised representative of the municipality;
- (e) the City Manager; and
- (f) an authorised official.

“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 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 drives;
 - (ix) coastal setbacks; or
 - (x) any other purpose as set out in the zoning scheme;

“owner” includes their successor-in-title and means –

- (a) the person whose name is registered in a deeds registry as the owner of land;
- (b) the beneficial owner of land in law;
- (c) the owner of land by virtue of vesting in terms of this By-Law or another law;
- (d) the legal representative of the owner or their estate where the registered owner lacks legal capacity for any reason including age, mental health, mental disability, death or insolvency;
- (e) if the registered owner is deceased and if an executor has not been appointed an heir; and if there is no heir or if the municipality is unable to determine the identity of the heir, the person who is entitled to the benefit of the use of the land or building or who enjoys such benefit;
- (f) if the registered owner is a close corporation that is deregistered, a member of the close corporation at the time of deregistration;
- (g) if the registered owner is absent from the Republic or their whereabouts are unknown, a person who, as agent or otherwise, undertakes the management, maintenance or collection of rentals or other moneys in respect of the land or building or who is responsible therefor; and
- (h) if the municipality is unable to determine the identity of a person otherwise defined as owner, a person who is entitled to the benefit of the use of the land or building or who enjoys such benefit.

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

“organ of state” bears the meaning assigned to it in section 239 of the Constitution.

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

“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 that the municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether-

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or by engaging an external mechanism contemplated in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

“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;

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

“Spatial Planning and Land Use Management Regulations” means the Spatial Planning and Land Use Management Regulations: Land Use Management and General Matters, 2015 made under the Spatial Planning and Land Use Management Act and published under Notice R239/2015 in *Government Gazette* 38594 of 23 March 2015;

“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 the Drakenstein Zoning Scheme as adopted by the Council and promulgated in the Provincial Gazette of the Western Cape;

Application of By-law

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

CHAPTER II

SPATIAL PLANNING

Compilation or amendment of municipal spatial development framework

3. (1) When the Council compiles or amends its municipal spatial development framework in accordance with the Municipal Systems Act, it 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 a 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 subsection (1)(a) or (b); and
 - (iii) the process contemplated in subsection (2)(a)(ii); and
- (c) register relevant stakeholders, who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process contemplated in subsection (2)(a)(ii).

Establishment of project committee

- 4. (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 to 8.
- (2) The project committee must consist of—
 - (a) the City Manager or a municipal employee designated by him or her; and
 - (b) municipal employees appointed by the City Manager from the following municipal departments, where relevant:
 - (i) the integrated development planning office;
 - (ii) the spatial planning department;
 - (iii) the engineering department;
 - (iv) the local economic development department; and
 - (v) the housing department.
- (3) If a project committee is not established, the Executive Director shall be responsible to perform the functions set out in sections 6 and 7 of this by-law subject thereto that he or she may delegate the powers conferred upon him or her to an official within his or her department.

Establishment of intergovernmental steering committee

- 5. (1) If the Municipality establishes an intergovernmental steering committee, it must consist of—
 - (a) the City Manager, or a designated municipal employee to represent the City Manager; and

- (b) representatives of—
- (i) the municipality, nominated by the City 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) The City Manager must in writing, invite written nominations for representatives for the persons or organs of state contemplated in subsection (1)(b)(ii), (iii), and (iv)

Procedure with intergovernmental steering committee

- 6.
- (1) If the Municipality establishes an intergovernmental steering committee, the Executive Director 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 Executive Director must finalise the *status quo* report and submit it to the Council for adoption.
 - (3) After finalising the *status quo* report the Executive Director 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 Executive Director 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 subsection (4), the Executive Director 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 subsection (5), the Executive Director 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 subsection (6) is materially different to what was published in terms of subsection (4), the Executive Director must in accordance with subsections (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 submitted to the Council.
- (8) 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*.

Procedure without intergovernmental steering committee

7. (1) If the Municipality does not establish an intergovernmental steering committee to compile or amend its municipal spatial development framework, the Executive Director 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 subsection (1)(d) is materially different to what was published in terms of subsection (1)(b), the Executive Director 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*.

Functions and duties

8. (1) The Executive Director 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 progressed 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.

- (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, in so far as they are linked to land use planning, biodiversity and environmental issues; and
- (f) guide decision-making on land use applications.

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

- 10.**
- (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*.

Status of local spatial development frameworks

- 11.**
- (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.

Structure plans

- 12.**
- (1) If the Municipality intends to convert a structure plan to a local spatial development framework, it 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 subsection (1).

CHAPTER III

DEVELOPMENT MANAGEMENT

Determination of zoning

- 13.** (1) The owner or his or 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 subsection (1), it must have regard to the following:
- (a) the lawful utilisation of the land, or the purpose for which it could be lawfully utilised 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 utilisation 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 utilisation 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 is to be determined by the Municipality; and
 - (e) where the lawful utilisation of the land and the purpose for which it could be lawfully utilised 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 subsection (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, shall be regarded as an offence in terms of section 86(1)(b) and shall be dealt with in terms of section 87(1) of the By-law.

Non-conforming uses

- 14.** (1) A non-conforming use does not constitute an offence in terms of this By-law.
- (2) A non-conforming use may continue, 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 utilisation 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 proof 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 subsection (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.

