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## CONTENTS

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	Page
<b>SCHEME CLAUSES</b>	
<b>1</b>	<b>DEFINITIONS.....6</b>
<b>2</b>	<b>LAND USE .....19</b>
2.1	AREA OF ZONING SCHEME .....19
2.2	COMPONENTS OF THE ZONING SCHEME .....19
2.3	RESERVATION OF LAND.....19
2.4	ZONING OF LAND AS SPECIFIED USE ZONES.....19
2.5	ERECTION OF BUILDINGS AND UTILISATION IN SPECIFIED ZONES.....19
<b>3</b>	<b>RESERVATION OF LAND .....20</b>
3.1	PUBLIC OPEN SPACE .....20
3.2	PRIVATE OPEN SPACE .....20
3.3	STREET .....20
3.4	CEMETERY.....20
3.5	RESIDENTIAL DEVELOPMENT AREA.....21
3.6	INDUSTRIAL DEVELOPMENT AREA.....21
3.7	AUTHORITY.....21
3.8	PARASTATAL .....21
3.9	LOCAL AUTHORITY .....21
3.10	NEW ROADS .....22
3.11	NATURE AREA.....22
3.12	NATURE BUFFER AREA.....22
3.13	AQUIFER PROTECTION AREA.....22
3.14	NATURE RESERVE.....22
<b>4</b>	<b>PLANNING CONTROL .....25</b>
4.1	AGRICULTURE.....25
4.2	RURAL RESIDENCE.....25
4.3	SINGLE RESIDENTIAL.....26
4.4	BUSINESS .....26
4.5	SERVICE STATION .....27
4.6	LIGHT INDUSTRIAL.....28
4.7	INDUSTRIAL .....29



4.8	INSTITUTIONAL.....	29
4.9	TOURIST ESTABLISHMENT .....	30
4.10	NATURE ESTATE .....	31
4.11	SPECIAL .....	31
4.12.	UNDETERMINED.....	31
4.13.	MINING .....	32
<b>5</b>	<b>CONSENT USES .....</b>	<b>36</b>
5.1	APPLICATIONS FOR CONSENT USE.....	36
5.2	ADVERTISEMENTS OF INTENDED APPLICATION FOR CONSENT USE.....	37
5.3	LAPSING OR WITHDRAWAL OF CONSENT .....	37
5.4	GENERAL CONDITIONS APPLICABLE TO CONSENT USES .....	38
5.5	PARTICULAR CONDITIONS APPLICABLE TO CONSENT USES .....	38
5.6	CONTRAVENTION OF CONSENT USE CONDITIONS .....	42
5.7	COMBINED-USE BUILDINGS.....	42
5.8	CURRENT CONSENT USES .....	43
<b>6</b>	<b>DEVELOPMENT CONTROL.....</b>	<b>47</b>
6.1	SUBDIVISION OF FARM LAND INTO SMALLER PORTIONS.....	47
6.2	TOWNSHIP ESTABLISHMENT AND SUBDIVISION OF LAND INTO ERVEN.....	47
6.3	APPLICATIONS TO BE REFERRED TO THE CITY OF WINDHOEK .....	48
6.4	APPLICATIONS IN NATURE AREAS, NATURE BUFFER AREAS AND AQUIFER PROTECTION AREAS .....	49
6.5	APPLICATIONS FOR NATURE ESTATES .....	49
6.6	APPLICATIONS TO BE REFERRED TO THE ROADS AUTHORITY .....	49
<b>7</b>	<b>BUILDING MANAGEMENT .....</b>	<b>50</b>
7.1	SUBMISSION OF BUILDING PLANS.....	50
7.2	PROCLAIMED ROAD RESERVES AND BUILDING LINES .....	50
7.3	RELAXATION OF BUILDING LINES .....	51
7.4	LOADING AND UNLOADING FACILITIES .....	51
7.5	UTILISATION OF OUTBUILDINGS .....	51
7.6	ADVERTISEMENTS AND HOARDING .....	51
7.7	ADVERTISING ALONG PROCLAIMED ROADS .....	52
7.8	AESTHETICS AND LANDSCAPING .....	52



<b>8</b>	<b>DUTIES AND POWERS .....</b>	<b>53</b>
8.1	EXAMINATION OF SCHEME .....	53
8.2	REMOVAL OF INJURIOUS CONDITIONS .....	53
8.3	ENTRY AND INSPECTION OF PREMISES .....	53
8.4	SERVICE OF NOTICES .....	53
8.5	CONFLICT OF LAWS AND EVASION OF SCHEME.....	54
8.6	CONTRAVENTION OF THE SCHEME.....	54
8.7	APPEALS .....	54
8.8	BINDING FORCE OF CONDITIONS IMPOSED .....	55
8.9	COUNCIL MAY IMPOSE CONDITIONS ON WARRANTING CONSENT .....	55
8.10	RECORD OF INSPECTION AND CONDITIONS .....	55
8.11	CONFLICT OF SCHEME AND TOWNSHIPS CONDITIONS.....	55
8.12	COMPLIANCE WITH REGULATIONS.....	55
8.13	UNDESIRABLE EXISTING USE.....	56
8.14	NON-CONFORMING SITES .....	56
8.15	LETTING AND SOCIAL FUNCTIONS .....	56
8.16	TRANSFER OF CLOSED STREETS AND PUBLIC OPEN SPACES .....	57
<b>9</b>	<b>GENERAL.....</b>	<b>58</b>
9.1	UTILISATION OF ZONED LAND.....	58
9.2	DRILLING OR EXCAVATION FOR WATER.....	58
9.3	BUILDING OF DAMS .....	58
9.4	REMOVAL AND THE SALE OR DISPOSAL OF SAND, STONE AND .....	58
	CONTROLLED MINERALS.....	58
9.5	ACCESS.....	58
9.6	RIGHT OF ACCESS AND USE .....	59
9.7	STORM WATER AND FLOOD .....	59
9.8	WASTE WATER / EFFLUENT.....	59
9.9	DANGER TO LIFE, HEALTH AND AMENITY .....	60
9.10	FENCING .....	60



## **TOWN PLANNING SCHEME TABLES**

TABLE A:	RESERVED LAND .....	23
TABLE B:	USE ZONES .....	33
TABLE C:	CONSENT USES .....	44
TABLE D:	NATURE ESTATE DENSITIES .....	46
TOWN PLANNING SCHEME MAPS .....		61

## **SCHEME MAPS**

- 1. INDEX MAP**
- 2. ZONING MAP 1**
- 3. ZONING MAP 2**
- 4. ZONING MAP 3**
- 5. ZONING MAP 4**
- 6. ZONING MAP 5**
- 7. ZONING MAP 6**
- 8. ZONING MAP 7**



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## KAPPSFARM SCHEME CLAUSES

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## 1 DEFINITIONS

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

### A.

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**Accommodation establishment** means an accommodation establishment as defined in the Accommodation Establishment and Tourism Ordinance, 1973 as well as the regulations made there under.

**Advertise** has the meaning assigned thereto in the Ordinance.

**Agricultural industry** means an enterprise or concern for the processing of agricultural products on a farming unit owing to the nature, perishableness and fragility of such agricultural products. Such products will include the processing of plant material, fruit, vegetables, animal products (except animal products described under noxious trade) and the bottling of water.

**Agriculture** means the cultivation of land for crops and plants or the breeding of animals, or the operation of a game farm on an extensive basis on the natural veld or land, and includes only such activities of the farm, but does not include the consent uses applicable to the agricultural zone.

**Ancilliary dwelling unit** means a fully self contained dwelling designed for occupation by a single household working on the land which is not attached to the primary unit. Subject to the approval of the Council more than one ancilliary dwelling unit can be erected.

**Aquifer protection area** means areas which have underground water reserves or rock formations which opens into underground water reserves which are vulnerable to the storage and discharge of any unnatural fluid and waste products such as sewerage, petrol, oil chemicals and hydrocarbons. These areas include river bed areas and river bed buffers 100m either side of the rivers.

### B.

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**Basement** means that portion of a building, the finished floor level of which is at least 2 m below, or the ceiling of which is at most 1 m above, a level halfway between the highest and lowest natural levels of the ground immediately contiguous to the building.

**Block of flats or flats** means a building containing two or more dwelling units up to a maximum height of three (3) storeys, where the dividing lines between the units are horizontal and vertical for human habitation together with such outbuildings as are ordinary used therewith.



**Bottle store** means a shop in which mainly alcoholic beverages are sold in the retail trade.

**Building** means, in addition to the meaning assigned thereto in paragraphs (a), (b) and (c) of section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992), any structure or erection whatsoever, irrespective of its nature or size.

**Building line** means the line delimiting the area measured from the boundary of a land unit, or from a setback, if any, within which no building or other structure except a boundary fence may be erected.

**Business premises** means a site or building or structure on or in which business is done and includes shops, a licensed hotel/motel, offices, financial institutions or restaurants or sites, buildings or structures for similar uses, but does not include places of assembly or entertainment, institutions, service stations, public garages, industries, noxious trades.

**Butchery** means a shop in which meat and processed meat products are sold in the retail trade and must comply with the relevant health regulations as prescribed by the Authority and Local Authority.

## C.

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**Camping site** means a property or part of a property that is utilised for the erection of tents or the parking of caravans and includes ablution, cooking, barbeque and other facilities that, together with the amenity of the site, serve as features of attraction.

**Cemetery** refers to land, which is intended to be permanently set aside for, and used for the purposes of the burial of human or animal remains and may include a crematorium.

**Consent use** means where the Council approved a subordinate use on land which is zoned for a different primary use. Consent uses in terms of this town planning scheme will remain a use to be exercised by the land owner unless the consent use lapsed or was withdrawn by the Council in terms of Clause 5.3 & 8.13.

**Competent Authority** means the Ministry of Regional and Local Government, Housing and Rural Development.

**Council** means the Council of the local authority to whose area of jurisdiction these clauses apply.

**Coverage** means the total percentage area of a site that may be covered by buildings that are covered by a roof or projection, as measured over the extent of the exterior walls thereof; provided that the area covered by the first metre (as measured from the outside of the exterior wall concerned) of an eave or other projection shall not be included in the calculation of the permissible coverage.



## D.

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**Dwelling Unit** means a dwelling consisting of one primary unit with or without an outbuilding or an entertainment area, where the primary unit consists of mutually adjacent rooms with a kitchen and with at least a bathroom with toilet facilities and where the said primary unit is designed for occupation by a single household, and may, subject to the provisions of this Scheme or any law or regulation, be with or without a supplementary dwelling unit.

Provided that in this context

an "**Outbuilding**" means, rooms which are separate or detached from the main building (or primary unit) and designed or destined to be used for one or more of the following purposes:

- (a) parking places (a maximum of four independent covered parking places)
- (b) servant's room;
- (c) a servant's toilet;
- (d) a servant's bathroom and shower;
- (e) a store for use in reasonable connection with the dwelling.

Such outbuilding is owned together with the said primary unit as a single indivisible property unit by one and the same owner and which shall for the purpose of the Scheme be considered an integral part of the dwelling unit with which it is owned.

An "**entertainment area**" means a covered or roofed area which may be adjacent to the main building but without an internal connection (door) or physically detached from the main building and designed or destined to be used for entertainment purposes only, and may include one toilet.

A "**supplementary dwelling unit**" means a dwelling, designed for occupation by a single household, which shall not exceed half of the floor area of the main building (or primary unit), which is auxiliary to the said primary unit and is owned therewith as a single indivisible property unit by one and the same owner and which shall, for the purpose of this Scheme, be considered an integral part of the dwelling unit with which it is owned.