Land development requiring approval and other approvals required in terms of this By-law

15. (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 subsection (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 utilise 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) an amendment, deletion or imposition of conditions in respect of an existing approval;
 - (h) an extension of the validity period of an approval;

- (i) an approval of an overlay zone as contemplated in the zoning scheme;
 - (j) an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;
 - (k) a permission required in terms of a condition of approval;
 - (l) a determination of a zoning;
 - (m) a temporary or permanent closure of a public place or part thereof;
 - (n) a consent use contemplated in the zoning scheme;
 - (o) to disestablish an owner's association;
 - (p) to rectify a failure by an owner's association to meet its obligations in respect of the control over or maintenance of services;
 - (q) 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; and
 - (r) approval or amendment of an owners association constitution.
- (3) If section 53 of the Land Use Planning Act is applicable to the land development, the owner or agent must also apply for approval of the land development in terms of that Act.
- (4) 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.
- (5) The Municipality may, subject to subsection (7), on its own initiative rezone land of which it is not the owner for a purpose contemplated in sections 13(3) and 17(1).
- (6) The Municipality may, subject to subsection (7), on its own initiative conduct land development or an activity contemplated in subsections 2(b), (c), (f) to (i) and (k) to (r) in respect of land which is not owned by the Municipality.
- (7) When the Municipality on its own initiative acts in terms of subsection (2), (5) or (6)—
- (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 on the application must be made by the Tribunal.

Continuation of application after change of ownership

16. 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 and the new owner is regarded as the applicant for the purposes of this By-law.

Rezoning of land

17. (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 utilisation thereof or existing use rights.
- (2) An owner or his or her agent, 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 subsection (6), a rezoning approval contemplated in subsection (2) lapses after the applicable period calculated from the date that the approval comes into operation if, within that period—
- (a) the zoning is not utilised 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 utilisation 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 the applicable period calculated from the date that the approval comes into operation if, within that period—
- (a) a subdivision application is not submitted; or

- (b) the conditions of approval are not complied with.
- (7) If a subdivision application is submitted in respect of land that is zoned as subdivisinal area, the zoning of subdivisinal 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 subsection (6) including any extended period approved in terms of section 67.
- (8) The approval of a rezoning to subdivisinal area must include conditions that make provision for at least—
 - (a) density requirements;
 - (b) main land uses and the extent thereof; and
 - (c) a 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.

Departures

- 18.** (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 utilise 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 subsection (1)(a) lapses after the applicable period from the date that the approval comes into operation if, within that period—
- (a) the departure is not utilised 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 utilisation 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 subsection (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 subsection (1)(b) may not be approved more than once in respect of a particular use on a specific land unit.
- (5) A temporary departure contemplated in subsection (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.

Consent uses

19. (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 utilised in the future for the primary uses permitted in terms of the zoning of the land.

- (5) A consent use contemplated in subsection (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 utilised 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 utilisation of the approved consent use; and
 - (ii) commencement of the construction of the building contemplated in subparagraph (i).

Subdivision

- 20.** (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 66 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 subsection 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 subsection (6) in error, the owner is not absolved from complying with the obligations imposed in terms of the conditions.

Confirmation of subdivision

21. (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 per phase 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 or the transfer of ownership, a certificate of consolidated title or certificate of registered 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 subsection (1), zonings indicated on an approved subdivision plan are confirmed and cannot lapse.
- (3) The Municipality must inform 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 submitted proof of compliance with the requirements referred to in subsection (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 subsection (1) or the Municipality has approved the construction before the confirmation of the subdivision.

Lapsing of subdivision

22. (1) An approved subdivision lapses after the applicable period 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 subsection (1)—
- (a) the Municipality must—

- (i) amend the zoning map and, where applicable, the register accordingly; and
 - (ii) notify the Surveyor-General accordingly;
- (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision has lapsed.

Amendment or cancellation of subdivision plan

- 23.**
- (1) The Municipality may approve the amendment or cancellation of a subdivision plan, including conditions of approval and the general plan or diagram in relation to land units shown on the general plan or diagram that have not yet been registered in terms of the Deeds Registries Act.
 - (2) When the Municipality approves an application in terms of subsection (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 subsection (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 subsection (1) is valid for the remainder of the period applicable to the initial approval of the subdivision before the application for amendment was submitted, calculated from the date of approval of the amendment or cancellation in terms of subsection (1).

Exemption of certain subdivisions and consolidations

- 24.**
- (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 each of the respective land units does not exceed 10 per cent;
 - (d) the consolidation of closed streets or public places 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;
 - (iv) the granting of a right of habitation, private right of way or usufruct;
 - (v) the provision of a dam, borehole or water pipelines other than water pipelines on behalf of an organ of state or service provider; or
 - (vi) the granting of a parking or landscaping servitude, provided that the mother property remains compliant with all zoning scheme parameters;
- (g) the exclusive utilisation of land for agricultural purposes if the utilisation—
- (i) in the case of a subdivision, requires approval in terms of legislation regulating the subdivision of agricultural land; and
 - (ii) does not lead to urban expansion;
- (h) the establishment of a development scheme as defined in section 1(1) of the Sectional Titles Act, 1986 (Act 95 of 1986);
- (i) the need to transfer land units to the Municipality or an organ of state in terms of the Deeds Registries Act for municipal or government purposes;
- (j) an existing government or Municipality-owned housing scheme in order to make ownership of individual land units possible; or
- (k) the subdivision and consolidation of land units where an existing building constructed in terms of approved building plans straddles the boundaries of two or more contiguous land units prior to the commencement of this by-law.
- (2) An owner or his or her agent must obtain a certificate from the Municipality that the subdivision or consolidation is exempted from the provisions 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 provisions of the sections referred to in subsection (2).