Provided that, subject to approval by the Council, an outbuilding, supplementary dwelling unit and entertainment area may exceed these restrictions.

## E.

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**Existing use** means, with reference to any building or land, the uninterrupted use of that building or land for the purpose for which it has been legally used before and after the date on which the Minister gave notice of his approval of this Scheme by proclamation, or, in the case of a new building erected but not used before the said date, a use for any purpose for which it was designed with inclusion in all cases, of any use of a building or land allowed by the Council before the date of approval of this Scheme by the Minister: Provided that the interruption of such existing use of a building or land, after approval of this Scheme by the Minister, for a period of more than 6 consecutive months, will be regarded as a cessation of





the uninterrupted use. Where such use has been interrupted for a period exceeding 6 months due to circumstances beyond the control of the owner, the Council may at its discretion accede to the continuation of such use, disregarding the cessation thereof.

## F.

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**Farm stall** means a building or structure which does not exceed 100 m<sup>2</sup> in floor space, including storage facilities where a farmer sells products produced and processed on his farm (in other words not products which are purchased), whether to his own employees or to the general public.

**Floor factor** means the factor (expressed as a proportion of 1) which is prescribed for the calculation of the maximum floor space of a building or buildings permissible on a land unit; it is the maximum floor space as a proportion of the erf area.

**Floor space** in relation to any building or structure means the area covered by a roof, slab or projection, excluding a projection not exceeding 1 m over an exterior wall or a similar support; provided that the area which is covered by a canopy of projection on the street side of business premises shall not be regarded as floor space. Floor space shall be measured from the outer face of the exterior walls or similar supports of such building or structure, and where a building or structure consists of more than one storey, the total floor space for the purposes of the definition of "maximum floor space" shall be the sum of the floor space of all the storeys, including that of the basements.

## G.

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**Government** refers to the Government of the Republic of Namibia.

**Gross density** means the maximum number of erven / portions / shares that can be created on a given piece of land, according to the prescribed density of a zoning, provided that the biggest portion so created by the subdivision may not be further subdivisible in terms of that density zoning as specified in Table B and that the smallest portion of the subdivision may not deviate with more than 25% from the given density. (Shares in this context means the shares of a company owning the land.) (See clauses 4.1, 4.2 and 4.10). Gross density are not applicable to Single and General Residential zonings.

**Gross parking spaces** mean an area or areas which incorporate one parking bay plus circulation and landscaping space for one parking bay.

**Ground floor** means the lowest floor of a building which is not a basement.



## H.

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**Holiday accommodation** means a building designed and built for holiday development which may include the provision of a camping site, mobile homes or dwelling units, whether in private or public ownership, which comprises of a single enterprise and which shall only be marketed by means of short-term renting or time sharing but does not include a hotel or motel.

**Home-based business** means the on site sale and serving of goods and or consumables from a dwelling unit. In the case of liquor, on site consumption to the public will be permitted based on the conditions and provisions as prescribed by the Liquor Act, Act no. 6 of 1998. Consent for a home-based business will be subject to the provisions of Table B.

**House of worship** means a church, synagogue, mosque, temple, chapel or other place for practising religion, and includes any building in connection therewith, but does not include a funeral parlour with related chapel.

## I.

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**Industrial café** means a building or structure which does not exceed 100 m<sup>2</sup> in floor space, including storage facilities, and where delicacies and fast foods are sold to employees only.

**Industry / Industrial building** means an enterprise or building where any person performs work in connection with any business, undertaking or institution whether as an employer or employee, pupil or inmate of an institution, or otherwise, in any one or more of the following activities:

- (a) the making of any article or part of any article;
- (b) the altering, repairing, renovating, testing, ornamenting, painting, spraying, polishing, finishing, cleaning, dyeing, washing or breaking up of any article;
- (c) the adaptation for sale or use of any article;
- (d) the sorting, assembling or packing (including washing or filling of any containers) of any articles;
- (e) the construction, reconstruction, assembling repairing or breaking up of any vehicles or parts thereof (but excluding premises used for the purpose of housing vehicles where only minor adjustments are carried out);
- (f) printing by letterpress, lithography, photogravure, or other similar process, including any activity associated with the printing industry;
- (g) the production and storage of gas and/or other flammables in a holder of more than 500 m<sup>3</sup> storage capacity;
- (h) any other activity added in terms of the Labour Act (Act No. 23 of 1992);
- (i) any activity that is necessarily or ordinarily incidental to any activity referred to in subparagraphs (a) to (h), inclusive, if the premises on which it is carried on form part of or are adjacent to the premises on which the activity to which it is so incidental to is carried on:



Provided that houses, residential buildings, hotels, restaurants or similar uses where food or drink is prepared mainly for consumption on the premises and any premises used temporarily and exclusively for the carrying on of any activity connected with the construction, alteration, renovation, repair or demolition of any building, bridge, road or irrigation works shall not be included in the definition of an industrial building; provided that a caretaker's dwelling, an office, an industrial café and other use incidental to an industry may be included in the definition of an industrial building by special consent of Council.

**Industrial township development area** refers to land, which is set aside for future industrial development including all land uses related to and necessary for light industrial development including new streets and new public open spaces, which the local authority wishes to reserve for future urban growth or development.

**Institution** means a building or portion of a building utilised or intended to be utilised as a social or welfare institution or for the administration thereof and includes a hospital, clinic, reformatory, whether private or public, but does not include a jail.

**Intensive-feed farming** means the keeping, feeding and breeding of animals or poultry on an intensive basis.

## K.

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**Kiosk** means a shop which does not exceed 100 m<sup>2</sup> in floor space, including storage space and includes a farm stall.

## L.

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**Licensed hotel/motel** means a building designed and / or used for the business of providing accommodation and meals for reward and which complies with the requirements of the Accommodation Establishment and Tourism Ordinance, 1973 (Ordinance 20 of 1973) and licensed under the Liquor Ordinance, 1969 (Ordinance 2 of 1969), but does not include an off-sales facility.

**Light industry** means the use of land or building designed or used for such purposes as distribution centres, wholesale trade, storage, computer centres, warehouses, cartage and transport services and related workshop and laboratories and may also include offices such as usually ancillary to or reasonable necessary in connection with the main use. The provision of a dwelling unit and the sale of goods manufactured and produced on site or which are related to the main use may be permitted by special consent of the Council.

**Local Authority** means the Khomas Regional Council and includes the Management Committee of that Council, or any official who is in the service of that Council and acting by virtue of any authority conferred on him by that Council in connection with this Town Planning Scheme and which was delegated to him in terms of section 23 of the Regional Councils Act, 1992 (Act 22 of 1992), as amended.



**Local Authority Purposes** means those purposes that the Local Authority can and should give effect to in terms of the Local Authorities Act, 1992 (Act 23 of 1992), as amended, or any other legislation, which empowers the Local Authority to act.

**Low impact tourism** means tourism which will not have a negative effect on the fauna and flora of the nature areas of which the impact will be determined by an Environmental Impact Assessment in accordance with the relevant legislation and policy of the Ministry of Environment and Tourism.

## M.

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**Mining** means an enterprise which practises the extraction of raw materials, whether by means of surface or underground methods, and includes a quarry for the removal of stone, sand, clay, kaolin, ores, minerals or precious stones.

## N.

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**Nature area** means an area of high bio diversity which must be protected and preserved in order that the fauna and flora in the area can continue to exist in a natural state without activities that can cause the degeneration and eventual extinction of the fauna and flora in the area.

**Nature buffer area** means an area of high bio diversity which must be protected and preserved in order that the fauna and flora in the area can continue to exist in a natural state without activities that can cause the degeneration and eventual extinction of the fauna and flora in the area. Applicants can apply in terms of clause 5 for limited development in these areas as listed in clause 3.12.

**Nature estate** means land under private ownership managed by a home owner's association and include Wildlife Estates, Residential Estates, Equestrian Estates, Golf Estates and Retirement Villages.

- a) Residential Estate means nature estate as defined above of which the primary lifestyle theme is related to the conservation and utilisation of the natural environment and may include activities based on and land uses incidental to the primary theme.
- b) Equestrian estate means a nature estate as defined above of which the primary lifestyle theme is related to the keeping and riding of horses and may include activities and land uses based on and land uses incidental to the primary theme.
- c) Golf Estate means a nature estate as defined above of which the primary lifestyle theme is related to the playing of golf and may include activities and land uses incidental to the primary theme.
- d) Wildlife Estate means a nature estate as defined above of which the primary lifestyle theme is related to wildlife and may include activities and land uses incidental to the primary theme.

**Nature reserve** means a national park, or some other nature park which is in the ownership of a public authority or has been declared as such in terms of legislation and remains in private ownership; it consists of an area which is utilised as a game park or reserve for



fauna or flora in their natural habitat and includes accommodation facilities for tourists or holiday makers.

**Noxious trade** means an offensive use or another use which constituted a nuisance, without prejudice to the generality of the foregoing, such as:

Chemical works, paint works, breweries and distilleries, sugar mills and sugar refineries, manure-, super phosphate- or fertilizer works; or premises used for the storing or mixing of manure, phosphates or fertilizers or premises for the storing, drying, preserving or other treatment of bones, horns or hoofs, premises used for the storing, sorting or treatment of hides and skins, other than in a dry and inoffensive condition, abattoirs, butcheries, glue factories, entrails scraping and tripe boiling works; soap or candle works, fat and dripping works and any other similar works where meat, bones, blood, offal or other animal organic matter is handled, wool scouring or wool washing works, rock lobster or fish processing works, fish pickling or rock lobster and fish canning trades, whaling stations, premises or trades used for the storing or handling and processing of material originating from fish, whales and seals, paper-mills or paper factories, wattle-bark grinding or extract factories, destructors, depositing sites or other sites for the disposal or processing of domestic refuse, trade refuse, street refuse, sewage or night-soil, lead melting works, oil refineries and other trades in connection with the processing on by-products or petroleum refining, paint and varnish works, quarries, asbestos cement-, bricks- and lime-works, metallurgical works, reduction and reprocessing works or any other works or trade which the Competent Authority may declare as such by notice in the Gazette: Provided that upon production of a certificate by the Medical Officer of Health, in consultation with the Inspector of Factories, that the process to be used in the conduct of any of the said industries or factories listed above will eliminate nuisance or danger to health in neighbouring premises arising from:

- (a) vapour or effluvia;
- (b) liquid waste matters discharged from the premises, and if land treatment of such matters is proposed, the nature, slope and area of the land and its position in relation to buildings used for human habitation, streams or water courses;
- (c) solid waste matters;

The Council may consent to the erection and use of buildings for such industries in the industry zone.

**Nursery** means a property or part thereof that is utilised for the sale of plants and gardening products.

## **O.**

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**Occupant** means any person who physically inhabits a building, a structure or land.

**Occupational practice** means the practising of an occupation, or a trade, or the conducting of an enterprise from a dwelling unit by one or more occupants of the dwelling unit concerned and his or their assistants, without disturbances such as noise, traffic congestion,



air pollution, the congregation of people, excessive traffic generation or a lowering of aesthetics being caused. Such uses may include professional usage or a crèche.

**Office** means a room or set of rooms or a building utilised for the performance of an administrative function and includes a post office, magistrate's office or professional usage.

**Ordinance** means the Town Planning Ordinance, 1954 (Ordinance 18 of 1954), as amended.

**Outbuilding:** See definition under Dwelling Unit.

## **P.**

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**Parastatal** means any government co-operations or semi-government institutions and related buildings as instituted by Law, including TransNamib, Air Namibia, Telecom, Nampost, NamPower, NamWater, the Namibia Broadcasting Corporation, the Roads Authority or any other utility service providers.