- (4) Subsections (2) and (3) do not apply in respect of a subdivision or consolidation contemplated in subsection (1)(a), (b) or (h).

Ownership of public places and land for municipal services infrastructure and amenities

25. (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.

Closure of public places

26. (1) The Municipality may, on its own initiative or on application, 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) If any person lodges a claim against the Municipality for loss or damage allegedly suffered due to wrongdoing on the part of the Municipality after permanent closure of a public place, the authorised employee must—
- (a) require proof of negligence or any other wrongdoing on the part of the Municipality which resulted in the loss or damage; and
 - (b) before any claim is paid or settled, obtain a full investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
- (4) The Municipality may pay a claim if—
- (a) the circumstances of the loss or damage reveal that the Municipality acted wrongfully;
 - (b) in the case of loss of or damage to property, the claimant has proved his or her loss or damage;
 - (c) in the case of personal injury, the claimant has provided proof of a fair and reasonable quantum;
 - (d) no claim has been paid by personal insurance covering the same loss; and
 - (e) any relevant information as requested by the authorised employee has been received.

- (5) 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.
- (6) The City 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.
- (7) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1) and the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the closure of the public place.

Services arising from subdivision

- 27.** 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 the following services to be conveyed across his or her land unit as may be reasonably required by the Municipality 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 services 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.

Certification by the Municipality

- 28.** (1) A person may apply to the Registrar of Deeds to register the transfer of a land unit in any of the instances referred to in subsection (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 in any of the instances referred to in subsection (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 subsections (1) and (2) if the owner provides the following information:
- (a) where an owners' association has been established in respect of that land unit, a conveyancer's certificate confirming that money due by the transferor 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 administrative penalty due by the transferor of the land unit, proof of payment of the penalty 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 transfer of ownership of a land unit arising from a subdivision to any person other than the developer and where an owners' 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 transfer of ownership, a certificate of consolidated title or certificate of registered 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, certificate of consolidated title or certificate of registered 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.

Owners' associations

- 29.**
- (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 subsection (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 space;
 - (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 subsection (3), the amendment must also be approved by the Municipality.
- (7) An owners' association that comes into being by virtue of subsection (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 subsection (3)(d) may introduce more restrictive development rules than the rules provided for in the zoning scheme.

Owners' associations that cease to function

- 30.** (1) If an owners' association ceases to function or carry out its obligations, any affected person, including a member of the association, may apply—
- (a) in terms of section 15(2)(o) 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)(p) 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 subsection 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 subsection (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 subsection (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.

Consolidation of land units

- 31.** (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, it must amend the zoning map and, where applicable, the register, accordingly.

Lapsing of consolidation

- 32.** (1) An approved consolidation of land units lapses if the consolidation is not registered in terms of the Deeds Registries Act within the applicable period from the date that the approval comes into operation.
- (2) If an approval of a consolidation lapses in terms of subsection (1)—
- (a) the Municipality must—
 - (i) amend the zoning map, and where applicable the register, accordingly;
 - (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.

Removal, suspension or amendment of restrictive conditions

- 33.** (1) The Municipality may—
- (a) remove or amend a restrictive condition permanently;
 - (b) suspend or amend a restrictive condition for a 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 will 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, it 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.
- (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.
- (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 subsection (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.

- (9) The Municipality must consider the land development application and the application for the removal, suspension or amendment of the restrictive condition contemplated in subsection (7) together and make an integrated decision.

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

- 34.** (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

Manner and date of notification

- 35.** (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—
 - (i) to that person's business or residential address and municipal billing address, where the billing address differs from the business or residential address; or
 - (ii) in the case of a juristic person, to its registered address or principal place of business and municipal billing address, where the billing address differs from the business or residential 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 publishing it once in the *Provincial Gazette* and once in a local newspaper circulating in the area of that person's last known residential or business address.

- (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;
 - (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.

Procedures for applications

- 36.** (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).

Pre-application consultation

37. (1) The Municipality may require an owner who intends to submit an application or his or her agent to meet with the authorised 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 and provide a copy to the applicant.

Information required

38. (1) Subject to subsection (2), an application must be accompanied by the following information and documents where applicable:
 - (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 authorising the applicant to make the application on behalf of the owner;
 - (c) if the owner is a company, closed corporation, trust, body corporate or owners' association, proof that the person is authorised to make the application on behalf of the company, closed corporation, trust, body corporate or owners' association;
 - (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 relevant bondholder's consent;

- (f) a written motivation for the application based on the applicable criteria referred to in section 65, excluding sections 65(a), (b), (d), (e) and (g);
- (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;
 - (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) street furniture;
 - (ix) lamp, electricity and telephone posts;
 - (x) electricity transformers and mini-substations;
 - (xi) storm-water channels and catch pits;
 - (xii) 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 or remove any information or documents contemplated in subsection (1) for a particular application.
- (3) The Municipality may issue guidelines regarding the submission of information, documents or procedural requirements.

Application fees

- 39.** (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.

Grounds for refusing to accept application

- 40.** The Municipality may in terms of section 41(3) 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.

Receipt of application and commencement of application process

- 41.** (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) whether 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 such outstanding information 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 subsection (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 subsection (1)(c)(ii).
- (4) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (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 subsection (3) to refuse to consider an application.
- (6) If an applicant wishes to continue with an application which has been refused by the municipality under subsection (3), the applicant must re-apply 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 subsection (1)(c)(i) or (2).

Provision of additional information or documents

- 42.**
- (1) The Municipality must, within 30 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 subsection (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 subsection (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 subsection (4), subsections (2) and (3) apply to the further submission of information or documents.