**Parking bay** means an area measuring not less than 5,5 m by 2,5 m which is clearly outlined and demarcated for the parking of one motor vehicle and which is accessible to the satisfaction of the Local Authority.

**Place of assembly** means a public hall, a hall for social functions, a music hall, a concert hall or an exhibition hall which is not directly related to a commercial undertaking, or a town hall or civic centre.

**Place of entertainment** means a theatre, a cinema, a dance hall, an amusement park, a sports centre, a billiard-room or a similar place.

**Place of instruction** means a crèche, pre-primary school, primary school, secondary school, college, technikon, university, conference centre convent, public library, public art gallery, museum or some other centre which is utilised for instruction purposes and includes a hostel appertaining thereto, but does not include a building or land unit which is mainly utilised as a certified reformatory or industrial school or as an institution.

**Private open space** means any land reserved in this Scheme for private use or club grounds for sports, games, recreation, rest or ornamental show purposes.

**Professional usage** means such type of use as is normally and reasonably associated with professional people such as doctors, dentists, architects, engineers, attorneys, quantity surveyors and town planners, where the rendering of a service, against the carrying on of a business, is one of the distinguishing factors.

**Public garage** means a business or concern where motor vehicles are repaired or overhauled and includes trading in motor vehicles, tyres or motor spares, restaurant or café, spray painting, panel beating, black smithery or body work.



**Public open space** means land which is under or will be under the ownership of a Local Authority, which is not leased nor will be leased on a long-term basis, and which is utilised or will be utilised as an open space or a park, garden, picnic area, playground or square and includes a public place.

**Public parking** means land or a building or part thereof that is accessible to the general public for parking purposes.

**Public place** has the meaning assigned thereto in the Ordinance.

**Public road** means any road or street for public use or any land intended for such purposes.

**Publish in the press** has the meaning assigned thereto in the Ordinance.

## R.

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**Residential building** means a building, other than a Dwelling Unit designed and/or used for human habitation, consisting of more than one residential unit together with such outbuildings as are ordinarily used therewith but which does not include:

- (a) a building mentioned whether by way of inclusion or exclusion in the definitions of "place of instruction" and "institution".
- (b) a hotel;
- (c) an accommodation establishment;
- (d) a tourism establishment.

**Residential unit** means a room or suite of rooms, other than a Dwelling Unit, which is designed as a dwelling for a single person or a single household with or without such outbuildings which are ordinarily used therewith and which is not a supplementary dwelling unit and does not have a supplementary dwelling unit.

**Residential township development area** refers to land, which is set aside for future residential development including all land uses related to and necessary for residential development including new streets and new public open spaces, which the local authority wishes to reserve for future urban growth or development.

**Retirement village** means dwellings or flats that conform to the following additional conditions:

- (a) Each dwelling unit shall only be occupied by an elderly person or by a family of which at least one member is an elderly person;
- (b) a full spectrum of care and other recreational facilities shall be provided to the satisfaction of the Council.





**Rural residence** means a dwelling on a small area of agricultural land where the owner or occupant may conduct small scale agriculture with such outbuildings and ancillary buildings as are ordinarily used for such small scale agriculture.

## S.

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**Scrapyard** means a building or land which is utilised for one or more of the following purposes:

- (a) The storing, depositing or collecting of junk or scrap material used in the manufacture thereof;
- (b) the dismantling of second-hand vehicles or machines to recover components or material, and
- (c) the storing or sale of second-hand pipes, poles, steel sections, wire, lumber, tyres, bricks, containers or other articles which are suitable to be left in the open without any serious damage being incurred.

**Service station** means a business or concern where motor vehicles are provided with fuel for payment or reward and includes trading in motor vehicles, oil, tyres or motor spares, the repair or overhauling of motor vehicles, or a restaurant, shop or café, but does not include spray painting, panel beating, black smithery or body work.

**Service trade** means trade on the premises of an industry, light industry, a service station and a public garage where the trade is directly related with the operations of the primary zone, including the sale of products which are manufactured by the industry or light industry.

**Shelter** means a unit of accommodation, situated within an informal town or settlement, of any material whatsoever, which does not comply with the standards of durability intended by the building regulations, as applicable to the area of jurisdiction of the council, and includes any land use complying with clause 4.4.

**Shop** means a site or building or structure utilised for the purpose of carrying on a retail concern and includes a nursery, laundrette, dry cleanette but does not include an industry or a public garage, restaurant, service station, home based business or place of entertainment.

**Side boundary** means any boundary of a land unit which does not constitute a common boundary of such land unit and a public street or public road.

**Small-scale agriculture** means any agriculture which is practiced on a small scale on a small area of land and includes such buildings which are necessary for the small scale agriculture.

**Special usage** means land used or building designed or used for any use other than one of the uses or buildings specifically defined in this Scheme.





**Storey** means a single level of a building, excluding a basement, which does not exceed a height of 4 m measured from finished floor level to finished floor level or to the ceiling in the case of the top storey.

**Street** has the meaning assigned thereto in the Ordinance.

**Street boundary** means the common boundary of a site or land unit and street; provided that where a portion of a site or land unit is reserved for purposes of a new street or street widening in terms of the Town Planning Scheme or any other law, the street boundary of the site or land unit shall be the boundary of such proposed new street or proposed street widening.

**Supplementary dwelling unit:** See under dwelling unit.

## T.

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**Tourist establishment** means a building designed and/or used as an accommodation establishment which is not a hotel, a motel and includes holiday accommodation, a caravan park, a guest house, a lodge, a backpackers-lodge and all other establishments referred to in the definitions of 'accommodation establishment' in the Accommodation Establishments and Tourism Ordinance, 20 of 1973, as well as the regulations made there under, the Liquor Act 6 of 1998 and the Namibian Tourism Act 21 of 2000" and includes tourist facilities as defined.

**Tourist facilities** means amenities for tourists such as lecture rooms, restaurants, kiosks, gift shops and rest rooms permitted by the Council as a consent use, but does not include overnight accommodation.

**Town House** means two or more residential units with a maximum height of three (3) storeys, where the dividing lines between dwellings are vertical. Such units can form part of a town housing scheme.

**Town Housing** means a row or group of linked and/or attached dwelling units planned, designed and built as a harmonious architectural entity, of which every dwelling unit has a ground floor; such dwelling units may be cadastrally subdivided.

**Township Development** means the planning and design (including the subdivision, surveying, registration and construction of services) of a portion of land owned by the local authority or any other legal entity, planned as a harmonious extension to existing urban development or a new town in the local authority area and established in terms of the provisions of the Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963), as amended.

## W.

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**Warehouse** means a site, building or room where goods are stored or a wholesale business or service trading is conducted.



**Workshop** means a site, building or room where vehicles and farm equipment like drilling machines, windmills, pumps and pump motors and generators and compressors are serviced and repaired.

**Z.**

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**Zone** used as a noun refers to a portion of the area on the map shown in a distinctive manner for the purpose of indicating the restrictions imposed by this Scheme on the use of land and the erection and use of buildings thereon.



## 2 LAND USE

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### 2.1 AREA OF ZONING SCHEME

The extent of the zoning scheme is indicated on the zoning map(s).

### 2.2 COMPONENTS OF THE ZONING SCHEME

This zoning scheme consists of three components: definitions, the scheme clauses, and the zoning map(s).

### 2.3 RESERVATION OF LAND

In accordance with the stipulations of the Town Planning Regulations the land shown on the zoning map, as indicated in Column 1 of Table A, is reserved for the purposes as set out in Column 2 of Table A and shall, subject to any provisions to the contrary in the Ordinance and these clauses, not be utilised for any other purpose.

### 2.4 ZONING OF LAND AS SPECIFIED USE ZONES

The land shown on the zoning map, as indicated in column 1 or 2 of Table B, is zoned for the respective purposes set out in column 3 of Table B and shall, subject to any provisions to the contrary in the Ordinance and these clauses, not be utilised for any other purpose.

### 2.5 ERECTION OF BUILDINGS AND UTILISATION IN SPECIFIED ZONES

The purposes, called primary uses, for which land may be utilised in the various zones indicated in column 2 of Table B are shown in column 3 of Table B. The purposes, called consent uses, for which land may be utilised or buildings may be erected with the consent of the Council in the various zones indicated in column 2 of Table B are set out in column 4 of Table B. Any use not reflected in column 3 or 4 shall, subject to any provisions to the contrary in the Ordinance and these clauses, not be permitted in the zone concerned.



### 3 RESERVATION OF LAND

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In accordance with the stipulations of the Town Planning Regulations, land has to be reserved for the following purposes:

#### 3.1 PUBLIC OPEN SPACE

**3.1.1 Colour notation:** Dark green fill  
**Primary use:** Public open space  
**Consent uses:** None

**3.1.2** No structures shall be erected or use practised except such as is compatible with “public open space”, as defined.

#### 3.2 PRIVATE OPEN SPACE

**3.2.1 Colour notation:** Dark green fill with light green edge  
**Primary use:** Private open space  
**Consent uses:** None

**3.2.2** No structures shall be erected or use practised except such as is compatible with “private open space”, as defined.

#### 3.3 STREET

**3.3.1 Colour notation:** No fill  
**Primary use:** Public road  
**Consent uses:** None

**3.3.2** No structure shall be erected or use practised except such as is compatible with “public road”, as defined.

#### 3.4 CEMETERY

**3.4.1 Colour notation:** Black cross on white fill (†)  
**Primary use:** Cemetery  
**Consent uses:** None

**3.4.2** No structure shall be erected or use practised except such as is compatible with “cemetery”, as defined.



### 3.5 RESIDENTIAL TOWNSHIP DEVELOPMENT AREA

- 3.5.1 Colour notation:** Sky blue outline  
**Primary use:** Single residential, rural residence, business, service station, institutional, special, accommodation, undetermined, tourist establishment, retirement village  
**Consent uses:** Consent uses to the primary use as indicated in Table B

**3.5.2** Land included in these areas and land adjacent to these areas can be developed as residential areas when the procedures as provided for in Chapter 6 are followed.

### 3.6 LIGHT INDUSTRIAL TOWNSHIP DEVELOPMENT AREA

- 3.6.1 Colour notation:** Purple outline  
**Primary use:** Industrial, business, service station, special, undetermined  
**Consent uses:** Consent uses to the primary use as indicated in Table B

**3.6.2** Land included in these areas and land adjacent to these areas can be developed as industrial areas when the procedures as provided for in Chapter 6 are followed.

### 3.7 GOVERNMENT

- 3.7.1 Colour notation:** Pink  
**Primary use:** Authority usage  
**Consent uses:** None

**3.7.2** The land use restrictions and additional provisions applicable to this zone shall apply as for every site or use or type of building approved by the Council.

### 3.8 PARASTATAL

- 3.8.1 Colour notation:** Grey  
**Primary use:** Parastatal usage  
**Consent uses:** None

**3.8.2** The land use restrictions and additional provisions applicable to this zone shall apply as for every site or use or type of building approved by the Council.

### 3.9 LOCAL AUTHORITY

- 3.9.1 Colour notation:** Red brown  
**Primary use:** Local Authority usage  
**Consent uses:** None



**3.9.2** The land use restrictions and additional provisions applicable to this zone shall apply as for every site or use or type of building approved by the Council.

### **3.10 NEW ROADS**

**3.10.1 Colour notation:** Red  
**Primary use:** New road  
**Consent uses:** None

### **3.11 NATURE AREA**

**3.11.1 Colour notation:** Dark yellow line  
**Primary use:** Nature area, hiking trails, game and extensive livestock farming  
**Consent uses:** Low impact tourism, nature reserve

### **3.12 NATURE BUFFER AREA**

**3.12.1 Colour notation:** Dark green line  
**Primary use:** Nature area, hiking trials, game and extensive livestock farming  
**Consent uses:** Tourist establishment, holiday accommodation, residential estate, rural residence, nature reserve

### **3.13 AQUIFER PROTECTION AREA**



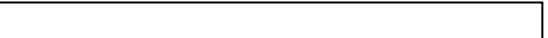
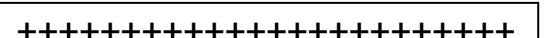





**3.13.1 Colour notation:** Orange line  
**Primary use:** Agriculture  
**Consent uses:** Tourist establishment, holiday accommodation, residential estate, rural residence, nature reserve

### **3.14 NATURE RESERVE**






**3.14.1 Colour notation:** Dark green  
**Primary use:** Nature reserve  
**Consent uses:** None



**TABLE A**

Colour Notation	Use for which land is reserved	Consent Uses
	Public Open Space	None
	Private Open Space	None
	Street	None
	Cemetery	None
	Residential Township Development Area	Consent use to Primary Use
	Light Industrial Township Development Area	Consent use to Primary Use
	New Road	None
	Parastatal	None
	Local Authority	None



	Government	None
	Nature area	Tourist establishment, holiday accommodation, residential estate, rural residence, nature reserve
	Nature buffer area	Tourist establishment, holiday accommodation, residential estate, rural residence, nature reserve
	Aquifer protection area	Tourist establishment, holiday accommodation, residential estate, rural residence, nature reserve
	Nature reserve	None





## 4 PLANNING CONTROL

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The following provisions shall apply in the relevant zones:

### 4.1 AGRICULTURE

- 4.1.1 Colour notation:** Light green  
**Primary uses:** Agriculture, dwelling unit, (at a gross density of 1 unit per 10ha) ancillary dwelling unit.  
**Consent uses:** Ancillary dwelling units, occupational practice, home-based business, agricultural industry, farm stall, kiosk, intensive-feed farming, nursery, service trade, tourist establishment and holiday accommodation, a nature estate, public garage, light industry, workshop and butchery.

### 4.1.2 Land use restrictions

- Coverage:** N/A  
**Height:** At most two storeys  
**Trunk and Main road building line:** 100m From the centre line of the road  
**Side building line:** At least 15 m from boundary

### 4.2 RURAL RESIDENCE

- 4.2.1 Colour notation:** Light yellow fill  
**Primary uses:** Small scale agriculture, dwelling unit, (at a gross density of 1 unit per 5 ha) and ancillary dwelling unit.  
**Consent use:** Ancillary dwelling units, occupational practice, home-based business, retirement village, agricultural industry, farm stall, kiosk, intensive-feed farming, nursery, service trade, tourist establishment, holiday accommodation, a nature estate, public garage, light industry, workshop and butchery.

### 4.2.2 Land use restrictions

- Coverage:** N/A  
**Height:** At most two storeys  
**Trunk and Main road building line:** 100m From the centre line of the road  
**Side building line:** At least 15 m from boundary

### 4.2.3 Additional requirement for a Retirement Village

- Minimum erf size:** 450m<sup>2</sup>



### 4.3 SINGLE RESIDENTIAL

**4.3.1 Colour notation:** Light yellow hatch  
**Primary use:** Dwelling unit  
**Consent uses:** Occupational practice, home-based business, house of worship, retirement village

#### 4.3.2 Land use restrictions

**Coverage:** At most 50%  
**Height:** At most two storeys  
**Street building line:** At least 5m  
**Side building line:** At least 3m  
**Parking:** At least one (1) parking bay per land unit, on the land unit  
**Minimum erf size:** 900m<sup>2</sup>

#### 4.3.3 Additional requirement for a retirement village

**Minimum erf size:** 450m<sup>2</sup>

### 4.4 BUSINESS

**4.4.1 Colour notation:** Blue fill  
**Primary use:** Business premises, licensed hotel/motel, office, dwelling unit, town house, flats, residential building, service trade, home based business  
**Consent uses:** place of assembly, place of entertainment, place of instruction, institution, primary use with a floor space more than 1000m<sup>2</sup>

#### 4.4.2 Land use restrictions

**Floor space:** At most 1000m<sup>2</sup>  
**Coverage:** N/A  
**Height:** At most two storeys  
**Trunk and Main road building line:** 100m From the centre line of the road  
**Side building line:** At least 15 m from boundary  
**Parking:** At least one (1) parking bay per 50m<sup>2</sup> of floor space

#### 4.4.3 Additional requirement for a licensed hotel/motel

**Parking:** At least 0,7 parking bays per bedroom and 25% of the required number of parking bays, or greater number than the required number, if so required by the Council, and at least twenty additional parking bays, shall be provided uncovered on the site and shall be clearly demarcated and properly indicated by means of a notice



board to the satisfaction of the council for the exclusive use of visitors.

#### 4.5 SERVICE STATION

- 4.5.1 Colour notation:** Light blue  
**Primary use:** Service station, public garage  
**Consent uses:** Service trade, service station with a floor space more than 1000m<sup>2</sup> and public garage with a floor space more than 500m<sup>2</sup>

#### 4.5.2 Land use restrictions

- Floor space:** At most 500m<sup>2</sup> in the case of a public garage  
At most 1000m<sup>2</sup> in the case of a service station  
**Coverage:** N/A  
**Height:** At most two storeys  
**Trunk and Main road building line:** 100m From the centre line of the road  
**Side building line:** At least 15 m from boundary  
**Parking:** 1/10m<sup>2</sup>

#### 4.5.3 Additional provisions for service stations and public garages

- (a) Where access to the service station or public garage is obtained from a proclaimed main road, district road or a farm road the vehicular access and exit ways to and from the premises shall be in accordance with the requirements of the Road Authority Board
- (b) Where access to the service station or public garage is obtained from an unproclaimed farm road the vehicular access and exit ways to and from the premises where they cross the road boundary, shall:
- (i) be not less than 30 m from the point nearest to where a declared road, proclaimed road or prospective main road intersects any other road of a like status, or the nearest point of an intersection where traffic is controlled, or is proposed to be controlled, by a traffic signal or traffic island;
  - (ii) be not less than 1,5 m from the side boundary of the premises, or
  - (iii) in the case of an intersection other than one referred to in paragraph (i), if the corner of the intersection is not splayed, be not less than 10 m from such corner, or if the corner at the intersection is splayed, be not less than 10 m from such corner or 5 m from the point where the line of splay meets the road boundary, whichever is the greater distance from the corner.
- (c) Any part of the premises of a public garage which is used for the storage of disused motor vehicles or parts of motor vehicles, empty containers such as oil drums and packing cases, or any other scrap whatsoever, or for the assembly, repair, painting or dismantling of motor vehicles shall, unless it is enclosed by buildings at least 2 m high, be enclosed with a suitable brick or concrete screen wall at least 1,8 m high.



#### 4.6 LIGHT INDUSTRIAL

- 4.6.1 Colour notation:** Purple hatch
- Primary use:** Warehouse, distribution centre, dwelling unit, supplementary dwelling unit, builders workshops and stores, laboratories, cartage and transport services and offices ancillary to the main use
- Consent uses:** Industry, public garage, scrap yard, service station, workshop, kiosk, butchery, primary use with a floor area of more than 2000 m<sup>2</sup>

#### 4.6.2 Land use restrictions

- Floor space:** At most 2000m<sup>2</sup>
- Coverage:** N/A
- Height:** At most two storeys
- Trunk and Main road building line:** 100m From the centre line of the road
- Side building line:** At least 15 m from boundary
- Parking:** At least one parking bay per 200 m<sup>2</sup> of floor space

#### 4.6.3 Loading and unloading

For the purpose of loading and unloading vehicles, the following space or spaces shall be provided on site to the satisfaction of the Council:

Total Floor space of building (to the nearest m <sup>2</sup> )	Required loading and unloading area
0 - 2 500 m <sup>2</sup>	1 bay
2 501 - 5 000 m <sup>2</sup>	2 bays
5 000 - 10 000 m <sup>2</sup>	3 bays
Every additional 10 000 m <sup>2</sup> or portion thereof	1 additional bay

Such loading bays shall have vehicular access to a street (which shall be to the satisfaction of the Council and be not less than 5 m wide and, if carried through a building, not less than 3 m in height).

- 4.6.4** In the case where a consent use is granted for a public garage, service station or scrap yard, the provisions 4.5.3 will apply.



## 4.7 INDUSTRIAL

- 4.7.1 Colour notation:** Purple fill  
**Primary use:** Industry, light industry, business premises  
**Consent uses:** Noxious trade, mining, public garage, service station, scrap yard, primary use with a floor area of more than 2000 m<sup>2</sup>

### 4.7.2 Land use restrictions

- Floor space:** At most 2000m<sup>2</sup>  
**Coverage:** N/A  
**Trunk and Main road building line:** 100m From the centre line of the road  
**Side building line:** At least 15 m from boundary  
**Parking:** At least one parking bay per 200 m<sup>2</sup> of floor space

### 4.7.3 Loading and unloading

For the purpose of loading and unloading vehicles, the following space or spaces shall be provided on site to the satisfaction of the Council:

Total Floor space of building (to the nearest m <sup>2</sup> )	Required loading and unloading area
0 - 2 500 m <sup>2</sup>	1 bay
2 501 - 5 000 m <sup>2</sup>	2 bays
5 000 - 10 000 m <sup>2</sup>	3 bays
Every additional 10 000 m <sup>2</sup> or portion thereof	1 additional bay

Such loading bays shall have vehicular access to a street (which shall be to the satisfaction of the Council and be not less than 5 m wide and, if carried through a building, not less than 3 m in height).

- 4.7.4** In the case where a consent use is granted for a public garage, service station or scrap yard, the provisions 4.5.3 will apply.