Withdrawal of application or power of attorney

43. (1) An applicant may, at any time before the Municipality makes a decision on an application, withdraw the application by giving written notice of the withdrawal to the Municipality.
- (2) An 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.

Public notice in accordance with other laws and integrated procedures

44. (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 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 subsection (1)(b), an agreement must be entered into between the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.

Publication of notices

45. (1) Subject to section 44, the Municipality must, in accordance with subsection (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) the closure of a public place;
 - (e) an application in respect of a restrictive condition;
 - (f) other applications that will materially affect the public interest or the interests of the community if approved.
- (2) Public notice of an application referred to in subsection (1) must be given by—
- (a) publishing a notice with the contents contemplated in section 47 in newspapers 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;
 - (b) if there is no newspaper with a general circulation in the area, 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; and
 - (c) publishing a notice with the contents contemplated in section 47 on the Municipality's website.
- (3) The Municipality may require the applicant to attend to the publication as contemplated in subsection (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 provide proof that the notice was published in accordance with this section.

Serving of notices

- 46.** (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 (j) respectively;
 - (d) an application for consolidation contemplated in section 15(2)(e); and
 - (e) the amendment, deletion or imposition of a condition contemplated in section 15(2)(g).

- (2) A notice contemplated in subsection (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 each person whose rights or legitimate expectations will be affected by the approval of the application; and
 - (d) on every owner of land adjoining the land concerned.
- (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 subsection (1).
- (4) The Municipality may require the applicant to attend to the serving of a notice as contemplated in subsection (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 proof of the service of the notice in accordance with subsection (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.

Contents of notice

- 47.** When notice of an application must be published or served in terms of this By-law, the notice must—
- (a) provide the name of the applicant and the owner;
 - (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 therefor;
 - (g) state in what manner 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 or read 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.

Other methods of public notice

- 48.** (1) The Municipality may cause public notice to be given by one or more of the methods referred to in subsection (2)—
- (a) to ensure additional public notice of applications listed in section 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 subsection (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 subsection (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 that notice has been given in accordance with subsection (2).

Requirements for petitions

- 49.** (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 authorised representative of the signatories of the petition;
 - (b) the full name and physical address of each signatory; and
 - (c) the comments and reasons therefor.
- (2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

Requirements for submission of comments

- 50.** (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 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 refuse to accept comments submitted after the closing date.

Intergovernmental participation process

- 51.** (1) Subject to section 45 of the Land Use Planning Act and section 44 of this By-law, the Municipality must, after 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, and notify the applicant accordingly.
- (2) An organ of state must comment on a land use application within 60 days of—
 - (a) 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 subsection (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.

Amendments before approval

- 52.** (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 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.
- (3) If an amendment to an application is material, the Municipality may require that further notice of the application be published or served in terms of section 44, 45, 46 or 48.

Further public notice

- 53.** (1) The Municipality may require that notice of an application be given again if more than 18 months have elapsed since the first public notice of the application 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 which 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; and
 - (b) an application to be re-sent to municipal departments and, where applicable, other organs of state or service providers for comment.

Liability for cost of notice

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

Right of applicant to reply

- 55.** (1) Copies of all comments and other information submitted to the Municipality 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 response to the Municipality.
- (3) The applicant may, before the expiry of the period of 30 days referred to in subsection (2), apply to the Municipality for an extended period of not exceeding 14 days to submit a written reply.

- (4) If the applicant does not submit a reply within the period of 30 days or within the extended period contemplated in subsection (3), the owner or his or her agent 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 subsection (5), the Municipality must consider the application without the information or documents and notify the applicant accordingly.

Written assessment of application

- 56.**
- (1) Subject to the provisions of section 65, all applications in terms of this by-law must be assessed in writing.
 - (2) An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

Decision-making period

- 57.**
- (1) When an authorised employee makes a decision in respect of an application as contemplated in section 69(1) and where no integrated process in terms of another law is being followed, the authorised employee must decide on the application within 60 days, calculated from—
 - (a) the last day for the submission of comments as contemplated in section 50(2) if no comments were submitted;
 - (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, calculated from the applicable date contemplated in subsection (1)(a), (b) or (c).
 - (3) The authorised employee or Tribunal, as the case may be, may extend the period contemplated in subsection (1) or (2) in exceptional circumstances, including the following:
 - (a) if an interested person has submitted a petition for intervener status; or
 - (b) in the case of the Tribunal, if an oral hearing is to be held.

Failure to act within period

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

Powers to conduct routine inspections

59. (1) An authorised official or member 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.
- (2) When conducting an inspection, the authorised official or member 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 hinder or obstruct an authorised official or member of the Tribunal who is conducting an inspection as contemplated in subsection (1).
- (4) The authorised official or member of the Tribunal must, on request, produce identification showing that he or she is authorised to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time after reasonable notice has been given to the owner, occupier or person in lawful control of the land or building.

Decisions on applications

60. (1) The employee authorised 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.
- (2) The provisions of subsection (1) apply to applications contemplated in section 68(c) when considered by the Executive Director.

Notification and coming into operation of decision

- 61.** (1) The Municipality must, within 21 days of its decision, in writing, notify the applicant and any person whose rights are affected by the decision, the reasons for the decision and their right to appeal, if applicable.
- (2) A notice contemplated in subsection (1) must inform an applicant 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(2) within which an appeal must be lodged if no appeal has been lodged.
- (5) Subject to subsection (6), the implementation of an approval 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 authorised employee who imposed the conditions may determine that the approval of the application is not suspended.