## 4.8 INSTITUTIONAL

- 4.8.1 Colour notation:** Light brown fill  
**Primary use:** Place of instruction, house of worship, institution, place of assembly  
**Consent uses:** Dwelling unit, primary use with a floor area more than 2000 m<sup>2</sup>



#### 4.8.2 Land use restrictions

<b>Floor space:</b>	At most 2000m <sup>2</sup>
<b>Coverage:</b>	N/A
<b>Trunk and Main road building line:</b>	100m From the centre line of the road
<b>Side building line:</b>	At least 15 m from boundary
<b>Parking:</b>	At least one parking bay per eight seats

#### 4.8.3 Dwelling unit

Notwithstanding clause 4.8.2, the following land use restrictions shall apply to a dwelling unit on an institutional erf:

<b>Coverage:</b>	N/A
<b>Height:</b>	at most two storeys
<b>Trunk and Main road building line:</b>	100m From the centre line of the road
<b>Side building line:</b>	At least 15 m from boundary
<b>Parking:</b>	At least one parking bay per dwelling unit

### 4.9 TOURIST ESTABLISHMENT

<b>4.9.1 Colour notation:</b>	Dark yellow fill
<b>Primary use:</b>	Licensed hotel/motel, tourist establishment, holiday accommodation
<b>Consent uses:</b>	Kiosk; primary use with a floor area exceeding 3000 m <sup>2</sup>

#### 4.9.2 Land use restrictions

<b>Floor space:</b>	At most 3000 m <sup>2</sup>
<b>Coverage:</b>	N/A
<b>Height:</b>	At most two storeys
<b>Trunk and Main road building line:</b>	100m From the centre line of the road
<b>Side building line:</b>	At least 15 m from boundary
<b>Parking:</b>	At least 0,7 parking bays per bedroom and 25% of the required number of parking bays, or a greater number than the required number, if so required by the Council, and at least twenty additional parking bays, shall be provided uncovered on the site and shall be clearly demarcated and properly indicated by means of a notice board to the satisfaction of the council for the exclusive use of visitors



#### 4.10. NATURE ESTATE

- 4.10.1 Colour notation:** Orange  
**Primary use:** Dwelling units for:  
Wildlife Estate at a gross density of 1 unit per 10 ha  
Golf Estate at a gross density of 1 unit per 5 ha  
Equestrian Estate a gross density of 1 unit per 5 ha  
Residential Estate at a gross density of 1 unit per 1 ha.  
Retirement Village at a gross density of 1 unit per 450 m<sup>2</sup>  
**Consent uses:** Occupational practiced, home-based business, house of worship

#### 4.10.2 Land use restrictions

- Coverage:** At most 50%  
**Height:** At most two storeys  
**Truck and Main road Building line:** 100m From the centre line of the road  
**Side building line:** At least 15m from boundary  
**Parking:** At least one parking bay per land unit, on the land unit

#### 4.11 SPECIAL

- 4.11.1 Colour notation:** Black hatch  
**Primary use:** Special usage  
**Consent uses:** None

- 4.11.2** If special factors justify the creation of a new zone on the zoning map for a site or sites without justifying the creation of a new zone in the scheme clauses, such site shall be zoned as a special zone on the zoning map. A special zone may consist of different portions of land, provided the land use restrictions are the same. Each special zone in respect of which the land use restrictions differ from those of other special zones shall be described as a separate zone in an annexure to these scheme clauses.

#### 4.12 UNDETERMINED

- 4.12.1 Colour notation:** Dark blue  
**Primary use:** None  
**Consent uses:** All other uses indicated in Tables A and B

- 4.12.2** No building may be erected in this zone and no land uses referred to in this Scheme may be practised in this zone, except with special consent from Council.



#### 4.13. MINING

4.13.1 **Colour notation:**  
**Primary use:**  
**Consent uses:**

Light grey


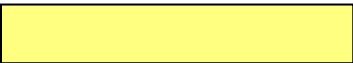
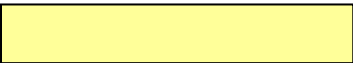

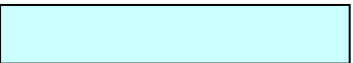
Mining

Dwelling units, supplementary dwelling units, ancillary dwelling units, offices, stores and workshops related to mining













**TABLE B**

<b>Colour Notation</b>	<b>Zoning</b>	<b>Primary Use</b>	<b>Consent Uses</b>
	Agriculture	Agriculture Dwelling unit (at a gross density of 1 unit per 10 ha) Ancillary dwelling unit	More than one ancillary dwelling unit, occupational practice, home-based business, agricultural industry, farm stall, kiosk, intensive-feed farming, nursery, service trade, tourist establishment and holiday accommodation, a nature estate, public garage, light industry, workshop and butchery.
	Rural Residence	Small scale agriculture Dwelling unit (at a gross density of 1 unit per 5 ha) Ancillary dwelling unit	More than one ancillary dwelling unit, occupational practice, home-based business, retirement village, agricultural industry, farm stall, kiosk, intensive-feed farming, nursery, service trade, tourist establishment, holiday accommodation, a nature estate, public garage, light industry, workshop and butchery.
	Single Residential	Dwelling unit	Occupational practice, home-based business, house of worship, retirement village.
	Business	Business premises, licensed hotel/motel, office, dwelling unit, town house, flats, residential building, service trade, home based business	Place of assembly, place of entertainment, place of instruction, institution, primary use with a floor space more than 1000m <sup>2</sup>
	Service Station	Service station Public garage	Service trade, service station with a floor space more than 1000m <sup>2</sup> , public garage with a floor space more than 500m <sup>2</sup>



	Light Industrial	Warehouse, distribution centre, dwelling unit, supplementary dwelling unit, builders workshops and stores, laboratories, cartage and transport services and offices ancillary to the main use	Industry, public garage, scrap yard, service station, workshop, kiosk, butchery, primary use with a floor area of more than 2000 m <sup>2</sup> .
	Industrial	Industry, light industry, business premises	Noxious trade, mining, public garage, service station, scrap yard and primary use with a floor area of more than 2000 m <sup>2</sup>
	Institutional	Place of instruction, house of worship, institution, place of assembly	Dwelling unit and primary use with a floor area of more than 2000m <sup>2</sup>
	Tourist Establishment	Tourist establishment, holiday accommodation, licensed hotel/motel	Kiosk; primary use with a floor area exceeding 3000 m <sup>2</sup>



	Nature Estate	Dwelling units for different Residential Developments as defined in clause 4.10	Occupational practice, home-based business, house of worship
	Special	Special usage	None
	Undetermined	None	All other uses indicated in tables A and B
	Mining	Mining	Dwelling units, supplementary dwelling units, ancillary dwelling units, offices, stores and workshops related to mining



## 5 CONSENT USES

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### 5.1 APPLICATIONS FOR CONSENT USE

- 5.1.1** Subject to the provisions of clause 5.2 of these clauses the Council may, where application is made to it for its consent to the erection or utilisation of a building in a zone in which a building of the type proposed may be erected and utilised only with the Council's special consent, grant or refuse its consent, and shall in granting its consent be entitled to impose such restrictive conditions as it may deem fit governing the erection or utilisation of such building.
- 5.1.2** Subject to the provisions of clause 5.2 of these clauses the Council may, where application is made to it for its consent to increase the maximum floor space as provide in a zone the building may be erected and utilised only with the Council's special consent, grant or refuse its consent, and shall in granting its consent be entitled to impose such restrictive conditions as it may deem fit governing the erection or utilisation of such building.
- 5.1.3** Any person intending to apply to the Council for its consent in accordance with clauses 5.1.1 and 5.1.2 shall furnish the Council with the following:
- (a) a plan showing the extent of the development on the land
  - (b) a motivation for the consent application indicating how will the intended development comply with the conditions as listed in clauses 5.4 and 5.5
  - (c) if water for the development is going to be obtained from a bore hole a certificate from a registered authority that will proof the yield of the borehole
  - (d) if water for the development is going to be obtained from another source the signed agreement with the owner of that source that water will be provided
  - (e) if electricity for the development is going to be obtained from somewhere else, the signed agreement with the owner of that source that electricity will be provided
  - (f) provide details on how the sewerage that will be generated by the development will be piped and treated
  - (g) provide details on how all waste products will be treated and be disposed off
  - (h) provide the waste water discharge permit as issued by the Department of Water Affairs in terms of the Water Act, (Act no 54 of 1956) as amended
- 5.1.4** In considering applications in terms of clauses 5.1.1 and 5.1.2, regard shall be had to the question whether the use for which the building is intended or designed, or the proposed building, is likely to match the character of the neighbourhood, including nuisance owing to the emission of smoke, fumes, dust, noise or smells.
- 5.1.5** In cases where only a part of land will be used for the consent use, the Council may require the applicant to survey the area and to provide the Council with a diagram of such survey.



## **5.2 ADVERTISEMENTS OF INTENDED APPLICATION FOR CONSENT USE**

- 5.2.1** Any one (including Council) intending to make application to the Council for its consent to the erection or utilisation of a building or to the utilisation of land, whether wholly or partly, for any purposes requiring the Council's special consent, shall, before making such application, publish at his own expense once a week for two consecutive weeks in an English newspaper circulating in the area, a notice of his intention to make such an application, and shall post and maintain conspicuously for fourteen (14) days such notice on some part of the building or land, and shall with such application lodge with the Council proof of such publication or posting. The notice must have a minimum size of 600 x 450 mm and the letters may not be smaller than 5 mm.
- 5.2.2** The notice shall state that any person having any objections to the proposed use of land or the erection and use of the proposed building may lodge such objection with the Council and also with the applicant in writing within fourteen (14) days after the date of the last advertisement, and shall further state where the plans, if any, may be inspected.
- 5.2.3** The Council shall take into consideration any objections within the said period of fourteen (14) days and shall notify the applicant and objectors of its decision.
- 5.2.4** Any decision of the Council given in terms of this section shall be by resolution of the Council, taken at any meeting of the Council.
- 5.2.5** Any objector and/or applicant who is aggrieved by the decision of the Council, may lodge an appeal with the Council in which case it will be referred to the Minister, which decision shall be final.
- 5.2.6** The decision of the Council shall not take effect until the expiration of twenty eight (28) days from the date on which the applicant and the objectors, if any, are notified thereof, or if an appeal has been made, until such appeal is disposed of.

## **5.3 LAPSING OR WITHDRAWAL OF CONSENT**

- 5.3.1** If the rights obtained by virtue of the grant by Council of a consent to the erection and use of a building or for the use of the land, are not exercised within 24 months of the grant of such consent or, the rights having been exercised, the use permitted there under is interrupted for a continuous period of 18 months, the consent shall *ipso facto* lapse, unless any condition upon which such consent was granted specifically provides otherwise in regard to the lapsing of such consent.
- 5.3.2** Any consent for the use of land granted by the Council may be reviewed five years from the date of the decision to grant such consent if the Council considers it necessary.
- 5.3.3** Notwithstanding the provisions of sub-clause 5.3.1 and 5.3.2, a consent shall be subject to termination by the Council, if after affording the owner of the land to which the consent relates a hearing, it is of the opinion that owing to a change of circumstances or for any other reason it is undesirable for the consent to remain in force, provided that if, in respect of an obligation to contribute to any engineering services, the Council has in terms of this



scheme accepted such contributions, then the contribution paid as a result of the consent use shall be taken into account in the form of a credit against any contribution to engineering services which is required to be provided in the event of any subsequent application for consent being approved.

## **5.4 GENERAL CONDITIONS APPLICABLE TO CONSENT USES**

**5.4.1** Consent uses, as listed in column 3 of Table A and column 4 of Table B, shall be subject to the following conditions:

- (a) Any consent use in a particular zone, which is a primary use in any other zone, shall be subject to the same conditions applicable to the primary use in the other zone, unless special land use restrictions apply in respect thereof.
- (b) Any consent use in a particular zone, which is not a primary use in another zone, shall be subject to the same conditions as the primary use in the zone in which it is a consent use, unless special land use restriction applies in respect thereof.
- (c) All building lines for consent uses will be the same as the building lines of the primary use in that particular zone.
- (d) The Council may in both of the above-mentioned cases lay down other conditions with regard to any specific property.
- (e) Any consent for the use of land granted by the Council may be reviewed five years from the date of the decision to grant such consent if the Council considers it necessary. If the Council decides with such a review that a consent is sustainable, the consent will be changed to the appropriate zoning provided that it applies to an approved diagram of the applicable portion.