Duties of agent

- 62.** (1) An agent must ensure that he or she has the contact details of the owner on whose behalf he or she is authorised to act.
- (2) An agent may not knowingly provide information or make a statement in support of an application which is misleading, false or inaccurate.

Errors and omissions

- 63.** (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, upon good cause shown, on its own initiative or on application by the applicant or interested party, condone an error in a procedure, if the condonation does not have a material adverse effect on, or unreasonably prejudice, any party.

Exemptions to facilitate expedited procedures

- 64.** (1) The Municipality may in writing and subject to 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 authorise that a development may deviate from any of the provisions of this By-law.
- (2) If the Provincial Minister grants the municipality an exemption or authorisation to deviate from a provision of the Land Use Planning Act in terms of section 60 of the Land Use Planning Act, the Municipality is exempted from, or authorised to deviate from any provision in this By-law that corresponds to the provision of the Land Use Planning Act in respect of which an exemption was granted or deviation was authorised.

CHAPTER V

CRITERIA FOR DECISION-MAKING

General criteria for consideration of applications

- 65.** When the authorised employee or the Tribunal considers an application, it must have regard to the following:
- (a) the procedure followed in processing the application;
- (b) the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister in that regard.
- (c) 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;

- (d) the response by the applicant, if any, to the comments referred to in paragraph (d);
- (e) investigations carried out in terms of other laws that are relevant to the consideration of the application;
- (f) a written assessment by a registered planner in the employment of the municipality, who may not be the authorised employee, 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;
- (g) the impact of the proposed land development on municipal engineering services;
- (h) the integrated development plan, including the municipal spatial development framework;
- (i) the integrated development plan of the district municipality, including its spatial development framework, where applicable;
- (j) the applicable local spatial development frameworks adopted by the Municipality;
- (k) the applicable structure plans;
- (l) the applicable policies of the Municipality that guide decision-making;
- (m) the provincial spatial development framework;
- (n) where applicable, a regional spatial development framework contemplated in section 18 of the Spatial Planning and Land Use Management Act and provincial regional spatial development framework;
- (o) the policies, principles and the planning and development norms and criteria set by the national and provincial government;

- (p) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act;
- (q) the principles referred to in Chapter VI of the Land Use Planning Act;
- (r) the applicable provisions of the zoning scheme; and
- (s) any restrictive condition applicable to the land concerned.

Conditions of approval

66. (1) The authorised employee or the Tribunal may approve an application subject to conditions.
- (2) Conditions imposed in accordance with subsection (1) may include-
- (a) the provision of engineering services and infrastructure;
 - (b) requirements relating to engineering services as contemplated in section 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; or
 - (y) the payment of an administrative penalty in respect of the unlawful utilisation of land.
- (3) If a condition is imposed as contemplated in subsection (2)(a) or (b), an engineering services agreement must be concluded between the Municipality and the owner of the land concerned prior to the construction of engineering services.
- (4) A condition contemplated in subsection (2)(c) may require only a proportional contribution to municipal public expenditure according to the need therefor 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 subsection (3) 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.
- (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) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development, or registration of transfer of the land, or the registration of a certificate of registered title or certificate of consolidated title.

CHAPTER VI

EXTENSION OF VALIDITY PERIOD OF APPROVALS

Applications for extension of validity period

- 67.
- (1) The Tribunal or the authorised employee as the case may be, may, on a date before or after the expiry of the validity period of an approval, 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 before the expiry of the validity period.
 - (2) When the Tribunal or the authorised employee considers an application in terms of subsection (1), regard must be given 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)(g) 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 calculated 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

Municipal planning decision-making structures in respect of applications

68. The Council institutes the following decision-making structures in respect of applications in terms of this By-law-
- (a) the authorised employee;
 - (b) the tribunal; and
 - (c) the Executive Director;

Consideration of applications

69. (1) The Council categorises applications referred to in section 15(2)(a) to (j), (m) (n) or (q) for consideration and determination by an authorised employee.
- (2) The Tribunal considers and determines all applications referred to in section 15(2)(a) to (j), (m), (n) or (q), when-
- (a) the Municipality is the applicant;
 - (b) the application is not in line with the Drakenstein Spatial Development Framework; and
 - (c) matters are referred by the authorised employee for decision making purposes.

- (3) The Executive Director considers and determines all application in terms of 15(2)(k),(l),(o),(p) or (r).

Establishment of Tribunal

- 70.** (1) The Municipality must—
- (a) establish a Municipal Planning Tribunal for its municipal area;
 - (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 subsection (1)(b) or (c) 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; and
 - (d) other matters as may be prescribed in terms of the Spatial Planning and Land Use Management Act.

Composition of Tribunal for municipal area

- 71.** (1) A Tribunal established in terms of section 70(1)(a) must consist of at least the following members appointed by the Council:
- (a) three employees in the full-time service of the Municipality; and
 - (b) two persons who are not employees of the Municipality or councillors.
- (2) The members of the Tribunal must have knowledge and experience of land use planning or the law related thereto and be representative of a broad range of appropriate experience and expertise.
- (3) A member of the Tribunal appointed in terms of subsection (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 subsection (3)(a)(i) to (3)(a)(iv); or
- (b) an individual in his or her own capacity.