## **5.5 PARTICULAR CONDITIONS APPLICABLE TO CONSENT USES**

### **5.5.1 Supplementary and ancilliary dwelling units**

The following conditions shall apply where a portion of land is used for a supplementary dwelling:

<b>Floor Space:</b>	not more than 50% of the primary dwelling unit
<b>Coverage:</b>	N/A
<b>Height:</b>	at most two storeys
<b>Parking:</b>	at least one parking bay per dwelling unit

### **5.5.2 Occupational practice**

The following conditions shall apply where a portion of a dwelling unit is utilised for purposes of occupational practice:

- (a) The portion of the dwelling unit utilised for purposes of occupational practice, shall not exceed 25% of the floor space of the dwelling unit, flat or residential building;



- (b) Such a dwelling-house, flat or residential building or any portion thereof shall not be used for purposes of a shop, business premises, an industry or a noxious trade;
- (c) No goods for sale shall be publicly displayed;
- (d) No advertising sign shall be displayed other than a sign or notice not projecting over a street and not exceeding sixty (60) by forty-five (45) centimetres in area and indicating only the name and profession or occupation of the occupant, and
- (e) No activities shall be carried on which are or are likely to be a source of disturbance or nuisance to occupants of other dwelling units or portions thereof.

### **5.5.3 Home Based Business**

The following conditions shall apply where a portion of a dwelling unit is utilised for purposes of home based business:

- (a) the area utilised for home based business shall not exceed 25% of the permissible coverage as prescribed by this scheme
- (b) no advertising sign shall be displayed other than a sign or notice not projecting over a street and not exceeding sixty (60) by forty-five (45) centimetres in area and indicating only the name of the home based business
- (c) no activities shall be carried on which are or are likely to be a source of disturbance or nuisance to occupants of other dwelling units or portions thereof
- (d) the owner of the land must also be the licensee
- (e) the owner of the land must also be resident on the site
- (f) the owner of the land must also make provision for adequate toilet facility for use by customers
- (g) the consent must be renewed every five years

### **5.5.4 Agricultural industry**

With special consent for an agricultural industry, the Council may prescribe any special conditions in respect of parking and loading requirements, access, fencing and aesthetic treatment so that the concern will have the minimum impact on the environment.

### **5.5.5 Farm stall**

With special consent for a farm stall on agricultural land, the Council may prescribe any special conditions in respect of parking and loading requirements, access, fencing and aesthetic treatment so that the concern will have the minimum impact on the environment.

### **5.5.6 Service trade**

The following conditions shall apply where service station, public garage, light industrial and industrial erven are utilised for service trade purposes:

- (a) in the case of industrial and light industrial erven the products produced by the industry may be sold on the premises



- (b) only industrial-, mining- and earthmoving equipment and agricultural implements and equipment may be sold
- (c) these sales must be in accordance with the primary zoning
- (d) sales of motor cars, busses, caravans and trailers
- (e) parking must be provided at one bay per 50m<sup>2</sup> of the trade area

#### **5.5.7 Intensive feed farming**

With special consent for intensive feed farming in an agricultural or rural residential zone, the Council may prescribe any special conditions in respect of parking and loading requirements, access, fencing and aesthetic treatment so that the concern will have the minimum impact on the environment.

#### **5.5.8 Nursery**

With special consent for a nursery, the Council may prescribe any special conditions in respect of permissible uses, parking and loading requirements, access, fencing and aesthetic treatment so that the concern will have the minimum impact on the environment.

#### **5.5.9 Tourist facility, tourist establishment and holiday accommodation**

The following conditions shall apply where a portion of land is used for a tourist facility, tourist establishment and holiday accommodation in the agricultural, rural residential and accommodation zones:

<b>Floor space:</b>	3000 m <sup>2</sup>
<b>Height:</b>	at most two storeys
<b>Parking:</b>	at least 0,7 parking bays per bedroom and 25% of the required number of parking bays, or a greater number than the required number, if so required by the Council, and at least twenty additional parking bays, shall be provided uncovered on the site and shall be clearly demarcated and properly indicated by means of a notice board to the satisfaction of the Council for the exclusive use of visitors

#### **5.5.10 Kiosk**

The following conditions shall apply where a tourist shop is in operation in a tourist facility:

- (a) only curios, normal household consumables and consumables for the use of tourists may be sold
- (b) the Council may prescribe any special conditions in respect of parking and loading requirements, access, fencing and aesthetic treatment so that the concern will have the minimum impact on the environment.





#### **5.5.11 Place of assembly, place of entertainment and place of instruction**

The following conditions shall apply when application is made for the consent of the Council for a place of assembly, place of entertainment and place of instruction in a business zone:

- (a) parking must be provided at one parking bay per eight persons of the total number of persons that can be accommodated at one time in the building
- (b) in the case of a place of entertainment, the applicant must provide the Council with information on which measures will be implemented to ensure that the place of entertainment will not cause a nuisance or danger to the neighbouring premises.

#### **5.5.12 Public garage and service station**

Notwithstanding clause 5.4, the land use restrictions, the following conditions shall apply when application is made for the consent of the Council for a service station and a public garage:

- (a) The EA (Environmental Assessment) process, as currently prescribed by the Namibian Environmental Policy as approved by Cabinet in January 1995 or any subsequent legislation regarding the EA process should be followed and all the aspects of the land use that will have a negative effect on the environment should be addressed.

#### **5.5.13 Scrap yard**

Any land used in connection with a scrap yard, builder's yard or transport business shall be enclosed completely with a wall or fence approved by the Council and to a height prescribed by the Council.

#### **5.5.14 Noxious trade**

The following conditions shall apply when application is made for the consent of the Council for a service station, a public garage, a workshop, a scrap yard and a butchery:

- (a) Application must be made at the Competent Authority for the operation of a noxious trade on the premises and the Competent Authority may declare as such by notice in the Gazette: Provided that upon production of a certificate by the Medical Officer of Health, in consultation with the Inspector of Factories, that the process to be used in the conduct of any of the intended industry will not cause nuisance or danger to health in neighbouring premises arising from:
  - vapour or effluvia
  - liquid waste matters discharged from the premises, and if land treatment of such matters is proposed, the nature, slope and area of the land and its position in relation to buildings used for human habitation, streams or water courses



- solid waste matters
  - waste like meat, bones, blood, offal, hides, horns or any other animal organic matter
- (b) The EA (Environmental Assessment) process, as currently prescribed by the Namibian Environmental Policy as approved by Cabinet in January 1995 or any subsequent legislation regarding the EA process should be followed and all the aspects of the land use that will have a negative effect on the environment should be addressed.

### **5.5.15 Mining**

The following conditions shall apply when application is made for the consent of the Council for mining activities in an industrial zone:

- (a) Application must be made at the Ministry of Mines and Energy for the operation of the mining activity in this zone which shall be subject to all relevant statutory restrictions, which apply to the exploitation of raw materials, in case of mining activities.
- (b) The EA (Environmental Assessment) process, as currently prescribed by the Namibian Environmental Policy as approved by Cabinet in January 1995 or any subsequent legislation regarding the EA process should be followed and all the aspects of the land use that will have a negative effect on the environment should be addressed.

## **5.6 CONTRAVENTION OF CONSENT USE CONDITIONS**

If anybody is of the opinion that any conditions referred to in clauses 5.2, 5.4 and 5.5 are contravened, such person may lodge a written complaint with the Council requesting action in terms of Section 28 of the Ordinance.

## **5.7 COMBINED-USE BUILDINGS**

**5.7.1** Where more than one primary and/or consent use is approved in the same building in a particular zone, the requirements with regard to floor factor, height and coverage, as prescribed for the primary use of the zone concerned, shall be applicable, and the following conditions shall apply with regard to all other land use restrictions:

- (a) Where a use which is permitted in a combined-use building in a particular zone is a primary use in another zone, the use concerned shall be subject to the same conditions, except those with regard to floor factor, height and coverage, applicable to the primary use in the other zone.



- (b) Where a use which is permitted in a combined-use building in a particular zone is not a primary use in any other zone, the use concerned shall be totally subject to the conditions applicable to the primary use in the zone in which the use concerned is permitted.

## **5.8 CURRENT CONSENT USES**

On approval by the Minister of Regional and Local Government and Housing and Rural Development the consent uses as listed in Table C will be approved consent uses in terms of the provisions of clause 5 - Consent uses of this Town Planning Scheme.

In the case where the owner of land intend to increase the development granted as a current consent use he shall apply to the Council for the rezoning of the land to accommodate the increased development. Consent uses granted in terms of this scheme will be reviewed on a 5 yearly basis as provided for in Clause 5.4.1 (e).



**Table C**

<b>PROPERTY</b>	<b>PRIMARY USE</b>	<b>CONSENT USE</b>
Portion 7 of Hoffnung 66	Agriculture	Light industry Scrapyard
Bellerode RE/67	Agriculture	Tourist establishment Holiday accommodation
Bellerode 8/67	Light Industry	Tourist establishment Holiday accommodation
Finkenstein 71	Agriculture	Tourist establishment Holiday accommodation
Ondekaremba RE/78	Agriculture	Tourist establishment Holiday accommodation
Portion 12 of Kappsfarm 65	Light Industry	Public garage
Portion 1/23 of Kappsfarm 65	Light Industry	Public garage
Oupembameva 79	Agriculture	Tourist establishment Holiday accommodation
Detmont 4/2/78	Agriculture	Tourist establishment, nursery, place of instruction Holiday accommodation
Neu Progress 506	Agriculture	Tourist establishment Holiday accommodation
Deutsch-Krone-Sud 437	Agriculture	Tourist establishment Holiday accommodation
Portion 20, Seeis 134	Agriculture	Agricultural industry
Portion 6, Voigtland 472	Agriculture	Agricultural industry
Portion 1/A of the farm Neudam 63	Agriculture	Light industry
Ongeama 61	Agriculture	Tourist establishment Holiday accommodation



Sonleiten Re/2/78	Agriculture	Tourist establishment Holiday accommodation Retirement village
Herboth's 523 (including Portions B & C of the farm Voigtland No. 472)	Rural Residence	Nature Estate Tourist establishment Holiday accommodation Place of instruction
Otjihaze 448	Agriculture	Workshop
Portion A, Neudam 63	Agriculture	Workshop
Portion 2 of Portion A, Neudam 63	Agriculture	Nursery
Portion A/23/ Seeis 134	Agriculture	Agricultural Industry



**Table D**

<b>PROPERTY</b>	<b>ZONING</b>	<b>USE</b>	<b>DENSITY</b>	<b>MAP</b>
Portion a of 6 of Voigtland 472	Nature Estate	Residential estate	1 unit / 1ha	5
Portion a of Voigtland 472	Nature Estate	Residential estate	1 unit / 1ha	5
Portion a of Sonneleitein (2/78)	Nature Estate	Residential estate	1 unit / 1ha	6
Portion 20 of Seeis 134	Nature Estate	Residential estate	1 unit / 1ha	7
Portions 1, 3 and 4 of Finkenstein 71	Nature Estate	Residential estate	1 unit / 1ha	2
Portion x of Herboth's 485	Nature Estate	Equestrian estate	1 unit / 5ha	3&4



## 6 DEVELOPMENT CONTROL

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### 6.1 SUBDIVISION OF LAND INTO SMALLER PORTIONS

#### 6.1.1 All applications for the subdivision of land will be done in accordance with the following legislation governing the subdivision of land:

Townships and Division of Land Ordinance 1963, (Ordinance 11 of 1963 ), as amended.

Any person intending to subdivide land shall before applying to the Namibia Planning Advisory Board in accordance with the above legislation for the subdivision of land, furnish the Council for its comments with the following:

- (a) a subdivision plan showing the extent of the subdivision and the points of access to the different portions
- (b) a motivation for the subdivision
- (c) if access is obtained from any proclaimed main, district or farm road, the written consent of the Roads Authority to get access from such a road
- (d) if water for the subdivided portions are going to be obtained from a bore hole a certificate from a registered authority that will proof the yield of the borehole
- (e) if water for the subdivided portions are going to be obtained from another source the signed agreement with the owner of that source that water will be provided
- (f) if electricity for the subdivision are going to be obtained from somewhere else, the signed agreement with the owner of that source that electricity will be provided
- (g) provide details on how the sewerage that will be generated by the development on the subdivided portions will be piped and treated
- (h) provide details on how all household waste and farm waste will be disposed off
- (i) provide the waste water discharge permit as issued by the Department of Water Affairs in terms of the Water Act, (Act no 54 of 1956) as amended

#### 6.1.2 The Council shall within sixty (60) days from the submission to it of particulars under this clause provide the applicant with the comments of the Council which must be included in the application to the relevant authority as stated above.

#### 6.1.3 In the case where the Council do not provide the applicant with their comments within 60 days, the applicant can apply to the relevant authorities without the comments of the Council as stated above and provide the Council with a copy of the application. Such an application to the relevant authorities must also state that the Council did not provide the applicant with comments within the prescribed period.

### 6.2 TOWNSHIP ESTABLISHMENT AND SUBDIVISION OF LAND INTO ERVEN

#### 6.2.1 All applications for the township establishment or the subdivision of land into erven will be done in accordance with the following legislation governing the subdivision of land:



Townships and Division of Land Ordinance 1963, (Ordinance 11 of 1963), as amended.

**6.2.2** Any person intending to establish a town or subdivide land in erven shall before applying to the Namibia Planning Advisory Board and the Townships Board furnish the Council for its comments with the following:

- (a) a layout plan showing the extent of the subdivision and the points of access to the area from the main road, district road or the farm road
- (b) a motivation for the establishment of the town
- (c) if access is obtained from any proclaimed main, district or farm road, the written consent of the Roads Authority to get access from such a road
- (d) if water for the erven are going to be obtained from a bore hole a certificate from a registered authority that will proof that the yield of the borehole is adequate for the development
- (e) if water for the erven are going to be obtained from another source the signed agreement with the owner of that source that sufficient water will be provided
- (f) if electricity for the erven are going to be obtained from somewhere else, the signed agreement with the owner of that source that electricity will be provided
- (g) provide details on how the sewerage that will be generated by the development on the erven will be piped and treated
- (h) provide details on how all household waste will be disposed off

**6.2.3** Applications for the subdivision of small portions of land will only be considered by the Council if an adequate coordinated street system is allowed in the planning in order to link the portion to be subdivided with adjacent portions and with the main roads and streets in the area.

**6.2.4** The Council shall within sixty (60) days from the submission to it of particulars under this clause provide the applicant with the comments of the Council which must be included in the application to the relevant authority as stated above.

**6.2.5** In the case where the Council do not provide the applicant with their comments within 60 days, the applicant can apply to the relevant authorities without the comments of the Council as stated above and provide the Council with a copy of the application. Such an application to the relevant authorities must also state that the Council did not provide the applicant with comments within the prescribed period.

### **6.3 APPLICATIONS TO BE REFERRED TO THE CITY OF WINDHOEK**

Applications for development on land in the aquifer protection areas as indicated on the scheme maps for the following developments must be referred to the City of Windhoek for their comments:

- (a) subdivisions of land in ten or more portions
- (b) township establishment
- (c) noxious industry, service station and public garage land zoning applications.





#### **6.4 APPLICATIONS IN NATURE AREAS, NATURE BUFFER AREAS AND AQUIFER PROTECTION AREAS**

The EA (Environmental Assessment) process, as currently prescribed by the Namibian Environmental Policy as approved by Cabinet in January 1995 or any subsequent legislation regarding the EA process should be followed and all the aspects of the land use that will have a negative effect on the environment should be addressed.

#### **6.5 APPLICATIONS FOR NATURE ESTATES**

The reason why such developments will be allowed in this zone is that the Council acknowledges that there is a need for certain developments in nature areas and that the appeal of such developments is the natural environment.

When the Council considers applications for such developments and the extent and nature of the development is such that it may adversely effect the environment, the Council may request the applicant to do an Environmental Assessment as prescribed by Namibian Legislation.

In order for the Council to assess the long term effect of such developments on the natural environment it will be required by the applicant to provide a copy of the proposed constitution of the home owner's association in order for the Council to adjudicate how the environmental issues of the development will be managed by the home owners.

#### **6.6 APPLICATIONS TO BE REFERRED TO THE ROADS AUTHORITY**

Applications received by the Local Authority on land adjacent to proclaimed roads must be referred to the Roads Authority for comments.



## 7 BUILDING MANAGEMENT

### 7.1 SUBMISSION OF BUILDING PLANS

**7.1.1** Any person intending to erect any building shall furnish the Council for its consideration, in accordance with the regulations of the Local Authorities Act and the Building Control Manual with the following:

- (a) a site plan with a scale of 1:200,
- (b) a building plan, the sections and the elevations of the proposed building, including a description of the building materials to be used for that purpose, to a scale of 1:100,
- (c) an electrical plan, and
- (d) a sewer and water drainage plan.

**7.1.2** The Council shall within thirty (30) days from the submission to it of particulars under this clause:



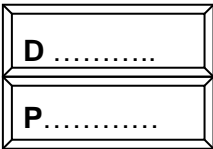
- (a) Approve the plan; or
- (b) If it considers that the building plans are not in accordance with the requirements of the Building Control Manual, it will be referred back to the applicant with reasons why the building plans are not accepted. The applicant can re-apply after he amended the plans in accordance with the comments of the Council.

**7.1.3** No person shall commence the erection of any building until such time as the particulars hereinbefore referred to have been approved by the Council.

**7.1.4** No building shall be erected in the business zone unless the Council is satisfied that such building will constitute an integral part of a comprehensive and coordinated development of the business zone in question, provided that the Council may, having regard to the economic and physical life of an existing building in such zone permit alterations to such building subject to such alterations being in conformity with the provisions of this scheme.

### 7.2 PROCLAIMED ROAD RESERVES AND BUILDING LINES

**7.2.1** The following road reserves applies to proclaimed roads in accordance with the Roads and Ribbon Development Ordinance (Ordinance No. 30 of 1960) as amended:

(a) Trunk roads and main roads	-	60 meter		
(b) District roads	-	60 meter		
(c) Farm roads	-	30 meter		



**7.2.2** The following building lines applies to proclaimed roads:

- |     |                      |   |  |
|-----|----------------------|---|--|
| (a) | Trunk and main roads | - | 100 meters both sides from the centre line of the road |
| (b) | District roads       | - | no building line                                       |
| (c) | Farm roads           | - | no building line                                       |

### **7.3 RELAXATION OF BUILDING LINES**

**7.3.1** The building line provisions of clause 4 of this scheme may be relaxed with consent from the Council, where the Council is of the opinion that the building lines intervene with the development or use of a site or any other reason, subject to the following condition:

- (a) Written confirmation from the adjoining owner(s), if a side building will be exceeded, and the owner(s) of both adjoining land units, if a street building line will be exceeded, to the effect that they have no objections; and
- (b) Confirmation that no existing services or the maintenance thereof will be adversely affected.
- (c) The relaxation of the 100m building line on proclaimed main roads will not be allowed.

### **7.4 LOADING AND UNLOADING FACILITIES**

**7.4.1** Except in the light industrial zone and industrial zone, the Council may, for the purpose of preventing the obstruction of traffic on any street or proposed street on which a proposed building will front or abut, require the owner to submit for its approval proposals for ensuring, to the Council's satisfaction, suitable and sufficient space on the site for loading, unloading or fuelling of vehicles which the utilisation of the building is likely to entail normally.

**7.4.2** No owner or occupant of the building in respect of which proposals under this clause have been required shall undertake or knowingly permit the continued loading or unloading or fuelling of vehicles otherwise than in accordance with approved proposals.

### **7.5 UTILISATION OF OUTBUILDINGS**

**7.5.1** No outbuilding may be utilised for any purpose other than that for which the Council has approved the plans, and no such outbuilding may be utilised until the main buildings are completed or occupied, unless otherwise resolved by the Council.

### **7.6 ADVERTISEMENTS AND HOARDING**

**7.6.1** No advertisements or hoardings shall be erected or advertisements be displayed or announced without the consent of the Council: Provided that the consent of the Council, granted under this clause, shall not in any way be taken to excuse compliance with the by-laws of the Council, if any, relating to the erection, display and announcement of advertisement hoardings and advertisements.



- 7.6.2** If an application is made to the Council for its consent under this clause, the Council shall be entitled to impose such conditions as it may deem fit governing the erection and use of any such hoarding or advertisements: Provided that consideration shall be given to the question whether the proposed hoarding, display or the announcement of the proposed advertisement is likely to cause injury to the amenities of the neighbourhood.
- 7.6.3** No hoarding or advertisement shall be erected in the single residential and general residential zones: Provided that the provisions of this sub clause shall not apply to:
- (a) Consent uses in these zones;
  - (b) A sign or notice not projecting over a street and not exceeding sixty (60) by forty-five (45) centimetres in area and indicating only the name and profession or occupation of the occupant, or
  - (c) The display of an advertisement relating solely to an entertainment, meeting, auction or sale to be held upon or in relation to the premises upon which such is displayed: Provided that this advertisement does not contain letters, figures, emblems, symbols or devices exceeding fifteen (15) centimetres in height and does not exceed a height of four metres from the ground.

The Council may, subject to the provisions of this clause, authorise the display of any particular class of advertisement either unconditionally or subject to conditions in respect of the position or manner in which, or the period in which the advertisement may be displayed.

## **7.7 ADVERTISING ALONG PROCLAIMED ROADS**

- 7.7.1** Advertising along proclaimed roads shall comply with the requirements of the Advertising on Roads and Ribbon Development Ordinance (Ordinance No 30 of 1960) as amended.

## **7.8 AESTHETICS AND LANDSCAPING**

- 7.8.1** Where paving, landscaping, other treatment or any aesthetic requirements is deemed necessary by the Council, or the Minister if the matter is considered by him, it may be required by the Council or the Minister, as the case may be, and such requirement shall be carried out to the satisfaction of the Council or the Minister, as the case may be, at the cost of the owner.



## **8 DUTIES AND POWERS**

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### **8.1 EXAMINATION OF SCHEME**

- 8.1.1** The Council shall allow any person at any reasonable time to examine any definition, scheme clause or zoning map which are or is kept in the office of the Council; provided that any information in connection with the zoning scheme which is given to any person shall only be valid if it is in writing and signed by the official duly authorised thereto by the Council.

### **8.2 REMOVAL OF INJURIOUS CONDITIONS**

- 8.2.1** Where the amenity in any area is adversely affected by the condition of any building, land or erf, garden or by any activity taking place in the area, the Council may serve notice on the responsible person requiring him, within a specified period of not less than 28 (twenty eight) days from the date on which notice was served, to take such action as is necessary to eliminate the source of annoyance.

### **8.3 ENTRY AND INSPECTION OF PREMISES**

- 8.3.1** In the case where a land owner/occupier is in contravention of the Town Planning Scheme he will be notified in terms of Section 28(3) of Ordinance no 18 of 1954 to cease with the contravening activities

After such a notification, an authorised officer, property identified and after an appointment was made with the land owner/occupier, will be provided with access to the land to ascertain if the contravening activities were ceased.

- 8.3.2** No person shall in any way hinder, obstruct or interfere with any authorised officer of the Council, or cause in so far as he has any authority, or permit such officer to be hindered, obstructed or interfered with the inspection of the land as provided in 8.3.1 or refuse or fail to furnish any information required or knowingly furnish false information.