Process for appointment of members for Tribunal for municipal area

- 72.** (1) The members of the Tribunal referred to in subsection 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(3)(a), extended a written invitation to the departments in the national and provincial sphere of government, other organs of state and organisations referred to in section 71(3)(a) to nominate an official or employee to serve on the Tribunal; and
 - (b) in the case of member contemplated in section 71(3)(b), by notice 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 subsection (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 subsection (1)(b) or the written invitation in terms of subsection (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 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 appoint the person.
- (6) Nominations submitted to the Municipality by virtue of subsection (1) must be submitted in writing in the form determined by the Municipality and must contain the contents referred to in subsection (3).
- (7) The Municipality 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 City 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), publish a notice in the *Provincial Gazette* of the following:
 - (i) the name of each member of the Tribunal;
 - (ii) the date on which the appointment of each member takes effect;
 - (iii) the term of office of each member; and
 - (iv) the date that the Tribunal will commence its operation.
- (12) The Tribunal may commence its operations only after publication of the notice contemplated in subsection (11)(c).

Term of office and conditions of service of members of Tribunal for municipal area

- 73.** (1) A member of a Tribunal contemplated in section 70(1)(a)—
- (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 Spatial Planning and Land Use Management 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 member is removed from the Tribunal under subsection (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 sections 71 and 72.
- (5) A member who is appointed by virtue of subsection (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(3)(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 serve as member of the Tribunal only for as long as he or she is in the 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(3)(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(3)(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(3)(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 to.
- (9) The allowances referred to in subsection (8)(e) are subject to taxation in accordance with the normal tax rules that are issued by the South African Revenue Service.

Disqualification from membership of Tribunal

- 74.** (1) A person may not be appointed or continue to serve as a member of the Tribunal if that person—
- (a) is not a citizen or permanent resident of the Republic of South Africa;
 - (b) is a member of Parliament, a Provincial Legislature, a municipal council or a House of Traditional Leaders;
 - (c) is an unrehabilitated insolvent;
 - (d) 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);
 - (e) has at any time been convicted of an offence involving dishonesty;
 - (f) has at any time been removed from an office of trust on account of misconduct;
 - (g) has previously been removed from a tribunal for a breach of the Spatial Planning and Land Use Management Act or this By-law;
 - (h) has been found guilty of misconduct, incapacity or incompetence; or

- (i) fails to comply with the Spatial Planning and Land Use Management Act or this By-law.
- (2) A member must vacate office if that member becomes subject to a disqualification as contemplated in subsection (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, a 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 subsection (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.

Meetings of Tribunal for municipal area

- 75.** (1) Subject to section 78, the Tribunal 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.
- (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; or
 - (c) a particular application or type or category of application.
- (3) In this section, section 77 and section 78, unless the context indicates otherwise, "the Tribunal" includes a panel of the Tribunal contemplated in subsection (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 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).
- (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 majority of its designated members; or
 - (b) three members, 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.

Code of conduct for members of Tribunal for municipal area

- 76.**
- (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.

Administrator for Tribunal for municipal area

- 77.** (1) The City 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) liaise with the relevant Tribunal members and the parties concerned regarding any application to be determined by, or other proceedings of, the Tribunal;
 - (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) arrange venues for Tribunal meetings;
 - (f) perform the administrative functions in connection with the 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 authorisations;
 - (i) notify the parties concerned of decisions and procedural directives given by the Tribunal;
 - (j) keep a record of all applications submitted to the Tribunal as well as the outcome of each, including—
 - (i) decisions of the Tribunal;
 - (ii) on-site inspections and any matter recorded as a result thereof;
 - (iii) reasons for decisions; and
 - (iv) proceedings of the Tribunal; and
 - (k) keep records by any means as the Tribunal may deem expedient.

Functioning of Tribunal for municipal area

- 78.** (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.

- (2) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application requests to make a verbal representation at a meeting of the Tribunal, he or she must submit a written request to the Administrator at least 14 days before that meeting.
- (3) The chairperson may approve a request contemplated in subsection (2), subject to reasonable conditions.
- (4) An application may be considered by the Tribunal by means of—
 - (a) the consideration of the written application and comments; or
 - (b) an oral hearing.
- (5) The application may be considered in terms of subsection (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.

Appeals

- 79.**
- (1) The Executive Mayor of the Municipality is the Appeal Authority in respect of decisions—
 - (a) of the Tribunal;
 - (b) of an authorised employee; or
 - (c) in case of a failure to decide on an application as contemplated in section 58.
 - (2) The Appeal Authority referred to in section 62(3) of the Municipal Systems Act applies where an appeal has been lodged against a decision of the Executive Director in respect of applications referred to in section 68(c).
 - (3) A person whose rights are affected by a decision contemplated in subsection (1) may appeal in writing to the Appeal Authority within 21 days of notification of the decision.

- (4) An applicant may appeal in writing to the Appeal Authority in respect of the failure of the Tribunal or an authorised employee to make a decision within the period contemplated in section 57(1), (2) or (3), any time after the expiry of the period contemplated in those sections.
- (5) An appeal is lodged by serving the appeal on the City Manager in the form determined by the Municipality and subject to section 80(1).
- (6) When the Appeal Authority considers an appeal, it must have regard to—
 - (a) the provisions of section 65, read with the necessary changes; and
 - (b) the comments of the Provincial Minister contemplated in section 52 of the Land Use Planning Act.