### **8.4 SERVICE OF NOTICES**

- 8.4.1** Any order, notice or other document required or authorised to be served under the scheme may be signed by the Chief Regional Officer of the Council or other official duly authorised thereto, and may be served by delivery of a copy thereof in one or other of the following manners:

- (a) To the said person personally, or to his duly authorised agent; or



- (b) If service cannot be effected in terms of the preceding paragraph, at his residence or place of business or employment to some person apparently not less than sixteen (16) years of age and apparently residing at or employed there; or
- (c) If there is no such person on the premises as is mentioned in the preceding paragraph, by fixing such order, notice or other document on some conspicuous part of the premises and by despatching such order, notice or other document by prepaid registered post in an envelope on which is written his last known abode, place of business or employment, or post office box number; or
- (d) If such a person to be served has chosen a *domicile citandi*, at the *domicile* so chosen.

**8.4.2** Where any service is effected in accordance with the provisions of paragraph (c) of the preceding sub clause, such service shall be deemed to have been effected at the time when the letter containing such order, notice or other document would have been delivered in the ordinary course of post and, in proving such service, it shall be sufficient to prove that the order, notice or other document was properly addressed and registered.

**8.4.3** Any order, notice or other document, by this scheme required to be given to the owner or occupier of any particular premises, may be addressed by the description of the "owner" or "occupier" of such premises in respect of which the order, notice or other document is given, without further name or description.

## **8.5 CONFLICT OF LAWS AND EVASION OF SCHEME**

**8.5.1** Nothing in this scheme or in any consent given in terms thereof shall be deemed to detract from any rights the Council possesses by virtue of any servitude, contract or agreement.

**8.5.2** Except where the contrary is specifically stated in this scheme, nothing in any provision of this scheme shall be deemed to override or absolve from compliance with any other provisions of the scheme.

**8.5.3** The Council shall refuse its consent to anything requiring such consent, which in its opinion constitutes or facilitates an evasion of the intent and purpose of this scheme or of any of its provisions.

## **8.6 CONTRAVENTION OF THE SCHEME**

**8.6.1** Any person who commits, or knowingly permits, a contravention of any of the provisions of this scheme or of the requirements of any order or notice issued or conditions imposed under the provisions of this scheme, shall be deemed to have contravened the provisions of this scheme and shall be guilty of an offence and liable on conviction to the penalties prescribed by Section 48 of the Ordinance.

## **8.7 APPEALS**

**8.7.1** Any person who is aggrieved by a decision of the Council in terms of an application made under this scheme, may appeal to the Competent Authority.



**8.7.2** If the decision is one which the Council is required to give upon the application of any person or upon the submission by any person of plans or proposals, an appeal shall, in addition, lie against a refusal of the Council to give, or unreasonable delay on its part in giving a decision, as if it were an appeal against a decision of the Council.

**8.7.3** Written notice of an appeal shall be given to the competent authority and to the Council. If the appeal is against a decision of the Council, the notice shall be given within twenty eight (28) days from the date of the service on the appellant of the notice of the Council's decision.

**8.7.4** The competent authority may, on the application of any person desiring to appeal, extend by not more than twenty eight (28) days the time for making the appeal specified in the last preceding paragraph, whether or not the time specified for making the appeal has expired.

## **8.8 BINDING FORCE OF CONDITIONS IMPOSED**

**8.8.1** Where permission to erect any building, execute any works or to use any building or land for any particular purpose or to do any other act or thing, is granted under this scheme, and conditions have been imposed, the conditions shall have the same force and effect as if they were part of this scheme.

## **8.9 COUNCIL MAY IMPOSE CONDITIONS ON WARRANTING CONSENT**

**8.9.1** In giving its approval, authority, permission or consent under any clause in this scheme, Council may impose such conditions, as it deems necessary.

## **8.10 RECORD OF INSPECTION AND CONDITIONS**

**8.10.1** The Council shall keep, so as to be available for inspection at all reasonable times by any person interested, a record of approvals, consents, authorities or permission granted by it, or on appeal from its decision under any provision of this scheme, and of any conditions imposed or agreed between the Council and the applicant in connection therewith.

## **8.11 CONFLICT OF SCHEME AND TOWNSHIPS CONDITIONS**

**8.11.1** The provisions of this scheme shall prevail over the conditions registered against the title deeds of land registered in the scheme area except conditions for which this scheme does not provide for like servitudes, usufruct, etc.

## **8.12 COMPLIANCE WITH REGULATIONS**

**8.12.1** Nothing in these clauses contained shall be deemed to grant exemption from compliance with any of the Council's regulations.



### **8.13 UNDESIRABLE EXISTING USE**

**8.13.1** Existing land uses legally practised, in accordance with the Land Use Plan, before the Minister gave notice of his approval of this Scheme, are allowed subject to "undesirable existing use" defined.

**8.13.2** i) The continued use of any land or building which is in conflict with the conditions of the Scheme shall subject to the conditions in Sub-Clause (ii) lapse without the payment of compensation upon the termination of a period of fifteen (15) years from the date of proclamation of the Scheme in terms of Section 26 (2) of the Town Planning Ordinance (18 of 1954) as amended.

ii) The Council may, after receiving an application from the owner, before the expiry of the period mentioned in Sub-Clause (i) above consider the extension for a further period or periods of five (5) years with a maximum of fifteen (15) years: Provided that after the expiry of the period mentioned in Sub-Clause (i) above, the Council may issue a written notice requesting the owner/occupier of the land or building to bring the use into compliance with the Town Planning Scheme without compensation.

**8.13.3** Land reserved as streets and public open spaces, under the "Reservations", may continue to be used for the purpose for which it was used on the date when the Minister gave notice of his approval of this Scheme by proclamation, until such time as the Council in terms of the Ordinance or any other law requires the owner to use or set aside such land for the purpose for which it is reserved or until the land has been transferred to the Council or to the authority for whose purpose it has been reserved.

### **8.14 NON-CONFORMING SITES**

**8.14.1** Before written authority is granted, or a licence is issued by the Council with regard to a site for which there is no valid licence on the date of coming into operation of these scheme clauses, or when a building is extended or changed, the Council may require that all the buildings on the site and the site itself be brought into line with the land use restrictions contained in these clauses, with the by-laws of the Council, and with any other laws which are applicable.

### **8.15 LETTING AND SOCIAL FUNCTIONS**

**8.15.1** Without prejudice to any powers of the Council under any other law, nothing in a zoning scheme contained shall be constructed as prohibiting or restricting, or enabling the Council to prohibit or restrict, the following:

- (a) The letting, subject to the Council's regulations relating to boarding houses and hostels, by any occupant of a dwelling-house of any part of such dwelling unit; and
- (b) The occasional utilisation of a place of public worship, place of instruction or institution as a hall for social functions.





## **8.16 TRANSFER OF CLOSED STREETS AND PUBLIC OPEN SPACES**

- 8.16.1** Where any piece of land which was previously a street or a public place vested in or owned by the Council is closed and transferred to an abutting owner, such piece of land shall be deemed to fall into the same use zone and sub-zone as those into which the abutting land owned by such owner falls.



## 9 GENERAL

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### 9.1 UTILISATION OF ZONED LAND

- 9.1.1** No person shall use or cause or allow to use any land or a portion thereof for a use other than provided for in this scheme.
- 9.1.2** No person shall damage or destroy zoned land so as to destroy or impair its utilisation for the purpose for which it is zoned, provided that the Council may consent to the deposit on such land of waste materials or refuse:
- (a) In giving its consent under this clause, the Council may impose such conditions as it may deem fit.
  - (b) Subject to the provisions of any other law, nothing in this clause shall be constructed as prohibiting the reasonable fencing of land.

### 9.2 DRILLING OR EXCAVATION FOR WATER

- 9.2.1** Only with the written consent of the Council and the Ministry of Agriculture, Water and Forestry will it be permitted to drill or excavate for water on any land.

### 9.3 BUILDING OF DAMS

- 9.3.1** Only with the written consent of the Council and the Ministry of Agriculture, Water and Forestry will it be allowed to build dams in rivers on any land.

### 9.4 REMOVAL AND THE SALE OR DISPOSAL OF SAND, STONE AND CONTROLLED MINERALS

- 9.4.1** Any removal of sand, stone or controlled minerals will be subject to the provisions of the Mineral (Prospecting and Mining) Act (Act 33 of 1994).
- 9.4.2** The EA (Environmental Assessment) process, as currently prescribed by the Namibian Environmental Policy as approved by Cabinet in January 1995 or any subsequent legislation regarding the EA process should be followed in the rehabilitation of land which was disturbed by the removal of sand, gravel, stone or controlled minerals.

### 9.5 ACCESS

- 9.5.1** If an erf has more than one street frontage, access to the erf shall be obtained from the street(s) determined by the Council: Provided that such determination shall be made before the approval of the building plans.



## **9.6 RIGHT OF ACCESS AND USE**

**9.6.1** Each portion of land is subject to the reservation by the Council of the right of access and use without compensation of the area, three metres parallel with any boundary for the construction and maintenance of municipal services in respect of water, sewerage, drainage, electricity and gas, which right includes the right to place on such erf temporarily any materials that may be excavated during such operations on the erf or any adjacent erf.

**9.6.2** Personnel of the Council requiring access for the construction and maintenance of such municipal services will be allowed to access the land if they are properly identified and if they made proper arrangements with the owner/occupier of the land prior to their access to the land.

## **9.7 STORM WATER AND FLOODS**

**9.7.1** No water drainage pipe, canal, work or obstruction (except water drain pipes, canal or works which have been authorized in writing by the Council or which have been or may be built, laid or erected in terms of any law) may be constructed on or over the property or located in such a way that:

- (a) The flow of water from higher lying property to lower lying property is impeded or obstructed and through which any property is or may be endangered; or
- (b) The flow of a natural watercourse (in which the local authority allows flood water to run off, be discharged or to be canalised) is or can be changed, canalised or impeded; and
- (c) The maintenance of such water pipe, channel or work shall be the responsibility of the owner of the concerned property.

## **9.8 WASTE WATER / EFFLUENT**

### **DISCHARGE OF EFFLUENT**

Any effluent that results from residences or other works must be treated by means of an appropriate effluent treatment system to comply with the minimum standards as specified in the Water Act (Act No 54 of 1956) and the General Standards as laid out in the Government Gazette Regulation R553 of 5 April 1962, in Section 21(1) of the Water Act (Act No 54 of 1956) before it is discharged.

### **DISPOSAL OF SOLID WASTE**

It is not allowed to dump any solid waste that results from residences or other works anywhere except at an approved, properly constructed waste management facility.

All solid waste disposal must comply with the standards as set out in the following documents, that can be obtained from the Council:



- Minimum requirements for waste disposal by land filling
- Minimum requirements for handling, classification and discharge of hazardous waste
- Minimum requirements for water monitoring at waste management facilities

## **9.9 DANGER TO LIFE, HEALTH AND AMENITY**

**9.9.1** No buildings may be erected on land, which by reason of its situation or nature of the land would be likely to involve danger to life or danger or injury to health.

**9.9.2** No land shall be used and no buildings and structures be erected and / or used for purposes likely to involve danger of life, or danger to or the possibility of harm to health or serious detriment of the neighbourhood.

## **9.10 FENCING**

**9.10.1** All land adjacent to trunk, main, district and farm roads must be provide with proper fencing. Such fencing should be properly maintained at all times to prevent domestic animals to feed in the road reserves.



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## KAPPSFARM SCHEME MAPS

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### INDEX MAP

ZONING	MAP 1
ZONING	MAP 2
ZONING	MAP 3
ZONING	MAP 4
ZONING	MAP 5
ZONING	MAP 6
ZONING	MAP 7