Procedure for appeal

- 80.**
- (1) An appeal may be refused if—
 - (a) in the case of an appeal contemplated in section 79(2), it is not lodged within the period referred to in that section; or
 - (b) it does not comply with sections 79(2) - (4) and 80(2) - (7).
 - (2) An appeal must set out the following—
 - (a) the grounds for the appeal which may include the following-
 - (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (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 authorised employee erred in making the decision concerned;
 - (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 appeal must be lodged with the City Manager within the period referred to in subsection 79(2), together with proof of payment of appeal fees, as determined by the Municipality.
- (4) An applicant who lodges an appeal must simultaneously 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 subsection (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 subsection (5) to the City Manager within 14 days of the date of notification.
- (8) If a person other than the applicant lodges an appeal, the City 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 subsection (8) may submit comment on the appeal to the City Manager within 21 days of the date of notification.
- (10) The Appeal Authority may refuse to accept any comments on an appeal submitted after the closing date for comments on an appeal.
- (11) The Appeal Authority—
 - (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) may 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 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;

- (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 implementation of the approval of the application is suspended.
- (12) The authorised employee must draft a report assessing an appeal and must submit it to the City Manager within—
- (a) 60 days of the closing date for comment requested in terms of subsections (6) and (9), if no comment was requested in terms of subsection (11); or
 - (b) 60 days of the closing date for comments requested in terms of subsection (11).
- (13) The City Manager must within 30 days of receiving the report contemplated in subsection (12) submit the appeal to the Appeal Authority.
- (14) The City 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;
 - (c) allocate a meeting date for, and appeal number to, an appeal;
 - (d) arrange the attendance of members of the Appeal Authority at meetings;
 - (e) arrange venues for the Appeal Authority;
 - (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;
 - (iv) proceedings of the Appeal Authority; and
 - (v) 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 Authorised Employee.
- (16) The appellant must in writing inform the Appeal Authority 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.

Consideration by Appeal Authority

- 81.**
- (1) The Appeal Authority may consider the written appeal and comments if it appears 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.
 - (2) An oral hearing may be held—
 - (a) if it appears that the issues for determination of the appeal cannot be adequately determined in the absence of the parties by only 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.
 - (3) The oral hearing may be held by electronic means.
 - (4) 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.
 - (5) The Appeal Authority must ensure that every party to proceedings before the Appeal Authority is given an opportunity to present his or her case, whether in writing or orally as contemplated in subsections (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.
 - (6) 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 authorised 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.
- (7) Subject to subsection (12), the Appeal Authority must decide on an appeal within 60 days of receipt of the assessment report as contemplated in section 80(13).
- (8) If the Appeal Authority revokes a decision of the Tribunal or authorised employee it may—
 - (a) remit the matter to the Tribunal or authorised 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.
- (9) The Appeal Authority may appoint a technical adviser to advise or assist it with regard to a matter forming part of the appeal.
- (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 therefor; 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 subsection (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

Responsibility for provision of engineering services

- 82.**
- (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.

Development charges and other contributions

- 83.**
- (1) The applicant must pay development charges to the Municipality in respect of the provision and installation of external engineering services.
 - (2) The 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 payment date 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 Executive Director: Engineering Services, on request, must 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 charges 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) charges contemplated in section 66(4) paid in the past by the owner of the land concerned; and
 - (e) charges contemplated in section 66(4) to be paid in the future by the owner of the land concerned.

Land for parks, open spaces and other uses

- 84.** (1) When the Municipality approves an application for the use of land for residential purposes, it 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 it.
- (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

Enforcement

- 85.** The Executive Director must enforce compliance with—

- (a) the provisions of this By-law;
- (b) the provisions of the zoning scheme; and
- (c) conditions imposed in terms of this By-law or any law repealed by the Land Use Planning Act.

Offences and penalties

- 86.** (1) A person is guilty of an offence and is liable on conviction to a fine or imprisonment 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(3);
 - (b) utilises land in a manner other than prescribed by the 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) knowingly supplies false, incorrect or misleading 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;
 - (e) falsely pretends to be an authorised employee or the interpreter or assistant of an authorised employee; or
 - (f) hinders or obstructs an authorised official in the exercise of any power or the performance of any duty of that official.
- (2) An owner who permits his or her land to be used in a manner set out in subsection (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 or imprisonment or to both a fine and such imprisonment.
- (3) Failure to comply with a notice, direction or instruction referred to in this by-law constitutes a continuing offence and in such case the offender is liable to a fine for every day such offence continues.
- (4) The Municipality may adopt fines and administrative penalties to be imposed in the enforcement of this By-law.

Serving of compliance notices

- 87.** (1) An authorised official must serve a compliance notice on a person if he or she 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 utilisation of land or construction activity or both, without delay or within the period stipulated in the notice, 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 stipulated in the notice;
- (b) subject to the provisions of sections 98 and 99, submit an application for the approval of the utilisation of the land or construction activity and the payment of an administrative penalty in terms of this By-law within 30 days of the service of the compliance notice; or
- (c) 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 subsection (2)(a) may not submit an application in terms of subsection (2)(b).
- (4) An instruction to submit an application in terms of subsection (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 subsection (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 authorised official within the period stipulated in the notice.

Contents of compliance notice

- 88.** (1) A compliance notice must—
- (a) identify the person to whom it is addressed;
- (b) describe the alleged unlawful utilisation of land or other activity and the land on which it is occurring or has occurred;

- (c) state that the utilisation of land or activity is unlawful and inform the person of the offence that person allegedly has committed or is committing by the continuation of that activity on the land;
 - (d) state the steps to remedy the situation 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 87(6) with the authorised official; 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 authorisation of the activity or development parameter, that an administrative penalty may be imposed in terms of section 98 upon application.
- (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;

Objections to compliance notice

- 89.** (1) After consideration of any objections or representations made in terms of section 88(1)(f), 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.

Failure to comply with compliance notice

- 90.** If a person fails to comply with a compliance notice, the Municipality may—
- (a) institute criminal proceedings against the person;
 - (b) apply to a competent court for an order—
 - (i) restraining that person from continuing the unlawful utilisation 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).

Compliance certificates

- 91.** If the authorised official is satisfied that the owner or occupier of any land or premises has complied with a compliance notice, he or she may issue a certificate, in the manner and form determined by the Municipality, to confirm the compliance.

Urgent matters

- 92.**
- (1) The authorised official does not have to comply with sections 87(6), 88(1)(f) and 89 in a case where an unlawful utilisation of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful utilisation of land immediately.
 - (2) If the person or owner fails to cease the unlawful utilisation of land immediately, the City Manager may apply to a competent court for an interdict or any other relief necessary.

General powers and functions of authorised officials

- 93.**
- (1) An authorised official may, 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 authorised official must be in possession of proof that he or she has been designated as an authorised official for the purposes of subsection (1).
 - (3) An authorised official may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.

Powers of entry, search and seizure

94. (1) An authorised official, if he or she has reasonable grounds to believe that an offence in terms of this by-law has been committed or is being committed, may in accordance with section 93, provided further that he or she is appointed as a Peace Officer in terms of section 334 of the Criminal Procedures Act, 1977—
- (a) question any person on land or premises entered upon or in a building entered, who, in the opinion of the authorised 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 authorised 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)* 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 seizure.
- (2) When an authorised 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) Any item or article removed or seized in terms of sub section (2), must, subject to the Criminal Procedures Act, be returned as soon as practicable after achieving the purpose for which it was removed.
- (4) An authorised employee may not have a direct or indirect personal or private interest in the matter to be investigated.

Warrant of entry for enforcement purposes

- 95.**
- (1) A magistrate for the district in which the land is situated may, at the request of the Municipality, 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 only if it appears to the Magistrate from information on oath or affirmation that there are reasonable grounds for believing that—
 - (a)* an authorised official has been refused entry to land or a building that he or she is entitled to inspect;
 - (b)* an authorised official will be refused entry to land or a building that he or she is entitled to inspect;
 - (c)* 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; or
 - (d)* the inspection is reasonably necessary for the purposes of this By-law.

- (3) A warrant must authorise the authorised official 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) at a reasonable time, except where the warrant was issued on grounds of urgency.

Regard to decency and order

96. 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.

Enforcement litigation

97. Whether or not the Municipality lays criminal charges against a person for an offence contemplated in section 86, and despite section 87, the City Manager may apply to a competent 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 utilisation of land;

Administrative penalty

- 98 (1) A person who is in contravention of this By-law, and who is instructed to apply for the approval of the utilisation of the land or construction activity in terms of section 87(2)(b), must apply to the Municipality for the determination of an administrative penalty.
- (2) A person who applies to the Municipality for the determination of an administrative penalty must, when the application is submitted, simultaneously apply in terms of section 15(2) for the approval of the utilisation of the land or construction activity.
- (3) The Tribunal may, subject to guidelines approved by Council on the determination of administrative penalties-
- (a) decide to impose an administrative penalty; and

- (b) determine the amount of the penalty.
- (4) The person making an application contemplated in subsection (1) must –
 - (a) submit an application in the form as prescribed by the Municipality;
 - (b) pay the prescribed fee; and
 - (c) provide any information as required by the Municipality.
- (5) The Tribunal must consider the application for the approval of the utilisation of the land or construction activity and the application for the determination of an administrative penalty simultaneously and make an integrated decision.
- (6) The submission of an application for, determination of, or payment of an administrative penalty, or the approval of an application for the utilisation of the land or construction activity, does not limit the Municipality's power to investigate an offence or institute a criminal prosecution.

Rectification of contravention

99. The Executive Director may take any action as contemplated in section 90(a) and (b) in order to rectify a contravention, should the applications as contemplated in 98(2) be refused.

CHAPTER X

MISCELLANEOUS

Naming and numbering of streets

100. (1) If as a result of the approval of a development application streets or roads are created, the naming of such roads or streets and the allocation of street numbers must be approved by the Executive Director, except street names and numbers in housing projects which must be approved by the Executive Mayor.
- (2) The proposed names of the streets and numbers may be submitted as part of an application for subdivision.
- (3) In considering the naming of streets, the relevant policies regarding street naming and numbering must be adhered to.
- (4) The Municipality must notify the Surveyor-General of the approval of new public 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.

Delegations

- 101.** The City Manager and the Executive Director, as the case may be, may delegate any power, function or duty conferred upon them in terms of this by-law to an official.

Repeal of by-laws

- 102.** The Drakenstein By-law on Municipal Land Use Planning, 2015, published in Extraordinary Provincial Gazette dated 13 November 2013 is hereby repealed as a whole.

Transitional arrangements

- 103.** Anything done under or in terms of any provision repealed by this by-law shall be deemed to have been done under the corresponding provisions of this by-law and the repeal in section 102 shall not affect the validity of anything done under the by-law so repealed.

Short title and commencement

- 104.** This By-law shall be known as the Drakenstein By-law on Municipal Land Use Planning, 2018, and comes into operation of the date of publication thereof in the 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;
 - (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; and

- (c) abstain completely from direct or indirect participation as an advisor in any matter in which he or she has a personal interest and leave any chamber in which such matter is under deliberation unless the personal interest has been made a matter of public record and the Council has given written approval and has expressly authorised his or her participation.

Improper gain

- 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.

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